

EXECUTIVE SUMMARY – INVESTORS’ CITIZENSHIP AND RESIDENCE SCHEMES IN BULGARIA

General background

Investors’ schemes granting residence and citizenship to third-country nationals investing in Bulgaria were first introduced in the Bulgarian legislation in 2005. Since then, the investors’ schemes have been further developed by introducing amendments to the relevant legislation in 2009, 2013 and 2015. However, there is no public information available as to what prompted these amendments as there was no public debate at the time when the legal changes were adopted.¹ The most probable reasons for the introduction of these changes are attracting potential investors and promoting economic activity in economically disadvantaged regions.

The main legal acts establishing and regulating the investors’ residence and citizenship schemes in the Republic of Bulgaria are the Bulgarian Citizenship Act² (BCA) and the Foreign Nationals Act of the Republic of Bulgaria³ (FNA), and the secondary legislation on their implementation.

The main **competent authority** under the investors’ **residence** scheme is the Ministry of Interior, and more specifically, its **Migration Directorate**. Granting citizenship to third-country nationals is a decision of significance and, thus, it entails the work of multiple bodies: the decision-makers are the **Minister of Justice**, who is in charge of making a proposal to the **President of the Republic of Bulgaria** to issue a decree on the acquisition of Bulgarian citizenship. The President may choose to issue or not the said decree. The decision-making authorities are supported by the work of several administrative structures: (a) within the Ministry of Justice: the specialised **Bulgarian Citizenship Directorate** and (b) as independent consultative body, the **Council for Citizenship**; and (c) assisting as consultative body to the President’s Cabinet, the **Bulgarian Citizenship Commission**. The State Agency for National Security (SANS) provides its opinion on the applications on the basis the checks (security checks and checks on the origin of the funds) under both investors’ schemes.

Investors’ Citizenship Schemes

There are two investors’ citizenship schemes in Bulgaria: an **ordinary investors’ citizenship scheme (Article 12a BCA)** and a **fast-track investors’ citizenship scheme (Article 14a BCA)**. While the former entails obtaining citizenship by virtue of waiving some of the naturalisation conditions in exchange of an economic disbursement but still requiring the investor to hold a permanent residence permit issued at least **5 years** ago, in the latter, the length of residence is reduced to **one year** if the investment requirement (**to increase the investment**) has been fulfilled.

1 Information gathered through consultation with national stakeholder (Deputy Director of the Migration Directorate, Competent Authority, 14 May 2018). In Bulgaria, laws and amendments have to pass two readings in the Parliament’s Plenary Session, and further changes and amendments can be introduced between the two readings. This was the case here and as such it excluded the process of conducting public consultations and discussions.

2 Bulgarian Citizenship Act (*Закон за българското гражданство*), SG N. 136, 18 November 1998 <https://www.lex.bg/laws/ldoc/2134446592>, as subsequently amended and supplemented.

3 Foreign Nationals Act of the Republic of Bulgaria (*Закон за чужденците в Република България*) Prom. SG. No. 153 of 23 December 1998, last amended, and ext. SG. No. 24 of 16 March 2018, available at <https://lex.bg/bg/laws/ldoc/2134455296> (FNA).

To apply for Bulgarian citizenship, either through the ordinary or fast-track investors' citizenship scheme, the foreign investor has to carry out an investment which is regulated in **Article 25, paragraph 1, items 6, 7, 8, 13 and 16 of the FNA**. The types of investment and their minimum financial threshold are shown in Table 1 below. It should be noted that under the fast-track scheme only the investment under **items 6, 7 and 13** with the corresponding increase are eligible.

Table 1 / Types of investment to obtain citizenship

Investment	Type of scheme	
	Ordinary	Fast-track
Art. 25(1) item 6 FNA: Investment in shares, OR bonds and treasury bills, OR, ownership of company owned in more 50% by State/municipality under the Privatization and Post-Privatization Control Act, OR units or shares owned by State/municipality under the Privatization and Post-Privatization Control Act, OR Bulgarian intellectual property OR acquisition of rights under concession contracts	EUR 500,000	Increase to EUR 1 million OR invested in the capital of a Bulgarian commercial company no less than EUR 500,000 for a priority investment project
Art. 25(1) item 7 FNA: Investment in a licensed credit institution under trustee agreement	EUR 500,000	
Art. 25(1) item 8 FNA: Investment in the capital of a Bulgarian trading company	EUR 3 million	N/A
Art. 25(1) item 13 FNA: Bulgarian commercial company awarded Class A, B ⁴ or priority investment project	Depends on type of company	Have maintained, for at least one year since receipt of permanent residence permit on grounds of such investment, investments made and put into operation at above the minimum threshold for issuance of a Class A investment certificate under the Investments Promotion Act
Art. 25(1) item 16 FNA: Bulgarian commercial company owned in no less 50% by investor	EUR 250,000	N/A

