

DRAFT LAW ON FOREIGN NATIONALS

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I. GENERAL PROVISIONS

Article 1 Subject of the law

The law shall regulate the conditions for entry, freedom of movement, stay, residence, and return of foreign nationals, as well as the jurisprudence and public affairs of state authorities in the Republic of Serbia with regard to entry, freedom of movement, stay, and residence in the territory of the Republic of Serbia and also return of foreign nationals.

Article 2 Implementation of the law

The law shall not apply on foreign nationals who:

- 1) have applied for asylum, or have been granted asylum, or temporary protection in the Republic of Serbia, unless otherwise stipulated by law;
- 2) enjoy privileges and immunities pursuant to international law, as regards the provisions hereof which are excluded as a result of these privileges and immunities;
- 3) has obtained refugee status in accordance with the Law on Refugees (Official Gazette of the Republic of Serbia, Nos. 18/92, 45/2002 and 30/2010).

Stateless persons shall be subject to provisions of the Convention relating to the status of stateless persons, if this is more favourable to them.

Article 3 Definition of terms

Certain terms used for the purpose of the law mean the following:

- 1) **foreign national:** any person who does not have the citizenship of the Republic of Serbia;
- 2) **competent authority:** means an organisational unit of the Ministry of the Interior (hereinafter: the Ministry) directly in charge of affairs relating to foreign nationals;
- 3) **border police:** means an organisational unit of the Ministry in charge of border control, affairs relating to foreign nationals, and other state border protection tasks;
- 4) **consulate:** means a diplomatic mission or consular post of the Republic Serbia abroad, commissioned to issue visas, as defined in the Vienna Convention on consular relations;
- 5) **entry:** arrival of a foreign national in the territory of the Republic of Serbia after having crossed the state border, respectively border crossing point where border control is performed upon authorization of the border police, while a stop of a foreign national in the transit area of airports or harbour, and port anchorage through which international transport is conducted within the meaning of the law is not regarded as entry of a foreign national into the Republic of Serbia;
- 6) **transit:** the crossing over the territory of the Republic of Serbia;

- 7) **border control:** implies an identity and document check, the inspection of transportation means and goods which is conducted at the border crossing point area regarding the intended crossing of the state border, or immediately after having crossed the state border, as well as other control tasks pursuant to law;
- 8) **reasons of protecting the security of the Republic of Serbia:** is a term defining the need for protection of vital and lasting national values which are determined by the Constitution of the Republic of Serbia and the law, including the security of its citizens;
- 9) **stateless person:** means a person who is not considered as a national by any state under the operation of its law;
- 10) **country of origin:** a country whose citizenship a foreign national possesses, respectively a country in which a stateless person had his habitual residence;
- 11) **habitual residence:** means a place at which a foreign national rested in circumstances in which it can be demonstrated that he did not reside at this place or region only on a temporary basis;
- 12) **foreign travel document:** a personal, family, collective, diplomatic or service passport, seaman's book containing a visa and other documents recognised by international treaties as travel documents, on which grounds the identity of its holder can be determined, which validity period has not expired and which has been issued in accordance with the regulations of a foreign country, or by a relevant act of an international organisation;
- 13) **identity card for foreign nationals:** identification document issued to a foreign national with a permanent residence permit, or to a foreign national with a temporary residence permit who do not possess a valid travel document;
- 14) **carrier:** means a legal person, an entrepreneur respectively a natural person registered as provider of public passenger transportation services in air, road, waterway or railway traffic;
- 15) **minor:** means a foreign national under the age of eighteen within the meaning of the law;
- 16) **unaccompanied minor:** a foreign national who is under the age of eighteen and who during or upon his entry in the Republic of Serbia has been separated from both parents, a guardian, or responsible adult, or who, upon his entry into the Republic of Serbia has remained without company of both parents, a guardian, or a responsible adult.
- 17) **employment:** means the exercise of an activity by a foreign national under the provisions which are regulating the employment of foreign nationals in the Republic of Serbia;
- 18) **family reunification:** entry, stay and residence of nuclear family members of a Serbian national, or of a foreign national who is legally staying in the Republic of Serbia with the aim to maintain family unity;

- 19) **student:** within the meaning of the law means a foreign national having being accepted by an accredited establishment of higher education with the purpose to achieve tertiary education pursuant to the provisions relating to tertiary education;
- 20) **pupil:** within the meaning of the law means a foreign national who has enrolled in primary or secondary school pursuant to the provisions relating to primary and secondary education;
- 21) **scientific research:** creative work undertaken on a systematic basis in order to increase the stock of knowledge in all fields of science;
- 22) **research organisation:** any public or private organisation which conducts scientific research;
- 23) **researcher:** a foreign national holding a doctoral degree in a specific field of science, or an appropriate higher education qualification that gives access to doctoral programmes, and who is selected by a research organisation for carrying out his research activity;
- 24) **vulnerable persons:** persons with disabilities, elderly, pregnant women, single parents with minor children, victims of torture, rape or other serious acts of violence, minors and unaccompanied minors;
- 25) **illegal stay:** means the presence of a foreign national on the territory of the Republic of Serbia who does not, or no longer fulfils the conditions for entry, or further stay or residence on the territory of the Republic of Serbia;
- 26) **return:** means the procedure for returning a foreign national, whether voluntary or forcibly, to his country of origin, country of transit in accordance with bilateral agreements or readmission agreements, or to a country to which the concerned foreign national voluntarily decides to return and in which he will be accepted;
- 27) **forced removal:** the enforcement of the obligation to return, particularly using coercive measures by police;
- 28) **detention centre:** a facility to accommodate foreign nationals who have been refused entry into the country, or against who expulsion or removal, or a return decision has been imposed but cannot be enforced immediately, and who have been imposed detention under stricter police supervision, according to the law.
- 29) **address of place of residence:** means a town, municipality, residential area, street, house number, floor and apartment number where the foreign national intends to stay during the duration of his residence permit.

Article 4 Gender-neutral language

The use of gender specific expressions in the wording of the law shall be understood as applying to both female and male genders.

Article 5 Using the travel document

During his stay and upon departure from the Republic of Serbia, a foreign national with multiple citizenships must use the travel document of that country he used to enter the Republic of Serbia.

Article 6 Entry and stay of foreign nationals

A foreign national may enter, stay or reside in the Republic of Serbia under the conditions stipulated by law, using a valid travel document containing a visa, or residence permit, unless otherwise provided by law or an international treaty.

Article 7 Respect for the rule of law

A foreign national must cooperate with state authorities which, according to the law, are in charge of affairs relating to foreign nationals, and present all necessary documents, proofs and data necessary for procedures as specified herein, which the competent authority cannot provide by itself. A personal identification number shall be allocated to the foreign national for administrative purposes.

Article 8 Obligations of state authorities, natural and legal persons

State authorities, legal persons, entrepreneurs respectively natural persons are required to notify the competent authority without delay about a foreign national who is illegally staying, or who meets the requirements for terminating his right of temporary or permanent residence in the Republic of Serbia.

The court which has given final judgement about a foreign national being guilty of having committed a crime prosecuted *ex officio*, or being responsible for a misdemeanour is required to notify the competent authority without delay about this circumstance.

The penal institution is required to notify the competent authority about a foreign national being released from prison prior to his release.

Article 9 Obtaining a statement in the decision-making procedure on the rights and duties of a foreign national

When deciding upon the rights and duties of a foreign national as related to his entry, stay or residence in the territory of the Republic of Serbia, the Ministry shall obtain a statement from the relevant public authority responsible for the protection of the security of the Republic of Serbia.

While acting upon the request for providing a statement, the authority referred to in paragraph 1 of this Article shall collect and verify personal and corresponding data in accordance with the law regulating personal data protection.

During the procedure referred to in paragraph 2 of this Article, persons in respect of who data refer may be interrogated as well as other persons connected to them and other persons, data from legal persons, other public authorities or by searching registries, records, filing systems and databases operated under the law may be collected, as well as other actions carried out in accordance with the law and provisions adopted pursuant to the law.

During the decision-making procedure and based on the collected data, the authority referred to in paragraph 1 of this Article shall consider whether the stay or residence of a foreign national in the territory of the Republic of Serbia presents a threat to security of the Republic of Serbia and its citizens to such an extent to present an unacceptable threat.

Data collected according to paragraph 2 of this Article are secret pursuant to the law regulating data secrecy and the provisions therein.

When deciding upon the rights and duties of a foreign national it becomes apparent that the stay or residence of a foreign national on the state territory presents an unacceptable threat to security of the Republic of Serbia, the competent authority shall take a decision denying entry, stay or residence in the territory of the Republic of Serbia on grounds of free consideration of evidence.

In case of an appeal against the decision referred to in paragraph 6 of this Article, the competent appeal authority shall have access to the precise grounds which served as a basis for the free consideration of evidence under the conditions stipulated in the law regulating data secrecy.

When providing access to the grounds referred to in paragraph 7 of this Article, the data that could reveal methods and procedures used in data collection, sources of information or officers participating in the data collection shall remain confidential.

Article 10 Applying legislation in the decision-making procedure on the rights and duties of a foreign national

The provisions of the law regulating the general administrative procedure shall apply in the decision-making procedure on the rights and duties of a foreign national, unless otherwise stipulated by law.

II. ENTRY INTO AND DEPARTURE FROM THE REPUBLIC OF SERBIA OF FOREIGN NATIONALS

Article 11 Border control

A foreign national must undergo border control checks while entering or departing from the territory of the Republic of Serbia according to the law regulating border control issues.

Article 12 Entry and departure based on a collective travel document

A foreign national who is included in the travel document of another person may enter and depart from the Republic of Serbia only if accompanied by the person in whose travel document he is included.

Foreign nationals possessing a collective travel document may enter and depart from the Republic of Serbia if they travel together.

Foreign nationals included in a collective travel document are also required to have a document with their personal photograph, on which basis their identity can be verified.

The leader of a group shall be in possession of his own personal travel document.

Article 13 Obligations of carriers

A carrier may transport a foreign national to a border crossing point only if he is in possession of a valid travel, or other document containing a visa or residence permit, unless otherwise specified by law or an international treaty.

If a foreign national has been denied entry to the Republic of Serbia, the carrier which provided him transportation must transport him back free of charge. If transportation is not possible within reasonable time, the carrier shall cover the costs of stay and forced removal of the foreign national from the Republic of Serbia.

The provisions under paragraph 2 of this Article shall also apply for the carrier which brought a foreign national into the international transit area of an airport, if another carrier has refused to transport him into the destination country, or if the foreign national is banned from entering the destination country.

If a foreign national who came to the Republic of Serbia for reasons of a tourist or business trip is illegally staying in the Republic of Serbia and his illegal stay resulted from a fault on the part of the agency that organised the travel, the agency that organised the tourist or business trip shall reimburse the costs of stay and forced removal of the foreign national, if these costs cannot be charged to the foreign national.

Article 14 Illegal entry

Entry into the Republic of Serbia is considered illegal if it is gained:

- 1) out of the place determined for crossing the state border;
- 2) by avoiding the border control;
- 3) without a travel or other document which is required to cross the state border;
- 4) by using another person's, invalid respectively forged travel or another document;
- 5) by providing untruthful information to the border police;
- 6) during the period in which the protective measure of removal, or the security measure of expulsion has been imposed, respectively during the period of an entry ban.

Article 15 Refusing entry

The border police shall refuse entry into the Republic of Serbia to a foreign national, if:

- 1) he does not have a valid travel document, or a visa, if required;
- 2) he does not have sufficient means to sustain himself during his stay in the Republic of Serbia, to return to his country of origin or transit to another country, and if he is not provided with means of subsistence in any other way during his stay in the Republic of Serbia;

- 3) he is in transit, but does not fulfil the requirements to enter another country of transit or country of destination;
- 4) the protective measure of removal, the security measure of expulsion, or an entry ban prohibiting entry into the Republic of Serbia is in effect;
- 5) he does not have the certificate of inoculation or other proof of good health, when arriving from areas affected by an epidemic of infectious diseases;
- 6) he does not have travel medical insurance for the intended period of stay in the Republic of Serbia;
- 7) it is required by reasons of protecting public order or security of the Republic of Serbia and its citizens;
- 8) it represents an obligation of the Republic of Serbia concerning the enforcement of international restrictive measures;
- 9) if it is established that the foreign national is using forged documents;
- 10) he has already stayed 90 days within a period of 180 days in the Republic of Serbia, unless a D visa or temporary residence permit have been issued to him;
- 11) there is reasonable doubt that the purpose of the intended stay is not justified;
- 12) there is reasonable doubt that he will not leave the Republic of Serbia before the visa expires, respectively the possibility of illegal migration upon entry into the Republic of Serbia exist.

Entry shall be refused by stating the precise grounds for refusal by means of a standard form. The refusal of entry shall be recorded in the travel document of the foreign national.

The Minister responsible for the interior prescribes the layout and content of the entry refusal form and the modality the refusal is recorded.

The Government prescribes further details regarding paragraph 1, items 2), 5), and 7) to 9) of this Article.

An appeal may be filed against the decision refusing entry in accordance with Article 38 of the law.

Article 16 Entry and stay without visa

An international treaty or a Government decision may establish that nationals of particular countries may enter the Republic of Serbia without visa, provided that obstacles referred to in Article 15 of the law do not exist.

The Government may decide that nationals of particular countries may enter the Republic of Serbia also with a valid personal identity card in case no other obstacles referred to in Article 15, paragraph 1, items 2) to 12) of the law do exist.

A foreign national who does not need a visa or a travel document to enter the Republic of Serbia may stay in the country for a maximum period of 90 days, within a period of 180 days.

A foreign national who does not need a visa to enter the Republic of Serbia and intends to exercise his right to work for less than 90 days within a period of 180 days for which he requires a work permit in accordance with the law regulating the employment of foreign nationals shall apply for a temporary residence permit in accordance with the provisions of the law.

Article 17 Departure

A foreign national shall be free to leave the Republic of Serbia.

Exceptionally, the border police shall temporarily issue a ban on leaving the Republic of Serbia to a foreign national if:

- 1) he possesses another person's, invalid, respectively false travel or another document;
- 2) he does not possess a travel or other document which is required to cross the state border;
- 3) he does not have a visa required to enter another country;
- 4) there is reasonable doubt that by departing from the Republic of Serbia, the foreign national may circumvent legal prosecution related to a criminal or misdemeanour act, serving a prison sentence, the execution of a court order, an arrest or execution of a due pecuniary claim, pursuant to an order of a public authority within the sphere of its competence.

After the reasons referred to in paragraph 2 of this Article have ceased to exist, the foreign national shall be permitted to depart from the Republic of Serbia.

III. VISAS

Article 18 General provisions

A visa is a permission to enter, stay or transit obtained by a foreign national prior to entering the territory of the Republic of Serbia.

A visa is not a guarantee that a foreign national will be permitted entry into the Republic of Serbia.

