

**LAW ON EMPLOYMENT AND WORK  
OF FOREIGN CITIZENS**

# **LAW ON EMPLOYMENT AND WORK OF ALIENS**

## **I BASIC PROVISIONS**

### **Subject matter of the Law**

#### **Article 1**

- (1) A foreign citizen may be employed, that is, work in Montenegro under the conditions stipulated by the Law, collective agreement, confirmed and published international agreements and generally accepted rules of international law.

### **Aim of the Law**

#### **Article 2**

- (1) This Law shall set the conditions for a more flexible access of foreign citizens to the labor market in Montenegro, for the purpose of balancing the supply and demand in that market.

### **Requirements for employment and work of foreign citizens**

#### **Article 3**

- (1) A foreign citizen may be employed, that is, work in Montenegro on condition that s/he has a working permit, approval for permanent residence, that is, approval for temporary residence, signed labor contract, that is, civil-law contract and that the obligor of the duty to register the employment has reported the work of the foreign citizen in accordance with the provisions of this Law.

### **Exceptions**

#### **Article 4**

- (1) This Law shall not apply to the following foreign citizens:
  - 1) Foreign citizens who are members of the diplomatic, that is, consular missions in the territory of Montenegro;
  - 2) Foreign citizens enjoying immunity on the basis of the international law;
  - 3) Foreign citizens performing activities in Montenegro on the basis of the international agreements that Montenegro signed with another country, international organization or the European Union regarding professional-technical assistance or on the basis of the confirmed international agreements;
  - 4) Refugees fulfilling one of the following requirements:
    - they have been residing in Montenegro for minimum three years;
    - they are married to a Montenegrin citizen;
    - they have one child who holds Montenegrin citizenship;

- 5) Founders, proxy holders, members of management bodies and auditors of the company, who perform specific duties in that company, if the performance of those duties does not have the character of employment/ service;
- 6) Academic staff invited as professors or lecturers and scientific workers participating in a scientific-research project important for Montenegro;
- 7) Members of international missions who perform research activities in Montenegro, approved by the Government of Montenegro (hereinafter: the Government);
- 8) correspondents accredited in Montenegro or reporters of the foreign media;
- 9) artists and technical staff for opera, ballet, theatre, concerts, art exhibitions and other cultural events, if the persons are not staying in Montenegro longer than 30 days, that is, three months per year with interruptions;
- 10) persons coming to Montenegro in order to participate in sports contests;
- 11) persons executing duties related to delivery, installation or service of machinery or equipment, if their work does not exceed 30 days continuously, that is, the total of three months per year with interruptions;
- 12) persons participating in fairs or exhibitions where their employer participates as one of the exhibitors;
- 13) participants in organized professional meetings and seminars;
- 14) business visitors;
- 15) pupils<sup>1</sup> or students working as interns in Montenegro on the basis of an international agreement on the exchange of pupils, that is, students;
- 16) members of ship crews, aircraft crews or the employed in companies for road or railway transport, with the seat registered abroad;
- 17) clerical workers while performing clerical duty;
- 18) persons acting within the registered humanitarian organizations;
- 19) employees of circuses or entertainment parks, if they are not staying in Montenegro for over three months continuously (without interruptions);
- 20) civil and military officers of the Governments of other countries coming to Montenegro on the basis of the agreement on cooperation with the Government.

## Definition of terms

### Article 5

(1) The terms used in this Law shall have the following meaning:

- 1) **Foreign citizen** shall be the person who is not a Montenegrin citizen, whether s/he is the citizen of another state or a stateless person;

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<sup>1</sup> *Pupils* is the term used for primary or high school students, while the term *students* relates to University students.

