

Pursuant to Article 82 paragraph 1 item 2 and Article 91 paragraph 2 of the Constitution of Montenegro, the Parliament of Montenegro of the 24<sup>th</sup> assembly, at the seventh session of the first regular (spring) assemblage in 2011 year, on 22 June 2011 years, it adopted

**LAW  
ON AMENDMENTS  
TO THE LAW ON EMPLOYMENT AND WORK OF FOREIGNERS**

**Article 1**

Article 3 of the Law on Employment and Work of Foreigners ("Official Gazette of Montenegro" no. 22/08) is amended and it reads as follows:

"A foreigner may be employed or work in Montenegro, provided that he/she has: a work permit, permanent residence or temporary residence permit and a signed employment agreement or an agreement on performance of jobs or services."

**Article 2**

In Article 4, paragraph 1 after the item 9 the following two items are added and they read as follows:

9a) authors and performers in the fields of film, television, music, music-drama, dance and ballet, as well as supporting technical staff, if they do not stay in Montenegro longer than 30 days, or three months a year with interruptions;

9b) employees of a foreign company who conduct additional training and development of employees, i.e. who are additionally trained and developed with a legal entity based in Montenegro associated with that foreign business company through business or ownership;"

After paragraph 1 a new paragraph is added and it reads as follows:

"(2) Legal and natural persons using services of foreigners as provided in paragraph 1 items 5 through 20 of this Article are obliged to enter into agreement with them or have other relevant evidence of the type of services performed by foreigners."

**Article 3**

In Article 5 paragraph 1, item 4 is amended to read:

"4) **Employer** is a domestic or foreign legal entity, i.e. a foreign company branch or a natural person established or residing in Montenegro which concludes an employment agreement with a foreigner;"

In item 5 the words: "services or other form of work, based on civil-legal agreement" are replaced by the following words: "jobs or services, based on the agreement on performance of jobs or services."

Item 7 is amended to read:

"7) **work** means performing jobs or services, based on the agreement on performance of jobs or services;"

In item 8 the words: "**seasonal work**" are replaced by the words: "**seasonal employment**;"

Item 9 is amended to read:

"9) Agreement on performance of jobs or services is the agreement under which a foreigner performs his/her jobs or services with a legal entity based in Montenegro, or with a foreign company branch registered in Montenegro;

Items 12 and 13 are deleted.

Item 14 is amended to read:

»14) **movement of persons within a foreign business company** is a secondment of foreign employees (executives, managers, specialists) to a legal entity based in Montenegro, which has established that foreign business company, or in a foreign company branch registered in Montenegro;"

Items 16 and 17 are deleted.

Items 19, 20 and 21 are amended to read:

"19) **Head Officer** is a foreigner employed with a foreign business company who provides guidance to company management, conducts business policy and is seconded to the legal entity based in Montenegro which has established that foreign business company, or a foreign company branch registered in Montenegro;

20) **Manager** is a foreigner employed with a foreign business company to perform jobs on the company management, who is seconded to a legal entity based in Montenegro which has established that foreign business company, or a foreign company branch registered in Montenegro;

21) **Specialist** is a foreigner employed with a foreign business company who is seconded to a legal entity based in Montenegro which has established that foreign company, or the foreign company branch registered in Montenegro and possesses special knowledge relevant to company's business operations, as well as a high degree of professional competence in relation to the type of work or activity;"

Item 22 is deleted.

Former items 14, 15, 18, 19, 20 and 21 become items 12, 13, 14, 15, 16 and 17.

#### **Article 4**

Article 6 paragraph 2 is amended to read:

"(2) Quota referred to in paragraph 1 of this Article shall be determined by the Government, on proposal of the State Administration body in charge of labour affairs (hereinafter referred to as: Ministry), with previously obtained opinions of the State Administration bodies responsible for certain activities for which quota and opinion of the Social Council of Montenegro are determined."

#### **Article 5**

In Article 7 paragraph 1, item 9 is amended to read:

"9) migrant labourer;"

Item 11 is deleted.

#### **Article 6**

In Article 8 paragraph 1, line 2 is amended to read:

"- cross-border service of foreigners."

Paragraph 2 is amended to read:

"(2) Within the quota for employment of foreigners a quota for seasonal employment of foreigners is separately determined."

#### **Article 7**

In Article 11 paragraph 4 the words: "civil-legal agreement" are replaced by the words: "agreement on performance of jobs or services."

#### **Article 8**

In Article 12 paragraph 1 the words: "organizational unit of a foreign business company registered in Montenegro" are replaced by the words: "a foreign company branch registered in Montenegro".

## **Article 9**

In Article 14 after paragraph 2 a new paragraph is added and it reads:

"(3) Employment Agency is obliged to decide on a request for work permit within seven days from the date of request submission."

Former paragraphs 3 and 4 become paragraphs 4 and 5.

