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173. LAW ON EMPLOYMENT AND WORK OF FOREIGNERS

Pursuant to Article 95 item 3 of the Constitution of Montenegro, I hereby issue the

Decree Promulgating the Law on Employment and Work of Foreigners

Official Gazette of Montenegro 22/08 of 2 April 2008

I hereby promulgate the Law on Employment and Work of Foreigners passed by the Parliament of Montenegro at the second sitting of the first ordinary session in 2008 on 18 March 2008.

No 01-642/2

Podgorica, 24 March 2008

President of Montenegro

Filip Vujanović

LAW ON EMPLOYMENT AND WORK OF FOREIGNERS

I BASIC PROVISIONS

Subject matter

Article 1

Foreigner 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

This Law shall set the conditions for a more flexible access of foreigners to the labour market in Montenegro, with the aim of aligning the supply and demand in that market.

Requirements for employment and work of foreigners

Article 3

Foreigner may be employed, that is, work in Montenegro under the condition that she/he has a work permit, approval for permanent residence, that is, approval for temporary residence, concluded contract on employment, that is, civil-law contract and that the person liable to register

the employment has reported the work of the foreigner in accordance with the provisions of this Law.

Exceptions

Article 4

(1) The provisions of this Law shall not apply to the foreigners who:

- 1) are members of the diplomatic, that is, consular missions in the territory of Montenegro;
- 2) enjoy immunity on the basis of the international law;
- 3) perform activities in Montenegro on the basis of the international agreements that Montenegro concludes with another country, international organisation or the European Union on expert-technical assistance or on the basis of the ratified international agreements;
- 4) refugees fulfilling one of the following requirements:
 - reside in Montenegro for minimum three years;
 - are married to a Montenegrin citizen;
 - have one child who holds Montenegrin citizenship;
- 5) founders, proxy holders, members of management bodies and auditors of business organisation, who perform specific duties in this business organisation, if the performance of those duties does not have the character of employment relationship,
- 6) academic staff invited as a professor or lecturer and scientific worker participating in a scientific-research project important for Montenegro;
- 7) members of international missions who perform the research activities in Montenegro, which was approved by the Government of Montenegro (hereinafter referred to as 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 organised expert meetings and seminars;
- 14) business visitors;
- 15) pupils or students working as interns in Montenegro on the basis of international agreement on the exchange of pupils, that is, students;
- 16) members of ship crews, aircraft crews or the employed in road or railway transport business organisations, with the office registered abroad;
- 17) religious workers while performing religious duty;
- 18) persons acting within the registered humanitarian organisations;
- 19) employees of circuses or entertainment parks, if they are not staying in Montenegro for over three months without interruptions;
- 20) Civil and military servants 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) **Foreigner** shall be the person who is not a Montenegrin citizen, whether she/he is the citizen of another state or the stateless person;
- 2) **Refugee** shall be a foreigner who has been recognised the status of a refugee, in accordance with the special regulation;
- 3) **Person who have been approved the additional protection** shall be a foreigner who does not fulfil the requirements to be recognised the refugee status, but has obtained the approval for residence and protection, in accordance with a special regulation;
- 4) **Employer** shall be a domestic or foreign legal or physical person, with the registered office in Montenegro, who concludes the contract of employment with foreigner;
- 5) **Legal person** shall be a business organisation, institution, state administration body, local self-government body, holder of the public authority and other legal person with registered office in Montenegro, with whom the foreigner provides services or executes some other form of work, on the basis of the civil law contract;
- 6) **Employment** shall be the employment relationship between employer and foreigner, based on the contract of employment, for the performance of activities stipulated in the act on organisation of work posts (job description);
- 7) **Work** shall be the provision of services or execution of other forms of work, on the basis of the contract of employment, that is, a civil law contract;
- 8) **Seasonal work** shall be the employment relationship for a limited period of time within the line of activity that have a seasonal character;
- 9) **Civil law contract** shall be the contract on the basis of which the foreigner provides the service, that is, performs other forms of work with the legal person that has registered office in Montenegro, that is, in the organisational unit of foreign business organisation registered in Montenegro;
- 10) **Work migrant** shall be a foreigner with permanent residence in neighbouring country, who is employed and performs work in Montenegro and returns to the place of permanent residence minimum once per week;
- 11) **Representative of a business organisation, that is, entrepreneur** shall be a person recorded in the Central Register of the Commercial Court;
- 12) **Seconded foreigner** shall be the person who is employed by the employer with registered office outside of Montenegro and who provides certain services in the territory of Montenegro;
- 13) **Cross-border service** shall be the service provided by a foreign business organisation, on the basis of the contract concluded between this organisation and the legal person with the registered office in Montenegro;
- 14) **Transfer of person within the business organisation** shall be temporary transfer of the employed foreigners – leaders, managers, that is, specialists to the organisational unit of the foreign business organisation registered in Montenegro;
- 15) **Foreign business organisation** shall be entrepreneur or legal person performing commercial or some other activity and having permanent residence, that is, registered office outside of Montenegro;
- 16) **Person liable to report the application for work and cancellation of work of foreigner** shall be the employer, legal person, that is, organisational unit of a foreign business organisation registered in Montenegro, who reports the work of the foreigner;
- 17) **Certificate on registration of work** shall be the document that proves the work of the foreigner in Montenegro;
- 18) **Business visitor** shall be the foreigner staying in Montenegro in order to establish business connections, for maximum 90 days in one calendar year, starting from the date of the first entry into Montenegro;