- 2) **Refugee** shall be a foreign citizen who has been recognized the status of a refugee, in accordance with the special regulation;
- 3) **Person who holds the approval for additional protection** shall be a foreign citizen who does not fulfill the requirements to be recognized the refugee status, but obtained the approval for residence and protection, in accordance with a special regulation;
- 4) **Employer** shall be a domestic or foreign legal or physical entity, with the seat in Montenegro, who enters into the labor contract with a foreign citizen;
- 5) **Legal entity** shall be a company, institution, state administration authority, local self-government authority, holder of the public authority and other legal entity with the seat in Montenegro, for which the foreign citizen provides services or performs some other form of work, on the basis of the civil law contract;
- 6) **Employment** shall be the working relationship between the employer and the foreign citizen, based on the labor contract, for the performance of activities stipulated in the act on systematization of work posts (job description);
- 7) **Work** shall be the provision of services or performance of other forms of work, on the basis of the labor contract, that is, a civil law contract;
- 8) **Seasonal work** shall be the working relationship for a limited period of time within the sectors that have a seasonal character;
- 9) **Civil law contract** shall be the contract on the basis of which the foreign citizen provides the service, that is, performs other forms of work for the legal entity that has a seat in Montenegro, that is, in the organizational unit of the foreign company registered in Montenegro;
- 10) **Work migrant** shall be the foreign citizen with permanent residence in the neighboring state, who is employed and performs work in Montenegro and returns to the place of permanent residence minimum once per week;
- 11) **Representative of a company, that is, an entrepreneur** shall be a person recorded in the Central Register of the Commercial Court;
- 12) **Referred foreign citizen** shall be the person employed by the employer with the seat outside of Montenegro and providing some services in the territory of Montenegro;
- 13) **Cross-border service** shall be the service provided by a foreign company, on the basis of the contract signed between that company and the legal entity with the seat in Montenegro;
- 14) **Transfer of person within the company** shall be temporary transfer of the employed foreign citizens – leaders, managers, that is, specialists to the organizational unit of the foreign company registered in Montenegro;
- 15) **Foreign company** shall be an entrepreneur or legal entity performing commercial or some other activity and having permanent residence, that is, seat outside of Montenegro;
- 16) **Obligor of the duty to report the initiation of employment and cancellation of employment of the foreign citizens** shall be the employer, legal entity, that

is, organizational unit of a foreign company registered in Montenegro, who reports the work of the foreign citizen (to the relevant authority);

- 17) **Certificate of registration of work** shall be the document that proves the work of the foreign citizen in Montenegro;
- 18) **Business visitor** shall be the foreign citizen staying in Montenegro in order to establish business connections, for maximum 90 days in one calendar year, starting from the date of first entry into Montenegro;
- 19) **Leader** shall be the foreign citizen employed in a foreign company, who gives guidelines to the company management, defines business policy and is referred to the organizational unit of that company registered in Montenegro;
- 20) **Manager** shall be a foreign citizen employed in a foreign company to perform company management, who is referred to the organizational unit of that company registered in Montenegro;
- 21) **Specialist** shall be a foreign citizen employed in a foreign company, who is referred to the organizational unit registered in Montenegro and who holds specialist knowledge for the provision of services within the scope of activity of that company;
- 22) **Provider of contracted services** shall be a foreign citizen employed in a foreign company, who holds University degree, has specialist knowledge and minimum three years of experience in that field of specialty, and who performs contracted services in the company with the seat in Montenegro.

## **II DETERMINATION OF THE NUMBER OF WORK PERMITS FOR FOREIGN CITIZENS**

### **Quota**

#### **Article 6**

- (1) The Government shall determine annually the number of work permits for foreign citizens (hereinafter: quota), in accordance with the migration policy, labor market status and trends.
- (2) The quota from Paragraph 1 of this Article shall be determined by the Government, at the proposal of the Ministry responsible for labor affairs (hereinafter: the Ministry), with previously obtained opinions of the ministries responsible for specific areas of activity for which quota is determined, and the opinion of the Social Council.
- (3) The quota from Paragraph 1 of this Article shall be determined by October 31 of the current year for the upcoming year.
- (4) Criteria and procedure for quota determination shall be regulated by the special act of the Government.

### **Quota exceptions**

#### **Article 7**

- (1) Quota shall not be determined for the work permits issued to a foreign citizen:
- 1) Who holds a personal work permit;
  - 2) Employed in Montenegro on the basis of an international agreement, based on reciprocity;
  - 3) Providing teaching in the educational institutions, in the language and alphabet of the persons belonging to minority nations and other minority national communities;
  - 4) Who is a professional sportsman or sports worker, who is working in Montenegro on the basis of the contract signed;
  - 5) Family member of the Montenegrin citizen (spouse and children up to 21 years of age);
  - 6) Family member of a foreign citizen who is granted permanent residence in Montenegro (spouse and children up to 21 years of age);
  - 7) Family member of a refugee (spouse and children up to 21 years of age);
  - 8) Representative of a company, that is, entrepreneur;
  - 9) Referred foreign citizen attending additional training and development in Montenegro;
  - 10) Referred foreign citizen (leader, specialist, that is, manager) and
  - 11) Provider of contracted service.

