

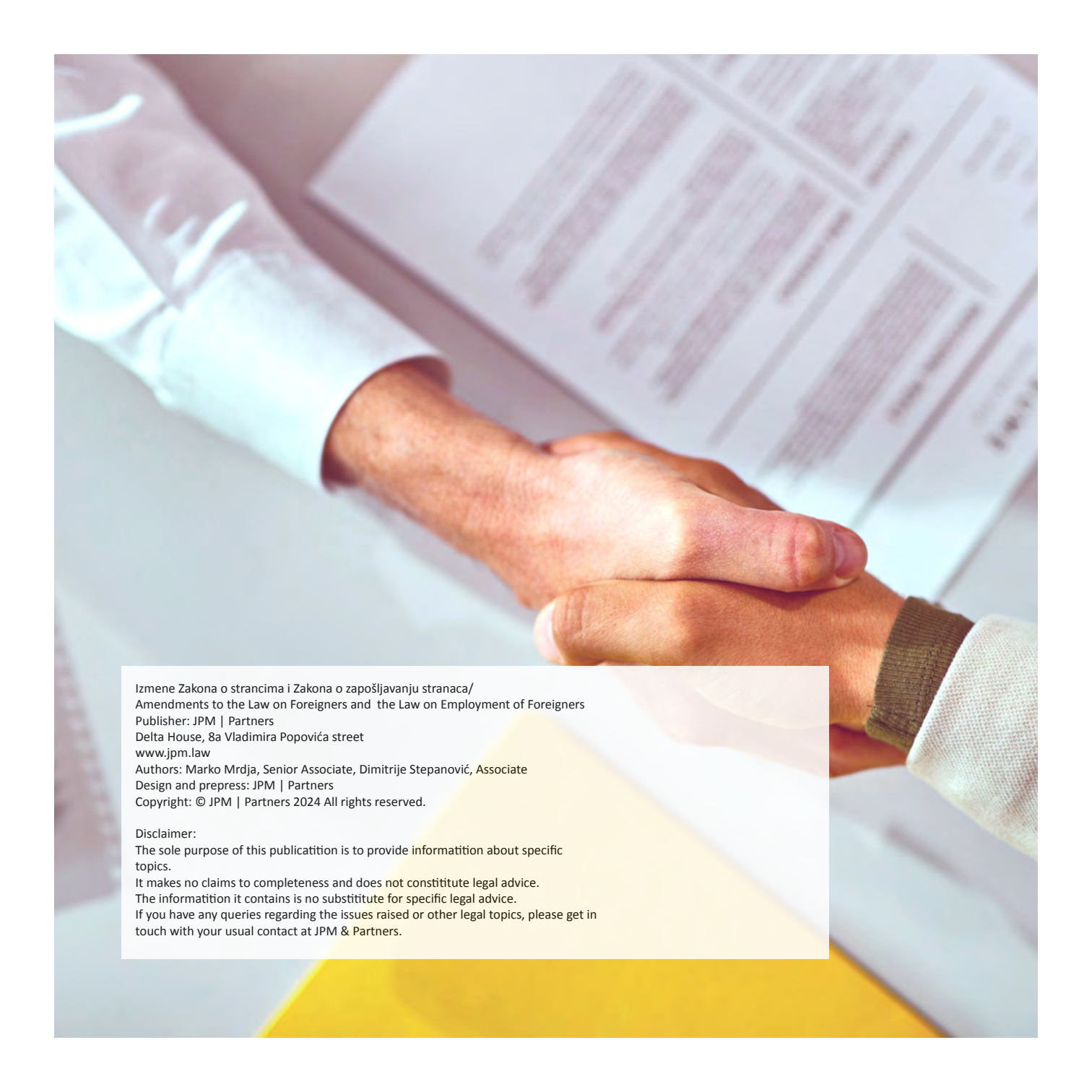


Izmene Zakona o strancima i Zakona o zapošljavanju stranaca

Amendments to the Law on Foreigners and the Law on Employment of Foreigners

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A close-up photograph of two hands shaking over a document. The hands are positioned in the center of the frame, with the fingers interlaced. The document is slightly out of focus, showing some text and lines. The lighting is soft and even, highlighting the texture of the skin and the fabric of the sleeves. The background is a plain, light-colored surface.

