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**Novi Zakon o uslovima za upućivanje  
zaposlenih na privremeni rad u  
inostranstvo je usvojen**

Zakon o uslovima za upućivanje zaposlenih na privremeni rad u inostranstvo i njihovoj zaštiti ("**Zakon**") stupa na snagu 13.11.2015. godine, a počinje da se primenjuje od 13.01.2016. godine.

Odredbe ovog Zakona neće se primenjivati od dana sticanja punopravnog članstva Republike Srbije u Evropskoj Uniji prilikom upućivanja zaposlenih na privremeni rad u zemlje članice Evropske Unije i Evropskog ekonomskog prostora.

Ključne karakteristike Zakona uključuju:

**1. Primena Zakona**

Zakon se primenjuje na poslodavce koji upućuju zaposlene na privremeni rad u inostranstvo, radi:

- rada u okviru izvođenja investicionih i drugih radova i pružanja usluga, na osnovu ugovora o poslovnoj saradnji, odnosno drugog odgovarajućeg osnova;
- rada ili stručnog osposobljavanja i usavršavanja u poslovnim jedinicama poslodavca u inostranstvu; i
- rada ili stručnog osposobljavanja i usavršavanja u okviru međukompanijskog kretanja.

Odredbe Zakona ne primenjuju se u slučaju upućivanja zaposlenog na službeni put u inostranstvo, pod uslovom da period boravka u inostranstvu ne prelazi 30 dana u kontinuitetu, odnosno 90 dana ukupno sa prekidima u toku kalendarske godine.

**Serbia: New Act on Assignment of  
Employees to Work Abroad is Adopted**

The Republic of Serbia's Act on Conditions for Assignment of Employees to Temporary Work Abroad and their Protection ("**Act**") entered into force on 13 November 2015, and it will be applicable as of 13 January 2016.

The provisions of this Act will not be applicable to the assignment of employees to EU member states or countries in the European Economic Area as of the day the Republic of Serbia becomes a full member of the EU.

The key features of the Act include:

**1. Application of the Act**

The Act applies to employers who assign their employees to temporary work outside of Serbia in order to:

- work on investment projects or other projects, or on providing services based on an agreement on business-cooperation or another appropriate grounds;
- either work for or attend vocational education and training offerings at the employer's business units abroad; and
- either work or attend vocational education and training offerings within intercompany assignments.

The Act does not apply to the assignment of employees to a business trip abroad provided that the period during which the employee is abroad does not exceed 30 consecutive days, or 90 days in total (with interruptions) within a calendar year.

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**2. Uslovi upućivanja**

- Maksimalno trajanje upućivanja u inostranstvo je 12 meseci sa mogućnošću produženja (osim ako je drugačije predviđeno zakonom ili međunarodnim ugovorom);
- Poslodavac može upućivati na privremeni rad u inostranstvo zaposlene na neodređeno vreme, kao i zaposlene na određeno vreme;
- Vreme provedeno na privremenom radu u inostranstvu ne računa u zakonsko ograničenje trajanja radnog odnosa na određeno vreme (upućivanje zaposlenog na određeno vreme ne može trajati duže od vremena za koje je zaključen ugovor o radu);
- Neophodna je saglasnost zaposlenog - osim ukoliko je ugovorom o radu predviđena mogućnost upućivanja bez saglasnosti.
- Zakon tačno predviđa slučajeve u kojima zaposleni može odbiti upućivanje u inostranstvo (npr. trudnoća, do isteka tri godine života deteta itd.). Poslodavac može da prihvati i druge opravdane razloge.

**3. Obaveze poslodavca**

Poslodavac je dužan da:

- reguliše upućivanje u inostranstvo zaključenjem aneksa ugovora o radu (sa obaveznim elementima predviđenim Zakonom);

**2. Conditions for Assignment**

- The maximum duration of assignment abroad is 12 months, with the possibility of extension (unless otherwise provided by the Act or international agreement);
- The employer can assign both employees with indefinite term employment agreements and those with definite term employment agreements;
- When employees with definite term employment agreements are assigned abroad, the time of their assignment shall not be counted in the maximum statutory term of the definite term employment agreement;
- Employee's consent for assignment abroad is mandatory – except if his/her employment agreement stipulated the possibility of assignment without a consent;
- The Act specifies the cases in which employees can turn down being assigned abroad (e.g. pregnancy, when an employee has a child under the age of 3 years, etc). The Employer may also choose to accept other justified reasons for which the employee may turn down such an assignment.