### **Quota distribution**

#### **Article 8**

- (1) Quota shall be determined for the following purposes:
- employment of foreign citizens
  - work of foreign citizens.
- (2) Work quota is divided into the following:
- seasonal work of foreign citizens;
  - referred foreign citizens, who perform cross-border services in Montenegro, and
  - training and capacity building of the foreign citizens.

### **Prioritizing**

#### **Article 9**

- (1) The quota determined by the Government for specific purposes shall be divided according to the following sequence:
- valid work permits,
  - work permits issued on the basis of the international agreements, which incorporate already agreed quotas,
  - new work permits.

(2) Priority in the issuance of new work permits shall be granted to the following foreign citizens:

- family members of the foreign citizen with the residence permit in Montenegro (spouse and children up to 21 years of age);
- with expertise in the areas of activity where there is a large deficit of workers;
- work migrants.

### **Digressions from the determined quota**

#### **Article 10**

(1) The Government may limit or increase the number of work permits, that is, it may redistribute the number of work permits for specified purposes, if this is caused by the changes in the demand and supply in the labor market.

## **III WORK PERMITS**

### **Notion and types of work permits**

#### **Article 11**

- (1) Work permit shall be a document on the basis of which a foreign citizen may be employed, that is, work in Montenegro.
- (2) Work permit shall be issued as a personal work permit, permit for employment and work permit.
- (3) For one and the same period of time, the foreign citizen shall be granted only one work permit.
- (4) Foreign citizen shall not perform the duties for which s/he has not signed the labor contract, that is, the civil law contract.

### **Assignment of duty to foreign citizens**

#### **Article 12**

(1) The employer, legal entity, that is, organizational unit of the foreign company registered in Montenegro, may assign the foreign citizen only to the duties for which the work permit has been issued thereto.

### **Rejecting the application for the issuance of work permit**

#### **Article 13**

- (1) The employer shall have the application for the issuance of work permit rejected in the following cases:
  - 1) If, prior to the submission of application for the issuance of work permit to a foreign citizen, s/he informed the Employment Agency of Montenegro

- (hereinafter: Employment Agency) that s/he will dismiss the employees, in accordance with the special regulation;
- 2) if, six months prior to submission of the application for the issuance of work permit to a foreign citizen, s/he has dismissed the employees who have been employed for an unlimited period of time (permanent employment), in accordance with the special regulation;
  - 3) if s/he refused to hire an unemployed person from the record of unemployed persons kept in the Employment Agency, who met the requirements for employment, in accordance with the special regulation;
  - 4) in the past three years, prior to the submission of the application for issuance of work permit to a foreign citizen, s/he was punished for an offense according to this law;
  - 5) s/he presented negative business results in previous year or paid salaries to the employees below the level stipulated in the collective agreement for that sector or did not fulfill the obligations on the basis of payment of taxes and contributions.
- (2) As an exception to Paragraph 1, Items 1, 2, 3 and 5 of this Article, the employer shall not have the application for issuance of work permit to a foreign citizen rejected in case of the following foreign citizens:
- 1) With University education, employed in managerial duties;
  - 2) Family member of a Montenegrin citizen (spouse and children up to 21 years of age);
  - 3) Family member of the employer (spouse and children up to 21 years of age);
  - 4) With the profession that cannot be secured through the education in Montenegro.
- (3) Provisions of Paragraph 1, Items 1, 2 and 3 of this Article shall not apply to the employer who submits the application for the issuance of work permit to the representative of the company, that is, entrepreneur.

## **Responsible authorities**

### **Article 14**

- (1) Procedure of issuance, rejection, cessation of validity and invalidation of the work permits shall be executed by the Employment Agency.
- (2) In the decision-making procedure from Paragraph 1 of this Article the provisions of the Law on general administrative procedure shall apply, unless regulated otherwise by this Law.
- (3) It shall be possible to file an appeal to the Ministry against the decision of the Employment Agency.
- (4) Against the decision of the Employment Agency on rejecting the application for the issuance of work permit due to the fact that quota has been fulfilled, it shall not be possible to file an appeal, but it is possible to initiate an administrative dispute with the responsible court.