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Amendments to the Law on Foreigners and the Law on Employment of Foreigners
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Authors: Marko Mrdja, Senior Associate, Dimitrije Stepanović, Associate
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Kako bi se omogućili olakšano pribavljanje boravišnih i radnih dozvola, a zbog sve većeg priliva stranaca koji dolaze da žive i rade u Republici Srbiji, 2023. godine je došlo do novih izmena Zakona o strancima i Zakona o zapošljavanju stranaca. Usled navedenih izmena Zakona, javila se potreba za donošenjem novih podzakonskih akata koji bi se uskladili sa poslednjim izmenama.

U skladu sa tim, Vlada Republike Srbije je za te potrebe početkom ove godine donela 4 nova pravilnika i to: Pravilnik o odobravanju stalnog nastanjenja (koji je stupio na snagu 05.02.2024. godine), kao i Pravilnik o odobravanju privremenog boravka, Pravilnik o izdavanju jedinstvene dozvole za privremeni boravaka i rad stranaca i Pravilnik o podnošenju zahteva za stalno nastanjenje elektronskim putem koji su stupili na snagu 01.02.2024. godine.

To facilitate easier obtaining of residence and work permits, due to the increasing influx of foreigners coming to live and work in the Republic of Serbia, new amendments were made to the Law on Foreigners and the Law on Employment of Foreigners in 2023. As a result of these legal amendments, there was a need to adopt new bylaws that would comply with the latest changes.

Accordingly, at the beginning of this year, the Government of the Republic of Serbia adopted 4 new rulebooks for this purpose, namely: The Rulebook on Granting Permanent Residence (which entered into force on 05.02.2024), as well as the Rulebook on Granting Temporary Residence, the Rulebook on Issuing a Single Permit for Temporary Residence and Work of Foreigners, and the Rulebook on Submitting Applications for Permanent Residence Electronically, which entered into force on 01.02.2024.

Pravilnik o odobravanju stalnog nastanjenja

Rulebook on Granting Permanent Residence

Ključni doprinos ovog pravilnika jeste da se njime bliže uređuje novine u pogledu kategorija stranaca se može odobriti stalno nastanjenje, i to:

Strancu na osnovu dugotrajnog boravka u Republici Srbiji

Za razliku od ranijih odredbi Zakona o strancima gde je bilo predviđeno da je stranac morao da boravi 5 godina po osnovu privremenog boravka kako bi podneo zahtev za odobrenje stalnog nastanjenja, sada je strancu dovoljno da boravi neprekidno tri godine na osnovu privremenog boravka ili na osnovu jedinstvene dozvole, kako bi mogao podneti navedeni zahtev.

Stranac je dužan da zahtev za odobrenje stalnog nastanjenja podnese najranije 60 dana pre isteka perioda od 3 godine, a najkasnije do isteka važenja njegovog privremenog boravka. Pored ispunjenosti u pogledu vremena boravka u Srbiji, stranac mora da podnese dokaze po osnovu kojih mu je prethodno izdata privremeni boravak, odnosno jedinstvena dozvola.

Key contributions of this rulebook are regulating the new categories of foreigners who can be granted permanent residence, namely:

Foreigner on the basis of long-term stay in the Republic of Serbia

Unlike previous provisions of the Law on Foreigners where a foreigner had to reside for 5 years on the basis of temporary residence to apply for permanent residence approval, now a foreigner only needs to reside continuously for 3 years on the basis of temporary residence or a single permit to be able to submit such a request.

The foreigner must submit the request for permanent residence approval at the earliest 60 days before the expiry of the 3-year period, and at the latest by the expiry of their temporary residence. In addition to meeting the residence duration in Serbia, the foreigner must submit evidence based on which their previous temporary residence or single permit was issued.

Posebne kategorije stranaca kojima se može odobriti boravak nezavisno od ispunjenja uslova u pogledu dužine boravka:

1. Maloletni stranac ako je jedan od roditelja državljanin Republike Srbije ili stranac kome je odobreno stalno nastanjenje.

Sa poslednjom izmenom Zakona o strancima i novim pravilnikom sada maloletnom strancu, čiji je jedan od roditelja državljanin Republike Srbije ili stranac kome je odobreno stalno nastanjenje, može da mu bude odobreno stalno nastanjenje.

