

TEMPORARY LABOR MOBILITY STATE OF PLAY IN SERBIA

**Dialogue on Regional Mobility of
Professionals in CEFTA**

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**CATEGORIES OF NATURAL PERSONS
ALLOWED TO ENTER SERBIA FOR
THE PURPOSE OF PROVIDING
SERVICES**

LAW ON CONDITIONS FOR THE EMPLOYMENT OF FOREIGNERS

- THE LAW (Official Gazette of SFRY No.11/78,64/89, and Official Gazette of FRY No. 42/92, 24/94, 28/96 and 101/05) **DOES NOT PRESCRIBE CATEGORIES OF NATURAL PERSONS AS DEFINED IN GATS. THE LAW IS NOT IN LINE WITH EU REGULATIONS IN THIS AREA.**

A FOREIGN NATIONAL MAY BE EMPLOYED IF,

- **GENERAL** CONDITIONS
 - education, skills, knowledge, work skills and
- **SPECIFIC** CONDITIONS **ARE MET**:
 - a) **approval for** permanent residence or **temporary stay** , issued by the Ministry of Interior and
 - b) **approval for employment permit** issued by the National Employment Service (NES)

LAW ON FOREIGNERS

TEMPORARY RESIDENCE PERMIT CAN BE GRANTED TO A FOREIGNER INTENDING TO STAY IN THE REPUBLIC OF SERBIA FOR MORE THAN 90 DAYS **FOR THE PURPOSE OF:**

- 1) **WORK, EMPLOYMENT, PERFORMANCE OF ECONOMIC, OR OTHER PROFESSIONAL ACTIVITY;**
- 2) education, studying, or specialization, scientific-research work, practical training, participation in the programs of international exchange of pupils and students, i.e. other scientific-educational activities;
- 3) family reunion;
- 4) other justifiable reasons in line with the law/international treaty.

THE TEMPORARY RESIDENCE REFERRED TO IN ITEM 1 HEREOF SHALL BE PERMITTED TO A FOREIGNER **UNTIL THE EXPIRY OF THE TERM OF APPROVED LABOUR CONTRACT OR FOR A PERIOD UP TO 1 YEAR AND CAN BE EXTENDED FOR THE SAME PERIOD** UNLESS OTHERWISE PROVIDED IN THIS LAW OR AN INTERNATIONAL TREATY.

LAW ON CONDITIONS FOR THE EMPLOYMENT OF FOREIGNERS

- WORK PERMIT** (an approval for employment relationship/labour agreement)
- **VALIDITY IS FROM 3 TO 12 MONTHS.** WORK PERMIT **CAN BE RENEWED** AND THE PROCEDURE IS IDENTICAL WITH THE FIRST APPLICATION. An application for a work permit is submitted in person or by mail. The average time for obtaining the work permit is 2 days.
 - STEPS FOR OBTAINING A WORK PERMIT ARE:
 - Obtaining a **residence permit** issued by the Ministry of Interior
 - **Application** submitted by the employer/company
 - A **work permit** issued by the National Employment Service

THE RULE BOOK ON CONDITIONS AND MANNER OF ISSUING THE LICENSE FOR FOREIGNERS AND STATELESS - LMNT

THE RULE BOOK (Published in "Sl. Gazette of the RS", no. 22 of 9 April 2010) prescribes in Article 5 that the NES branch office **may reject an application for a work permit to a foreigner if an unemployed - citizens of the Republic of Serbia is registered at the office of the National Service,** who meet the requirements for performing the operations mentioned in the application for the work permit to a foreigner. If, on the record there are no interested unemployed - Serbian citizens who meet the requirements of paragraph 1 this article, branch offices can issue a work permit to a foreigner.

But there are exemptions

LAW ON CONDITIONS FOR THE EMPLOYMENT OF FOREIGNERS

EXCEPTIONS

Foreigner can sign the contract (service agreement) WITHOUT obtaining A WORK PERMIT (provided that a temporary/permanent residence permit is issued), when performing a professional work determined by **contracts** on

- 1) business-technical cooperation,
- 2) long-term manufacturing cooperation,
- 3) technology transfer,
- 4) foreign investment,
- 5) when signing of a **contract** on performing **temporary or periodical** work and when such work, by nature, does not last more than 120 days during a calendar year

DRAFT LAW ON EMPLOYMENT OF FOREIGNERS

THE REASONS FOR PREPARING A NEW LAW ARE THE OBLIGATIONS ARISING FROM

- **THE SAA** – THE NEED FOR HARMONIZATION OF NATIONAL LEGISLATION WITH EU DIRECTIVES;
- RATIFIED **ILO CONVENTIONS** AND
- **GATS COMMITMENTS.**