## **Form and content of the work permit**

### **Article 15**

- (1) The form and content of the work permit, manner of issuance and documents necessary for decision-making shall be prescribed by the Ministry.

## **Invalidation of the work permit**

### **Article 16**

- (1) The work permit shall be invalidated in the following cases:
  - 1) If issued on the basis of untrue data about the foreign citizen or employer, legal entity, that is, organizational unit of the foreign company registered in Montenegro;
  - 2) If the employer, legal entity, that is, organizational unit of the foreign company registered in Montenegro fails to inform the Employment Agency about the initiation of work of a foreign citizen within the deadline prescribed in Article 34, Paragraph 1 of this Law;
  - 3) If a foreign citizen performs the duties for which the work permit has not been issued thereto;
  - 4) If a foreign citizen has not been granted temporary residence;
  - 5) If the permanent residence, that is, temporary residence of the foreign citizen has expired or has been cancelled, in accordance with the special regulation.
- (2) The provision from Paragraph 1, Item 3 of this Article shall not apply to the foreign citizens who were issued personal work permits.

## **1. PERSONAL WORK PERMIT**

### **Notion and requirements**

#### **Article 17**

- (1) Personal work permit shall be the permit that grants to the foreign citizen free access to the labor market, irrespective of the status of and relations in the labor market.
- (2) Personal work permit may be issued to a foreign citizen:
  - who has been granted permanent residence;
  - refugee who does not meet the requirements from Article 4, Paragraph 1, Item 4 of this Law, and
  - who has been granted additional protection.
- (3) The permit from Paragraph 1 of this Article shall be issued at the request of a foreign citizen.

### **Period of validity**

#### **Article 18**

- (1) Personal work permit shall be issued for an unlimited period of time.

- (2) Exceptionally from paragraph 1 of this Article, personal work permit to the person who has been granted additional protection shall be issued for the period of up to one year.
- (3) Personal work permit for persons from Paragraph 2 of this Article may be extended for the period for which the additional protection is extended, in accordance with the special regulation.
- (4) Application for the extension of the personal work permit shall be submitted by the foreign citizen no later than within 30 days prior to the expiry of the period of validity of the issued permit.

### **Cessation of validity**

#### **Article 19**

- (1) Personal work permit shall cease to be valid:
  - 1) if a foreign citizen cancels the personal work permit;
  - 2) if a foreign citizen obtains Montenegrin citizenship;
  - 3) with the cessation of the refugee status;
  - 4) with the cessation of status of a person with additional protection, and
  - 5) in case of death of a foreign citizen.

## **2. EMPLOYMENT PERMIT**

### **Notion and requirements**

#### **Article 20**

(1) Employment permit shall be the permit on the basis of which the employer signs the labor contract with a foreign citizen.

(2) The permit from Paragraph 1 of this Article shall be issued at the request of the employer, if the quota related to the employment of foreign citizens has not been fully used.

### **Period of validity**

#### **Article 21**

- (1) The employment permit shall be issued for the period of up to one year.
- (2) After the expiry of its period of validity, the permit from Paragraph 1 of this Article may be extended for maximum two years, without checking the limitations from Article 13, Paragraph 1 of this Law.
- (3) The application for the extension of the employment permit shall be submitted by the employer no later than within 30 days prior to the expiry of the period of validity of the issued permit.

### **Cessation of validity**

#### **Article 22**

- (1) The employment permit shall cease to be valid:
  - 1) With the expiry of the period for which it was issued;
  - 2) With the cessation of the labor contract;
  - 3) If the foreign citizen obtains Montenegrin citizenship, and
  - 4) In case of death of the foreign citizen.

### **3. WORK PERMIT**

#### **Notion and requirements**

##### **Article 23**

- (1) Work permit shall be the permit with previously specified period of duration, on the basis of which the employer signs the labor contract with a foreign citizen, that is, the foreign citizen performs services or other form of work activity with the legal entity with the seat in Montenegro or an organizational unit of a foreign company registered in Montenegro, on the basis of the civil law contract.
- (2) The permit from Paragraph 1 of this Article shall be issued at the request of the employer, legal entity, that is, the organizational unit of a foreign company registered in Montenegro.