## **Article 10**

In Article 16 paragraph 1 item 1 the words: "organizational unit of a foreign business company registered in Montenegro" are replaced by the words: "foreign company branch registered in Montenegro;"

Item 2 is amended to read:

"2) Employer, legal person or a foreign company branch registered in Montenegro does not inform the Employment Agency about the commencement of a foreigner's work, within the period provided for in Article 34 of this Law;"

## **Article 11**

In Article 18 paragraph 4 the words: "no later than 30 days" are deleted.

## **Article 12**

In Article 21 paragraph 3 the words: "not later than 30 days" are deleted.

After paragraph 3, two new paragraphs are added and they read as follows:

"(4) The permit for seasonal employment referred to in paragraph 1 of this Article may be issued for the period of up to eight months a year, within a certain quota for seasonal employment.

(5) If a seasonal employment permit is issued in less time than specified in paragraph 4 of this Article, it can be extended up to the expiry of that deadline, in accordance with paragraph 3 of this Article."

## **Article 13**

Article 23 is amended to read:

"(1) A work permit is the permit with a predetermined time duration, based on which a foreigner employed with a legal entity based in Montenegro or a foreign company branch registered in Montenegro performs jobs or services under the agreement on performance of jobs or services.

(2) The permit referred to in paragraph 1 of this Article is issued at the request of a legal entity based in Montenegro or a foreign company branch registered in Montenegro."

## **Article 14**

Article 24 is amended to read:

"The work permit, by application, refers to:

- 1) cross-border services of foreigners and
- 2) movement of persons within a foreign business company."

## **Article 15**

In Chapter III item: "4. Types of work permits, sub-item: "a) Seasonal work of foreigners" and Article 25 are deleted.

Sub-item: "b) Work with seconded foreigners" is deleted.

## **Article 16**

Article 26 is amended to read:

### **"Cross-border Services of Foreigners**

#### **Article 26**

(1) Cross-border services of foreigners are services performed under the agreement signed between a foreign business company, i.e. a foreign citizen and a legal entity based in Montenegro for whom the services are performed.

(2) Cross-border services can be provided by a foreigner employed with a foreign business company referred to in paragraph 1 of this Article, engaged in providing these types of services.

(3) Notwithstanding paragraph 2 of this Article, cross-border services of foreigners, who are required to have a university degree and specialized knowledge and experience, may be provided by a foreigner without a working relationship.

(4) To carry out cross-border services referred to in paragraph 3 of this Article, before submitting the request for the work permit, a legal entity based in Montenegro shall be obliged, upon the written explanation, to obtain the consent from the State Administration body responsible for the activity in which the service is provided.

(5) The work permit for cross-border services is issued for the period of one year.

(6) The permit referred to in paragraph 5 of this Article shall be issued at the request of a legal entity based in Montenegro, within the quota set for cross-border services."

#### **Article 17**

Article 27 is deleted.

#### **Article 18**

In Article 28 paragraphs 1 and 3 are amended to read:

"(1) A foreign business company which has a registered legal entity or a foreign company branch in Montenegro, may second its employee to work in that legal entity or a foreign company branch, provided that the foreigner has been employed with that business company at least one year."

"(3) The permit for the foreigner referred to in paragraph 1 of this Article shall be issued at the request of a legal entity based in Montenegro which was founded by a foreign business company or a foreign company branch registered in Montenegro, for the period not to exceed one year."

In paragraph 4 the word: "seconded" is deleted.

After paragraph 4, a new paragraph is added and it reads:

"(5) The legal entity registered in Montenegro, or the foreign company branch referred to in paragraph 1 of this Article shall be required to submit the request for extension of work permit for the movement of persons within a foreign business company, before expiration of the permit issued."

#### **Article 19**

In Chapter III item: "4. Types of work permits", sub-item," c) Training and development of foreigners," and Article 29 are deleted.

Sub-item: "d) Provision of agreed services" and Article 30 are deleted.

#### **Article 20**

Article 31 is deleted.

## **Article 21**

In Article 32 paragraph 2 the words: "civil-law agreement" are replaced by the words: "Agreement on performance of works or services".

## **Article 22**

After Article 32 a new chapter and an Article are added and they read as follows:

"III a. COMMENCEMENT OF A FOREIGNER'S WORK

### **Article 32a**

(1) A foreigner who is issued an employment permit or work permit may not be employed or perform jobs or services before being granted a temporary residence, in accordance with a special law.

(2) Request for issuance of authorization for temporary residence shall be submitted to the State Administration body in charge of movement and residence of foreigners, not later than five working days from the date of issuance of the work permit.

(3) A foreigner who was granted a temporary residence for the purpose of joining his/her family is entitled to employment in the period of validity of a temporary residence, in accordance with this Law.