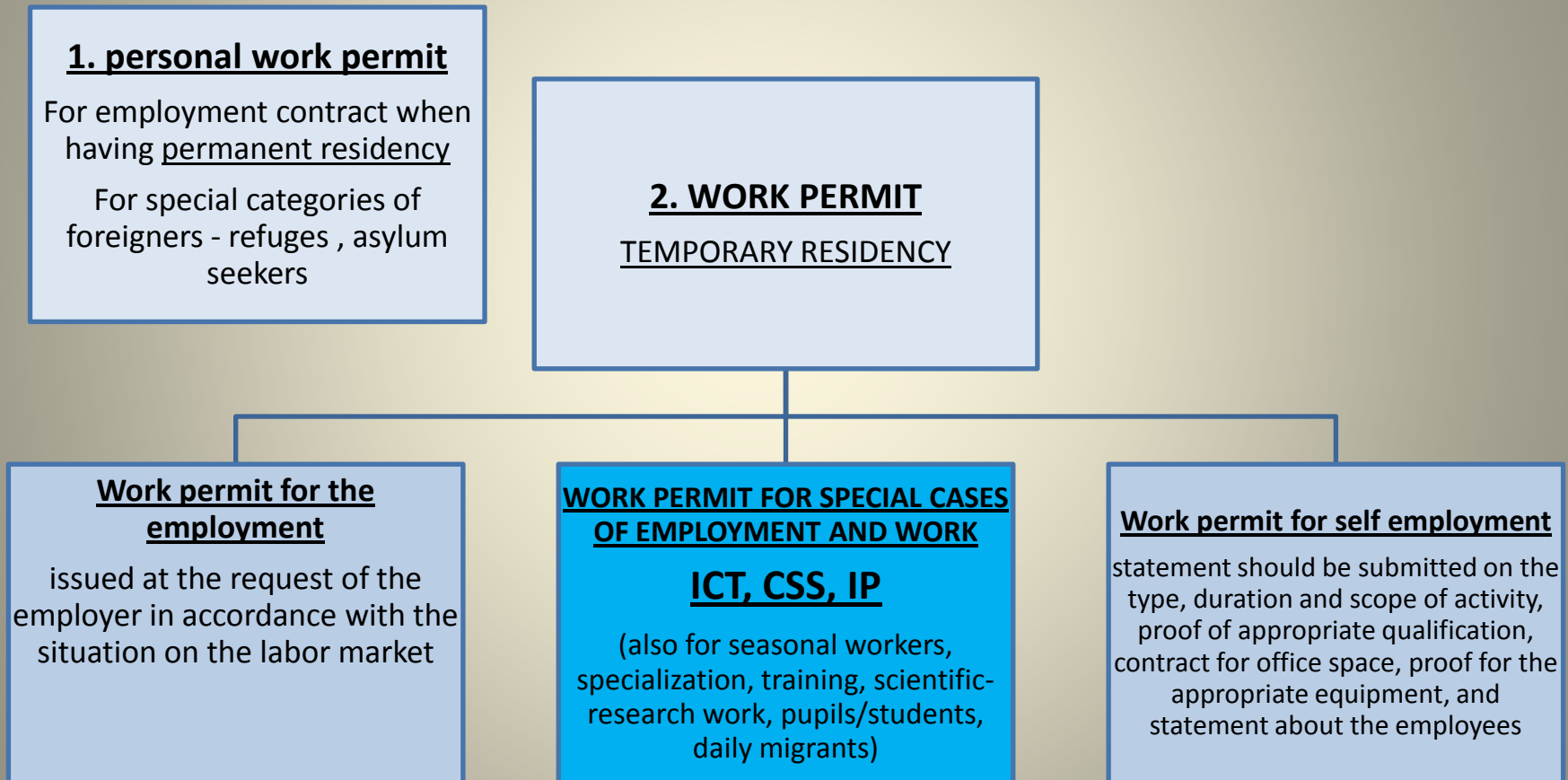
The Law regulates rights, obligations and responsibilities related to employment of foreign individuals working for employers at the territory of the Republic of Serbia, so that foreign individuals are equal to domestic citizens regarding the right to receive compensation for work and work conditions and the right to labor unions and exercise of rights from collective agreements

THIS LAW REFERS TO FOREIGNERS WHO ARE EMPLOYED OR ARE ENTITLED TO WORK IN SERBIA (TO START EMPLOYMENT, SELF-EMPLOYMENT, ESTABLISH THE COMPANY).