Tako je za maloletnike predviđeno da je potrebno da se pribavi izvod iz matične knjige rođenih kojim se dokazuje srodstvo sa licem koje je državljanin Republike Srbije ili strancem kome je odobreno stalno nastanjenje. Prilikom podnošenja zahteva je potrebno prisustvo oba roditelja ili overena saglasnost drugog roditelja u slučaju da ne može da prisustvuje, osim u izuzetno opravdanim situacijama predviđenim pravilnikom (npr. pravnosnažnom sudskom presudom dete je dodeljeno na staranje roditelju koji podnosi zahtev za odobrenje stalnog nastanjenja za maloletnika ili je lišen poslovne sposobnosti). U tom slučaju, nije potrebna saglasnost drugog roditelja.

Special categories of foreigners who can be granted residence regardless of meeting the duration of stay requirement:

1. Minor foreigner if one of the parents is a citizen of the Republic of Serbia or a foreigner granted permanent residence.

With the latest amendment to the Law on Foreigners and the new rulebook, a minor foreigner whose one parent is a citizen of the Republic of Serbia or a foreigner granted permanent residence can now be granted permanent residence.

For minors, it is required to obtain a birth certificate proving kinship with the person who is a citizen of the Republic of Serbia or a foreigner granted permanent residence. When submitting the request, the presence of both parents or a certified consent of the other parent is needed if they cannot be present, except in exceptionally justified situations stipulated by the rulebook (e.g. by a final court decision, the child is entrusted to the care of the parent submitting the request for permanent residence approval for the minor, or the other parent is deprived of legal capacity). In such cases, the consent of the other parent is not required.

2. Stranac koji je poreklom iz Republike Srbije i stranac koji je srpskog porekla

Stranac srpskog porekla prilikom podnošenja zahteva dostavlja ili domaću ili stranu javnu ispravu koja ima snagu domaće javne isprave, ili krštenicu Srpske pravoslavne crkve, kojom dokazuje svoje srpskog poreklo, dok stranac koji je poreklom iz Republike Srbije opravdanost svog zahteva dokazuje sopstvenim izvodom iz matične knjige rođenih ili izvodom iz matične jednog od roditelja.

Stranac koji neprekidno boravi na teritoriji Srbije duže od 3 godine po osnovu odobrenog prava na azil

Pravilnikom su isto tako predviđene olakšice za strance kojima je odobreno pravo na azil u pogledu podnošenja zahteva za odobrenje stalnog nastanjenja. Naime, kako bi se što više olakšao njihov put do pribavljanja dozvola imajući u vidu njihovu životnu situaciju, pravilnik predviđa da stranac kojom je odobreno pravo na azil ne prilaže fotokopiju lične karte i pasoša, u slučaju da iz opravdanih razloga nije bio u mogućnosti da istu pribavi (npr. rata u zemlji porekla stranca). Tako da stranac kome je odobreno pravo na azil prilikom podnošenja zahteva za odobrenje stalnog nastanjenja jedino dostavlja rešenje kojim mu je odobreno pravo na azil i kopiju lične karte.

2. Foreigner originating from the Republic of Serbia and a foreigner of Serbian origin.

A foreigner of Serbian origin, when submitting the request, provides a domestic or foreign public document having the force of a domestic public document, or a baptismal certificate from the Serbian Orthodox Church, proving their Serbian origin. A foreigner originating from the Republic of Serbia proves the justification of their request with their own birth certificate or the birth certificate of one of their parents.

Foreigner continuously residing in the territory of Serbia for more than 3 years on the basis of granted asylum

The rulebook also provides facilitations for foreigners granted asylum rights regarding the submission of requests for permanent residence approval. Specifically, in order to facilitate their path to obtaining permits given their life situations, the rulebook stipulates that a foreigner granted asylum rights does not need to submit a copy of their ID card and passport, in case they were unable to obtain them for justified reasons (e.g. war in the foreigner's country of origin). Thus, a foreigner granted asylum rights only needs to submit the decision granting them asylum and a copy of their ID card when applying for permanent residence approval.