Apart from the investment, the following **administrative fees** must be paid to the account of the Ministry of Justice for processing the application for Bulgarian citizenship: EUR 5 (for reviewing the application), EUR 50 (State fee), and EUR 500 (issuance of the permanent residence permit).

Regarding the **residence requirement**, although the Bulgarian legislation requires that the applicant has held a permanent residence permit for at least five years (ordinary investors' citizenship scheme) or one year (fast-track investors' citizenship scheme), there is **no requirement** for the investor to **physically stay** in the country once they have obtained a permanent residence permit. They are only required to **submit** the application for citizenship **in person** and to undergo the application **interview**. In terms of the interview, investor applicants for citizenship are exempt from the condition of being proficient in the Bulgarian language, they do not need to show knowledge of public life in Bulgaria and there is no other requirement to show a genuine link to Bulgaria.

Regarding due diligence and security checks, a **clean criminal record certificate** and a document showing that no criminal proceedings are pending against the applicant have to be presented. The

⁴ According to their size, investments are divided into Class A, Class B and Priority Investment Projects. The minimum thresholds for Class A and B are set out in the Rules of Implementation.

Migration Directorate and the SANS, according to their competence and on the basis of operational judgment, carry out **checks in the databases** to which they have access. There is **no publicly available information on the exact information databases** (e.g. Schengen Information System, Europol, Interpol) they check. Furthermore, the third country national must submit a **declaration of the origin of the funds** and once financial assets are transferred into Bulgarian financial institutions, the investment becomes subject to the general provisions for due diligence covered under the Law on Measures against Money Laundering.⁵ All financial operations and procedures (investments and transfers included) over BGN 30 000 (EUR 15 000) and over BGN 10 000 (EUR 5 000) are under obligation to be carried out by an identified client with a valid bank account. Additionally, the **Financial Intelligence Directorate** of SANS **makes additional checks** on all cash payments of over BGN 30 000 (EUR 15 000).

The **application procedure** under Articles 12a and 14a is similar. The application, **written in Bulgarian**, is filed **in person** at the Ministry of Justice or diplomatic or consular representation of the Republic of Bulgaria (Article 29 of the BCA) accompanied by a series of **documents** varying from those confirming **biographical data** (passport, birth certificate, ID, CV), providing **background information** (criminal record, certificate validating the possession of a permanent residence permit, medical certificate) and a list of **documents relating to the type of investment made** (mainly certificates from the competent authorities to validate that the investment has been carried out and it meets the legal conditions: e.g. certificate from credit institutions, document certifying the ownership of real estate, **certificate** from the Privatization and Post-Privatisation Agency,⁶ etc.).

After submitting the documents, the applicant is then **interviewed by a member of the administration of the Minister of Justice** (or, if the application has been submitted abroad, with a member of the diplomatic or consular mission). The files contained in the application are then considered by the **Council for Citizenship** which gives its **opinion** at the request of the Director of Migration Directorate and the SANS. Based on the opinion of the Council for Citizenship, the Minister of Justice proposes to the **President** to issue or refuse to issue a **decree on the acquisition of Bulgarian citizenship**.

The refusal to issue a decree is final and cannot be appealed. Refusal to issue a decree may be justified for reasons of **public order, public morality, public health and/or national security** (Article 19 of the BCA).

There is **no limitation on the number of admissions to citizenship by investment** in Bulgaria.

Investors' Residence Schemes

There are two types of residence permits for third-country nationals to obtain via investors' schemes depending on the investment they make:⁷

- **Article 24 FNA: Extended residence permit** – with a term of validity of **up to one year**⁸
- **Article 25 FNA: Permanent residence permit** – for an **indefinite period of time**,

The prerequisite for an application for an extended residence or permanent residence permit is that the third-country investor holds a **long-stay visa** (Article 15 of the FNA) for which they have to

⁵ Law on Measures against Money Laundering (*Закон за мерките срещу изпиране на пари*), SG 85, 24 July 1998, available at <https://www.lex.bg/bg/laws/ldoc/2134420482>.