POSSIBILITY OF ESTABLISHING A QUOTA SYSTEM IN CASE OF DISTURBANCES ON THE LABOR MARKET, IN ACCORDANCE WITH MIGRATION POLICY AND STATE AT LABOR MARKET AND TRENDS (**EXEMPTED ARE ICT, INSTALLERS AND MAINTAINERS** and contracts of general social interests).

DRAFT LAW ON EMPLOYMENT OF FOREIGNERS

FORMS OF WORK PERMITS prescribed by the Draft Law



DRAFT LAW ON EMPLOYMENT OF FOREIGNERS

WORK PERMIT FOR SPECIAL CASES OF EMPLOYMENT AND WORK IS ISSUED with the **VALIDITY FOR MAXIMUM 1 YEAR** FOR

- **ICT** - EMPLOYED BY A FOREIGN EMPLOYER AS MANAGER, EXECUTIVE OR SPECIALIST FOR AT LEAST ONE YEAR (KEY PERSONNEL) FOR PERFORMING THE SAME JOB IN SERBIA,
- **CSS** – TEMPORARY RESIDENCY PERMIT, CONTRACT, EMPLOYED BY A FOREIGN EMPLOYER FOR AT LEAST ONE YEAR,
 - **FOR INSTALLERS AND MAINTAINERS** –IF THE WORK LASTS MORE THAN 90 DAYS, I.E. FOR THE PERIOD REQUIRED FOR THE COMPLETION OF WORK
- **IP** - TEMPORARY RESIDENCY PERMIT, CONTRACT, POSSESSION OF APPROPRIATE ACADEMIC CREDENTIALS OR QUALIFICATIONS

DRAFT LAW ON EMPLOYMENT OF FOREIGNERS

FOR ICT AND CSS (INSTALLERS AND MAINTAINERS)
THERE IS A **FLEXIBILITY** SINCE THE DRAFT LAW
PRESCRIBES THAT **THE CONDITIONS AND THE PERIOD**
FOR ISSUING THE WORK PERMIT COULD BE
REGULATED BY THE INTERNATIONAL AGREEMENT
SIGNED WITH A SPECIFIC COUNTRY.

ACCOUNTING AND AUDITING LAW

(RS Official Gazette No 62/13)

CERTIFIED AUDITOR – main conditions for the license (MF-for 3 years)

- **higher education** in the second degree, minimum 4 years university degree
- at least 3 years of practical **work experience** in statutory audits
- the **examination** for the title of certified auditor
- **supplementary examination** on the regulations of the Republic of Serbia - is carried out by the Chamber of Certified Auditors
- extended with the proof of continuous professional development

ACCOUNTING SERVICES

- **The Law does not regulate criteria** which have to be met by natural person who provides accounting services. A legal entity or entrepreneur (who is responsible for true and fair presentation of financial statements) shall set in its general act the education background, work experience and other requirements which have to be met by a person that keeps books of accounts and prepares financial statements.

LAW ON PLANNING AND CONSTRUCTION

(Official Gazette of the Republic of Serbia 72/2009,81/09)

The conditions for issuing a license to architects and engineers prescribed by the Law are:

- 5 year University education,
- work experience (for planners 5 years and for designers and contractors minimum 3 years),
- professional examination,
- professional results (plans, projects, contracted structures, etc.),
- recommendations by two licensed engineers
- Condition of reciprocity

Serbian Chamber of Engineers is issuing the licence.

SERBIA COMMITMENTS IN GATS

HORIZONTAL SECTION - SSC/GATS

- **ICT** – ENTRY AND STAY IS LIMITED TO A **MAXIMUM PERIOD OF 3 YEARS** WITH A POSSIBILITY FOR **EXTENSION FOR AN UNLIMITED NUMBER OF TIMES** AND SUBJECT TO WORKING PERMIT.
- **CSS** - THE LEGAL PERSON HAS OBTAINED A SERVICE CONTRACT FOR A PERIOD NOT EXCEEDING 12 MONTHS. THE TEMPORARY ENTRY AND STAY SHALL BE **FOR A CUMULATIVE PERIOD OF NOT MORE THAN 90 DAYS IN ANY 6 MONTH PERIOD** OR FOR THE DURATION OF THE CONTRACT, WHATEVER IS LESS.
- **IP** - NO COMMITMENTS
- **BV** - **Services salespersons** and Persons responsible for the **establishment of commercial presence**