Pravilnik o odobravanju privremenog boravka

Rulebook on Approving Temporary Residence

Uvod

Novi Pravilnik o odobravanju privremenog boravka bliže uređuje poslednje izmene Zakona o strancima, a pre svega u pogledu podnošenja zahteva za izdavanje dozvole za privremeni boravak i pribavljanja navedene dozvole elektronskim putem. Naime, od 01.02.2024. godine, svi zahtevi za privremeni boravak, kao i zahtevi za pribavljanje jedinstvene dozvole za privremeni boravak i rad stranac će se sada isključivo podnositi preko internet platforme - Portal za strance (link portala: livinginserbia.gov.rs). U slučaju ispunjenja svih potrebnih uslova, dozvola za privremeni boravak se izdaje na period do 3 godine, sa mogućnošću produženja do još 3 godine.

Osim toga, treba istaći da je sada omogućeno strancima da prilikom podnošenja zahteva, u slučaju da ga podnose iz inostranstva, dostavljaju bilo ugovor o zakupu nepokretnosti, bilo izjavu o nameravanoj adresi stanovanja, kao dokaz o postojanju adrese boravišta.

Introduction

The new Rulebook on Approving Temporary Residence further regulates the latest amendments to the Law on Foreigners, primarily regarding the submission of requests for issuing temporary residence permits and obtaining these permits electronically. Namely, from 01.02.2024, all requests for temporary residence, as well as requests for obtaining a single permit for temporary residence and work by a foreigner, will now be submitted exclusively through the internet platform - Portal for Foreigners (portal link: livinginserbia.gov.rs). If all necessary conditions are met, the temporary residence permit is issued for a period of up to 3 years, with the possibility of extension for another 3 years.

Additionally, it is noteworthy that foreigners are now allowed to submit, when applying from abroad, either a real estate lease agreement or a statement of intended residence address as proof of having a residence address.

Osnov podnošenja zahteva

Navedeni pravilnik predviđa da stranac podnosi zahtev za odobrenje privremenog boravka u skladu sa odredbom Zakona o strancima, odnosno po sledećim osnovama:

1. posebni oblici zapošljavanja;
2. školovanja ili učenja srpskog jezika;
3. studiranja;
4. učestvovanja u programima međunarodne razmene učenika ili studenata;
5. naučno istraživačkog rada ili druge naučno obrazovne aktivnosti;
6. spajanja porodice;
7. obavljanja verske službe;
8. lečenja ili nege;
9. vlasništva nad nepokretnosti;
10. humanitarnog boravka.

Sa donošenjem novog Pravilnika o izdavanju jedinstvene dozvole za privremeni boravak i rad stranaca, u slučaju da je zaposlenje osnov za izdavanje dozvole za privremeni boravak, sada se izdaje jedinstvena dozvola i za privremeni boravak i rad stranca.

Grounds for Submitting the Request

The mentioned rulebook stipulates that a foreigner submits a request for temporary residence approval in accordance with the provisions of the Law on Foreigners, on the following grounds:

1. Special forms of employment;
2. Education or learning the Serbian language;
3. Studying;
4. Participating in international student exchange programs;
5. Scientific research or other scientific educational activities;
6. Family reunification;
7. Performing religious service;
8. Medical treatment or care;
9. Real estate ownership;
10. Humanitarian residence.

With the adoption of the new Rulebook on Issuing a Single Permit for Temporary Residence and Work of Foreigners, in case employment is the basis for issuing a temporary residence permit, a single permit for both temporary residence and work of the foreigner is now issued.

Dalje, pravilnikom su predviđeni uslovi, odnosno dokazi koji treba da se pribave kako bi se strancu izdala dozvola za privremeni boravak po navedenim osnovima predviđeni ovim pravilnikom.

Novine u pogledu posebnih oblika zapošljavanja

Navedeni pravilnik kao jednu od isto tako bitnijih novina detaljnije uređuje koji oblici zaposlenja spadaju u posebne oblike zapošljavanja. Navedenim pravilnikom se predviđa da su posebni oblici zapošljavanja:

1. obavljanja poslova akreditovanog stranog novinara;
2. volontiranja;
3. eksperta na realizaciji projekta u saradnji sa državnim organima Republike Srbije;
4. realizacije audiovizuelnog dela, odnosno stranac koji je angažovan na realizaciji audio-vizuelnog dela;
5. obavljanja sezonskih poslova.