- 19) **Leader** shall be the foreigner employed in a foreign business organisation, who provides guidelines to the business organisation management, defines business policy and is seconded to the organisational unit of this business organisation registered in Montenegro;
- 20) **Manager** shall be a foreigner employed in a business organisation to perform management activities in business organisation, who is seconded to the organisational unit of this business organisation registered in Montenegro;
- 21) **Specialist** shall be foreigner employed in a foreign business organisation, who is seconded to the organisational unit registered in Montenegro and who holds specialist knowledge for provision of services within the scope of activity of this business organisation;
- 22) **Provider of contracted services** shall be a foreigner employed in a foreign business organisation, who holds university degree, has specialist knowledge and minimum three years of experience in this field of expertise, and who performs contracted services in legal person with the registered office in Montenegro.

II DETERMINATION OF THE NUMBER OF WORK PERMITS FOR FOREIGNERS

Quota

Article 6

- (1) The Government shall determine annually the number of work permits for foreigners (hereinafter referred to as the "quota"), in accordance with the migration policy, labour 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 competent for labour related affairs (hereinafter referred to as 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 not later than 31 October of the current year for the following year.
- (4) Criteria and procedure for quota determination shall be regulated by the special act of the Government.

Exemptions from quota

Article 7

- (1) Quota shall not be determined for the work permits issued to a foreigner who:
 - 1) holds a personal work permit;
 - 2) enters into employment in Montenegro on the grounds of international agreement, on the basis of reciprocity;
 - 3) teaches in educational institution, in the language and alphabet of the persons belonging to minority nations and other minority national communities;
 - 4) is a professional sportsman or sports worker, who works in Montenegro on the basis of the concluded contract;
 - 5) is a family member of the Montenegrin citizen (spouse and children under the age of 21);
 - 6) is a family member of foreigner who is permitted permanent residence in Montenegro (spouse and children under the age of 21);
 - 7) is a family member of a refugee (spouse and children under the age of 21);
 - 8) representative of a business organisation, that is, entrepreneur;
 - 9) seconded foreigner attending additional training and professional improvement in Montenegro;
 - 10) seconded foreigner (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 foreigners
 - work of foreigners.
- (2) Work quota is divided into the following:
 - seasonal work of the foreigners;
 - seconded foreigners, who perform cross-border services in Montenegro, and
 - training and professional improvement of the foreigners.