#### **Purpose of the work permit**

##### **Article 24**

- (1) The work permit, depending on purpose, shall relate to the following:
  - 1) Seasonal work of the foreign citizens;
  - 2) Work with referred foreign citizens;
  - 3) Training and capacity building of foreign citizens, and
  - 4) Provision of contracted services.
- (2) The work permit shall be issued within the quota determined for the specific purpose, except for referred foreign citizens from Article 7, Paragraph 1, Items 9, 10 and 11 of this Law.

#### **Types of work permits**

##### **a) Seasonal work of foreign citizens**

##### **Article 25**

- (1) The permit for seasonal work of foreign citizens shall be issued at the request of the employer, within the quota determined for seasonal work.
- (2) The permit from Paragraph 1 of this Article shall be issued for the period of up to eight months within one calendar year.

(3) If the permit for seasonal work has been issued for the period shorter than the one stipulated in Paragraph 2 of this Article, the permit may be extended, in accordance with this Law, without checking the limitation from Article 13, Paragraph 1 of this Law.

## **b) Work with referred foreign citizens**

### **Cross-border services**

#### **Article 26**

- (1) Foreign company may perform in Montenegro cross-border services with referred foreign citizens, in accordance with this Law and other regulations.
- (2) Cross-border services shall be performed on the basis of the contract signed between the foreign company and the legal entity with the seat in Montenegro, for whom the services are provided.
- (3) Foreign company may perform services with referred foreign citizens employed in that company for minimum one year. The referred foreign citizen may be issued the work permit several times, but not for the period exceeding three months in one calendar year. If, due to objective reasons, the services cannot be provided within the period for which the permit is issued, it is possible to apply for permit extension of maximum one month.
- (4) Exceptionally, when the performance of services is of a special interest to Montenegro, the permit may be issued for a longer period of duration, but not exceeding one year.
- (5) Prior to the submission of an application for the issuance of work permit for the performance of services from Paragraph 4 of this Article, on the basis of the written explanation, the legal entity shall obtain the consent of the Ministry.
- (6) With the previously obtained consent of the ministries responsible for individual fields of activity, the Ministry shall decide on the justification of the performance of service.
- (7) The work permit shall be issued to a foreign citizen within the quota for the specific cross-border service, at the request of the legal entity with the seat in Montenegro.

### **Additional training and development**

#### **Article 27**

- (1) Additional training and development of the referred foreign citizens may be executed if the legal entity with the seat in Montenegro and the foreign company are related on the basis of ownership or business relationship.
- (2) Additional training and development of the employed with the employer in Montenegro may be executed by the referred foreign citizens, if the legal entity with the seat in Montenegro and the foreign company are related on the basis of ownership or business relationship.
- (3) Additional training and development from Paragraphs 1 and 2 of this Article shall be executed in the premises of the legal entity with the seat in Montenegro, on the basis of the contract signed between the foreign company and the legal entity from Paragraphs 1 and 2 of this Article.

- (4) The work permit for additional training and development may be issued to a foreign citizen from Paragraphs 1 and 2 of this Article at the request of the legal entity with the seat in Montenegro, for the period that cannot be longer than one year.

#### **Transfer of persons within the foreign company**

##### **Article 28**

- (1) Foreign company with the registered organizational unit in Montenegro may temporarily move an employee to work in that organizational unit, on condition that the foreign citizen has been employed in that company for minimum one year.
- (2) Foreign citizens who may be referred, in the sense of this Article shall be as follows:
  - 1) leaders;
  - 2) managers, and
  - 3) special experts.
- (3) Work permit for a referred foreign citizen from Paragraph 1 of this Article shall be issued at the request of the organizational unit of the foreign company, registered in Montenegro, for the period of up to one year.
- (4) Exceptionally from Paragraph 3 of this Article, if the activities performed by the referred foreign citizen cannot be finished within the period for which the permit was issued, the work permit may be extended for the maximum period of two years.