Dok su prva tri osnova bila predviđena prethodnim pravilnikom, sada stranci koji učestvuju u realizaciji audiovizuelnog dela na teritoriji Republike Srbije, odnosno članovi glumačkih i autorskih ekipa, kao i lica koja obavljaju sezonske poslove moraju po ovom osnovu da pribave odobrenje za privremeni boravak.

Furthermore, the rulebook stipulates the conditions, or evidence, that must be obtained for a foreigner to be issued a temporary residence permit on the mentioned grounds envisaged by this rulebook.

Novelties Regarding Special Forms of Employment

The mentioned rulebook also importantly regulates in more detail which forms of employment are considered special forms of employment. The rulebook stipulates that special forms of employment are:

1. Performing duties of an accredited foreign journalist;
2. Volunteering;
3. Expert on a project in cooperation with state authorities of the Republic of Serbia;
4. Realization of an audiovisual work, i.e. a foreigner engaged in the realization of an audiovisual work;
5. Performing seasonal jobs.

While the first three grounds were envisaged by the previous rulebook, now foreigners participating in the realization of an audiovisual work in the territory of the Republic of Serbia, i.e. members of acting and creative teams, as well as persons performing seasonal jobs, must obtain temporary residence approval on this basis.

1. Stranac koji učestvuje u realizaciji audiovizuelnog dela

Kako bi stranac po ovom osnovu pribavio dozvolu za privremeni boravak, potrebno mu da pored opštih uslova za pribavljanje boravišne dozvole, pribave i dodatne dokaze u vidu:

- i. ugovor o poslovnoj saradnji zaključen između domaćeg i stranog privrednog subjekta;
- ii. potvrda izdata od strane privrednog subjekta iz Republike Srbije;
- iii. potvrda o angažovanju stranca, izdata od strane stranog privrednog subjekta, u kojem je naveden vremenski period angažovanja.

2. Stranac koji obavlja sezonske poslove

Kako bi stranac mogao da obavlja sezonske poslove, potrebno je da dostavi ponudu koja mora da sadrži podatke o poslodavcu, podatke o vrsti posla koju će stranac obavljati, podatke o uslovima rada (to obuhvata: visinu zarade, trajanje dnevnog i nedeljnog odmora, uslovi smeštaja i ishrane). U slučaju ispunjenja svih potrebnih uslova, navedena privremeni boravak se izdaje na period koji je ne može biti duži od 120 dana u jednoj kalendarskoj godini.

1. Foreigner participating in the realization of an audiovisual work

In order for a foreigner to obtain a temporary residence permit on this basis, in addition to the general conditions for obtaining a residence permit, they need to provide additional evidence in the form of:

- i. A business cooperation agreement concluded between a domestic and a foreign business entity;
- ii. A confirmation issued by a business entity from the Republic of Serbia;
- iii. A confirmation of engagement of the foreigner, issued by the foreign business entity, stating the period of engagement.

2. Foreigner performing seasonal jobs

For a foreigner to be able to perform seasonal jobs, they need to submit an offer that must contain information about the employer, information about the type of work the foreigner will perform, and information about the working conditions (this includes: wage amount, duration of daily and weekly rest, accommodation and food conditions). If all necessary conditions are met, the temporary residence is issued for a period that cannot exceed 120 days in one calendar year.

Pravilnik o izdavanju jedinstvene dozvole za privremeni boravak i rad stranaca

Rulebook on Issuing a Single Permit for Temporary Residence and Work of Foreigners

Uvod

Sušтина novog Pravilnika o izdavanju jedinstvene dozvole za privremeni boravak i rad stranaca jeste da se po olakšanoj i bržoj proceduri pribavi jedinstvena dozvola.

Naime, kroz odredbe navedenog pravilnika se bliže uređuju sami uslovi koji su potrebni da stranac ispuni, kao i same etape postupka kako bi lice pribavilo jedinstvenu dozvolu. U slučaju ispunjenja svih potrebnih uslova, jedinstvena dozvola se izdaje na period do 3 godine, sa mogućnošću produženja do još 3 godine.

Novine u pogledu načina prikupljanja potrebne dokumentacije, kao i u pogledu podnošenja zahteva sa sprovođenjem testa tržišta rada i rok za odlučivanje

Introduction

The essence of the new Rulebook on Issuing a Single Permit for Temporary Residence and Work of Foreigners is to facilitate an easier and faster procedure for obtaining a single permit.