Defining priorities

Article 9

- (1) The quota determined by the Government for specific purposes shall be divided into:
 - valid work permits,
 - work permits issued on the basis of the international agreements, encompassing already agreed quotas,
 - new work permits.
- (2) Priority in issuance of new work permits shall be granted to the foreigners:
 - who are family members of the foreigner with the residence permit in Montenegro (spouse and children under the age of 21);
 - who have professional education in the areas of deficient occupations;
 - 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 according to purposes, if this is caused by the changes in the demand and supply in the labour market.

III WORK PERMITS

Concept and types of work permits

Article 11

- (1) Work permit shall be a document on the basis of which a foreigner 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 the same period of time, the foreigner shall be granted only one work permit.
- (4) Foreigner shall not perform the duties for which she/he has not signed the labour contract for, that is, the civil law contract.

Assignment of foreigner

Article 12

- (1) The employer, legal person, that is, organisational unit of the foreign business organisation registered in Montenegro, may assign the foreigner only to the duties for which the work permit has been issued to him/her.

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 foreigner, she/he informed the Employment Office of Montenegro (hereinafter: Employment Office) that she/he will dismiss the employees, in accordance with the special regulation;
 - 2) if, six months prior to the submission of the application for the issuance of work permit to foreigner, she/he has dismissed the employees who have been employed for indefinite period of time, in accordance with the special regulation;
 - 3) if she/he refused to employ an unemployed person from the record of unemployed persons kept in the Employment Office, 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 foreigner, she/he was punished for an offence according to this law;
 - 5) she/he presented negative business results in previous year or has paid the salaries to the employees below the level stipulated in the collective agreement for that sector or did not fulfil the obligations on the basis of payment of taxes and contributions.
- (2) Without prejudice 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 foreigner rejected for foreigners :
 - 1) with university education, employed in managerial duties;
 - 2) family member of a Montenegrin citizen (spouse and children under the age of 21);
 - 3) family member of the employer (spouse and children under the age of 21);
 - 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 issuance of work permit for the representative of a business organisation, that is, entrepreneur.

Competent authorities

Article 14

- (1) Procedure of issuance, rejection, cessation of validity and annulment of the work permits shall be performed by the Employment Office.
- (2) The provisions of the Law on General Administrative Procedure shall apply in the decision-making procedure referred to in paragraph 1 of this Article, unless otherwise provided by this Law.
- (3) Appeal may be lodged to the Ministry against the decision of the Employment Office.
- (4) An appeal against the decision of the Employment Office on rejecting the application for issuance of work permit due to the fact that quota has been fulfilled may not be lodged, but the administrative dispute may be initiated before the competent 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.

Annulment of the work permit

Article 16

- (1) The work permit shall be annulled in the following cases:
 - 1) If issued on the basis of false data about the foreigner or employer, legal person, that is, organisational unit of the foreign business organisation registered in Montenegro;
 - 2) If the employer, legal person, that is, organisational unit of the foreign business organisation registered in Montenegro fails to inform the Employment Office about the initiation of work of a foreigner within the time limit stipulated in Article 34 paragraph 1 hereof;
 - 3) If foreigner performs the duties for which the work permit has not been issued to him/her;
 - 4) If foreigner has not been granted temporary residence;
 - 5) If the permanent residence, that is, temporary residence of the foreigner 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 foreigners who were issued personal work permits.

1. PERSONAL WORK PERMIT

Concept and requirements

Article 17

- (1) Personal work permit shall be the permit that allows the foreigner a free access to the labour market, regardless of the status of and relations in the market.
- (2) Personal work permit may be issued to the foreigner:
 - who has been granted permanent residence;
 - refugee who does not meet the requirements from Article 4 paragraph 1 item 4 hereof, and
 - who has been granted additional protection.
- (3) The permit referred to in paragraph 1 of this Article shall be issued at the request of a foreigner.