A foreign national may apply for a temporary residence permit on the basis of a long-term visa issued for the purpose of employment under the conditions stipulated by the law.

Article 19 Types of visas

The types of visas are as follows:

- 1) Airport transit visa (visa A);

- 2) Short-term visa (visa C);
- 3) Long-term visa (visa D).

Article 20 Airport transit visa (visa A)

A foreign national who does not leave the international transit area of the airport in the Republic of Serbia or the aircraft during an intermediate stop does not require a visa.

Irrespective of paragraph 1 of this Article, if required by reasons of public order or security, the Government of the Republic of Serbia may stipulate that nationals of certain countries must possess an airport transit visa, except for the following persons:

- 1) foreign nationals who do not require a visa to enter the Republic of Serbia, who have a valid visa to enter the Republic of Serbia, or possess a residence permit;
- 2) family members of a national of the Republic of Serbia;
- 3) holders of diplomatic and service passports;
- 4) aircraft crew members in accordance with the Chicago Convention on International Civil Aviation.

An airport transit visa shall be issued for a validity period for up to 6 months and shall provide for one or multiple transits through the international transit area of the airport, without entering the territory of the Republic of Serbia.

Article 21 Short-term visa (visa C)

A short-term visa provides for a transit or stay on the territory of the Republic of Serbia in the duration of 90 days within a 180-day period.

A short-term visa is issued for all travelling purposes, save those for which a visa D or a temporary residence permit is granted.

A short-term visa does not provide a basis for an application for temporary residence permit in the Republic of Serbia, unless otherwise stipulated by the law.

A short-term visa is issued for one, two or multiple entries into the Republic of Serbia. The validity period of a short-term visa cannot exceed 5 years.

Article 22 Long-term visa (visa D)

A foreign national who requires a visa to enter the Republic of Serbia pursuant to the visa regime and who intends to stay in the Republic of Serbia longer than 90 days for the purposes and under conditions stipulated by the law relating to temporary residence permits must obtain a long-term visa.

A long-term visa shall mean an authorization of entry and stay on the territory of the Republic of Serbia for the duration of up to 180 days.

In case a foreign national intends to work in the Republic of Serbia, or intends to stay longer than the validity period of the long-term visa, he must apply for temporary residence permit to the competent authority pursuant to the provisions of the law upon his entry into the Republic of Serbia.

The application for a temporary residence permit referred to in paragraph 3 of this Article shall be filed in accordance with the purpose upon which the long-term visa has been issued.

Article 23 Jurisdiction in the procedure for issuing visas

A consulate of the Republic of Serbia shall issue visas, if not otherwise provided by the law.

The consulate of the Republic of Serbia in whose consular territory the applicant is legally staying shall examine and decide on a visa application. Exceptionally, the consulate shall also examine and decide upon applications filed by a foreign national who is legally staying on the consular territory but has no established residence status according to legal provisions of that particular country, if the foreign national presents evidence about the emergency trip for which the visa is required.

In countries in which the Republic of Serbia does not have a diplomatic mission or a consular post, an international treaty may establish mutual representation in a visa application procedure.

As an exception from paragraph 1 of this Article, the border police may issue a short-term visa according to Article 34 of the law.

Article 24 Foreign travel document

When applying for a visa, a foreign national must present a foreign travel document with a validity period which exceeds at least 3 months the intended date of departure from the Republic of Serbia, containing not less than two consecutive empty pages and having been issued within previous 10 years.

Exceptionally, a foreign national may present a foreign travel document that does not meet the conditions under paragraph 1 of this Article, if it is in the interest of the Republic of Serbia, or humanitarian reasons exist.

If the travel document is not recognised by the Republic of Serbia and it is in the interest of the Republic of Serbia, or humanitarian reasons exist, the visa shall be affixed to the form for affixing a visa. The Minister responsible for foreign affairs prescribes its layout and content.

Article 25 Procedure for issuing visas

A visa application shall be filed in person on a prescribed form, not more than three months prior to the intended journey. The consulate may waive the requirement of applying in person if the applicant is well-known as a trustworthy person. Persons who are included in the travel document of the visa applicant shall apply separately for a visa on the prescribed form.

When making the application, the applicant must present the following:

- 1) completed visa application form as prescribed in paragraph 1 of this Article;

- 2) foreign travel document according to Article 24, paragraph 1 of the law;
- 3) photograph;
- 4) proof of payment of the visa fee;
- 5) supporting documents concerning the purpose and circumstances of stay in the Republic of Serbia according to Article 26 of the law;
- 6) letter of invitation according to Article 27 of the law;
- 7) suitable and valid travel medical insurance in accordance with Article 28 of the law.

The consulate shall dismiss a visa application if the applicant does not file his application within the deadline referred to in paragraph 1 of this Article, or does not fulfil one or several conditions referred to in paragraph 2, items 1) to 4) of this Article. All documents enclosed to such an application as well as the amount paid for the visa fee shall be returned to the foreign national.

Exceptionally, an application that does not fulfil the conditions referred to in paragraph 2, items 1) to 4) of this Article may be regarded admissible if it is required by the interests of the Republic of Serbia, or for humanitarian reasons.

If a visa application is regarded admissible, a stamp shall be entered into the travel document of the foreign national to approve the admissibility of a visa application.

Diplomatic, service and special passports shall not be stamped.

The Minister responsible for foreign affairs prescribes the layout and content of the visa application form as well as of the admissibility stamp.

Article 26 Supporting documents

When applying for an airport transit visa, the applicant must present documents which prove the likelihood to enter the subsequent country of the planned journey.

When applying for a short-term visa, the applicant must present the following proofs:

- 1) documents to prove the purpose of journey;
- 2) documents related to accommodation, or proof of financial means sufficient to cover costs of accommodation;
- 3) documents that prove that the visa applicant has sufficient means of subsistence during the intended period of stay and for his return into his country of origin, or country of habitual residence;
- 4) other evidence on which basis the applicant's intent to leave the Republic of Serbia before the visa expires can be verified.

When applying for a long-term visa, the applicant must present the following proofs:

- 1) documents which are required for the application procedure for the temporary residence permit, depending on the purpose of residence according to the provisions of the law;
- 2) documents related to accommodation, or proof of financial means sufficient to cover costs of accommodation;
- 3) documents that prove that the visa applicant has sufficient means of subsistence during his intended period of stay and for his return into the country of origin, or country of habitual residence.

The consulate may also examine a visa application in cases where one or several documents under paragraph 2 of this Article have not been presented, under the condition that the visa applicant is known to the consulate in terms of legal use of previously issued visas, and if it is ascertained that none of the reasons for refusing entry under Article 15 of the law exist.

Article 27 Letter of invitation

The legal or natural person inviting a foreign national to a private or business visit must enclose a letter of invitation.

The inviting person commits himself/itself to cover the costs of stay and forced removal of the foreign national, in case these costs cannot be charged to the account of the foreign national. The inviting person is also obligated to cover any costs which may arise from the accommodation of the foreign national in the Detention Centre.

If the inviting person, who is inviting a foreign national to the Republic of Serbia, is a natural person, the invitation letter has to contain the statement referred to in paragraph 2 of this Article, the personal data of the foreign national (name and surname, date of birth, nationality, travel document data), the personal data of the inviting person (name and surname, date of birth, nationality, telephone number, address of place of stay, reason for inviting the foreign national to the Republic of Serbia), as well as other data essential for the visa application procedure. The invitation letter of a natural person must be notarized by the authority responsible for the authentication of documents.

If the inviting person, who is inviting a foreign national to the Republic of Serbia, is a legal person, the invitation letter has to contain the statement referred to in the second paragraph of this Article, the foreign national's personal data (name and surname, date of birth, nationality, travel document data), name, seat, company registration number and tax identification number, signature and stamp of the reliable person of the legal person which is inviting a foreign national for a visit, the reason for inviting the foreign national to the Republic of Serbia, as well as other data essential for the visa application procedure.

Article 28 Travel medical insurance

The visa applicant must prove that he possesses a suitable and valid travel medical insurance to cover expenses that may occur in relation with the return to the country of origin for reasons of health, urgent medical assistance and/or urgent hospital treatment, or death during his stay in the Republic of Serbia.

The insurance must provide full cover throughout the planned stay in the Republic of Serbia.

As an exception from paragraph 1 of this Article, holders of diplomatic travel documents and visa A applicants are not required to present the proof of a travel medical insurance.

Article 29 Verifying conditions and risk assessment

The consulate, in collaboration with the Ministry and the public authority responsible for the protection of the security of the Republic of Serbia, shall verify the applicant's and inviting person's data by searching existing filing systems operated under the law, assess the credibility of claims provided with the documents enclosed to the visa application, and approve whether the purpose of the journey is objectively justified. Personal data of a visa applicant and the data of natural and legal persons associated with him shall be collected and processed in accordance with the law regulating personal data protection.

The consulate must get prior consent from the Ministry before issuing a visa in cases which are determined in a special legal act of the Government.

The Ministry shall give its prior consent based on the assessment outcome of the competent authority which has the territorial jurisdiction over the place of arrival of the foreign national, the obtained statement of the public authority responsible for the protection of the security of the Republic of Serbia, and other operational intelligence available in the specific case.

The competent authority which has the territorial jurisdiction over the place of arrival of the foreign national shall interview the inviting person and conduct on-the-spot checks regarding the circumstances of the foreign national's arrival to the Republic of Serbia, search filing systems which are operated under the law and take other actions in accordance with the law and provisions therein, in order to determine facts essential to assess the justification of the visa application. The inviting person must present a copy of the letter of invitation referred to in Article 27 of the law to the competent authority.

The deadline for providing the prior consent referred to in paragraph 3 shall be 10 days from the date the visa application has been filed for processing.

When there are justifiable reasons, the deadline referred to in paragraph 4 of this Article may be extended up to 25 days.

When assessing a visa application, it shall be ascertained that none of the reasons for refusing a visa under Article 36 of the law exist.

The consulate/competent authority may summon an applicant or inviting person to provide additional information and/or additional documents in justified cases.

A previous refusal of a visa application shall not automatically lead to the refusal of a new application. Each new application must be assessed on the basis of all currently available information.

Article 30 Decision-making deadlines in the procedure for issuing visas

A decision upon a visa application shall be taken within fifteen days after the date of a completed application has been filed in accordance with Article 25 of the law.

The deadline referred to in paragraph 1 of this Article may be extended up to 30 days in case of duly justified reasons.

Article 31 Issuing visas

The visa validity period, the duration of stay and the number of entries into the Republic of Serbia are determined in accordance with the facts established pursuant to Article 29 of the law.

The validity period of an airport transit visa or short-term visa for single or two entries into the Republic of Serbia shall be for a term which exceeds fifteen days of the granted duration of stay referred to paragraph 1 of this Article, unless if it is required by reasons of protecting public order or security of the Republic of Serbia and its citizens.

In case of transit, a short-term visa shall be issued with a validity period which corresponds to the time needed for transiting.

An airport transit visa or a short-term visa with multiple entries and a validity period longer than six months shall be issued if the applicant has proven:

- 1) the need or justified the intent to frequently and/or regularly travel, particularly for business and personal reasons, and
- 2) to be reliable, particularly with regard to the legal use of previously issued visas.

A long-term visa shall be issued for multiple entries and with a validity period of not less than 90 days and no longer than 180 days.

Article 32 Filling in a visa sticker and affixing it in a travel document

A visa sticker shall be filled in mechanically, prior to affixing the visa in the foreign national's travel document. A printed visa sticker shall not be altered.

In exceptional cases, solely where technical difficulties exist, because of force majeure and where printing of a visa sticker is not possible, the visa sticker may be filled in by hand with the consent of the ministry responsible for foreign affairs. No changes are permitted in the manually filled visa sticker. The information about any manually filled visa sticker shall be entered into the Visa Information System according to the data processing provisions of the law.

The Minister responsible for foreign affairs prescribes the layout and content of the visa sticker as well as the modality of affixing it into a foreign travel document.

Article 33 Invalidating a visa sticker

If the consulate detects an error on a filled in visa sticker, it shall invalidate such a visa sticker by striking it through.

If the visa sticker under paragraph 1 of this Article has been affixed into the travel document of a foreign national, a new sticker shall be affixed to the next blank page of the travel document.

Article 34 Issuing visas at a border crossing point

As an exception from Article 23, paragraph 1, as long as no obstacles referring to Article 15 of the law exist, a short-term visa with single entry and a validity period up to fifteen days may be issued at the border crossing point to a foreign national who was not able to apply for a visa at a consulate, if it is in the interest of the Republic of Serbia, or humanitarian, personal or professional reasons exist.

In case of transit, a visa shall be issued with the validity period required to complete the transit.

A statement of the public authority responsible for the protection of the security of the Republic of Serbia shall be obtained prior to issuing a visa referred to in paragraph 1 of this Article.

The foreign national shall apply for the visa referred to in paragraph 1 of this Article in person at the border crossing point he is. When applying he shall also present documents to prove the unforeseen and urgent reasons for the entry to the Republic of Serbia referred to in paragraph 1 of this Article.

When applying for visa at the border crossing point, a foreign national must not present a travel medical insurance if it cannot be obtained at the border crossing point where the application is filed, or if humanitarian reasons exist.

The decision to refuse a visa at the border crossing point and the grounds on which the decision was based shall be serviced to the foreign national on a prescribed form.

An appeal may be filed against a decision refusing a visa at the border crossing point in accordance with Article 38 of the law.

The Minister responsible for the interior prescribes the layout and content of the visa refusal form at the border crossing point, and more detailed conditions about issuing visas at the border crossing point.

Article 35 Extending the validity period of a visa

The visa's validity period and/or the duration of stay as indicated in the visa is not extendable.

As an exception to the provision in paragraph 1 of this Article, the validity period of a short-term visa and/or the duration of stay as indicated in it may be extended upon application of a foreign national if so required by humanitarian, professional or personal reasons, respectively force majeure.

A foreign national shall file his application referred to in paragraph 2 of this Article in person to the competent authority prior to the expiry of the visa and/or duration of stay, and shall present proofs of existing circumstances under paragraph 2 of this Article. He may remain on the territory of the Republic of Serbia until a decision upon the application for visa extension has been taken.

A visa shall be extended by affixing a new visa sticker. The total duration of stay in the Republic of Serbia cannot exceed 90 days based on the previously issued visa sticker and the duration of stay from the visa sticker issued pursuant to this Article.

The decision to refuse an application referred to in paragraph 2 of this Article and the grounds on which the decision was based shall be serviced to the foreign national on a prescribed form.

An appeal may be filed against a decision refusing the extension of a visa's validity period according to Article 38 of the law.

The Minister responsible for the interior prescribes the layout and content of the visa extension refusal form.