#### **c) Training and capacity building of foreign citizens**

##### **Article 29**

- (1) Work permit for the training and development of the foreign citizens may be issued if Montenegro has signed an agreement on training and development of foreign citizens with the state of citizenship of the foreigner.
- (2) Training and development of the foreign citizens may be executed before the previously signed agreement between the states, when such training and development is of an interest to Montenegro.
- (3) Training and development shall be executed on the basis of a labor contract concluded between the employer in Montenegro and the foreign citizen, for a temporary period of up to one year, that is, for the period for which the permit was issued.
- (4) The work permit for training and development shall be issued at the request of the employer, for the period of up to one year, and may be extended for the period of maximum two years.
- (5) The work permit for training and development may be extended without checking the limitations from Article 13, Paragraph 1 of this Law.
- (6) The work permit is issued to a foreign citizen, in the sense of Paragraphs 1 and 2 of this Article, within the quota determined for training and development.

#### **d) Provision of contracted services**

##### **Article 30**

- (1) The foreign citizen employed in a foreign company may obtain the work permit for the performance of contracted services in Montenegro, if specialist knowledge of the contracted service provider is necessary.
- (2) For the performance of services from Paragraph 1 of this Article, a special contract shall be signed between the foreign company, that is, the foreign citizen and the legal entity in Montenegro, for the period that shall not be longer than one year.
- (3) The foreign citizen from Paragraph 1 of this Article shall be employed with the foreign company engaged in the provision of that type of services, for the period of minimum one year prior to the signing of the contract from Paragraph 2 of this Article.
- (4) The work permit shall be issued to the foreign citizen from Paragraph 1 of this Article at the request of the legal entity from Montenegro, for the period of duration of the contract, but not exceeding one year.

#### **Period of validity**

##### **Article 31**

- (1) The work permit shall be issued for a temporary period, depending on purpose.
- (2) Upon the expiry of its validity, the work permit may be extended in the cases prescribed by this Law.
- (3) The application for the extension of the work permit shall be submitted by the employer, the legal entity, that is, the organizational unit of the foreign company registered in Montenegro, within 30 days prior to the expiry of the period of duration of the issued permit.

#### **Cessation of validity**

##### **Article 32**

- (1) The work permit shall cease to be valid:
  - 1) With the expiry of the period for which it was issued;
  - 2) With the expiry of the labor contract or civil law contract, and
  - 3) In case of death of the foreign citizen.

### **IV REPORTING THE INITIATION AND CESSATION OF EMPLOYMENT OF FOREIGN CITIZENS**

#### **Reporting the initiation and cessation of employment**

##### **Article 33**

- (1) The obligor of the duty to report the employment of a foreign citizen shall be the following:
  - 1) the employer on behalf of a foreign citizen who holds the work permit from Articles 17, 20, 25 and 29 of this Law ;

- 2) the legal entity with the seat in Montenegro on behalf of a foreign citizen who holds the work permit from Articles 26, 27 and 30 of this Law;
- 3) the organizational unit of the foreign company registered in Montenegro, on behalf of a foreign citizen who holds the work permit from Article 28 of this Law.

#### **Article 34**

- (1) The obligor of the duty to report the employment of a foreign citizen shall register the initiation and cessation of employment of a foreign citizen with the Employment Agency within 15 days from the date of initiation, that is, date of cessation of employment of a foreign citizen.
- (2) The Employment Agency shall issue to the obligor of the duty to register the employment of a foreign citizen a certificate of work of a foreign citizen on the prescribed form.
- (3) The Ministry shall prescribe the procedure of reporting the initiation and cessation of employment of a foreign citizen, the evidence that must be submitted with the registration forms and the submission of data to the responsible authorities.

#### **Cooperation of the responsible authorities**

#### **Article 35**

- (1) The Employment Agency shall inform the state administration authority responsible for the affairs of movement and stay of foreign citizens about the invalidation and cessation of validity of the work permit of a foreign citizen within eight days from the date of invalidation, that is, from the date of cessation of validity of the work permit.
- (2) State administration authority from Paragraph 1 of this Article shall inform the Employment Agency about the cessation or cancellation of permanent residence, that is, temporary residence of a foreign citizen within eight days from the date of cessation or cancellation of permanent residence, that is, temporary residence.