Period of validity

Article 18

- (1) Personal work permit shall be issued for indefinite period of time.
- (2) Without prejudice to paragraph 1 of this Article, person who has been granted additional protection shall be issued personal work permit for the period of up to one year.
- (3) Personal work permit for persons referred to in paragraph 2 of this Article may be extended for the period corresponding to the period for which the additional protection is extended, in accordance with the special regulation.
- (4) Foreigner shall submit the application for the extension of the personal work permit within 30 days prior to the expiry of the issued permit validity period.

Cessation of validity

Article 19

- (1) Personal work permit shall cease to be valid:
 - 1) if the foreigner cancels the personal work permit;
 - 2) if the foreigner 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 the foreigner.

2. EMPLOYMENT PERMIT

Concept and requirements

Article 20

(1) Employment permit shall be the permit on the basis of which the employer concludes the work contract with the foreigner.

(2) The permit referred to in paragraph 1 of this Article shall be issued at the request of the employer, if the quota related to the employment of foreigners has not been 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 validity period, the permit referred to in paragraph 1 of this Article may be extended for maximum two years, without verifying the limitations referred to in Article 13 paragraph 1 hereof.
- (3) The application for the extension of the employment permit shall be submitted by the employer 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) on expiry of the period for which it was issued;
 - 2) on cessation of the contract of employment;
 - 3) If the foreigner obtains Montenegrin citizenship, and
 - 4) In case of death of the foreigner.

3. WORK PERMIT

Concept and requirements

Article 23

- (1) Work permit shall be the permit with previously specified validity period, on the basis of which the employer concludes the contract of employment with foreigner, that is, the foreigner performs services or other form of work activity with the legal person with the registered office in Montenegro or an organisational unit of a foreign business organisation registered in Montenegro, on the basis of the civil law contract.
- (2) The permit referred to in paragraph 1 of this Article shall be issued at the request of the employer, legal person, that is, the organisational unit of a foreign business organisation 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 foreigners ;
 - 2) Work with seconded foreigners ;

- 3) Training and professional improvement of foreigners , and
 - 4) Provision of contracted services.
- (2) The work permit shall be issued within the quota determined for specific purpose, except for seconded foreigners referred to in Article 7 paragraph 1 items 9, 10 and 11 hereof.

Types of work permits

a) Seasonal work of foreigners

Article 25

- (1) The permit for seasonal work of foreigners 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 provided in paragraph 2 of this Article, the permit may be extended, in accordance with this Law, without verifying the limitation from Article 13 paragraph 1 hereof.

b) Work with seconded foreigners

Cross-border services

Article 26

- (1) Foreign business organisation may perform cross-border services with seconded foreigners in Montenegro, in accordance with this Law and other regulations.
- (2) Cross-border services shall be performed on the basis of the contract concluded between the foreign business organisation and the legal person with registered office in Montenegro, for whom the services are provided.
- (3) Foreign business organisation may perform services with seconded foreigners employed in that business organisation for minimum one year. The seconded foreigner 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 validity period, but not exceeding one year.
- (5) Prior to the submission of application for the issuance of work permit for the performance of services referred to in paragraph 4 of this Article, the legal person shall obtain the consent of the Ministry on the basis of the written explanation.
- (6) With the previously obtained consent of the ministries responsible for individual fields of activity, the Ministry shall decide on justification of the performance of service.
- (7) The work permit shall be issued to a foreigner within the quota for the specific cross-border service, at the request of the legal person with registered office in Montenegro.

Additional training and professional improvement

Article 27

- (1) Additional training and professional improvement of the seconded foreigners may be performed if the legal person with registered office in Montenegro and the foreign business organisation have ownership or business relationship.
- (2) Additional training and professional improvement of the employed with the employer in Montenegro may be performed by the seconded foreigners, if the legal person with the registered office in Montenegro and the foreign business organisation have ownership or business relationship.
- (3) Additional training and professional improvement referred to in paragraphs 1 and 2 of this Article shall be performed in the premises of the legal person with the registered office in

Montenegro, on the basis of the contract concluded between the foreign business organisation and the legal person from paragraphs 1 and 2 of this Article.