(4) An employer, a legal person or a foreign company branch registered in Montenegro, are obliged to conclude, prior to the commencement of work, an employment agreement or an agreement on performance of jobs or services with a foreigner to be employed or already employed."

## **Article 23**

Title of chapter IV is amended to read:

"IV. REGISTRATION OF COMMENCEMENT AND TERMINATION OF A FOREIGNER'S WORK".

## **Article 24**

Article 33 is deleted.

## **Article 25**

Article 34 is amended to read:

"An employer, a legal person or a foreign company branch registered in Montenegro are obliged to inform the Employment Agency on the commencement or termination of a foreigner's work, within eight days after the conclusion, or termination of the employment agreement, or the agreement of performance of jobs or services."

## **Article 26**

In Article 35, paragraph 2 is amended to read:

"(2) The State Administration body referred to in paragraph 1 of this Article shall be obliged to inform Employment Agency on approval of a temporary residence of a foreigner with a work permit, the validity period of temporary residence, termination or cancellation of permanent residence or temporary residence of a foreigner within eight days from the date of approval of temporary residence, or termination or cancellation of permanent residence or temporary residence".

## **Article 27**

In Article 38 paragraph 3 the words "organizational unit of a foreign business company registered in Montenegro" are replaced by the words: "a foreign company branch registered in Montenegro".

## **Article 28**

In Article 39 paragraph 1 the words: "from twenty to three hundred times the minimum wage in Montenegro" are replaced by the words: "from 500 EUR to 20,000 EUR".

After item 1, a new item is added and it reads as follows:

"1a) uses services provided by a foreigner without a signed agreement or other appropriate evidence of the type of services performed by foreigners (Article 4 paragraph 2);".

After item 2, a new item is added and it reads as follows:

"2a) carries out cross-border services not complying with the way prescribed by this Law (Article 26);".

In item 3 the words: "Article 33" and the words: "paragraph 1" are deleted.

In paragraph 4 the words: "not later than 30 days" are deleted and the words: "31 paragraph 3" are replaced by the words "28 paragraph 5;".

Paragraphs 2 and 3 are amended to read:

"(2) For the offense referred to in paragraph 1 of this Article, a natural person and a responsible person of the employer's legal entity shall be sentenced by a fine amounting from 30 EUR to 2,000 EUR.

(3) For the offense referred to in paragraph 1 of this Article, the entrepreneur shall be fined in the amount from 150 EUR to 6.000 EUR."

## **Article 29**

In Article 40 paragraph 1 the words: "from one half to twenty times the minimum wage in Montenegro" are replaced by the words: "in the amount from 30 EUR to 2.000 EUR."

In paragraph 2 the words: "civil-legal agreement" are replaced by the words: "Agreement on performance of jobs or services."

## **Article 30**

Article 41 is amended to read:

"(1) By fine on the spot in the amount of 200 EUR, shall be sentenced a natural and responsible person in a legal entity, respectively the responsible person in a foreign company branch registered in Montenegro for the offence of not possessing work permit for a foreigner within the business premises, or place of work (Article 38 paragraph 3).

(2) For the offense referred to in paragraph 1 of this Article there shall be sentenced a legal entity and entrepreneur by fine on the spot in the amount of up to 400 EUR.

(3) The fine referred to in paragraphs 1 and 2 of this Article shall be imposed by a labour inspector."

## **Article 31**

After Article 42 three new Articles are added and they read as follows:

### **"Article 42a**

(1) Displaced persons from former Yugoslav republics and internally displaced persons from Kosovo, who have in accordance with Article 105a paragraph 5 of the Law on Foreigners ("Official Gazette of Montenegro" no. 82/08 and 72/09) been granted temporary residence in Montenegro, may obtain a personal work permit, in accordance with this Law.

(2) Personal work permits for persons referred to in paragraph 1 of this Article shall be issued for a period of validity of a temporary residence.

#### **Article 42b**

(1) Proceedings commenced before the effective date of this Law shall be completed according to this law, if more favourable to the party.

(2) A work permit issued prior to the date of enactment of this Law shall be valid until the expiry of the period for which it was issued.

#### **Article 42c**

Regulations for implementation of this Law shall be harmonized with this Law within three months from the date of enactment of this Law.

On the effective date of this Law, the Rulebook on the procedure of application of commencement and termination of foreigners' work shall be deemed null and void ("Official Gazette of Montenegro" no. 81/08).

#### **Article 32**

Application of Articles 39, 40 and 41 of this Law is delayed until the date of implementation of the Law on Offences ("Official Gazette of Montenegro" no. 1 / 11).

#### **Article 33**

This Law shall come into force eight days after its publication in "Official Gazette of Montenegro".

Number: 02-1/11-1/6  
EPA 522 XXIV  
Podgorica, 22 June 2011

PARLIAMENT OF MONTENEGRO OF THE 24<sup>TH</sup> ASSEMBLY

PRESIDENT

Ranko Krivokapić