### **V RECORDS AND CHARGE FOR THE ISSUANCE OF WORK PERMIT**

#### **Records**

#### **Article 36**

- (1) The records regarding the unemployed and employed foreign citizens shall be kept in accordance with the Law.

#### **Charge**

#### **Article 37**

- (1) The charge to compensate for the costs created in the process of issuance of the work permit shall be paid in accordance with the Law on administrative fees.
- (2) The funds from Paragraph 1 of this Article shall be the revenues of the Employment Agency.

## **VI SUPERVISION**

### **Labor inspection**

#### **Article 38**

- (1) Supervision over the enforcement of this Law and other regulations adopted on the basis of this Law shall be exercised by the Ministry, through the labor inspection.
- (2) In exercising the supervision, the labor inspector shall have the duties and powers stipulated by a special regulation.
- (3) The employer, legal entity, that is, organizational unit of the foreign company registered in Montenegro shall hold the work permit for a foreign citizen in the business premises, that is, in the place of work.

## **VII PUNITIVE MEASURES**

#### **Article 39**

- (1) The employer - legal entity shall be charged for the offense with the fine ranging from twenty to thirty times the minimum wage in Montenegro, if:
  - 1) it employs a foreign citizen, that is, enables a foreign citizen to work contrary to the requirements from Article 3 of this Law
  - 2) it assigns a foreign citizen to the duties for which the work permit has not been issued (Article 12);
  - 3) it fails to report the initiation of employment and the cessation of employment of a foreign citizen to the Employment Agency within the legally prescribed deadline (Article 33 and Article 34, Paragraph 1);
  - 4) it fails to submit the application for extension of work permit no later than 30 days prior to expiry of the period of validity of the issued permit (Article 21, Paragraph 3 and Article 31);
  - 5) it has no work permit for the foreign citizen in the business premises, that is, in the place of work (Article 38 Paragraph 3).
- (2) The responsible person in the legal entity with the employer shall be charged with a fine for the offenses from Paragraph 1 of this Article, ranging from ten to twenty times the minimum wage in Montenegro.
- (3) The employer as a physical person shall be charged for the offenses from Paragraph 1 of this Article with the fine ranging from ten to twenty times the minimum wage in Montenegro.

#### **Article 40**

- (1) The foreign citizen shall be charged with the fine ranging from one half of the minimum wage in Montenegro to twenty times the minimum wage in Montenegro in the following cases:
  - 1) if the foreign citizen is employed, that is, if the foreign citizen works contrary to Article 3 of this Law;



- 2) if the foreign citizen is performing the duties for which s/he has not signed the labor contract, i.e. civil law contract (Article 11, Paragraph 4);
- 3) if the foreign citizen, after the approval of additional protection, fails to submit the application for the extension of the personal work permit within the deadline stipulated in the Law (Article 18, Paragraph 4).

#### **Article 41**

- (1) The fine amounting to three minimum wages in Montenegro shall be charged on the spot to the employer as a physical entity, the responsible person in the legal entity and the responsible person with the employer as the legal entity, that is, the responsible person in the organizational unit of a foreign company registered in Montenegro, for the offense of not having a work permit for the work of a foreign citizen in the business premises, that is, in the place of work (Article 38 Paragraph 3).
- (2) The fine from Paragraph 1 of this Article shall be pronounced by the Labor inspector.

### **VIII TRANSITIONAL AND FINAL PROVISIONS**

#### **Article 42**

- (1) The procedures initiated prior to coming into effect of this Law shall be resolved according to this Law, if this is more favorable for the party.
- (2) The work permit issued prior to coming into effect of this Law shall be valid until the expiry of the period for which it was issued.

#### **Article 43**

- (1) The regulations for the enforcement of this Law shall be adopted within six months from the date of coming into effect of this Law.

#### **Article 44**

- (1) The Law on employment and work of foreign citizens (“Official Gazette of the Republic of Montenegro” no. 11/04) and the Decree on work engagement of non-resident physical entities (“Official Gazette of the Republic of Montenegro” no. 28/03) shall cease to be effective on the date of enforcement of this Law.

#### **Article 45**

- (1) This Law shall come into effect on the eighth day from the date when it is published in the “Official Gazette of Montenegro”, and it shall be enforced as of January 1, 2009.