- (4) The work permit for additional training and professional improvement may be issued to the foreigner referred to in paragraphs 1 and 2 of this Article at the request of the legal person with the registered office in Montenegro, for the period that cannot exceed one year.

Transfer of persons within the foreign business organisation

Article 28

- (1) Foreign business organisation with the registered organisational unit in Montenegro may temporarily transfer employee to work in that organisational unit, on condition that the foreigner has been employed in that organisation for minimum one year.
- (2) Foreigners who may be seconded, within the meaning of this Article shall be as follows:
 - 1) leaders;
 - 2) managers, and
 - 3) specialists.
- (3) Work permit for a seconded foreigner referred to in paragraph 1 of this Article shall be issued at the request of the organisational unit of the foreign business organisation, registered in Montenegro, for the period of up to one year.
- (4) Without prejudice to paragraph 3 of this Article, if the activities performed by the seconded foreigner cannot be completed within the period for which the permit was issued, the work permit may be extended for the maximum two years.

c) Training and professional improvement of foreigners

Article 29

- (1) Work permit for training and professional improvement of the foreigners may be issued if Montenegro has concluded an agreement on training and professional improvement of foreigners with the state that the foreigner is a citizen of.
- (2) Training and professional improvement of the foreigners may be performed without previously concluded agreement between states, when such training and professional improvement is in the interest of Montenegro.
- (3) Training and professional improvement shall be realised on the basis of work contract concluded between the employer in Montenegro and the foreigner, 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 professional improvement shall be issued at the request of the employer, for the period of up to one year, and may be extended for maximum two years.
- (5) The work permit for training and professional improvement may be extended without verifying the limitations referred to in Article 13 paragraph 1 hereof.
- (6) The work permit is issued to a foreigner, within the meaning of paragraphs 1 and 2 of this Article, within the quota determined for training and professional improvement.

d) Provision of contracted services

Article 30

- (1) The foreigner employed in a foreign business organisation 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 performance of services referred to in paragraph 1 of this Article, a special contract shall be concluded between the foreign business organisation, that is, the foreigner and the legal person in Montenegro, for the period not exceeding one year.

- (3) The foreigner referred to in paragraph 1 of this Article shall be employed in the foreign business organisation engaged in the provision of that type of services, for minimum one year prior to the conclusion of the contract referred to in paragraph 2 of this Article.
- (4) The work permit for the foreigner referred to in paragraph 1 of this Article shall be issued at the request of the legal person 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 provided by this Law.
- (3) The application for extension of the work permit shall be submitted by the employer, legal person, that is, the organisational unit of the foreign business organization registered in Montenegro, within 30 days prior to the expiry of the validity period of the issued permit.

Cessation of validity

Article 32

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

IV REPORTING THE INITIATION AND CANCELATION OF EMPLOYMENT

Reporting the initiation and cancellation of employment

Article 33

- (1) Person liable to report the employment of foreigner shall be:
 - 1) the employer on behalf of the foreigner who holds the work permit referred to in Articles 17, 20, 25 and 29 hereof ;
 - 2) the legal person with registered office in Montenegro on behalf of the foreigner who holds the work permit from Articles 26, 27 and 30 hereof;
 - 3) the organisational unit of foreign business organisation registered in Montenegro, on behalf of the foreigner who holds the work permit referred to in Article 28 hereof.

Article 34

- (1) Person liable to report the employment of foreigner shall report the initiation and cancellation of employment of the foreigner to the Employment Office within 15 days from the date of initiation, that is, date of cancellation of employment of the foreigner.
- (2) The Employment Office shall issue to the person liable to register the employment of foreigner a certificate of work registration for the foreigner in prescribed form.
- (3) The Ministry shall prescribe the procedure of reporting the initiation and cancellation of employment of the foreigner, the evidence that must be enclosed to the registration forms and the submission of data to the competent authorities.