Namely, the provisions of this rulebook further regulate the conditions that a foreigner must meet, as well as the stages of the procedure for the person to obtain a single permit. If all necessary conditions are met, the single permit is issued for a period of up to 3 years, with the possibility of extension for another 3 years.

Additionally, it is noteworthy that foreigners are now allowed to submit, when applying from abroad, either a real estate lease agreement or a statement of intended residence address as proof of having a residence address.

Novine u pogledu načina prikupljanja potrebne dokumentacije, kao i u pogledu podnošenja zahteva sa sprovođenjem testa tržišta rada i rok za odlučivanje

Navedeni pravilnik donosi novine u pogledu sprovođenja testa tržišta rada, kao i u pogledu načina podnošenja dokaza radi izdavanja jedinstvene dozvole.

Naime, sada poslodavac ili pravno ili fizičko lice koje on ovlasti, podnosi zahtev Nacionalnoj službi za zapošljavanje za sprovođenje testa tržišta rada u elektronskoj formi bilo u okviru Portala za strance ili u okviru Euprave.

Za razliku od ranije, kada se zahtev podnosio u Nacionalnoj službi za zapošljavanje, sada se zahtev, sa svim potrebnim dokumentima podnosi elektronskim putem što u mnogo čemu olakšava postupak.

Zahtev za sprovođenje testa tržišta rada se može podneti najranije 60 dana pre podnošenja zahteva, a najkasnije na dan podnošenja zahteva za izdavanje jedinstvene dozvole.

Novelties Regarding the Method of Collecting Required Documentation, as well as Submitting the Request for Conducting the Labor Market Test and the Decision Deadline

The mentioned rulebook introduces novelties regarding the conducting of the labor market test, as well as the method of submitting evidence for issuing a single permit.

Specifically, now the employer or a legal or natural person authorized by them, submits the request to the National Employment Service for conducting the labor market test in electronic form either within the Portal for Foreigners or within the E-Government portal.

Unlike before, when the request was submitted to the National Employment Service, now the request, with all necessary documents, is submitted electronically, which greatly facilitates the process.

The request for conducting the labor market test can be submitted no earlier than 60 days before submitting the request, and no later than the day of submitting the request for issuing a single permit.

Za razliku od pre kada je Nacionalna služba za zapošljavanje imala rok od 10 od dana pokrenutog postupka za sprovođenje testa tržišta rada da sačini izveštaj o realizaciji potrebe za zapošljavanjem, sada je navedeni rok smanjen 4 za izradu navedenog izveštaja.

Po odlučivanju o navedenom zahtevu, Nacionalna služba za zapošljavanje dostavlja ID broj koji se kasnije upisuje na odgovarajuće polje na zahtevu za izdavanje jedinstvene dozvole.

Način podnošenja zahteva za pribavljanje jedinstvene dozvole i rok za odlučivanje po zahtevu

Novina ovog pravilnika jeste u tome da zahtev za pribavljanje i produženje jedinstvene dozvole će se podnositi isključivo elektronskim putem i to preko internet platforme Portala za strance (link portala: livinginserbia.gov.rs). Sam zahtev za izdavanje, odnosno produženje jedinstvene dozvole može da podnese sam stranca, poslodavac u ime stranca ili lice koje oni ovlaste. Ono što treba naglasiti jeste da u slučaju da stranac samostalno podnosi zahtev za izdavanje jedinstvene dozvole, morao bi od svog poslodavca da ID broj koju je poslodavac pribavio na osnovu sprovedenog postupka testa tržišta rada, s obzirom da stranac ne može samostalno sprovesti navedeni postupak.

Unlike before, when the National Employment Service had a deadline of 10 days from the initiation of the procedure for conducting the labor market test to prepare a report on the realization of the employment need, this deadline has now been reduced to 4 days for preparing the said report.

After deciding on the request, the National Employment Service provides an ID number that is later entered in the corresponding field on the request for issuing a single permit.