Article 36 Refusing a visa application

The consulate shall refuse to issue a visa to a foreign national if:

- 1) the validity period of his travel document is shorter than the time stipulated in Article 24, paragraph 1 of the law;
- 2) he does not fulfil the conditions to enter a subsequent country, or to return to the country of origin, or country of habitual residence;
- 3) the protective measure of removal, or the security measure of expulsion, respectively an entry ban is in effect;
- 4) he does not possess a certificate of inoculation, or other proof of good health, but is arriving from areas affected by an epidemic disease;
- 5) he does not have a travel medical insurance for the intended period of stay in the Republic of Serbia;
- 6) it is required by reasons relating to the protection of public order or security of the Republic of Serbia and its citizens;
- 7) he has already stayed 90 days over the last 180 days in the Republic of Serbia, and has applied for a short-term visa;
- 8) there is reasonable doubt that the purpose of the intended stay is not justified;
- 9) he does not appear in person when summoned by a consulate of the Republic of Serbia;
- 10) he encloses a forged travel document to the visa application;
- 11) there is reasonable doubt concerning the authenticity of supporting documents enclosed to the visa application, or the credibility of his statement;
- 12) he does not present a proof of sufficient means of subsistence during the intended period of stay and for his return into his country of origin, or country of habitual residence;
- 13) there is a reasonable doubt that he will not leave the Republic of Serbia before the visa expires, respectively there is a probability of illegal migration upon entry into the Republic of Serbia;
- 14) there are justifiable grounds for believing that he will not respect the rule of law of the Republic of Serbia;

15) it is obvious that the civil or common law marriage (civil partnership) exists for the sole purpose of gaining a visa;

16) during the visa application proceeding at the border crossing point it has been established that the applicant had the opportunity to apply for a visa at the consulate.

As an exception to the provisions in paragraph 1 of this Article, a visa may be issued for humanitarian reasons, if this is in the interest of the Republic of Serbia, or if required by accepted international obligations.

The decision to refuse a visa application and the grounds on which the decision was based shall be serviced to the foreign national on a prescribed form.

An appeal may be filed against a decision to refuse a visa according to Article 38 of the law.

The Minister responsible for foreign affairs, in mutual agreement with the Minister responsible for the interior prescribes the layout and content of the visa refusal form.

Article 37 Visa annulment and revocation

A visa shall be annulled when there is reasonable ground suspecting that at the time when it has been issued, the conditions for its issuing were not fulfilled.

A visa shall be revoked when it is later established that the conditions upon which it has been issued no longer exist.

A visa may be revoked upon request of a foreign national who possess a valid visa.

The consulate, border police, or the competent authority shall be responsible to annul or revoke a visa.

The decision to annul or revoke a visa with the established grounds shall be serviced to the foreign national based on a prescribed form.

An appeal may be filed against a decision to annul or revoke a visa according to Article 38 of the law, unless the visa has been revoked upon request of the foreign national holding a visa.

The Minister responsible for foreign affairs, in mutual agreement with the Minister for the interior, prescribes the layout and content of the visa annulment and revocation form as well as the modality of annulment and revocation.

Article 38 Appeal

A foreign national may file an appeal against the decision with which a visa application has been refused, a visa application at the border crossing point has been refused, a visa has been annulled or revoked, a visa has not been extended, or entry into the Republic of Serbia has been refused with the authority that has taken the respective decision within eight days from the date of service of the decision. The appeal shall be filed in writing, in Serbian language in addition to the prescribed fees.

The ministry responsible for foreign affairs, or the border police shall be responsible to decide upon appeals against decisions referred to in paragraph 1 of this Article within 60 days from the time of service of the appeal.

An appeal against the decision referred to in paragraph 1 of this Article shall not have suspensive effect.

The right to mount a legal challenge may be exercised against a decision issued in second instance.

IV. STAY AND RESIDENCE OF FOREIGN NATIONALS

Article 39 Types of stay and residence

The types of stay and residence of foreign nationals according to the law are as follows:

- 1) visa free stay up to 90 days within a period of 180 days referred to in Article 16 of the law;
- 2) stay on the basis of a visa for short-term stay (visa C) referred to in Article 21 of the law;
- 3) stay on the basis of visa for long-term stay (visa D) referred to in Article 22 of the law;
- 4) residence on the basis of a temporary residence permit;
- 5) residence on the basis of a permanent residence permit.

Article 40 Temporary residence permit

A temporary residence permit authorizes a foreign national to temporary reside in the Republic of Serbia and may be granted to a foreign national whose intent is to stay longer than 90 days in the Republic of Serbia for the following purposes:

- 1) employment;
- 2) education and language training;
- 3) studying;
- 4) participation in international exchange programmes of pupils and students;
- 5) professional specialisation, vocational training or internship;
- 6) scientific research and other activities related to scientific education;
- 7) family reunification;
- 8) religious work,
- 9) medical treatment or care;
- 10) ownership of real estate;

- 11) humanitarian stay;
- 12) assumed victim of trafficking in human beings;
- 13) victim of trafficking in human beings.

As an exception from paragraph 1 of this Article, a temporary residence permit may be granted to a foreign national who intends to stay for a period shorter than 90 days in the Republic of Serbia for the purpose of employment, if he requires a work permit in accordance with the law regulating the employment of foreign nationals.

A foreign national possessing a temporary residence permit granted for the purpose referred to in paragraph 1 of this Article must stay in the Republic of Serbia in accordance with the purpose for which the residence permit has been granted.

Article 41 Applying for a temporary residence permit and deadlines

A foreign national who has legally entered the Republic of Serbia and exercises his right to stay, and does not need a visa to enter the Republic of Serbia, or has entered the Republic of Serbia with a long-term visa, shall apply in person for a temporary residence permit to the competent authority.

As an exception from paragraph 1 of this Article, when state interests, humanitarian reasons, or force majeure require so, a foreign national who has legally entered the Republic of Serbia and has a right to stay on the basis of a short-term visa may apply for a temporary residence permit to the competent authority on presentation of proofs concerning the existence of circumstances referred to in this paragraph.

A foreign national shall file an application for renewal of the temporary residence permit to the competent authority earliest three months, and not later than 30 days before the expiry of the validity period of the temporary residence permit.

The competent authority may permit a renewal application even upon expiry of the valid temporary residence permit, if the time period between the date of expiry of the previous temporary residence permit and the date of the renewal application is shorter than three months, when state interests, humanitarian reasons, or force majeure require so.

In case the competent authority approves the renewal of the temporary residence permit referred to paragraph 4 of this Article, the time period between the previous temporary residence permit and the renewal application shall be considered as legal and uninterrupted residence.

A foreign national who has timely filed an application for a temporary residence permit, respectively for the renewal of a temporary residence permit, may remain in the Republic of Serbia until the enforceability of the second instance decision.

Article 42 Jurisdiction

The competent authority shall decide upon the application for temporary residence permit within 30 days from the date the application has been filed.

When examining an application for a temporary residence permit, the competent authority in accordance with a specified procedure shall obtain a statement from the public authority responsible for the protection of the security of the Republic Serbia

about existing security concerns to grant a temporary residence permit, beside the assessment of whether the conditions under Article 43 of the law are fulfilled. The deadline for providing the statement under this paragraph shall be 25 days from the day the request was serviced for consideration.

Article 43 Conditions for granting a temporary residence permit

A foreign national may be granted a temporary residence permit if he:

- 1) has a valid personal or service passport;
- 2) has sufficient means of subsistence;
- 3) has a registered address of a place of residence in the Republic of Serbia;
- 4) presents sickness insurance cover throughout the period of the duration of residence respectively of the extension of the duration of residence he is applying for in the Republic of Serbia;
- 5) presents proofs that the application for temporary residence permit is justified in accordance with the purposes of temporary residence permits referred to in Article 40 of the law, as well as other documents at the request of the competent authority.

The Minister responsible for the interior prescribes more detailed conditions for granting a temporary residence permit stipulated in this Article, the layout and content of the application form for granting a temporary residence permit, the modality the statement is obtained regarding existing or non-existing security concerns to grant a temporary residence permit, as well as the layout and content of the temporary residence sticker and the modality of affixing it into a foreign travel document.

Article 44 Validity period of a temporary residence permit

A temporary residence permit may be granted to a foreign national for a period of up to one year, and may be renewed for the same period, depending on the purpose of residence, and on the continuing existence of requirements upon which the residence permit is granted.

A temporary residence permit shall be affixed into a foreign travel document in the form of a sticker. A foreign national in person shall take over the travel document in which the residence permit sticker has been affixed. Exceptionally, a travel document in which a residence permit sticker has been affixed may be taken over by an authorized representative of the foreign national for justified reasons.

The validity period of the travel document must exceed the validity period of the temporary residence permit to be issued by at least 3 months.

Exceptionally, a temporary residence permit for a foreign national who does not possess a valid travel document shall be granted and extended by means of a written decision.

Article 45 Rejecting an application for temporary residence permit

The competent authority shall reject an application for temporary residence permit respectively the renewal application, if:

- 1) the validity period of the personal or service passport is shorter than stipulated in Article 44, paragraph 3, of the law;
- 2) the conditions laid down in Article 43, paragraph 1 of the law are not fulfilled;
- 3) a protective measure of removal, or a security measure of expulsion, or an entry ban is in effect;
- 4) reasons of protecting public order or security of the Republic of Serbia and its citizens require so;
- 5) there is reasonable doubt to suspect that the purpose of temporary residence permit is not justified;
- 6) the foreign national presents a forged travel document;
- 7) it is established that the supporting documents enclosed to the application for temporary residence permit are falsified or fraudulently acquired;
- 8) there is reasonable doubt that the civil or common law marriage (civil partnership) exists for the sole purpose of gaining a temporary residence permit.

The competent authority may reject a renewal application for a residence permit if it establishes by inspecting a foreign national's travel document, or by searching existing data filing systems operated under the law regulating state border crossings, that the foreign national has spent less than half of the time of the duration of the residence permit in the Republic of Serbia during the validity period of his previous temporary residence permit, unless the foreign national presents a proof which justifies his absence in the Republic of Serbia.

If the decision referred to in paragraph 1 of this Article has been taken after the expiry of legal stay or residence as stipulated under Article 39, items 1) to 4) of the law, the competent authority shall determine a period during which the foreign national must depart from the Republic of Serbia in accordance with Article 77 and 78 of the law.

A foreign national may file an appeal against a decision referred to in paragraph 1 of this Article to the competent authority within fifteen days from the day of service of the decision. The appeal shall be filed in writing, in Serbian language, in addition to paid prescribed fees. The border police shall be responsible to decide upon appeals against decisions referred to in paragraph 1 of this Article. The appeal shall have a suspensive effect.

The right to mount a legal challenge may be exercised against a decision issued in second instance. The legal challenge shall not have a suspensive effect on the enforceability of the second instance decision.

Article 46 Temporary residence permit for the purpose employment

A temporary residence permit for the purpose of employment may be granted to a foreign national who fulfils the conditions under Article 43 of the law, and:

- 1) for whom a temporary residence permit is a precondition to obtain a work permit in the Republic of Serbia in accordance with the provisions regulating the employment of foreign nationals, or
- 2) who intends to stay in the Republic of Serbia longer than 90 days for the purpose of employment, and does not require a work permit within the meaning of the provisions regulating the employment of foreign nationals in the Republic of Serbia.

Article 47 Temporary residence permit for the purpose of education or language training

A temporary residence permit for the purpose of education respectively of gaining access to education at primary or secondary schools, or Serbian language training in order to further pursue education or studies in the Republic of Serbia may be granted to a foreign national who fulfils the conditions referred to in Article 43 of the law, and who presents a proof of admission from an accredited education institute in the Republic of Serbia, respectively from an organisation which is registered as education provider respectively providing language training.

In case of a minor, the consent of a parent, guardian respectively legal representative is mandatory in order to grant a temporary residence permit for the purpose of education in the Republic of Serbia, as well as evidence about the fact, that an adult living in the Republic of Serbia will be responsible for the minor foreign national during his residence in the Republic of Serbia, particularly as regards the provision of accommodation, healthcare and means of subsistence for the minor.

If the adult who is sponsoring the minor during his education is a foreign national, the temporary residence permit for the minor shall be granted for the same period as the temporary residence permit of the sponsor.

Article 48 Temporary residence permit for the purpose of studying

A temporary residence permit for the purpose of studying may be granted to a foreign national who fulfils the conditions referred to in Article 43 of the law, and who presents a proof of admission from an accredited establishment of higher education in the Republic of Serbia with the purpose to achieve tertiary education.

A temporary residence permit referred to in paragraph 1 of this Article shall be granted for the duration of one year and may be renewed for the same period. If studies last shorter than one year, the temporary residence permit shall be granted for the duration of the study.

Apart from the reasons stipulated in Article 45 of the law, the renewal of the temporary residence permit for the purpose of studying may be also rejected if it is established, that the foreign national continuously fails to achieve adequate progress in his studies, as defined by regulations governing tertiary education.

Article 49 Temporary residence permit for the purpose of participation in international exchange programmes of pupils and students

A temporary residence permit for the purpose of participation in international exchange programmes of pupils and students in the Republic of Serbia may be granted to a foreign national who fulfils the conditions referred to in Article 43 of the law, and who presents a proof about his participation in international exchange programmes of pupils and students which were approved by the Ministry responsible for education and science matters.

In case of a minor, the consent of a parent, guardian respectively legal representative is mandatory in order to grant a temporary residence permit for the purpose of participation in an international pupil exchange programme in the Republic of Serbia, as well as evidence about the fact, that the organisation in charge of the pupil exchange programme will be responsible for the minor foreign national during his residence in the Republic of Serbia, particularly as regards the provision of accommodation, healthcare and means of subsistence.

Article 50 Temporary residence permit for the purpose of professional specialisation, vocational training or internship

A temporary residence permit for the purpose of professional specialisation, vocational training or internship may be granted to a foreign national who fulfils the conditions referred to in Article 43 of the law, and who presents a proof from the relevant competent authority, institution or other legal person in the Republic of Serbia certifying that the professional specialisation, vocational training or internship, as well as the programme with which the duration of that action is determined, is approved.

Provisions regulating the employment of foreign nationals in the Republic Serbia shall apply on foreign nationals who possess a temporary residence permit according to paragraph 1 of this Article, provided he becomes entitled on the basis of work in the Republic of Serbia.

Article 51 Temporary residence permit for the purpose of scientific research and other activities related to scientific education

A temporary residence permit for the purpose of scientific research and other activities related to scientific education may be granted to a foreign national who fulfils the conditions referred to in Article 43 of the law, and who presents a contract concluded with a research organisation about his engagement in scientific research and carrying out of research activities.

Provisions regulating the employment of foreign nationals in the Republic of Serbia shall apply on foreign nationals who possess a temporary residence permit according to paragraph 1 of this Article.

Article 52 Temporary residence permit for the purpose of religious work

A temporary residence permit for the purpose of religious work may be granted to a foreign national who fulfils the conditions referred to in Article 43 of the law, and who presents a contract with a legally recognised church, or religious community to

perform church duties or conduct religious services in accordance with the law regulating the position of religious communities.

