



Djurdja Domanovic



Ljubinka Pljevaljic

Working Engagement of Foreigners in Serbia

The requirements and procedure for employment of foreigners in the Republic of Serbia (hereinafter: the “**RoS**”) is comprehensively regulated by the Law on Employment of the Foreigners (hereinafter: the “**Law**”) as well as by the Rulebook on Work Permits (hereinafter: the “**Rulebook**”).

With the Law, the rights and obligations of foreigners that fulfil all requested conditions by the Law and domestic citizens are equalized in terms of work, employment and self-employment, as well as in terms of rights in the case of unemployment.

However, the Government of the RoS is entitled to limit the number of foreigners to whom work permits are issued in the event of disturbances on the labour market, in accordance with migration policy and the condition and trends in the labour market.

Requirements for foreigners’ employment in the RoS

According to the Law, employment of a foreigner is subjected to two general requirements. The first necessary requirement is that the foreigner has a temporary resident approval or a permanent residence in the RoS, issued by the Ministry of Internal Affairs. Second necessary requirement in that regard is that the foreigner possess a work permit in accordance with the Law. Competent authority for the issuance of the all types of work permits in the RoS is the National Employment Service (hereinafter: the “**NES**”).

However, previously mentioned requirements do not apply on employment of particular categories of foreigners, explicitly prescribed by the Law, e. g. employment of foreigners that are entitled to privileges and immunities in accordance with ratified international agreements by the RoS.

The Law provides the right to free access to the labour market in the RoS for European Union citizens (hereinafter: the “**EU Citizens**”), as well as for the members of EU citizens’ families, that are not citizens of the EU countries, but possess temporary residence permit or permanent residence permit in that counties. Additionally, according to the Law, this permit is, also, not necessary for employees that are not EU Citizens, if they are assigned to work in the RoS by employers which registered seat is in some of EU countries, European Economic Area or Switzerland Confederation. However, all these provisions related to employment of the EU citizens would be applicable when the RoS becomes a member of the EU. Until then, in order to establish an employment in the RoS, EU Citizens would have to fulfil all general requirements.

Types of work permits

A work permit is deemed to be a document based on which a foreigner may get employed or self-employed in the RoS.

The Law differentiates between a personal work permit, or a work permit, since only one of these two types of permits may be issued for the same period.

According to the latest changes and amendments to the Rulebook, the procedure for issuance of all work permits is simplified due to the obligation of the NES to, ex officio, obtains all necessary documents from the competent authorities (e.g. temporary residence permit).

1. Personal work permit

A personal work permit provides to a foreigner unrestricted employment, self-employment and the exercise of rights in the event of unemployment.

A personal work permit is issued at the request of a foreigner if:

- 1) he/she possesses a permanent residence approval (for a period of duration of his identity card for foreigner);
or
- 2) he/she has a status of a refugee (for the period of duration of his identity card for a person granted asylum);
or
- 3) he/she belongs to a special category of a foreigner.

2. Work permit

Work permit enables a foreigner to perform only those activities in the RoS for which the respective work permit is issued. A work permit is issued for the duration of the planned employment but no longer than period of temporary residence.

A work permit is a type of work permit which can be issued as:

- 1) Employment work permit;
- 2) Work permit for special cases of employment, namely for the:
 - a) Seconded persons;
 - b) Relocations within a company;
 - c) Independent professionals;
 - d) Training and improvement;
- 3) A work permit for self-employment.

According to the official opinion of the Ministry of Labour, Employment, Veterans' and Social Affairs (hereinafter: the "**Ministry**"), employer may establish employment with a foreigner only by signing a fixed-term agreement, effective during the validity of the work permit.

Namely, employment work permit is the crucial of all types of work permits. Thus, most of foreigners have to obtain this work permit in order to be able to work in the RoS. Precondition for the employer to be able to submit the request for the issuance of the employment work permit for foreigner, is to initiate procedure of "labour market test" before the NES.

The labour market test is the procedure conducted by the NES in order to determine whether the employer could find Serbian citizens, persons who have free access to the country's labour market or foreign citizens with a personal work permits with the requested qualifications in the records of the NES.

Only after this procedure, employer is entitled to establish an employment with the foreigner for whom he submitted the request for the issuance of the employment work permit.

Temporary work permit

Having in mind employer's interest that employees who are foreigners start to work as soon as possible, the latest changes and amendments of the Law, adopted earlier this year, introduces an institute of temporary work permit.

In order for the NES to issue a temporary work permit to a foreigner, the following requirements have to be fulfilled:

- a) the issuance of a temporary work permit is in the interest of the RoS or that is required by the RoS' internationally accepted obligations,
- b) a foreigner, to whom a temporary work permit is issued, fulfils all the employer's requirements related to the appropriate knowledge and skills, qualifications, previous experience, etc.,
- c) a foreigner has submitted a request for temporary stay, and
- d) a foreigner has previously obtained the approval of the minister responsible for internal affairs.

Temporary work permit can be issued for a period no longer than 45 days.

For more information about this please contact:

Ljubinka Pljevaljcic
Senior Associate - Doklestin Repic & Gajin
ljubinka.vaskovic@doklestin.law
T. +381.11.414.33.60

Djurdja Domanovic
Associate - Doklestin Repic & Gajin
djurdja.domanovic@doklestin.law
T. +381.11.414.33.60