



## THE STARTUPS LAW PROJECT" AND ITS IMPACT ON THE INTERNATIONAL MOBILITY OF TALENT: ONE YEAR LATER

After having passed more than seven months since the publication of *the Draft Law on the promotion of the ecosystem of emerging companies* as of this article, we still do not have the final legal text and that, according to various statements in public media, turns out to be an absolute priority for the Government. In this way, it is expected to enter into force before the end of 2022.

Without prejudging whether or not it is a government priority, we are sure it is a **real opportunity for international mobility in general** since improvements and legal modifications are introduced whose scope of application is not explicitly limited to emerging companies but to any Spanish or foreign company with an international presence that wants to attract global talent.

In this way, we will not focus on the concrete measures foreseen to promote the mobility of highly qualified professionals in our country.

### *Migration measures to encourage the attraction of international talent*

A set of **migration measures** is established to facilitate the entry and residence of highly qualified professionals. The expansion of telecommuting has led to the emergence of a new lifestyle called **digital nomadism**. Digital nomads are people whose jobs allow them to work remotely and change residence regularly, making high-skilled work compatible with immersive tourism in the country of reference.

To regulate the residence of this profile of itinerant professionals and many others who choose a more stable teleworking place, they are defined as teleworkers of an international nature, and a new category of visa and residence authorization is created:

-The **visa for teleworking of an international nature** allows them to enter and reside in Spain for a maximum of one year while working for themselves or employers anywhere in the world.

-The **residence permit for international telework** allows foreigners who are already in Spain on a regular basis or whose telework visa has expired to request authorization for a maximum period of 2 years.

### *Tax measures to encourage the attraction of international talent*

Se improves access to the **special tax regime applicable to workers** displaced to Spanish territory to attract foreign talent. To access this optional regime, the tax periods in which



the taxpayer has not been a tax resident in Spain are reduced from 10 to 5, and the periods during which the Non-Resident Income Tax can tax him are extended from 5 to 10. In addition, the possibility of eligibility for this scheme is raised to other members of the family unit of the main expatriate: their spouse or the parent of their children, children under 25 years of age, and disabled children, regardless of age.

From the point of view of **opportunity and strategy in international mobility**, it is interesting to note that companies that are currently thinking of hiring foreign profiles should wait patiently for the final approval of the text since the relaxation of the temporary requirements for the application of the *Beck Law ham* facilitates the entry of a more significant number of professionals who will benefit from this special tax regime. In addition, although we do not believe that it applies retroactively to those who already enjoy this regime, it may be that it can be used from a specific date regardless of its entry into force.

#### *Remuneration measures to encourage the attraction of international talent*

Unlike the previous ones, this type of measure applies specifically to start-ups. According to the Explanatory Memorandum, start-ups have difficulty attracting and retaining employees with specialized and scarce profiles. From a remuneration point of view, they cannot pay high salaries because they do not have liquidity, and they cannot promise a share in the company's profits due to the limitations that commercial and tax law oppose to these plans.

This law aims to break down barriers by making the generation of treasury more flexible in limited companies – which is the legal form of most start-ups – and giving a more benign tax treatment to remuneration through the shares or social participation of emerging companies. In this way, the use of “*stock options*” is favored as **a compensation alternative for workers**. The minimum exemption from this type of remuneration is raised from € 15,000 to € 45,000, not being necessary that the offer is made under the same conditions for all workers of the company. It will be enough to be completed within a general remuneration policy of the company and contribute to workers' participation in the latter.

In short, from a business point of view, and if the purpose is to attract foreign investment to Spanish companies that are considered emerging, the regulatory text that is on the table still lacks strength and, above all, actual application to the situation of the business fabric of start-*ups* in Spain.

However, there is no doubt that, apart from this subjective scope of application, this Preliminary Project represents an excellent opportunity to attract international talent of highly qualified professional profiles for any Spanish or foreign company with interests in Spain. Logically, we will follow the approval and final publication of the text very closely.



Still, if you are not in a hurry, a good HR strategy would consist of waiting for it to be fully in force to start moving professional profiles to our country.

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