⁶ The Agency is responsible for the accomplishment of the privatization process in the country and the supervision of the concluded privatization contracts. More information available at <http://www.priv.government.bg/en/>.

apply for at the **diplomatic and consular representations of the Republic of Bulgaria** not earlier than **three months before the date of the intended travel**,⁹ **personally or through an authorised agent**.¹⁰ This long-stay visa is **not necessary** when a third-country national has already received an **extended residence permit** and wants to apply for a **renewal** of the extended residence permit or for a permanent residence permit.

If a third-country national who can and has entered the country for up to 90 days without a visa¹¹ wishes to apply for residence under the investors' residence schemes, **they must exit the country, apply for a long-stay visa** and then submit their application for either type of residence permits (extended residence or permanent residence) that fall under these schemes.

To **apply for a residence permit** (whether extended residence or permanent residence) the foreign investor must present **in person**¹² a number of general documents (passport, visa, Evidence for **regular, stable, foreseeable and sufficient means of subsistence, criminal record**), as well as specific documents depending on the type of permit applied for. Table 2 below shows the type of investment foreigners must carry out to obtain an **extended residence permit (Article 24(1) FNA)**. The types of investment for a **permanent residence permit (Article 25(1) FNA)** are in Table 1 above.¹³ The **administrative fees** are the same as those of the investors' citizenship schemes (see above).

⁷ These options for residence permits are in addition to the short-stay visa-free option of three months (90 days) within each six-month period foreseen by Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement, OJ L 81, 21 March 2001, available at <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex:32001R0539>. The Ministry of Foreign Affairs provides a specific list for Bulgaria on their site available at: http://www.mfa.bg/uploads/files/Consular/26_06_2017_Putuvane%20za%20Bg.pdf.

⁸ For the purposes of this Report it should be clarified that the term "extended" does not imply that a previous permit was held by the applicant and that permit is being extended; rather, the term refers to the fact that the permit entitles the holder to an extended residence of up to one year.

⁹ Website of the Ministry of Foreign Affairs, available at <http://www.mfa.bg/en/pages/109/index.html> and specific explanatory document on long-stay visas (D-type) available at [http://www.mfa.bg/uploads/files/VISA%20\(TYPE%20D%20VISA\)\(1\).pdf](http://www.mfa.bg/uploads/files/VISA%20(TYPE%20D%20VISA)(1).pdf).

¹⁰ A person who is given a notarised letter of attorney by the applicant.

¹¹ Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement, OJ L 81, 21 March 2001, available at <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex:32001R0539>.

¹² Article 14(1) Rules of Implementation.

¹³ Note that although Table 1 refers to type of investment to obtain citizenship this is due to the fact that the investor must hold a permanent residence permit and, for such purposes, s/he must comply with the requirements set in Article 25(1) items 6, 7, 8, 13 and 16 FNA.

Table 2 Types of investment to obtain an extended residence permit

Extended residence permit (Art. 24, par. 1 FNA) ¹⁴	Type of investment	Amount of the investment
<p>Item 19: the investor makes the investment:</p> <p>a) directly; or</p> <p>b) through a company in which s/he owns more than 50% of the capital</p>	Investment in real estate	<p>EUR 300,000</p> <ul style="list-style-type: none"> ▪ paid in full at the date of submission of the application to a licensed Bulgarian credit institution ▪ if used borrowed funds: outstanding part of the loan must not exceed 25 per cent
<p>Item 20: the investor is a partner or shareholder and owns 50% of the company's capital</p>	Investment in a company that operates in economically disadvantaged region¹⁵ in which at least five job positions for Bulgarian citizens have been created and will be maintained for the duration of the intended stay (6 to 12 months).	EUR 125, 000 (acquisition of tangible and intangible assets)

Apart from the investment requirement, the investor must be **physically** in Bulgaria when applying for the appropriate residence permit.