Article 53 Temporary residence permit for the purpose of medical treatment or care

A temporary residence permit for the purpose of medical treatment or care may be granted to a foreign national who fulfils the conditions referred to in Article 43 of the law, and who presents a proof that a health institution, or a social insurance institution will provide adequate service for the intended medical treatment or care.

Article 54 Temporary residence permit for the purpose of ownership of a real estate

A temporary residence permit for the purpose of ownership of a real estate may be granted to a foreign national who fulfils the conditions referred to in Article 43 of the law, and who presents a proof of ownership of that real estate.

A real estate within the meaning of the law shall mean residential houses and apartments in the Republic of Serbia for which the foreign national may have sole property and in which he is living in the Republic of Serbia.

Article 55 Temporary residence permit for the purpose of family reunification

An application for a temporary residence permit for the purpose of family reunification shall be filed by a foreign national in person to the competent authority – a nuclear family member of a national of the Republic of Serbia, or of a foreign national with a granted temporary or permanent residence permit, as well as a nuclear family member of a foreign national with refugee status under the provisions of the law regulating asylum.

Within the meaning of the law, the members of a nuclear family shall include: spouses, common-law spouses, and their unmarried children born in or out of wedlock, unmarried adopted children, or unmarried stepchildren up to reaching 18 years.

Exceptionally, a member of the nuclear family may be considered:

- 1) a relative in the straight line of a Serbian national, or a foreign national with a granted temporary or permanent residence permit in the Republic of Serbia, or a relative in the straight line of his spouse or common-law spouse, who depends on them and who does not have adequate family care in the country of origin, or
- 2) an adult unmarried child of a Serbian national, or a foreign national with a granted temporary or permanent residence permit in the Republic of Serbia, or an adult unmarried child of his spouse or common-law spouse, who is unable to meet his needs due to his health condition.

In case of a polygamous marriage, family reunification shall be permitted only to one spouse and their common unmarried children up to reaching 18 years.

Article 56 Temporary residence permit for a family member of a foreign national with refugee status under the provisions of the law regulating asylum

A foreign national who is a member of a nuclear family of another foreign national with refugee status under provisions of the law regulating asylum is not required to fulfil all conditions referred to in Article 43, as well as Article 41, paragraphs 1 and 2 of the law in order to be granted a temporary residence permit, in consideration of the specific, personal circumstances of a foreign national with refugee status and his nuclear family members.

In case that a foreign national with refugee status under the provisions of the law regulating asylum is a minor, a temporary residence permit for the purpose of family reunification may be granted to his parents under the same conditions as stipulated under paragraph 1 of this Article for reasons of maintaining family unity.

In case that a member of a nuclear family of a foreign national with refugee status under the provisions of the law regulating asylum does not possess a travel document, his temporary residence permit shall be granted by written decision for a validity period up to one year.

Article 57 Validity period of the temporary residence permit for the purpose of family reunification

A temporary residence permit for family reunification shall be granted for the duration of one year and shall be renewed for the same period, except in the case referring to Article 44, paragraph 3 of the law.

A foreign national who shall be granted a temporary residence permit for the purpose of family reunification with a foreign national with a granted temporary residence permit, shall be granted a temporary residence permit for a duration which is not exceeding the validity period of the temporary residence permit of the foreign national with whom the reunification was requested.

Article 58 Temporary residence permit of a minor foreign national born in the territory of the Republic of Serbia

The parent or legal guardian of a child born in the territory of the Republic of Serbia, whose both parents are foreign nationals, shall apply for a temporary residence permit for the child within three months from the child's birth.

The temporary residence permit referred to in paragraph 1 of this Article shall be granted until the expiry of the validity period of the parent's or legal guardian's temporary residence permit, or for the period of one year if one of the parents or legal guardians is a permanently residing foreign national.

Article 59 Autonomous residence permit

A foreign national, who fulfils the conditions referred to in Article 43 of the law and is a member of the nuclear family of a Serbian national, of a foreign national with a granted temporary or permanent residence permit in the Republic of Serbia, or of a foreign national with refugee status under the provisions of the law regulating asylum, and who previously had a temporary residence permit for the purpose of family reunification during an uninterrupted period of residence in the last five years in the

Republic of Serbia shall be granted an autonomous residence permit upon his application.

Exceptionally, a foreign national referred to in paragraph 1 of this Article who has been granted a temporary residence permit for the purpose of family reunification during an uninterrupted period of residence in the last three years may be granted an autonomous residence permit upon his application in case the Serbian national, or the foreign national with whom the right of family reunification was realized, died.

As an exception from paragraph 1 of this Article, a foreign national being a nuclear family member of a Serbian national, a foreign national with a granted temporary or permanent residence permit, or of a foreign national with refugee status under the provisions of the law regulating asylum, and who has been granted a temporary residence permit for the purpose of family reunification and has become a victim of domestic violence may be granted an autonomous residence permit upon his application, even if not all of the conditions as stipulated under Article 43 of the law are not fulfilled.

The validity period of the autonomous residence permit shall be determined in accordance with Article 57, paragraph 1 of the law.

Article 60 Marriage of convenience

A temporary residence permit for the purpose of family reunification shall not be granted if the marriage is concluded as a marriage of convenience.

Within the meaning of the law, a marriage of convenience shall mean a marriage which was concluded with the intention to facilitate the entry, stay and residence of a foreign national in the Republic of Serbia contrary to the conditions stipulated in the law.

Circumstances which may indicate that the concluded marriage is one of convenience are the following:

- 1) the spouses do not maintain their marital union;
- 2) the spouses do not perform their marital obligations;
- 3) the spouses did not know each other before the conclusion of the marriage;
- 4) the spouses do not provide truthful personal data;
- 5) the spouses do not speak a language they both understand;
- 6) material contributions were made for the conclusion of marriage, except the contributions given in the form of a dowry, where the spouses come from countries where the provision of a dowry is common practice;
- 7) there is evidence about previous marriages of convenience on both sides, either in the Republic of Serbia or abroad.

The provisions of this Article shall apply accordingly to common law marriages (civil partnerships).

Article 61 Temporary residence permit for humanitarian reasons

A temporary residence permit may be granted to a foreign national who fulfils the conditions referred to in Article 43 of the law and where circumstances exist, which require special consideration with regard to:

- 1) his family, cultural or social ties with the Republic of Serbia, level of integration into social life of the Republic of Serbia in the previous period, in particular with regard to his education, working activities or language skills;
- 2) his forced removal having been postponed for the duration of one year or longer according to Article 84 of the law;
- 3) his being a victim of a serious crime, including also persons involved in actions facilitating irregular migration, if he collaborates with the police and judicial authorities, and his presence is indispensable in the criminal proceeding, or he participates in the investigations as witness or claimant;
- 4) a minor who was abandoned, or is a victim of organized crime, or was left without a guardian, or is unaccompanied for other reasons;
- 5) serious and justified personal reasons of humanitarian nature, or because it is in the interest of the Republic of Serbia.

The competent authority shall grant a residence permit according to paragraph 1 of this Article, if it establishes that circumstances upon which the application relies are well founded, and conditions referred to in Article 43 of the law have not been fulfilled for justifiable reasons.

A temporary residence permit referred to in paragraph 1 of this Article shall be valid for at least six months up to one year at maximum, and may be renewed as long as circumstances upon which the initial temporary residence permit has been granted are still existent.

Article 62 Temporary residence permit for assumed victims of trafficking in human beings

The Centre for the protection of victims of trafficking in human beings shall initiate a professional identification procedure of a foreign national in whose case the police, prosecutor's office, court, inspectorates, youth welfare offices, social workers, civil society organisations, and other relevant bodies have justified reasons to believe him being a victim of trafficking in human beings (hereinafter: assumed victim).

The Centre for the protection of victims of trafficking in human beings, public authorities, civil society organisations, and other relevant bodies shall notify the foreign national in whose case they have justified reasons to believe him being an assumed victim about the conditions of acquiring a temporary residence permit and other rights under paragraph 6 of this Article, with the aim of having him physically, psychologically and socially recovered.

The Centre for the protection of victims of trafficking in human beings shall notify the competent authority about the initiation of a professional identification procedure under paragraph 1 of this Article in order to initiate the procedure for granting a temporary residence permit for the assumed victim.

The temporary residence permit under paragraph 3 of this Article may be granted for a duration for up to 90 days, where it is not necessary that all conditions prescribed under Article 43 of the law must be fulfilled. During this period, the assumed victim shall be enabled to recover and escape the influence of the perpetrators, but also to take a decision about his cooperation with the Centre for the protection of victims in trafficking in human beings, prosecutor's office, court, or police, independently and without imposing any conditions relating to a testimony, based on timely and full information about his status.

Provided that the assumed victim is an unaccompanied minor, the competent authority shall take actions to establish facts whether his family is staying in the territory of the Republic of Serbia, while considering the best interest of the child. Before enabling reunification of the minor with his family, due account shall be paid about his family having been possibly involved in trafficking in human beings. In case it is not possible to locate his family in the territory of the Republic of Serbia, or if the competent authority concludes that reuniting the minor with his family is not in his best interest, then a guardian for the minor shall be appointed.

A return decision shall not be issued during this period, while the assumed victim shall be provided with appropriate and secure housing, psychological and material assistance, access to urgent medical treatment, access to education for minors. When appropriate, an assumed victim shall receive translation and interpretation services in a language he understands, counselling and information about his legal rights and the rights he has.

Article 63 Temporary residence permit for victims of trafficking in human beings

If during the procedure referred to in Article 62, paragraph 1 of the law it is established, that a foreign national is a victim of trafficking in human beings and that he has taken an independent decision about partaking in a program for assistance and protection, the Centre for the protection of victims of trafficking in human beings shall notify the competent authority about this circumstance by means of providing an expert report, the latter initiating a procedure for granting a temporary residence permit.

A foreign national who is a victim of trafficking in human beings may be granted a temporary residence permit despite that he does not fulfil the conditions under Article 43 of the law.

A temporary residence permit shall be granted to victims of trafficking in human beings, including child victims, when following reasons exist:

- 1) the Centre for the protection of victims of trafficking in human beings deems a stay necessary due to his personal situation;
- 2) the court, the prosecutor's office, or police deem a stay indispensable due to the cooperation in the criminal proceeding.

A temporary residence permit shall be granted to a foreign national being a victim of trafficking in human beings for a period for up to one year, and for a victim of trafficking human beings referred to in paragraph 3, item 2 of this Article shall be granted for not less than six months and may be renewed under the same conditions.

Beside the rights under Article 62 of the law and without imposing any conditions relating to a testimony, a foreign national who has been granted a temporary residence permit for victims of trafficking in human beings shall have the right to access labour market, vocational training and education. If a foreign national who has been granted a temporary residence permit for victims of trafficking in human beings does not have sufficient means of subsistence, he shall have the right to health care and other support if it is established that this will be necessary.

When granting a temporary residence permit to a child victim of trafficking in human beings, the competent authority shall take into account the best interest of the child, while the residence permit procedure shall be conducted with regard to his age and degree of maturity.

Article 64 Termination of the temporary residence permit for humanitarian reasons and for victims of trafficking in human beings

A temporary residence permit for victims of trafficking in human beings, or a temporary residence permit referred to Article 61, paragraph 1, item 3) of the law may be terminated at any time, if the conditions are no longer met, but particularly in the following cases:

- 1) if a foreign national, who has been granted a temporary residence permit, has actively, voluntarily and on his own initiative renewed contacts with persons suspected for having committed a criminal offence relating to trafficking in human beings and irregular migration, respectively if it is established that the criminal complaint of these offences has been fraudulent or unfounded;
- 2) if a foreign national, who has been granted a temporary residence permit, has ceased to cooperate, or is acting fraudulently during the cooperation process;
- 3) if it is required by reasons of protecting public order or security of the Republic of Serbia and its citizens;
- 4) when judicial authorities decide to close the proceeding.

A temporary residence permit for humanitarian reasons referred to in Article 61, paragraph 1, items 1), 2), 4) and 5) of the law shall be terminated, if the circumstances upon which the temporary residence permit has been granted do not longer exist, or if it is required by reasons of protecting public order or security of the Republic of Serbia and its citizens.

Article 65 Decision-making principles

When examining an application for a temporary residence permit, respectively an application for the renewal of a temporary residence permit, the competent authority shall particularly take into account the severity and/or type of an offence against the public order or security and the intensity of threat to security of the Republic of Serbia and its citizens, if it establishes that the application is to be rejected for reasons of protecting public order or security of the Republic of Serbia and its citizens according to Article 45, paragraph 1, item 4) of the law.

When examining an application for a temporary residence permit, respectively an application for the renewal of a temporary residence permit, the competent authority

shall also particularly take into account the duration of residence, personal, family, economic and social circumstances.

When examining an application for a temporary residence permit, respectively an application for the renewal of a temporary residence permit of a minor, the competent authority will guide the outcome of the decision in the best interest of the child.

Article 66 Termination of the right of temporary residence

If it subsequently becomes evident that obstacles referred to Articles 43 or 45 of the law exist, the competent authority shall issue a decision terminating the right of temporary residence and determine a deadline for voluntary return during which a foreign national must depart from the Republic of Serbia in accordance with Article 77 of the law. The decision terminating the right of temporary residence may include an entry ban for a certain period of time, if conditions referred to in Article 78 of the law apply.

Before reaching a decision referred to in paragraph 1 of this Article, the specific circumstances of each individual case shall be considered, particularly the duration of all previous temporary residence permits and his personal, family, cultural, economic and other ties with the Republic of Serbia.

A foreign national may file an appeal against a decision terminating the right of temporary residence with the competent authority within fifteen days from the date of service of the decision. The appeal shall be filed in writing, in Serbian language, in addition to paid prescribed fees. The border police shall be responsible to decide upon appeals against decisions terminating the right of temporary residence. The appeal shall have a suspensive effect.

The right to mount a legal challenge may be exercised against a decision issued in second instance. The legal challenge shall not have a suspensive effect on the enforceability of the second instance decision.

Article 67 Permanent residence permit

A permanent residence permit authorizes a foreign national to long-term residence in the Republic of Serbia.

A permanent residence permit shall be granted to a foreign national who fulfils the conditions referred to in Article 70 of the law, and who has resided in the Republic of Serbia with no interruption for more than five years on account of a temporary residence permit until the day of application for a permanent residence permit.

A foreign national who has been granted a temporary residence permit for the purposes of studies, general education, and seasonal work in the Republic of Serbia shall not be eligible to apply for a permanent residence permit.

A foreign national who in previous periods has spent certain time on the basis of a temporary residence permit granted for the purposes of studies or general education in the Republic of Serbia, and has later changed his purpose of residence in the Republic of Serbia, may apply for a permanent residence permit in accordance with paragraph 1 of this Article. Only half of the time he has spent in the Republic of Serbia for the purposes of studies or general education in the Republic of Serbia shall be taken into account with regard to the required period according to paragraph 1 of this Article.