INTRA-CORPORATE TRANSFEREES

ACCESS IS SUBJECT TO THE FOLLOWING CONDITIONS:

- THE NATURAL PERSON CONCERNED MUST HAVE BEEN **EMPLOYED** BY A JURIDICAL PERSON ESTABLISHED IN THE TERRITORY OF ANOTHER WTO MEMBER **FOR AT LEAST THE YEAR IMMEDIATELY PRECEDING THE DATE OF ADMISSION.**
- THE NATURAL PERSON IS TEMPORARILY TRANSFERRED IN THE CONTEXT OF THE PROVISION OF A SERVICE IN THE TERRITORY OF SERBIA TO AN ESTABLISHMENT (SUBSIDIARY, BRANCH OR REPRESENTATIVE OFFICE) OF THE AFOREMENTIONED JURIDICAL PERSON WHICH IS EFFECTIVELY **PROVIDING THE SAME OR LIKE SERVICES IN SERBIA.**
- THE NATURAL PERSON CONCERNED MUST BELONG TO ONE OF THE FOLLOWING **CATEGORIES**:
 - a) EXECUTIVES and SENIOR MANAGERS (similar as the EU)**
 - b) SPECIALISTS (the same as the EU requirements)**

CONTRACTUAL SERVICE SUPPLIERS (1)

- ACCESS WILL BE GRANTED TO NATURAL PERSONS ENGAGED IN THE SUPPLY OF A SERVICE ON A TEMPORARY BASIS AS EMPLOYEES OF A LEGAL PERSON WITH NO COMMERCIAL PRESENCE IN SERBIA, SUBJECT TO THE FOLLOWING CONDITIONS:
 - THE LEGAL PERSON HAS OBTAINED A SERVICE **CONTRACT FOR A PERIOD NOT EXCEEDING 12 MONTHS**, FROM A FINAL CONSUMER IN SERBIA, THROUGH A PROCEDURE WHICH GUARANTEES THE *BONA FIDE* CHARACTER OF THE CONTRACT,
 - THE SERVICE CONTRACT COMPLIES WITH THE LAWS OF SERBIA,
 - THE NATURAL PERSON SEEKING ACCESS SHOULD BE OFFERING SUCH SERVICES AS AN EMPLOYEE OF THE LEGAL PERSON **SUPPLYING THE SERVICE AT LEAST A YEAR IMMEDIATELY PRECEDING SUCH MOVEMENT**,
 - THE TEMPORARY ENTRY AND STAY SHALL BE FOR A CUMULATIVE PERIOD OF NOT MORE THAN 90 DAYS IN ANY 6 MONTH PERIOD OR FOR THE DURATION OF THE CONTRACT, WHATEVER IS LESS,

CONTRACTUAL SERVICE SUPPLIERS (2)

THE NATURAL PERSON MUST POSSES:

- A) A **UNIVERSITY DEGREE** OR A TECHNICAL QUALIFICATION DEMONSTRATING KNOWLEDGE OF AN **EQUIVALENT LEVEL**
- B) **PROFESSIONAL QUALIFICATIONS** WHERE THIS IS REQUIRED TO EXERCISE AN ACTIVITY IN THE SECTOR CONCERNED PURSUANT TO THE LAWS, REGULATIONS OR REQUIREMENTS OF SERBIA, AND
- C) AT LEAST **THREE YEARS PROFESSIONAL EXPERIENCE** IN THE SECTOR.

THE COMMITMENT RELATES ONLY TO THE SERVICE ACTIVITY WHICH IS THE SUBJECT OF THE **CONTRACT**. IT DOES NOT CONFER ENTITLEMENT TO EXERCISE A PROFESSIONAL TITLE IN SERBIA,

CONTRACTUAL SERVICE SUPPLIERS (3)

THE NUMBER OF THE PERSONS COVERED BY THE SERVICE CONTRACT SHALL NOT BE LARGER THAN NECESSARY TO FULFIL THE CONTRACT,

WHERE THE **DEGREE OR QUALIFICATION** HAS NOT BEEN OBTAINED IN SERBIA, THE LATTER **MAY EVALUATE WHETHER THIS IS EQUIVALENT** TO A UNIVERSITY DEGREE OBTAINED IN SERBIA.