Upon application, the third-country national is required to submit a **clean criminal record certificate** from the country of which the applicant is a national or their country of habitual residence. On the basis of the information provided in the application, the SANS carries out checks on the applicant's **background** to ensure that s/he does not pose a threat to national security or public order. Once financial assets are transferred into Bulgarian financial institutions, the investment becomes subject to the general provisions for due diligence covered under the Law on Measures against Money Laundering.¹⁶ The administrative control services within the Migration Directorate carry out a **mandatory ex-post check** to certify the fulfilment of the criteria for obtaining residence permits. There is **no mechanism** for measuring the economic and financial efficiency of the investments made in exchange for receiving residence permits.

The **official legal deadline** for examining the applications is **14 days following the submission for extended residence, and two months following the submission for permanent residence**. The **extended residence permit** may be issued for a period of 6 or 12 months. The length of the duration of the permit is usually determined by the term of the lease, insurance, or other conditions that ensure that applicants meet the requirements for their stay in Bulgaria.

¹⁴ At the date of submission of the application for an extended residence permit under Art. 24, the third-country national or legal entity owned by the third-country national must have paid in full the amount of the investment to a licensed Bulgarian credit institution. If the real estate property is acquired with borrowed funds, the outstanding part of the loan must not exceed 25 per cent.

¹⁵ According to the Investment Promotion Act, economically disadvantaged regions are such where:
(a) the unemployment rate is higher than the national average, or
(b) the gross per-capita added value is lower than the country average.

¹⁶ Law on Measures against Money Laundering (see footnote 5).

The **extended residence permit** may be **renewed** for a further **12 months** and there is not limit on the amount of times applications for renewal may be submitted. For the renewal of the permit the legal conditions that apply at the time of the first-time issued permit must continue to concur. Therefore, there is no need to carry out a new investment but the initial one must still be active. There are no conditions for extension or renewal of the **permanent residence permit** as it is not time-bound.

Applications may be **turned down** on grounds of threat to national security of various natures, criminal activity, incompleteness of the application. Appeals may be lodged under the general law on administrative procedure.

There is **no cap** on the number of applications for the schemes (both the extended and the permanent residence).

Third-country nationals who have obtained an extended residence permit or a permanent residence permit have **all the rights and obligations** granted to or imposed on the Bulgarian citizens, with the exception of the rights and obligations for which Bulgarian citizenship is required,¹⁷ as explicitly stated in both Article 3 of the Foreign Nationals act and Article 26, paragraph 2 of the Constitution of the Republic of Bulgaria,¹⁸ those rights being the right to be elected as a Member of Parliament and the right to be elected president. This applies for **all third-country nationals legally residing** on the territory of the Republic of Bulgaria. No special tax regimes were identified as according to the Law on Taxation of Individuals,¹⁹ third-country nationals holding residence permits are considered “local individuals regardless of nationality” and as such they pay the same type and amount of taxes as any Bulgarian citizen.

Link between the residence and citizenship investor schemes

Foreign investors, as any other third-country nationals, may be naturalised under the general rules of Article 12 BCA.²⁰

¹⁷ For instance, Article 32 of the Bulgarian Constitution regulating the right to privacy only refers to citizens; Article 35(2) reserves the right to return to the country only to citizens; Article 36 provides that the study and use of the Bulgarian language shall be a right and an obligation of every Bulgarian citizen; Article 41(2) reserves to citizens the right to obtain information from state bodies and agencies on any matter of legitimate interest to them which is not a state or official secret and does not affect the rights of others; the right to elect state and local authorities and vote in referendums is also reserved to citizens under Article 42; etc.

¹⁸ Constitution of the Republic of Bulgaria (*Конституция на Република България*) in force from 13.07.1991, available at: <http://www.parliament.bg/bg/const>.

¹⁹ Law on Taxation of Individuals (*Закон за данъците върху доходите на физическите лица*), in force from 01.01.2007, available at: http://econ.bg/Нормативни-актове/ЗАКОН-ЗА-ДАНЪЦИТЕ-ВЪРХУ-ДОХОДИТЕ-НА-ФИЗИЧЕСКИТЕ-ЛИЦА_11_i.158067_at.5.html.