**3. Employer's Obligations**

The Employer is obliged to:

- Regulate the assignment abroad by concluding the annex to the employment agreement with the employee (with mandatory content as provided by the Act);

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- da zaposlenima koje upućuje obezbedi o svom trošku smeštaj i ishranu po standardima važećim u državi u kojoj se izvode radovi (odnosno u skladu sa uslovima iz pravilnika/kolektivnog ugovora ukoliko je to povoljnije);
- da obezbedi prevoz za dolazak i odlazak sa rada ili naknadu troškova u te svrhe;
- obezbedi zaradu u skladu sa propisima Republike Srbije s tim da ne može biti manja od garantovane minimalne zarade po propisima zemlje u koju se upućuje;
- obezbedi bezbednost i zdravlje na radu;
- zdravstveno, penzijsko i invalidsko osiguranje, i osiguranje za slučaj nezaposlenosti;
- pripremi zaposlenog pre upućivanja što uključuje informisanje o uslovima života u državi i mestu u koje se upućuje (pre davanja saglasnosti zaposlenog), obezbeđenje zdravstvenih pregleda i preventivne mere, obezbeđenje prevoza do mesta rada u inostranstvu i povratak, ishodovanje radnih i boravišnih dozvola.
- Provide at its own expense meal and accommodation for employees by standards of the country where the work is performed (or, in accordance with the terms of the bargaining agreement/work rulebook if more favourable for employees);
- Provide transportation for commuting to and from work, or reimbursement of expenses for such purposes;
- Provide salary in accordance with the regulations of the Republic of Serbia, and not lower than the guaranteed minimum salary according to the regulations of the country to which employee is assigned to;
- Provide occupational health and safety;
- Provide mandatory social insurance (health insurance, pension and disability insurance, and insurance in case of unemployment);
- Preparation of employee prior to assignment abroad which includes: providing information about life conditions in the country and the city to which employee shall be assigned (before employee gives his/her consent on assignment), providing health checks and preventive measures, providing transportation to the place where employee shall work abroad and return home, procuring work and residence permits.

Poslodavac će biti dužan da za upućenog zaposlenog izvrši promenu osnova osiguranja u jedinstvenoj bazi Centralnog registra obaveznog socijalnog osiguranja.

The employer shall be obliged to register the appropriate changes of the employees' mandatory social insurance triggered by assignment with the Central Registry of Mandatory Social Insurance.

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**4. Postupak upućivanja**

Poslodavac će biti dužan da najkasnije do dana koji prethodi upućivanju dostavi ministarstvu nadležnom za rad obaveštenje o upućivanju koje će imati propisanu formu prema podzakonskom aktu čije se usvajanje očekuje u roku od 45 dana računajući od 13.11.2015. godine.

Nakon dostavljanja obaveštenja, a u roku od sedam dana od dana upućivanja zaposlenih, poslodavac je dužan da Ministarstvu rada dostavi uverenje iz jedinstvene baze Centralnog registra koje sadrži spisak upućenih zaposlenih i, između ostalih podataka, i datum promene osnova osiguranja i trajanja osiguranja po tom osnovu.

Zakon u kaznenim odredbama predviđa brojne prekršaje kažnjive novčanim kaznama u rasponu od RSD 600.000 do RSD 1.500.000, ali i prekršaje kažnjive novčanom kaznom u fiksnom iznosu od RSD 100.000.

Na kraju, bitno je napomenuti, da će svi postupci za upućivanje zaposlenih, koji su započeti do dana stupanja na snagu ovog zakona biti okončani prema propisima prema kojima su započeti, konkretno prema odredbama Zakon o zaštiti građana Savezne Republike Jugoslavije na radu u inostranstvu.

**4. Procedure of Assignment**

No later than the day preceding the assignment the employer shall submit the notification of assignment to the Ministry of Labour. The notification shall be provided on a particular form which content shall be regulated by a separate by-law expected to be adopted within 45 days from 13 November 2015.

Once the notification is submitted the employer shall, within seven days following the assignment of employees, provide the Ministry of Labour with the certificate from the Central Registry of Mandatory Social Insurance containing the list of the assigned employees, and particular data in relation to changes of the social insurance incurred due to the assignment.

The Act envisages number of misdemeanour offences for which employers shall be fined in amount ranging between RSD 600,000 (EUR 5,000) to RSD 1,500,000 (EUR 12,500), and also some others which shall be fined with the fixed amounts equal to RSD 100,000 (EUR 800).

Finally, it is important to note, that all the assignments of employees initiated prior to entry into force of this Act shall be completed in accordance with the provisions of the previous act (Act on Protection of Citizens of the Federal Republic of Yugoslavia at Work Abroad).

**Contact**

Marija Zdravkovic, attorney at law  
[m.zdravkovic@schoenherr.rs](mailto:m.zdravkovic@schoenherr.rs)

Moravčević Vojnović i Partneri  
in cooperation with Schoenherr  
SRB - 11000 Serbia, Dobračina 15