An uninterrupted residence within the meaning of paragraph 2 of this Article shall mean the actual stay in the territory of the Republic of Serbia with multiple periods of absence, totalling to the maximum of ten months of absence, or a single period of absence of up to six months, over a period of five years.

When applying for a permanent residence permit, a foreign national must possess a temporary residence permit.

The time served in prison by a foreign national who has been granted temporary residence permit shall not be recognised as time accrued for eligibility for permanent residence.

A foreign national who has been granted a permanent residence permit shall be equal in terms of rights and obligations with nationals of the Republic of Serbia, except for rights and duties from which he is exempt pursuant to the Constitution and the law.

The Minister responsible for the interior prescribes more detailed conditions for granting a permanent residence permit, the layout and content of the application form for granting a permanent residence permit, as well as the layout and content of the permanent residence sticker and the modality of affixing it into a foreign travel document.

Article 68 Permanent residence permit in specific cases

A permanent residence permit may be granted to a foreign national who fulfils the conditions referred to in Article 70 of the law, and:

- 1) who until the date of his application for a permanent residence permit has uninterruptedly resided in the Republic of Serbia at least three years on the basis of a temporary residence permit granted for the purpose of family reunification with a national of the Republic of Serbia, or a foreign national who has been granted a permanent residence permit;
- 2) who as a minor is staying with a temporary residence permit in the Republic of Serbia, if one parent is Serbian national, or is a foreign national who has been granted a permanent residence permit;
- 3) who originates from the Republic of Serbia;
- 4) to another foreign national who has been granted a temporary residence permit, if required by humanitarian reasons, or if this is in the interest of the Republic of Serbia.

The provisions of Article 67, paragraphs 5 – 8 of the law shall also apply in cases of permanent residence permits in specific cases.

Article 69 Jurisdiction

A foreign national shall submit his application for a permanent residence permit to the competent authority.

The border police shall be responsible to decide upon an application for a permanent residence permit of a foreign national within 60 days from the date the application has been filed.

When examining an application for a permanent residence permit, the border police shall obtain a statement from the public authority responsible for the protection of the security of the Republic of Serbia about existing security concerns to grant a permanent residence permit, beside the assessment of whether the conditions under Articles 67, 68 and 70 of the law are fulfilled. The deadline for providing the statement under this paragraph shall be 55 days from the day the request was serviced for consideration.

Article 70 Conditions for granting a permanent residence permit

A foreign national shall be granted a permanent residence permit if:

- 1) he has a valid foreign passport;
- 2) he has sufficient means of subsistence;
- 3) he has a registered address of a place of residence in the Republic of Serbia;
- 4) he has sickness insurance;
- 5) no entry ban for the Republic of Serbia is in force;
- 6) he has not been finally sentenced to an imprisonment of more than six months for a criminal offence prosecuted ex officio in the Republic of Serbia, or the legal consequences of a conviction ceased;
- 7) no protective measure of removal, or a security measure of expulsion was ordered against him.

A permanent residence permit shall be affixed into a foreign travel document in the form of a sticker. A foreign national in person must take over the travel document in which the permanent residence permit sticker has been affixed. Exceptionally, a travel document in which the residence permit sticker has been affixed may be taken over by an authorized representative of the foreign national for justified reasons.

Article 71 Rejecting an application for permanent residence permit

A permanent residence permit shall not be granted to a foreign national:

- 1) who does not fulfil the conditions stipulated in Articles 67, 68 and 70 of the law;
- 2) who has been finally sentenced to an imprisonment of more than six months for a criminal offence prosecuted ex officio, or if for such a crime a criminal proceeding has been instituted;
- 3) for reasons of protecting public order or security of the Republic of Serbia and its citizens.

If concerns exist with regard to Article 70, paragraph 1, item 6) or paragraph 1, item 3) of this Article, the specific circumstances of each individual case shall be considered before reaching a decision on the application a permanent residence permit, particularly the severity of the criminal offence which is prosecuted ex officio, the threat the applicant poses to the public order, or the intensity of threat to security of the Republic of Serbia and its citizens in case he continues to reside on the

country's territory in relation to the duration of all previous residence permits and his personal, family, cultural, economic and other ties with the Republic of Serbia.

Rejecting an application for a permanent residence permit shall not preclude a foreign national from continuing his residence in the Republic of Serbia on the basis of a temporary residence permit, if he fulfils the conditions stipulated in the provisions relating to temporary residence permits of the law.

A foreign national may file an appeal against a decision rejecting a permanent residence permit with the authority which has issued the decision within fifteen days from the day of service of the decision. The appeal shall be filed in writing, in Serbian language, in addition to paid prescribed fees. The Government shall be responsible to decide upon appeals against decisions rejecting a permanent residence permit. The appeal shall have a suspensive effect.

The right to mount a legal challenge may be exercised against a decision issued in second instance. The legal challenge shall not have a suspensive effect on the enforceability of the second instance decision.

Article 72 Termination of the right of permanent residence

The border police shall decide upon the termination of the right of permanent residence on proposal of the competent authority.

The right of permanent residence in the Republic of Serbia of a foreign national shall be terminated if:

- 1) he constitutes an actual and serious threat to public order, or his further residence on the country's territory poses an unacceptable threat to security of the Republic of Serbia and its citizens;
- 2) he has presented false data about his identity, or has concealed circumstances relevant to granting the permit;
- 3) it has been ascertained that a foreign national has left the Republic of Serbia, or that he has lived abroad in continuity for more than one year;
- 4) he has renounced his right of permanent residence;
- 5) a protective measure of removal, or a security measure of expulsion was imposed on him.

A foreign national represents an actual and sufficiently serious threat to public order referred to in paragraph 1, item 1) of this Article, if he has been convicted to at least one-year imprisonment, if he has been convicted to imprisonment for a term totalling three years within a period of five years, or if he has been convicted to imprisonment for crimes against humanity and other values protected by international law.

A continued residence of a foreign national on the territory of the Republic of Serbia constitutes an unacceptable threat to security of the Republic of Serbia and its citizens under paragraph 1, item 1) of this Article, if available data and intelligence give rise to reasonable doubts that the foreign national advocates, incites, assists, prepares or undertakes actions to undermine the constitutional order and security of the Republic of Serbia, the values protected by international law, and the regional and global security of importance for the Republic of Serbia.

Before reaching a decision on terminating the right of permanent residence, the border police shall particularly consider the specific circumstances of each individual case, particularly the duration of all previous temporary residence permits in the Republic of Serbia, his personal and family circumstances, as well as his other ties with the Republic of Serbia, in relation to the threat a foreign national poses to public order, and particularly the severity of the criminal offence committed.

If the decision on terminating the right of permanent residence is issued for reasons referred to paragraph 1, item 1) and 2) of this Article, the competent authority shall determine a deadline for voluntary return during which the foreign national must depart from the Republic of Serbia in accordance with Article 77 of the law. The decision terminating the right of permanent residence may include an entry ban for a certain period of time, if conditions referred to in Article 78 of the law apply.

A foreign national may file an appeal against a decision terminating the right of permanent residence with the authority which has issued the decision within fifteen days from the day of service of the decision. The appeal shall be filed in writing, in Serbian language, in addition to paid prescribed fees. The appeal shall have suspensive effect.

The Government shall be responsible to decide upon appeals against decisions rejecting a permanent residence permit.

The right to mount a legal challenge may be exercised against a decision issued in second instance. The legal challenge shall not have a suspensive effect on the enforceability of the second instance decision.

Article 73 Re-acquisition of the right of permanent residence

When the right of permanent residence of a foreign national has been terminated according to Article 72, paragraph 2, item 3) of the law, he may apply for re-acquisition of the same right regardless of the deadline stipulated under Article 67, paragraph 2 of the law, if he previously resided with no interruption in the Republic of Serbia for at least three years on the basis of a temporary residence permit.

Provisions of the law relating to the permanent residence permit shall apply accordingly on the application procedure referred to paragraph 1 of this Article.

V. ILLEGAL STAY AND RETURN PROCEDURE

Article 74 Illegal stay

A stay of a foreign national in the Republic of Serbia shall be considered illegal if:

- 1) he is illegally entering the Republic of Serbia within the meaning of Article 14 of the law;
- 2) he has overstayed a period of 90 days within a period of 180 days in the Republic of Serbia;
- 3) his legal stay on the basis of a visa expired, or the visa has been annulled, or revoked;

- 4) he is staying in the Republic of Serbia according to Article 39, paragraph 1 of the law, and it becomes evident that obstacles referred to in Article 15 of the law exist;
- 5) his temporary residence permit expired, or his right of temporary residence has been terminated;
- 6) his right of permanent residence has been terminated, or he has no other legal grounds to stay in the Republic of Serbia;
- 7) he declared his intent to apply for asylum but has not appeared in the accommodation facility for asylum seekers within 72 hours, he has not notified the Asylum Office about the change of address of his private accommodation, or has left the accommodation facility for asylum seekers without authorization before a decision on the asylum application could have been taken (except in cases where these situations arose due to force majeure);
- 8) his asylum application has been finally dismissed or rejected, the asylum procedure has been closed, or his right to international protection has been terminated based on legally provided grounds, but he has not left the territory of the Republic of Serbia in accordance with a final departure order issued by the public authority responsible to decide upon his application;
- 9) a protective measure of removal, or a security measure of expulsion was imposed on him.

Upon completion of the procedure, the competent authority shall issue a return decision according to Articles 77 or 78 of the law in case the conditions referred to paragraph 1, items 1) – 8) of this Article are fulfilled.

Article 75 Principles in return procedure

In the course of the return procedure, the competent authority shall take into consideration the specific situation of vulnerable persons, the family life and the state of health of the person against who the measure of return is enforced, as well as the best interest of the child.

In the course of the return procedure, the principle of family unity shall be maintained in the meaning of uniting all family members present in the territory of the Republic of Serbia.

In the course of exercising coercive measures and official actions in respect of foreign nationals referred to in paragraph 1 of this Article, the competent authority must act in conformity with provisions regulating the status of persons with disabilities and with international treaties.

Before issuing a return decision to an unaccompanied minor, he must receive appropriate assistance by the youth welfare authority.

If it in the course of the return procedure it turns out to be necessary, an interpreter shall be provided in the language a foreign national understands or is reasonably supposed to understand.

The competent authority must provide, upon request, a translation of the verdict of the return decision, of the entry ban and information on the available legal remedies

in a language the foreign national understands or is reasonably supposed to understand.

Biometric data of a foreign national (photograph and fingerprints) who does not possess identity documents, or where there are doubts about his identity shall be collected in accordance with provisions regulating personal data protection.

Article 76 Exception from implementing provisions

This chapter of the law shall not apply in cases where entry has been refused to a foreign national pursuant to Article 15 of the law.

Articles 77 to 80 of the law shall not apply when during a judicial procedure a security measure of expulsion, or a protective measure of removal from the territory of the Republic of Serbia was imposed on a foreign national, or when he is subject to an extradition procedure.

Article 77 Return decision and voluntary departure period

The competent authority shall issue a return decision against a foreign national, who is illegally staying in the territory of the Republic of Serbia, and stipulate a voluntary departure period during which he is ordered to leave the Republic of Serbia.

A foreign national must leave the Republic of Serbia in accordance with the return decision. A foreign national who has voluntarily departed from the Republic of Serbia is deemed to have complied with the return obligation within the period determined in the return decision.

If a foreign national has failed to leave the Republic of Serbia in accordance with the return decision, he shall be forcibly removed from the Republic of Serbia. The period for voluntary departure shall start on the day of the enforceability of the return decision.

When setting the period referred to in paragraph 1 of this Article, the competent authority shall take into account the time necessary for the foreign national to leave the territory of the Republic of Serbia and the circumstances described under Article 75 of the law; such period may not be shorter than seven days and not longer than thirty days from the day the return decision becomes enforceable. An exact border crossing point may be determined and the obligation imposed on the foreign national to report to a police officer at the border crossing point.

The competent authority may extend the period for voluntary departure to a foreign national who has not left the Republic of Serbia within the set period for justifiable reasons.

During the period for voluntary departure a foreign national shall be entitled to emergency health care in accordance with the provisions of the law which regulates health insurance, and in case of a minor also access to basic education.

The competent authority may order a foreign national to leave the territory of the Republic of Serbia immediately, or for a period shorter than 7 days if there is a risk of absconding within the meaning of Article 87 of the law, or a foreign national poses a threat to public order or security of the Republic of Serbia and its citizens.

A foreign national shall be considered to have departed from the Republic of Serbia when he enters another state which he is permitted to enter.

In cases where a return decision was issued, and a temporary residence permit has been subsequently granted to the foreign national pursuant to Article 67 of the law, the return decision shall be considered void.

Article 78 Entry ban

When issuing a return decision against a foreign national, the competent authority shall also impose an entry ban into the Republic of Serbia for a determined period of time, if:

- 1) no period for voluntary departure referred to in Article 77, paragraph 7 of the law has been granted;
- 2) the obligation to return has not been complied with the voluntary departure period as determined in the return decision.

An entry ban into the Republic of Serbia for a determined period of time may be imposed with the return decision on a foreign national also in following cases:

- 1) where reasonable doubts exist, that the purpose of his stay or residence is not justified;
- 2) if he has violated provisions regulating the employment of foreign nationals, or those regulating prevention of chaos at sport events, public law and order, gun control, abuse of narcotics or tax obligations;
- 3) if he has been convicted for a crime which is prosecuted ex officio, or if for such crime a proceeding has been instituted;
- 4) if he is repeatedly committing offences;
- 5) if he is responsible for an offence or crime with violent impacts, or if for such an offence or crime a proceeding has been instituted;
- 6) if he has been convicted to imprisonment of more than one year;
- 7) if he has been convicted on several occasions to imprisonment for a term totalling three years within a period of five years;
- 8) if he has been convicted to imprisonment without probation for crimes against values protected by international law;
- 9) if required for reasons of protecting the public order and security of the Republic of Serbia and its citizens;
- 10) if he has concluded a marriage of convenience.

The duration of an entry ban shall be determined with due regard to all relevant circumstances of the individual case and shall not exceed five years, unless a foreign national represents a serious threat to public order or security of the Republic of Serbia and its citizens.

In case that an entry ban for a determined period has been imposed against a foreign national with a return decision, a stamp may be affixed on a foreign national's travel document banning him from entry.

The Minister responsible for the interior prescribes the layout, content and modality of recording an entry ban into a foreign travel document.

Article 79 Suspension, shortening of the period and revocation of an entry ban

An entry ban may be suspended temporarily to a foreign national, who has left the Republic of Serbia in accordance with a return decision and against whom an entry ban is in force, at the request of judicial authorities for especially important personal or humanitarian reasons. The suspension shall last while reasons that lead to the suspension exist, and shall be enforced without adopting an administrative act.