THE SERVICE CONTRACT HAS TO BE OBTAINED IN ONE OF THE **ACTIVITIES** MENTIONED (MORE THAN 10) **IN THE SECTOR SPECIFIC PART:**

- **ARCHITECTURAL, ENGINEERING AND INTEGRATING ENGINEERING SERVICES**
- **ACCOUNTING AND BOOKKEEPING SERVICES**

LABOUR AGREEMENTS WITH OTHER COUNTRIES

AGREEMENTS ON TEMPORARY EMPLOYMENT OF CITIZENS

SERBIA SIGNED AGREEMENTS WITH

- Bosnia and Herzegovina
- Belarus
- Libya
- Protocol on cooperation between the Serbian Ministry of Labour and Social Policy (MLSP) and Veneto Region, Italy

In 2013 negotiations started with Russian Federation.

BILATERAL RECRUITMENT AGREEMENT WITH GERMANY

- Agreement on Detachment with Germany signed in 2001 provides the possibility of sending workers on the basis of contracts between the employer from the Republic of Serbia and the employer from Germany on execution of contracted works.
- Out of the total approved **quota of 2,770** in 2012 1,474 work permits were issued mostly in the **construction industry, insulating, jobs in the field of assembly and machine works.**

STATISTICS ON LABOUR MOBILITY

**Number of temporary residence permits on the basis
of work (issued for the first time) according to Citizenship
(Ministry of Interior)**

| Foreigners | 2012 | 2011 |
|---------------------------|--------------|--------------|
| China | 611 | 604 |
| Italy | 374 | 186 |
| UAE | 244 | |
| Russian Federation | 189 | 174 |
| Greece | 170 | 149 |
| Romania | 124 | 74 |
| Croatia | 114 | 220 |
| Bosnia Herzegovina | 102 | 268 |
| Macedonia | | 87 |
| Others | 1.254 | 1.363 |
| Total | 3.182 | 3.009 |

STRUCTURE OF FOREIGNERS REGISTERED AT NATIONAL EMPLOYMENT SERVICE IN 2013

| <u>Age groups</u> | 25-30 | 31-40 | 41-50 |
|--------------------------|-------------------|--------------------------------|------------------|
| Number of foreigners | 508 | 1062 | 707 |
| | | | |
| <u>Educational level</u> | Primary education | Secondary vocational education | Higher education |
| Number of foreigners | 3 | 369 | 1395 |

THE NUMBER OF HIGH EDUCATED FOREIGNERS REGISTERED AT THE NES IS THE HIGHEST AND THEY BELONG TO THE AGE GROUP OF 31-40. THEY ARE MOSTLY FROM THE EU MEMBER COUNTRIES (FRANCE, UNITED BRITAIN, GERMANY, AUSTRIA, GREECE, IRELAND) BUT ALSO FROM RUSSIA.

NUMBER OF WORK PERMITS ISSUED IN 2012/2013

| | 2012 | 2013 |
|---|--------------|--------------|
| Foreign citizens with permanent residence | 54 | 72 |
| Foreign citizens with temporary residence | 2.904 | 2.784 |
| Total | 2.958 | 2.856 |

THE LARGEST NUMBER OF WORK PERMITS WAS ISSUED TO FOREIGNERS WITH TEMPORARY RESIDENCE and in 2012 to foreigners FROM TURKEY (381), THE RUSSIAN FEDERATION (290), **MACEDONIA** (255), GREECE (203), **BOSNIA AND HERZEGOVINA** (199), CROATIA (120) AND ITALY (109)

USUALLY PERMITS WERE MOSTLY ISSUED TO **PROFESSIONALS WHO ARE EMPLOYED IN FOREIGN REPRESENTATIVE OFFICES, BANKS, CONSTRUCTION AND TRADE.**

EMPLOYMENT OF SERBIAN NATIONALS ABROAD

Citizens of the Republic of Serbia could be employed abroad through the National Employment Service, employment agencies (60 registered), or they find jobs by themselves independently.

With the assistance of the employment agencies in 2012, 403 **Serbian nationals were employed** in: Qatar (mechanical **engineers**), UAE (waiters, hotel workers, doctors of different specialists, nurses), Saudi Arabia, Libya (chemical **engineers**, civil **engineers**, geodetic **engineers**, mechanics) Norway (**engineers**), **Macedonia**, Greece (seasonal jobs, hotel workers), Switzerland (workers at home), USA (employment at ships).

GENERAL CONCLUSION

- The Republic of **Serbia is still not an attractive destination for economic migrants /employment opportunities**, even not for the countries in the region.
- On the other hand, there is a **significant outflow of young and highly educated population** of the Republic of Serbia **towards the developed countries** of the EU, North America, Australia and New Zealand.

THANK YOU FOR YOUR ATTENTION

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