Cooperation of competent authorities

Article 35

- (1) The Employment Office shall inform the state administration authority, competent for the affairs of movement and stay of foreigners, on annulment and cessation of validity of the work permit of foreigner within eight days from the date of annulment, that is, from the date of cessation of work permit validity.
- (2) **State administration authority** referred to in paragraph 1 of this Article shall inform the Employment Office on cessation or cancellation of permanent residence, that is, temporary residence of foreigner within eight days from the date of cessation or cancellation of permanent residence, that is, temporary residence.

V RECORDS AND FEES FOR ISSUANCE OF WORK PERMIT

Records

Article 36

- (1) The records on unemployed and employed foreigners shall be kept in accordance with the law.

Fees

Article 37

- (1) Fees for the costs occurred in the process of issuance of the work permit shall be paid in accordance with the Law on Administrative Fees.
- (2) The funds referred to in paragraph 1 of this Article shall be the revenues of the Employment Office.

VI SUPERVISION

Labour inspection

Article 38

- (1) Supervision over the implementation of this Law and other legislation adopted on the basis of this Law shall be performed by the Ministry, through the labour inspection.
- (2) In performance of the supervision, the labour inspector shall have duties and powers stipulated by special regulation.
- (3) The employer, legal person, that is, organisational unit of the foreign business organisation registered in Montenegro shall keep the work permit for the foreigner in the business premises, that is, in the place of work.

VII PENALTY PROVISIONS

Article 39

- (1) The employer with the status of a legal person shall be charged for the offence with the fine ranging from twenty to thirty times the minimum wage in Montenegro, if:
 - 1) it employs foreigner, that is, enables the foreigner to work contrary to the requirements referred to in Article 3 of this Law
 - 2) it assigns the foreigner 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 cancellation of employment of the foreigner to the Employment Office within the legally prescribed time limit (Article 33 and Article 34 paragraph 1);
 - 4) it fails to submit the application for extension of work permit within 30 days prior to expiry of the validity period of the issued permit (Article 21 paragraph 3 and Article 31 paragraph 3);
 - 5) it does not have the work permit for the foreigner in the business premises, that is, in the place of work (Article 38 paragraph 3).

- (2) The responsible person in the legal person with the employer shall be charged with a fine for the offences referred to in 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 offences referred to in paragraph 1 of this Article with the fine ranging from ten to twenty times the minimum wage in Montenegro.

Article 40

- (1) The foreigner 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 foreigner is employed, that is, if the foreigner works contrary to Article 3 of this Law;
 - 2) if the foreigner is performing the duties for which she/he has not signed the contract of employment, that is civil law contract (Article 11 paragraph 4);
 - 3) if the foreigner, after the approval of additional protection, fails to submit the application for the extension of the personal work permit within time limit provided by law (Article 18 paragraph 4).

Article 41

- (1) The employer as a physical person, the responsible person in the legal person and the responsible person with the employer as the legal person, that is, the responsible person in the organisational unit of a foreign business organisation registered in Montenegro shall be charged on the spot with the fine amounting to three minimum wages in Montenegro, for the offence of not having a work permit for the work of the foreigner in the business premises, that is, in the place of work (Article 38 paragraph 3).
- (2) The fine referred to in paragraph 1 of this Article shall be imposed by the labour inspector.

VIII TRANSITIONAL AND FINAL PROVISIONS

Article 42

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

Article 43

- (1) Implementing legislation for this Law shall be adopted within six months from the day of entry into force of this Law.

Article 44

- (1) The Law on Employment and Work of Foreigners (Official Gazette of the Republic of Montenegro 11/04) and the Decree on the work engagement of the non-resident physical persons (Official Gazette of the Republic of Montenegro 28/03) shall be repealed on the day of entry into force of this Law.

Article 45

- (1) This Law shall enter into force on the eighth day following that of its publication in the Official Gazette of Montenegro and shall apply as of 1 January 2009.

SU-SK No 01-257/10

Podgorica, 18 March 2008

The Parliament of Montenegro

Speaker,

Ranko Krivokapić