Method of Submitting the Request for Obtaining a Single Permit and Deadline for Decision on the Request

The novelty of this rulebook is that the request for obtaining and extending the single permit will be submitted exclusively electronically through the internet platform Portal for Foreigners (portal link: livinginserbia.gov.rs). The request for issuing or extending the single permit can be submitted by the foreigner themselves, the employer on behalf of the foreigner, or a person authorized by them. It should be emphasized that if the foreigner independently submits the request for issuing a single permit, they would have to obtain the ID number from their employer, which the employer obtained based on the conducted labor market test procedure, since the foreigner cannot independently conduct this procedure.

Po podnošenju navedenog zahteva, Uprava za strance odlučuje po navedenom u roku od 15 dana od dana podnošenja zahteva.

Jedna od isto tako ključnih prednosti ovog načina podnošenja zahteva jeste da sada stranac može i iz inostranstva da podnese zahtev za izdavanje jedinstvene dozvole.

Osnov za podnošenje zahteva

Zakonom za zapošljavanje stranaca su predviđeni i ovim pravilnikom su predviđeni osnovi za zaposlenje stranca. Dok je zapošljavanje po osnovu ugovoru o radu ili drugog ugovora kojim se ostvaruju prava po osnovu rada primarni osnov zaposlenja, posebni osnovi zaposlenja u skladu sa Zakonom o zapošljavanju stranaca i ovim pravilnikom:

1. upućeno lice;
2. kretanje u okviru privrednog društva;
3. nezavisni profesionalac;
4. osposobljavanje i usavršavanje;
5. samozapošljavanje.

Ono što treba navesti jeste da u pogledu većine ovih osnova nije došlo do promene u pogledu dokaza koji se dostavljaju, osim po osnovu kretanja u okviru privrednog društva gde je predviđeno šta je pored toga još potrebno dostaviti.

Upon submitting the request, the Foreigners Administration decides on it within 15 days from the date of submission.

One of the key advantages of this method of submitting the request is that the foreigner can now submit the request for issuing a single permit from abroad.

Grounds for Submitting the Request

The Law on Employment of Foreigners and this rulebook stipulate the grounds for employment of a foreigner. While employment based on an employment contract or another contract realizing labor rights is the primary ground for employment, the special grounds for employment in accordance with the Law on Employment of Foreigners and this rulebook are:

1. Posted worker;
2. Intra-corporate transfer;
3. Independent professional;
4. Training and professional development;
5. Self-employment.

It should be noted that regarding most of these grounds, there has been no change in terms of the evidence to be submitted, except for the intra-corporate transfer ground, where it is stipulated what else needs to be submitted in addition.

Pravilnik za ovaj osnov predviđa novinu u pogledu dokaza koji se moraju dostaviti, te je pored ranije potrebnih uslova u vidu:

- 1) akt poslodavca i stranog poslodavca o upućivanju stranca u Republiku Srbiju;
- 2) akt stranog poslodavca ili uverenje o zapošljavanju, odnosno radnom angažovanju stranca na poslovima rukovodioca, specijaliste ili pripiravnika;
- 3) izjava poslodavca i stranog poslodavca da će stranac po isteku upućivanja biti vraćen na rad kod stranog poslodavca,

Potrebno je sada da se dostavi i dokaz da je poslodavac registrovan u Republici Srbiji kao zavisno društvo privrednog društva registrovanog u inostranstvu, odnosno o povezanosti poslodavca i stranog poslodavca iz koga se stranac upućuje.

The rulebook for this ground provides a novelty regarding the evidence that must be submitted. In addition to the previously required conditions:

1. An act of the employer and the foreign employer on assigning the foreigner to the Republic of Serbia;
2. An act of the foreign employer or a certificate of employment, i.e. work engagement of the foreigner in positions of manager, specialist or trainee;
3. A statement from the employer and the foreign employer that the foreigner will return to work for the foreign employer after the assignment period;

It is now also required to provide proof that the employer is registered in the Republic of Serbia as a dependent company of a business entity registered abroad, i.e. evidence of the connection between the employer and the foreign employer from which the foreigner is being assigned.

Authors



Marko Mrdja
Senior Associate
E: marko.mrdja@jpm.law



Dimitrije Stepanovic
Associate
E: dimitrije.stepanovic@jpm.law

JPM | PARTNERS

8a Vladimira Popovića,

DELTA HOUSE, V Floor

11070 Belgrade, Serbia

T: + 381/11/207-6850

E: office@jpm.law

www.jpm.law