A foreign national who has left the Republic of Serbia in accordance with a return decision may apply to the competent authority to revoke or shorten the period of the entry ban for personal or humanitarian reasons, respectively if he believes that the reasons upon which the entry ban has been imposed no longer exist, only after half of the time of the entry ban has expired. An appeal shall not be permitted against the decision to refuse the application referred to in this paragraph, but the right to mount a legal challenge may be exercised.

The competent authority may revoke an entry ban into the Republic of Serbia at any time *ex officio* in individual cases, where circumstances as described under Articles 62 and 63 of the law exist.

Article 80 Appeal

The border police shall be responsible to decide upon an appeal against decisions referred to in Articles 77 and 78.

The appeal shall be filed to the competent authority within fifteen days from the day of service of the decision. The appeal shall be filed in writing, in Serbian language, in addition to paid prescribed fees.

An appeal against a decision referred to in Article 78 has no suspensive effect, except in cases where there is a real risk of violation of those rights stipulated under Article 83 of the law, or compelling humanitarian reasons exist.

The right to mount a legal challenge may be exercised against a decision issued in second instance. The legal challenge shall not have suspensive effect on the enforceability of the second instance decision.

VI. DETENTION AND FORCED REMOVAL

Article 81 Forced removal

A foreign national may be forcibly removed, in case:

- 1) he has failed to leave the Republic of Serbia within the determined period for voluntary departure;

- 2) that a period for voluntary departure has not been granted in accordance with Article 77, paragraph 7 of the law;
- 3) of a court decision with which a security measure of expulsion, or a protective measure of removal from the country has been imposed.

The forced removal under paragraph 1 of this Article shall be carried out by police officers of the competent authority, or detention officers pursuant to their mandate.

In order to ensure the enforcement of a forced removal, travel or other documents of a foreign national, travel tickets as well as assets may be temporarily confiscated pursuant to the provisions of the Law on Police.

The Minister responsible for the interior prescribes the conditions and the modality how the forced removal shall be carried out.

Article 82 Monitoring of forced removals

The Ombudsperson shall monitor the forced removal procedure in accordance with the competences referred to in the act regulating the mandate of the ombudsperson.

Article 83 Prohibition of forced removal

A foreign national may not be forcibly removed to a territory where he would be under threat of persecution on the grounds of his race, sex, religion, nationality, citizenship, membership of a particular social group, or his political views.

The provision of paragraph 1 of this Article shall not apply to a foreign national who is, on reasonable grounds, regarded as a threat to security of the Republic of Serbia, or to a foreign national convicted of a severe criminal offence, what for he represents a threat to public order.

Irrespective of the provisions of paragraph 2 of this Article, a foreign national shall not be forcibly removed to a territory in which he would be under risk of torture, inhuman or degrading treatment or punishment or where the death penalty may be ordered or carried out against him.

An unaccompanied minor shall not be subject to forced removal unless the competent authority is satisfied that the minor shall be handed over to a member of his family, to an appointed guardian, or to an institution for receiving children.

Article 84 Postponement of forced removal

The competent authority shall issue a decision on postponing forced removal, if reasons prescribed under Article 83 of the law exist, or in case:

- 1) the identity of a foreign national was not established due to no fault of his own;
- 2) transport from the Republic of Serbia cannot be carried out;
- 3) serious difficulties would arise due to the psychological, physical, or health condition of the foreign national.

When the forced removal of one family member is postponed, the competent authority shall take into account the principle of family unity when deciding upon postponing the forced removal of the other family members.

When deciding to postpone the forced removal, the competent authority may impose a mandatory stay in accordance with Article 93 of the law.

A foreign national whose forced removal has been postponed shall be entitled to emergency health care in accordance with the provisions of the law which regulates health insurance, and in case of a minor access to basic education.

A foreign national in respect of who the forced removal was postponed still falls under the obligation to leave the Republic of Serbia.

A foreign national whose forced removal has been postponed shall be provided with a provisional identity card for a foreign national.

Article 85

The postponement of forced removal shall be granted for up to one year and may be extended by the competent authority.

Postponement of forced removal shall be revoked if the grounds for temporary postponement referred to in Article 84, paragraph 1 of the law cease to exist, or if a foreign national fails to comply with the obligations resulting from the mandatory stay imposed under the conditions referred to in Article 84, paragraph 3, of the law.

A foreign national must return the document referred to in Article 84, paragraph 6 of the law to the competent authority when the postponement of forced removal has expired, or was revoked in accordance with paragraph 2 of this Article.

An appeal against a decision postponing forced removal, and a decision revoking the postponement of forced removal may be filed with the competent authority within eight days of the day of service of the decision. The appeal shall be filed in writing, in Serbian language, in addition to paid prescribed fees. The appeal shall not have suspensive effect.

The border police shall be responsible to decide upon the appeal.

The right to mount a legal challenge may be exercised against a decision issued in second instance.

Article 86 Identity check and detaining a foreign national

In order to verify the identity of a foreign national and the legality of his stay or residence in the territory of the Republic of Serbia, a foreign national may be detained in the premises of the competent authority to check his documents and personal belongings according to Article 77 Law on Police.

If it is required by reasons of securing a forced removal, the foreign national who was issued with a return decision according to Articles 77 and 78 of the law may be detained in the premises of the competent authority for the purpose of transporting him to the border crossing point.

The detention according to paragraphs 1 and 2 of this Article shall not be longer than 48 hours, except when stay in a detention centre according to Article 87 of the law has been imposed.

The provisions of the Law on Police shall apply accordingly on the detention of foreign nationals.

Article 87 Imposing stay in the detention centre

A foreign national subject to a return procedure in order to prepare the return, or in order to carry out the forced removal shall be imposed to stay in the detention centre (hereinafter: the Centre) pursuant to a decision issued by the competent authority or by the border police on the stay in the Centre.

The competent authority/border police shall impose a stay in the Centre on a foreign national under paragraph 1 of this Article, if measures with regard to the mandatory stay as stipulated in Article 93 of the law cannot be applied effectively in his specific case, particularly where

- 1) there is a risk of absconding and a foreign national will not be available to the competent authority for accomplishing the forced removal procedure;
- 2) a foreign national avoids or hampers the preparation of return or forced removal.

A risk of absconding means the well-founded suspicion that a foreign national will not voluntarily depart from the territory of the Republic of Serbia, and will not comply with the return decision, so he will not be available to the competent authority for accomplishing the forced removal procedure. The well-founded suspicion referred to in this paragraph appears in cases where a foreign national:

- 1) does not possess documents to establish his identity;
- 2) does not cooperate in the return procedure, or hinders his removal;
- 3) did not depart from the Republic of Serbia voluntarily;
- 4) does not cooperate in the proceeding to establish his identity or his nationality, or has given false or contradictory data about himself;
- 5) uses or has used false or forged documents;
- 6) has tried or has entered the Republic of Serbia illegally;
- 7) has contravened the obligations imposed by the decision of a mandatory stay at a determined place;
- 8) has no family or social ties in the Republic of Serbia;
- 9) has no means for securing accommodation, respectively no means of subsistence.

A foreign national whose identity cannot be established, or who does not possess a travel document is considered to avoid or hamper the preparation of the return procedure, respectively the forced removal.

Irrespective of paragraph 1 of this Article, a foreign national with health-related needs, or other disabilities shall be assigned other appropriate accommodation.

Article 88 Duration of stay in the Centre

The duration of stay in the Centre shall be as short as possible and for the duration of stay in the Centre there must be a reasonable prospect of forced removal. The duration of stay in the Centre shall not be longer than three months.

Upon expiry of the time limit referred to in paragraph 1 of this Article, detention in the Centre may be extended for additional three months at maximum, if:

- 1) the identity of a foreign national has still not been established,
- 2) a foreign national intentionally obstructs the forced removal.

The decision on extending the stay shall be issued by the Centre not later than 15 days before the expiry of the detention period as referred to in the decision from Article 87, paragraph 1 of the law.

The total duration of stay in the Centre shall not exceed six months.

The time a foreign national has spent out of the Centre, in prison or in confinement shall not count as time spent in the Centre.

Article 89 Release from the Centre

A foreign national shall be released from the Centre, if:

- 1) the conditions under Article 87, paragraphs 1 and 2 of the law do not longer exist;
- 2) the higher court rules that a foreign national shall be released from the Centre in accordance with Article 90 of the law;
- 3) the time limit according to Article 88 of the law is reached;
- 4) a foreign national applies for asylum in the Republic of Serbia, unless there are reasons for restricting the freedom of movement of the asylum seeker in accordance with the provisions regulating asylum.

Article 90 Legal remedies in the detention procedure

An appeal may be filed against a decision of the competent authority/border police imposing stay in the Centre under Article 87, paragraph 1 of the law, and against a decision extending detention under Article 88, paragraph 3 of the law within fifteen days from the date of service of the decision. The appeal shall not have suspensive effect.

The higher court with territorial jurisdiction over the Centre shall decide upon the appeal referred to in paragraph 1 of this Article within fifteen days from the date of service of the appeal.

The court may reject the appeal and confirm the decision under paragraph 1 of this Article, or adopt the appeal and revoke the decision referred to in paragraph 1 of this Article.

A sole judge shall rule on the appeal procedure by way of decision without a court hearing.

An appeal shall not be permitted against the court decision.

Unless otherwise provided in this law, the law regulating non contentious proceedings shall apply on the decision in the appeal procedure referred to in paragraph 1 of this Article.

Article 91 House rules and detention rules in the Centre

A foreign national must observe the house rules and detention rules of the Centre, which he may not leave without authorization.

The Minister responsible for the interior prescribes house rules and detention rules in the Centre. The house rules shall in particular regulate the following:

- 1) the duty of a foreign national not to leave the Centre without authorization;
- 2) the duty of a foreign national to cooperate in the return procedure and respect the house and detention rules;
- 3) the right of a foreign national to establish contact with a legal representative, family members and relevant consular posts;
- 4) the right of a foreign national to emergency health care;
- 5) the right of a foreign national to spent a determined time period in the open air during the day and to have access to recreational activities;
- 6) the right of a foreign national to express his dissatisfaction about the conditions in the Centre provided for by a procedure;
- 7) the obligation of the relevant authorities to take the situation of vulnerable persons into due account;
- 8) the right of relevant and competent national, international and non-governmental organisations to visit the Centre;
- 9) the obligation of the Centre to provide information about the house and detention rules to a foreign national in a language he understands, or is reasonably supposed to understand;
- 10) rules of conduct for police officers in case a foreign national violates the house and detention rules in the Centre.

Article 92 Imposing detention in the Centre on a minor

A minor foreign national shall be imposed detention in the Centre together with a parent, respectively other legal representative only as a measure of last resort and for the shortest possible period of time.

Families detained pending removal shall be provided with separate accommodation guaranteeing adequate privacy.

Minors in detention shall have the possibility to engage in activities, including play and recreational activities appropriate to their age, and shall have, depending on the length of their stay, access to basic education.

A minor staying in the Centre shall be treated in accordance with his best interest.

Article 93 Imposing mandatory stay at a determined place

The competent authority shall issue a decision on imposing a mandatory stay at a determined place (hereinafter: mandatory stay) on a foreign national, when a risk of absconding pursuant to Article 87 of the law exists, but detention would not or no longer be proportional, or in case a decision has been issued that the forced removal is postponed.

A foreign national subject to a mandatory stay must remain at the determined place and regularly report to the nearest competent authority.

When there are justifiable reasons, a foreign national may temporarily leave the determined place by decision of the competent authority.

The mandatory stay shall be affixed into a foreign national's travel document in the form of a sticker. A foreign national who does not possess a travel document shall be issued a provisional identity card. The Minister responsible for the interior prescribes the layout and content of mandatory stay sticker and the modality of affixing it into a foreign travel document.

The competent authority shall impose detention in the Centre in accordance with Article 87 of the law on a foreign national who, intending to prevent or obstruct forced removal, acts in contradiction to provisions of paragraphs 2 and 3 of this Article.

A foreign national may file an appeal against the decision referred to in paragraph 1 of this Article, as well as against the decision referred to in paragraph 3 of this Article within eight days from the day of service of the decision. The appeal shall be filed in writing, in Serbian language, in addition to paid prescribed fees. The appeal shall not have a suspensive effect. The right to mount a legal challenge may be exercised against a decision issued in second instance.

Article 94 Costs of returning a foreign national

The costs of escorting a foreign national to the diplomatic mission or consular post, the Centre, or to the state border and other costs of the return shall be borne by the foreign national being escorted.

If a foreign national has no means of subsistence, the employer that has recruited him without the required permit, or the person that has committed himself to bear the costs of stay of the foreign national in the Republic of Serbia shall bear the costs referred to in paragraph 1 of this Article.

The costs which cannot be recovered in the manner described in paragraphs 1 and 2 of this Article shall be charged to the budget of the Republic of Serbia.

VII. TRAVEL DOCUMENTS FOR FOREIGN NATIONALS

Article 95 Types of travel documents for foreign nationals

Within the meaning of the law, travel documents for foreign nationals shall be a travel document for a stateless person and a laissez-passer for a foreign national.

Article 96 Travel document for a stateless person

A travel document for a stateless person shall be issued by the competent authority in conformity with international treaties (conventions).

The validity period of the travel document for a stateless person shall be up to two years.

Article 97 Laissez-passer for a foreign national

A laissez-passer for a foreign national shall be issued to a foreign national who does not possess a valid travel document, in case:

- 1) his citizenship of the Republic of Serbia has ceased – for the purposes of travelling abroad;
- 2) he has lost a foreign travel document, or has been deprived thereof in some other way, and the country whose national he is does not have a diplomatic mission or consular post in the Republic of Serbia, nor are its interests represented by another country – for the purposes of travelling abroad;
- 3) he is forcibly removed – for the purpose of travelling abroad;
- 4) he has lost a travel document for a foreign national issued by a diplomatic mission or consular post of the Republic of Serbia, or a competent authority, or an authority competent pursuant to a special law while in a foreign country – for the purposes of re-entry into the Republic of Serbia.

When there are justifiable reasons, a laissez-passer for a foreign national may also be issued to a foreign national under different circumstances.

Article 98 Jurisdiction for issuing a laissez-passer

A laissez-passer for a foreign national shall be issued:

- 1) by the competent authority in cases referred to in Article 97, paragraph 1, items 1) to 3) of the law;
- 2) by a diplomatic mission or consular post of the Republic of Serbia upon prior consent of the border police in cases referred to in Article 97, paragraph 1, item 4) of the law;
- 3) by the competent authority, or diplomatic mission or consular post of the Republic of Serbia, upon prior consent of the border police in cases referred to in Article 97, paragraph 2.

A laissez-passer shall be issued with a validity period of 30 days.

The Minister responsible for the interior prescribes the layout and content of the laissez-passer for a foreign national.