²⁰ Article 12 BCA requires that the applicant has (i) attained the age of 18 years; (ii) a permit for permanent residence or a permit for continuous residence in Bulgaria issued at least 5 years ago (a total of 10 years prior residence is required as in order to be granted permanent residence the third-country national must have continuously resided in Bulgaria for another 5 years (5 years of residence + 5 years of permanent residence)); (iii) not been sentenced by a Bulgarian court for a wilful crime prosecuted ex officio by the state, and is not subject to pending criminal proceedings for such an offence, unless the person has been rehabilitated; (iv) an income or occupation allowing him/her to subsist in Bulgaria; (v) a command of the Bulgarian language subject to verification according to a procedure established by an ordinance of the Minister of Education and Science; and (vi) been released from his/her previous citizenship or will be released therefrom at the time of acquisition of Bulgarian citizenship.

Successful applicants in investors' citizenship schemes may obtain the Bulgarian citizenship more directly as general naturalisation rules on sufficient subsistence means, command of the Bulgarian language and renunciation of other citizenships are waived in exchange for the investment made. Furthermore, the condition on the prior residence (of 10 years) is also considerably alleviated. This same general naturalisation rules waived for foreign investors to obtain the Bulgarian citizenship are waived when applying for permanent residence.

Furthermore, since foreign investors may directly apply for permanent residence under investors' residence schemes the total length of the prior residence requirement for naturalisation is reduced by five years (ordinary citizenship scheme) or by nine years (fast-track citizenship scheme). In addition, the physical presence of the foreign investor is not required, unlike in naturalisation procedures where the continuous physical presence of the third-country national is required.

Numbers involved

Information on the number of persons who successfully obtain citizenship, refusals or total number of applications is compiled in private databases of the Migration Directorate and the Presidency. The only public information is found in Reports of the Bulgarian Citizenship and Bulgarians Abroad Committee at the President's office²¹ – those reports only feature the total number of issued citizenships, and do not give details as to the legal basis on which citizenship is granted. The Ministry of Economy has no overall information on the number of citizenship certificates issued to foreign investors either. According to public information from the Presidency of Bulgaria, 12 applications were successful for investors' citizenship under the fast-track scheme in 2017.²²

Stakeholder consultations revealed that there is **no mechanism** for measuring the **economic and financial efficiency** of the investments made in exchange for receiving residence permits or Bulgarian citizenship. It cannot be determined whether in practice investors' schemes have met the expectations for which they were created as those expectations have not been made public.

However, taking into consideration the statistics obtained on extended residence and permanent residence, some calculations on the income generated can be drawn (see Table 3 below).

Table 3 Number of successful applications for extended residence (Article 24(1)(19 and 20) and permanent residence (Article 25(1), 6, 7, 8, 13 and 16) and the income generated (2012 - 2017)

	Art. 24(1)19	Art. 24(1)20	Art. 25(1)6	Art. 25(1)7	Art. 25(1)8	Art. 25(1)13	Art. 25(1)16
2012	0	0	18	31	1	2	0
2013	0	1	31	15	1	2	0
2014	1	0	37	4	0	9	3
2015	3	0	23	8	1	4	6
2016	5	0	58	4	0	4	3
2017	11	1	55	1	0	13	7

²¹ Monthly Reports of the Bulgarian Citizenship and Bulgarians Abroad Committee <https://m.president.bg/en/cat106/mesechni-otcheti-grajdanstvo>.

²² Report of the Bulgarian Citizenship Commission for the period 22 January - 31 December 2017, available at <https://www.president.bg/docs/1516795436.pdf>.

TOTAL	20	2	222	63	3	34	19
Total income	EUR 6 million	EUR 250 000	EUR 111 million	EUR 31,5 million	EUR 9 million	*no minimum amount	EUR 4,75 million

Taking into consideration the 12 successful applications for citizenship under Article 14a (fast-track) in 2017 and the concrete thresholds in the law, a minimum of EUR 12 million would have been invested under the citizenship fast-track schemes in that year.

In general, the investors' residence and citizenship schemes have been criticised for being **slow** and with a lot of **administrative burden**, and Bulgarian authorities are working towards making them more efficient - recently **amendments to the BCA Implementation Ordinance** have been adopted, and they will enter into effect as of **1 July 2018**. The amendments to the Ordinance aim at relieving the administrative burden by **reducing the required documents** from the applicants in the schemes and introducing the official collection of documents and **optimizing the timing**.²³

²³ Amendments to Ordinance No. 1 of 19 February 1999, State Gazette no. 102 of 22 December 2017.