Article 99 Rejecting an application for a travel document for foreign nationals

A travel document for foreign nationals shall not be issued if:

- 1) a criminal or petty offence proceeding has been instituted in respect of a foreign national, unless the authority conducting the proceeding has consented;
- 2) a foreign national has been convicted to imprisonment or fine, until he has served the prison sentence, or has paid the fine;
- 3) a foreign national has failed to settle a due pecuniary claim for which a final decision exists, at the request of the competent court;
- 4) this is required for reasons of protecting public order or security of the Republic of Serbia;
- 5) this is required by internationally accepted obligations of the Republic of Serbia.

A laissez-passer for a foreign national referred to in Article 97, paragraph 1, item 3), may be issued regardless of the fact that obstacles may exist referred to in paragraph 1, items 1) to 4) of this Article.

A foreign national may file an appeal against the decision refusing the issue of a travel document for foreign nationals referred to in Articles 96 and 97 of the law with the authority that has taken the respective decision, within eight days from the date of service of the decision. The appeal shall be filed in writing, in Serbian language, in addition to the prescribed paid fees.

The border police or the Ministry responsible for foreign affairs shall be responsible to decide upon appeals against decisions referred to in Article 96 and 97, depending on the authority which has issued the decision under paragraph 1 of this Article. The appeal shall not have suspensive effect. The right to mount a legal challenge may be exercised against a decision issued in second instance.

A travel document for a foreign national which has already been issued to a foreign national may be temporarily confiscated due to reasons stipulated in paragraph 1 of this Article for which a certificate of confiscation shall be issued.

The competent authority shall return the temporarily confiscated travel document for a foreign national to the foreign national when reasons referred to in paragraph 1 of this Article no longer exist.

VIII. IDENTITY DOCUMENTS

Article 100 Types of identity documents

A foreign national shall prove his identity in the Republic of Serbia by means of a valid foreign travel document, valid identity card which has been issued by the competent authority of another country, identity card for a foreign national, provisional identity card for a foreign national, and special identity card.

Article 101 Use of identity documents

A foreign national must identify himself with an identity document according to Article 100 of the law at the request of a police officer.

A foreign national cannot give his identity document to another person to use, or use an invalid identity document, or use another person's identity document as his own.

Article 102 Issuing an identity card for a foreign national and special identity cards

An identity card for a foreign national shall be issued to a foreign national who has been granted permanent residence permit. A foreign national who does not possess a valid travel document and has been granted temporary residence permit shall be issued an identity card for a foreign national.

A provisional identity card for a foreign national shall be issued to a foreign national against who the measure of mandatory stay according to Article 93 of the law has been imposed.

A special identity card shall be issued to a foreign national who is a member of a diplomatic mission or consular post of a foreign country, or of another representation with a diplomatic status.

The Minister responsible for the interior prescribes the layout of the application form and the modality of issuing identity cards referred to in paragraphs 1 and 2 of this Article, while the Minister responsible for foreign affairs prescribes the layout of the application form and modality of issuing the special identity card referred to in paragraph 3 of this Article.

Article 103 Content of the identity card for a foreign national, of the special identity card, and of the special identity card

An identity card for a foreign national shall contain the following data about the foreign national: photograph, signature, name and surname, day, month and year of birth, personal identification number of the foreign national, his place and country of birth, nationality, place of domicile, registered address and capacity in which the foreign national is staying in the Republic of Serbia.

A provisional identity card for a foreign national shall contain the following data about the foreign national: photograph, signature, name and surname, day, month and year of birth, personal identification number of the foreign national, his place and country of birth, nationality, the address of the mandatory stay and the duration of the mandatory stay.

A special identity card shall contain the following data about the foreign national: photograph, signature, name and surname, day, month and year of birth, place and country of birth, the holder's appointment, name and address of the diplomatic mission.

Article 104 Application procedure for the identity card for a foreign national

A foreign national referred to in Article 102, paragraph 1 of the law shall file his application for an identity card for a foreign national to the competent authority within thirty days from the day following his entitlement to possess an identity card.

A foreign national who has reached 16 years of age and is entitled to possess an identity card for a foreign national referred to in Article 102, paragraph 1 shall file his application for an identity card within fifteen days of reaching 16 years of age.

An identity card for a foreign national may also be issued to a minor foreign national referred to in Article 102, paragraph 1 of the law, who has reached 10 years of age upon the request of a parent.

Article 105 Jurisdiction

The identity card for a foreign national referred to in Article 102, paragraphs 1 and 2 of the law shall be issued by the competent authority.

The special identity card for a foreign national referred to in Article 102, paragraph 3 shall be issued by the Ministry responsible for foreign affairs.

Article 106 Validity period

An identity card for a foreign national possessing a permanent residence permit shall be issued for a duration of five years.

An identity card for a foreign national possessing a temporary residence permit shall be issued for a duration corresponding to the validity period of the temporary residence permit.

A provisional identity card shall be issued for a duration corresponding to the duration of the mandatory stay.

A special identity card shall be issued for a duration up to four years.

An identity card for a minor foreign national possessing a permanent residence permit shall be issued for a duration of two years.

Article 107 Replacement of the identity card for a foreign national

An identity card for a foreign national shall be replaced if it is damaged or worn out, if the photograph no longer corresponds to his appearance, or when it cannot serve its purpose for other reasons.

A foreign national must file an application to the competent authority for the replacement of the identity card within eight days of the occurrence of circumstances referred to in paragraph 1 of this Article.

Article 108 Mandatory return of the identity card for a foreign national

A foreign national must return his identity card to the competent authority in cases, where:

- 1) he has acquired citizenship of the Republic of Serbia;
- 2) he is resettling from the Republic of Serbia;
- 3) his right of temporary or permanent residence has been terminated, respectively his temporary residence permit has expired.

Article 109 Disappearance or loss of an identity document

A foreign national must notify the issuing authority about the disappearance or loss of an identity document issued by an authority in the Republic of Serbia, without delay.

A foreign national must notify the competent authority about the disappearance or loss of a foreign travel document to which a valid visa, temporary or permanent residence permit sticker was affixed, without delay.

A foreign national may notify the competent authority about the disappearance or loss of a foreign travel document which does not contain stickers referred to in paragraph 2 of this Article, with the aim of obtaining a travel document to leave the territory of the Republic of Serbia.

The competent authority shall issue a certificate of disappearance or loss of the identity document and/or disappearance or loss of a foreign travel document on the territory of the Republic of Serbia to the foreign national.

IX. HABITUAL RESIDENCE AND DOMICILE OF A FOREIGN NATIONAL**Article 110 Meaning of habitual residence, registered address and of domicile**

A habitual residence, within the meaning of the law, shall mean a place and address at which a foreign national referred to in Article 39 of the law is staying for longer than 24 hours.

A foreign national with a temporary residence permit in the Republic of Serbia shall have a registered address at which he intends to reside for the duration of the temporary residence permit. The foreign national possessing a temporary residence permit shall notify the competent authority about a change of address within three days after the date of change.

The address is not deemed to have changed, if a foreign national registers his habitual residence on another address for personal, business-related or other reasons, provided that this place of habitual residence does not exceed fifteen days.

A foreign national with a permanent residence permit in the Republic of Serbia shall have a declared domicile. The foreign national possessing a permanent residence

permit must notify the competent authority about the change of domicile within eight days after the date of change.

A domicile, within the meaning of the law, shall mean a place at which a foreign national with a permanent residence permit settled with the intent to live there permanently, respectively a place which is a centre of his daily activities, professional, economic, social and other ties proving his permanent connection to the place at which he settled.

Article 111 Registering a place of habitual residence and domicile, change of address and abandonment of place of domicile

Legal persons, entrepreneurs and natural persons providing accommodation services to foreign nationals for a fee must notify the competent authority according to the place of accommodation of the foreign national about the stay of a foreign national within 24 hours from the moment of providing accommodation.

Legal and natural persons receiving visits from foreign nationals must notify the competent authority according to the place of accommodation of the foreign national about the stay of a foreign national within 24 hours from the moment of his arrival for visit.

A foreign national referred to in Article 39, paragraphs 1 to 3 of the law must register in person his place of habitual residence within 24 hours upon his arrival to the Republic of Serbia, or on the day of change of the habitual residence at the competent authority according to his place of accommodation, in case he does not use accommodation services under paragraph 1 of this Article, and does not stay at a private address of a natural or legal person.

A natural person referred to in paragraph 1 and 2 of this Article shall mean a person receiving a foreign national for a visit. The natural person receiving a visit from a foreign national may authorise another person or the visiting foreign national to register the place of the habitual residence referred to in paragraph 2 of this Article.

Legal persons and entrepreneurs providing accommodation services to foreign nationals for a fee may register the place of habitual residence electronically in a prescribed manner and if technical conditions are adequate.

The Minister responsible for the interior prescribes more detailed the layout of the registration form and the modality of registering the place of habitual residence, address of place of stay, change of registered address, declaring and abandoning a place of domicile of a foreign national.

X. SPECIAL PROVISIONS ON THE FREEDOM OF MOVEMENT OF FOREIGN NATIONALS WEARING UNIFORMS

Article 112 Requirements concerning wearing foreign military, police or customs service uniforms

Foreign nationals enjoy freedom of movement in foreign military, police or customs service uniforms, if:

- 1) they are members of a diplomatic mission or consular post of a foreign country, or of another representation which has a diplomatic status in the Republic of Serbia, in their capacity as military, police or customs service representatives, for the duration of the mission;
- 2) they are members of foreign military missions or foreign military, police or customs service delegations during official visits to the Republic of Serbia;
- 3) they are studying at military, police or customs schools, if this is allowed by the rules of the school concerned;
- 4) they are participants in military exercises or military, police or customs training;
- 5) they are members of foreign military missions or foreign military, police or customs service delegations, bearing diplomatic or official documents, during transit through the territory of the Republic of Serbia;
- 6) in other cases, provided for by an international treaty.

XI. DATA PROCESSING

Article 113 Processing personal data

Personal data, including particularly sensitive data as defined by the law regulating personal data protection, about foreign nationals and Serbian nationals associated with them shall be processed when it is:

- 1) necessary for implementing procedures and performing duties as defined by the law;
- 2) necessary for reasons of protecting public order or security of the Republic of Serbia;
- 3) provided for in a law or in an international treaty.

Personal data about foreign nationals and Serbian nationals associated with them shall be processed in accordance with the law regulating personal data protection.

The provisions of the law shall constitute a legal basis for processing personal data.

Article 114 Purposes of processing personal data

Personal data shall be processed for the purposes of issuing visas, granting temporary or permanent residence permits, issuing return decisions, detaining foreign nationals in the Centre, issuing travel documents and identity cards for foreign nationals, registering the place of habitual residence and declaring a domicile, and other duties related to stay, residence, removal and status of foreign nationals in the Republic of Serbia.

Article 115 Filing systems

In order to carry out the duties within the scope conferred by the law and in accordance with the law regulating personal data protection, the Ministry may collect and process personal data about foreign nationals and legal and natural persons associated with them. For that purpose, it operates filing systems as follows:

- 1) **about foreign nationals with registered address of their place of habitual residence** (name and surname of the foreign national, his date of birth, gender, place and country of birth, nationality, name and surname of his mother and father, type and number of his travel document, address of the place of the habitual residence in the Republic of Serbia; name, seat, registration number and tax identification number of the legal person or entrepreneur providing accommodation services to the foreign national; name and surname, address and personal identification number of the natural person receiving a visit from the foreign national; date of registering the address of the place of habitual residence, date and place of entry into the Republic of Serbia);
- 2) **about foreign nationals with permanent residence permits** (name and surname of the foreign national, his date of birth, gender, place and country of birth, nationality, name and surname of his mother and father, type, number and validity period of his travel document, his personal identification number; name and surname, date of birth, address and personal identification number of his spouse, common-law spouse and children; telephone number, name, seat, registration number and tax identification number of the legal person employing the foreign national, the foreign national's occupation, his domicile in the Republic of Serbia, abandonment of domicile, number and date of the permanent residence permit in the Republic of Serbia, date and reason of terminating his permanent residence permit);
- 3) **about foreign nationals with temporary residence permits** (name and surname of the foreign national, his date of birth, gender, place and country of birth, nationality, name and surname of his mother and father, type, number and validity period of his travel document, his personal identification number, registered address of place of habitual residence, change of address of the place of habitual residence, telephone number, purpose of temporary residence permit; name and surname, date of birth, address and personal identification number of his spouse, common-law spouse and children or other nuclear family member; name, seat, registration number and tax identification number of the legal person where the foreign national is employed, where he is engaged in an internship, professional specialisation or scientific research, his occupation, number and date of the work permit; name and seat of the education or higher education institute where the foreign national is attending school or taking studies; the name of the religious organisation where he is conducting religious service; name, seat, registration number and tax identification number of the health- or social care institution where he is taking treatment or being provided care; the cadastral number of the real estate entitling him to a temporary residence permit; number, date of issue and date of expiry of the temporary residence permit);
- 4) **about foreign nationals against whom a return decision was issued, on who an entry ban, a protective measure of removal or a security measure of expulsion was imposed** (name and surname, his date of birth,

gender, place and country of birth, nationality, name and surname of his mother and father, type and number of his travel document, his personal identification number, number and date of the return decision, number and date of the return decision imposing an entry ban, reason the entry ban has been imposed, entry ban period, number and date of verdict imposing a protective measure of removal or a security measure of expulsion and entry ban period imposed with the verdict);

- 5) **about detained foreign nationals** (name and surname, his date of birth, gender, place and country of birth, nationality, type and number of the travel document, his personal identification number; number and date of the return decision, number and date of the return decision imposing an entry ban, number and date of the decision imposing stay in the Centre, detention starting date, reason for detaining the foreign national in the Centre, number of the laissez-passer for return, number and date of the decision extending the detention in the Centre, date of release from the Centre);
- 6) **about foreign nationals against whom a mandatory stay was imposed** (name and surname, his date of birth, gender, place and country of birth, nationality, name and surname of his mother and father, type and number of his travel document, his personal identification number; number and date of the return decision, number and date of the return decision imposing an entry ban, number and date of the decision imposing a mandatory stay, mandatory stay address, determined reporting time to the competent authority, duration of mandatory stay);
- 7) **about foreign nationals with issued identity cards for foreign nationals and provisional identity cards for foreign nationals** (name and surname, surname at birth, date of birth, gender, place and country of birth, nationality, name and surname of his mother and father, type and number of his travel document, his personal identification number, registered address of place of stay or registered address of the place of habitual residence, capacity in which he is staying in the Republic of Serbia, date of issue of the identity card or provisional identity card, serial number of the identity card or provisional identity card, validity period of the identity card or provisional identity card);
- 8) **about notified, lost and found travel documents for foreign nationals in accordance with the law** (name and surname of the foreign national, his date of birth, gender, place and country of birth, nationality, number of the travel document notified to be lost or found, name and surname of the person who has found the document, date of notification about the lost and found document);
- 9) **about notified, lost and found national travel documents of foreign nationals** (name and surname of the foreign national, his date of birth, gender, place and country of birth, nationality, type and number of the travel document notified to be lost or found, name and surname of the person who has found the document, date of notification about the lost and found document);
- 10) **about foreign nationals to whom visa was refused/issued at the border crossing point, or annulled, revoked and extended** (name and surname of the foreign national, surname at birth, his date of birth, place and country of birth, gender, nationality, marital status, name and surname of his mother and father, his address, telephone number, electronic mail address, photograph,

type, number and validity period of his travel document, his occupation, name and address of the employer; name and address of the education institute he will be visiting; name and surname of the spouse, name at birth of the spouse, date, place and country of birth of the spouse, nationality of the spouse; name and surname of the children, their date of birth; name and surname of the inviting person, his date of birth, nationality, telephone number, address of his place of stay, reason for inviting a foreign national to the Republic of Serbia; name, seat, registration number and tax identification number of the legal person inviting a foreign national for visit, name and surname of the reliable person of the legal person inviting a foreign national for visit, reason for inviting a foreign national to the Republic of Serbia; serial numbers of other visas issued during the last three years and their validity period; date and place of visa application, validity period of the visa, amount of days of stay, purpose of journey, serial number of the visa, date and reason of visa refusal, date and reason of annulling or revoking visa, responsible authority taking the annulment or revocation decision).

The data files referred to paragraph 1 of this Article shall be processed electronically, but also on paper.

The retention period of the data kept in the filing systems as referred to under paragraph 1 shall be prescribed by a separate law regulating filing systems and data processing which fall under the scope of interior affairs.

In order to carry out the duties within the scope conferred by the law and in accordance with the law regulating personal data protection, the Ministry responsible for foreign affairs may collect and process personal data about foreign nationals and legal and natural persons associated with them. For that purpose, it operates filing systems as follows:

- 1) **about visas** (name and surname of the foreign national, surname at birth, his date of birth, place and country of birth, gender, nationality, marital status, name and surname of his mother and father, his address, telephone number, electronic mail address, photograph, type, number and validity period of his travel document, his occupation, name and address of the employer; name and address of the education institute he will be visiting; name and surname of the spouse, name at birth of the spouse, date, place and country of birth of the spouse, nationality of the spouse; name and surname of the children, their date of birth; number of the notarized invitation letter and name of the authority responsible for the authentication, date of the authentication of the letter, name and surname of the inviting person, his date of birth, nationality, telephone number, address of his place of stay, reason for inviting the foreign national to the Republic of Serbia; name, seat, registration number and tax identification number of the legal person inviting a foreign national for visit, name and surname of the reliable person of the legal person inviting a foreign national for visit, reason for inviting a foreign national to the Republic of Serbia; serial numbers of other visas issued during the last three years and their validity period; date and place of visa application, requested visa type, amount of requested entries, validity period of the visa, amount of days of stay, purpose of journey, serial number of the visa, date and reason of visa refusal, date and reason of annulling or revoking visa, responsible authority taking the annulment or revocation decision);

The data files referred to this paragraph shall be processed in the Visa Information System. Visa applications and copies of documents submitted by a foreign national during the visa application procedure shall be retained for the current and previous two years, after which period they shall be deleted.

- 2) **about laissez-passer** (name and surname of the foreign national, surname at birth, his date of birth, place and country of birth, gender, nationality, marital status, name and surname of his mother and father, his address, telephone number, electronic mail address, photograph, serial number, date of issue and validity period of the laissez-passer);
- 3) **about special identity cards** (for diplomats and service staff);

The Ministry and the Ministry responsible for foreign affairs of the Republic of Serbia are data controllers for the data they are processing in their filing systems.

Article 116 Cooperation between public authorities

Public authorities which are performing duties with regard to foreign nationals and the exercise of their rights must directly and continuously cooperate and exchange relevant information and personal data when it is necessary for implementing procedures and performing duties as defined by the law and other laws in accordance with the provisions regulating personal data protection.

Article 117 Exchange of information and personal data

The exchange of relevant information for implementing procedures and performing duties as defined by the law and the exchange of personal data of a foreign national and natural and legal persons associated with him shall be carried out between the Ministry and:

- 1) the Ministry responsible for foreign affairs for the purpose of issuing visas;
- 2) the public authority responsible for the protection of the security of the Republic of Serbia for the purpose of protecting the security of the Republic of Serbia;
- 3) the public authority responsible for employment affairs for the purpose of applying regulations on the employment of foreign nationals.

In accordance with paragraph 1, item 1) of this Article, the Ministry shall take over data about visa applications filed with consulates and undertake checks in accordance with Article 29 of the law and give its prior consent, while the Ministry responsible for foreign affairs shall make assessments in accordance with Article 29, paragraph 1 of the law by querying filing systems referred to in Article 115, paragraph 1, items 1) to 4).

In accordance with paragraph 1, item 3) of this Article, the authority responsible for employment affairs shall take over data about temporary and permanent residence permits granted to foreign nationals from the Ministry, while the Ministry shall take over data about work permits issued to foreign nationals, in accordance with provisions regulating the employment of foreign nationals.

The authorities referred to in paragraph 1 of this Article must protect personal data about foreign nationals and data from natural and legal persons associated with them

from the operated filing systems, from accidental or unauthorized access, use, processing and submission, in accordance with the law.

Data from the filing systems may be used for statistical, scientific, research-related and other purposes, provided the identity of persons in respect of who the data relate is anonymous in accordance with the law.

XII. SUPERVISION

Article 118

The enforcement of the law and its provisions shall be supervised by the Ministry and the Ministry responsible for foreign affairs, within their respective spheres of competence.

XIII. PENALTY PROVISIONS

Article 119 Carriers, tour operators and inviting persons

A legal person shall be fined 50,000 to 2,000,000 dinars for an infringement:

- 1) if it transports a foreign national into the territory of the Republic of Serbia, or refuses to transport him back in contradiction to the provisions of Article 13, paragraphs 1 and 2 of the law;
- 2) if due to shortcomings in the organisation of a tourist or business trip, a foreign national stays illegally on the territory of the Republic of Serbia (Article 13, paragraph 4 of the law);
- 3) if it fails to provide a copy of a letter of invitation to the competent body according to the foreign national's anticipated place of habitual residence, in contradiction to the provisions of Article 29, paragraph 4.

The liable person in the legal person shall also be fined 5,000 to 150,000 dinars for the infringement referred to in paragraph 1 of this Article.

An entrepreneur shall be fined 10,000 to 50,000 dinars for the infringement referred to in paragraph 1 of this Article.

A natural person – inviting person, shall be fined 5,000 to 150,000 dinars for the infringement referred to in paragraph 1, item 3) of this Article, if he fails to present a notarized invitation letter to the competent authority in accordance with Article 27, paragraph 3 of the law.

In addition to the fine for repeated infringements referred to under paragraph 1, item 1) of this Article, the offender may be imposed a ban on professional activity as regards his engagement in international passenger transportation by air, road, water, or rail (protective measure), and for the infringement referred to in paragraph 1, item 2) of this Article, and a ban on professional activity as regards his engagement in organizing international tourist or business trips (security measure).

Article 120 Accommodation providers

A legal person, entrepreneur or natural person who fails to register a foreign national's place of habitual residence to the competent authority within 24 hours from the time when providing accommodation to a foreign national respectively when a foreign national arrives for visit (Article 111, paragraphs 1 and 2 of the law) shall be fined within the following range:

- 1) a natural person from 5,000 to 50,000 dinars;
- 2) a legal person from 50,000 to 2,000,000 dinars;
- 3) an entrepreneur from 10,000 to 500,000 dinars.

The liable person in the legal entity shall also be fined 5,000 to 25,000 dinars for an infringement referred to in paragraph 1 of this Article.

In addition to the fine for repeated infringements referred to in paragraph 1 of this Article, the offender may be imposed a ban on professional activity as regards his engagement in providing accommodation to foreign nationals (protective measure).

A foreign national who fails to register a place of habitual residence with the competent authority within 24 hours upon entering the Republic of Serbia, respectively from the date of changing the place of habitual residence (Article 111, paragraph 3 of the law), shall be fined 5,000 to 25,000 dinars.

Article 121 Disregard of entry and detention provisions

A foreign national shall be fined 5,000 to 150,000 dinars for an infringement, if he:

- 1) enters the Republic of Serbia illegally (Article 14 of the law);
- 2) does not leave the Republic of Serbia within the voluntary departure period (Article 77 of the law);
- 3) enters or stays in the Republic of Serbia although an entry ban has been imposed on him (Article 78 of the law);
- 4) leaves the Centre without authorization, or fails to observe the house rules and detention rules in the Centre (Article 91, paragraph 1 of the law);
- 5) leaves the determined place of mandatory stay imposed by the competent authority, or fails to report regularly to the competent authority (Article 93 of the law).

In addition to the fine for infringements referred to in paragraph 1, items 1) to 3), of this Article, a protective measure of removal from the territory of the Republic of Serbia may also be imposed on a foreign national.

Article 122 Illegal stay and evidence of identity

A foreign national shall be fined 5,000 to 150,000 dinars for an infringement, if he:

- 1) is residing in the Republic of Serbia for another purpose than that for which he has been granted a residence permit (Article 40, paragraph 3 of the law);

- 2) is staying illegally in the Republic of Serbia (Article 74, paragraph 1 of the law);
- 3) refuses to present an identity document to a law enforcement officer from the competent authority (Article 101, paragraph 1 of the law);
- 4) gives his identity document to another person for use, or uses an invalid identity document, or uses another person's document as his own (Article 101, paragraph 2 of the law)

In addition to the fine for infringements referred to in paragraph 1, items 2), to 4) of this Article, a protective measure of removal from the territory of the Republic of Serbia may also be imposed on a foreign national.

Article 123 Disregard of provisions concerning the right of temporary residence

A foreign national shall be fined 5,000 to 15,000 dinars for an infringement, if he:

- 1) fails to apply for the renewal of a temporary residence permit within the prescribed deadline (Article 41, paragraph 3 of the law);
- 2) fails to apply for a temporary residence permit for his child, a foreign national born on the territory of the Republic of Serbia within the prescribed deadline (Article 58, paragraph 1 of the law);
- 3) fails to apply for an identity card for a foreign national within the prescribed deadline (Article 104, paragraphs 1 and 2 of the law);
- 4) fails to apply for the replacement of an identity card for a foreign national within the prescribed deadline (Article 107, paragraph 2 of the law);
- 5) fails to return the identity card to the competent authority in cases stipulated under Article 108 of the law;
- 6) fails to report the loss or disappearance of documents referred to in Article 109, paragraphs 1 and 2 of the law;
- 7) fails to notify the competent authority about his change of registered address (Article 110, paragraph 2 of the law);
- 8) is wearing a foreign military, police or customs service uniform during his stay in the Republic of Serbia in contradiction to the provisions of Article 113 of the law.

XIV. TRANSITIONAL AND FINAL PROVISIONS

Article 124 Authorization to enact ordinances

Within 6 months from the date of the entry into force of the law, the Government shall adopt a regulation further detailing the conditions of refusing entry to a foreign national into the Republic of Serbia under Article 15, paragraph 4 of the law, and a

regulation listing all countries for whose citizens a prior consent from the Ministry is required in the visa procedure under Article 29, paragraph 2 of the law.

The Minister responsible for the interior shall enact the following ordinances within 6 months from the date of the entry into force of the law:

- 1) about the layout and content of the entry refusal form and the modality the refusal of entry into the Republic of Serbia is recorded into a foreign travel document under Article 15, paragraph 3 of the law;
- 2) about the layout and content of the visa refusal form at the border crossing point, and more detailed conditions about issuing visas at the border crossing point under Article 34, paragraph 8 of the law;
- 3) about the layout and content of the visa extension refusal form under Article 35, paragraph 7 of the law;
- 4) about more detailed conditions for granting a temporary residence permit, the layout and content of the application form for granting a temporary residence permit, the modality the statement is obtained, the layout and content of the temporary residence permit sticker and the modality of affixing it into a foreign travel document under Article 43, paragraph 2 of the law;
- 5) about more detailed conditions for granting a permanent residence permit, the layout and content of the application form for granting a permanent residence permit, the layout and content of the permanent residence permit sticker and the modality of affixing it into a foreign travel document under Article 67, paragraph 9 of the law;
- 6) about the layout, content and modality of recording an entry ban into a foreign travel document under Article 78, paragraph 5 of the law;
- 7) about the conditions and modality how the forced removal of a foreign national under Article 81, paragraph 4 of the law shall be carried out;
- 8) about house rules and detention rules in the Centre under Article 91, paragraph 2 of the law;
- 9) about the layout and content of the mandatory stay sticker and the modality of affixing it into a foreign travel document under Article 93, paragraph 4 of the law;
- 10) about the layout and content of the laissez-passer for a foreign national under Article 98, paragraph 3 of the law;
- 11) about the layout of the application form and the modality of issuing identity cards and provisional identity cards for foreign nationals under Article 102, paragraph 4 of the law;
- 12) about the layout of the registration form and the modality of registering the place of habitual residence, address of place of stay, change of registered address, declaring and abandoning a place of domicile of a foreign national under Article 111, paragraph 6 of the law.

The Minister responsible for foreign affairs shall enact the following ordinances within 6 months from the date of the entry into force of the law:

- 1) about the layout and content of the form for affixing a visa into a foreign travel document which is not recognised by the Republic of Serbia under Article 24, paragraph 3 of the law;
- 2) about the layout and content of the visa application form and of the application admissibility stamp under Article 25, paragraph 7 of the law;
- 3) about the layout and content of the visa sticker and the modality of affixing it into a foreign travel document under Article 32, paragraph 3 of the law;
- 4) about the layout and content of the visa refusal form under Article 36, paragraph 5 of the law;
- 5) about the layout and content of the visa annulment and revocation form and the modality of annulment and revocation under Article 37, paragraph 7 of the law;
- 6) about the layout of the application form and the modality of issuing a special identity card under Article 102, paragraph 4 of the law.

Article 125

All proceedings which have been commenced prior to the entry into force of the law shall be finalised pursuant to provisions of the Law on Foreigners (*Official Gazette of the RS* N° 97/08), unless it is more favourable for the foreign national to finalise the proceeding in accordance with the new provisions once this law has come into force.

Article 126

On the day this law has become applicable, the Law on Foreigners (*Official Gazette of the RS* N° 97/08) shall cease to apply.

Article 127 Application of ordinances until the adoption of new ordinances pursuant to this law

Ordinances enacted pursuant to the Law on Foreigners (*Official Gazette of the RS* N° 97/08) shall remain valid until the day of entry into force of ordinances which shall be enacted by the Government, the Minister responsible for the interior and the Minister responsible for foreign affairs pursuant to the law, unless they are inconsistent with the provisions of the law.

Article 128 Entry into force

This law shall enter into force on the eighth day following its publication in the *Official Gazette of the Republic of Serbia*, and its application shall commence on June 1st, 2017.