

Based on Article 95 item 3 of the Constitution of Montenegro I hereby adopt the

## **DECREE**

### **ON PROMULGATION OF THE FOREIGN NATIONALS LAW**

I hereby promulgate the **Foreign Nationals Law**, adopted by the Parliament of Montenegro of 26th convocation at the session of first extraordinary seating in 2018, on February 14, 2018.

**Number: 01-205/2**

**Podgorica, February 19, 2018**

**President of Montenegro,**

**Filip Vujanović, s.r.**

Based on Article 82 paragraph 1 item 2 of the Constitution of Montenegro and Amendment IV paragraph 1 to the Constitution of Montenegro, the Parliament of Montenegro of the 26<sup>th</sup> convocation at the session of first extraordinary seating in 2018, on February 14, 2018, adopted the

### **FOREIGN NATIONALS LAW**

*The Law was published in the Official Gazette of Montenegro 12/2018 of 23 February 2018, entered into force on 3 March 2018, and provision of Article 50 paragraph 5, Article 67 paragraph 1 item 5, 6 and 7, Article 115, Article 120, 121 and 122, Article 150 to 203, Article 210 paragraph 1 item 12, 13 and 14 and Article 215 of this Law will apply from the day of accession of Montenegro to the European Union, provision of Article 81 of this Law will apply from 1 January 2020 and until 31 December 2019 Article 79 of this Law will apply to submission of requests for issuing temporary residence and work permit for seasonal work and delivery of such permit.*

## **I. GENERAL PROVISIONS**

### **Subject matter of the Law**

#### **Article 1**

This Law shall regulate the conditions of entry into, exit from, movement throughout, stay and work of foreign nationals in Montenegro.

### **Compliance with regulations**

#### **Article 2**

During his movement, stay and work in Montenegro, a foreign national shall be obliged to comply with the regulations that are in force in Montenegro and decisions made by the state authorities of Montenegro.

Foreign national means any citizen of another state or a stateless person.

A stateless person is a person who is not considered as a national by any state under the operation of its law.

### **Personal data protection right**

#### **Article 3**

A foreign national shall be entitled to the protection of his personal data that is being processed, in accordance with the Law governing personal data protection.

### **Exemptions**

#### **Article 4**

This Law shall not apply to a foreign national who enjoys the privileges and immunities under the international law, unless otherwise has been provided for by this Law.

### **Gender-sensitive language**

#### **Article 5**

Terms used in this law in the masculine gender shall be considered as including the feminine gender.

### **Definition of Terms**

#### **Article 6**

Particular terms used in this Law shall have the following meanings:

- 1) foreign travel document means any personal, family, collective, diplomatic and service passport, and any seaman's book, shipping book or any other travel document recognized under international treaties, according to which the identity of its holder can be confirmed and which has been issued pursuant to the regulations on issuing travel documents of another state;
- 2) country of origin is any state that has issued a foreign national a foreign travel document with which he entered Montenegro i.e. a state where a stateless person was born;
- 3) carrier is any legal entity or entrepreneur registered to conduct business activity of passenger land, sea, lake, river and air transportation;
- 4) employer is a national or a foreign legal entity, i.e. a part of a foreign company with its registered office based in, or a natural person domiciled in Montenegro, who employs a foreign national ;
- 5) foreign company is a legal entity or entrepreneur who carries out an economic or other activity and has their registered office based outside Montenegro;

- 6) an accommodation provider is a company, legal entity, entrepreneur and natural person performing tourism and hospitality business activity, i.e. providing the tourism and hospitality services pursuant to the Law regulating tourism, and any other company, entrepreneur and legal entity or natural person who provides other persons with the accommodation for a fee, i.e. who organizes accommodation for their employees or members, including the accommodation in a closed type building;
- 7) a third-country national is a foreign national without any European Union Member State citizenship;
- 8) internal security is the protection of citizens' security; safeguarding freedoms and rights and property enshrined in the Constitution; preventing committing of and detecting criminal offences and misdemeanors; finding perpetrators of criminal offences and misdemeanors; and maintaining public order and peace;

## **II. ENTRY AND EXIT OF FOREIGN NATIONAL**

### **Control at border crossing points**

#### **Article 7**

Whenever entering Montenegro and exiting from it, a foreign national shall be under an obligation to undergo the border control pursuant to the Law regulating border control.

Entering Montenegro shall mean crossing the state border, i.e. a border crossing point where border controls are performed.

### **Refusal of Entry**

#### **Article 8**

A foreign national shall not be allowed to enter Montenegro, if:

1. he does not possess a valid travel or another document referred to in Article 9 of this Law;
2. he uses somebody else's, an invalid i.e. a forged travel or another document;
3. he does not hold a valid visa or a residence permit;
4. he uses somebody else's, an invalid i.e. a forged visa or a residence permit;
5. he does not hold evidence satisfying the purpose and requirements of the intended stay;
6. within a 180-day period he already stayed for 90 days in the territory of Montenegro;
7. he lacks sufficient resources both to support himself during the intended stay in Montenegro and for returning to the state from which he has come or for a travel to a third country;
8. where there is the expulsion of a foreign national from the country as a security measure or the expulsion of a foreign national from the territory of Montenegro as a protection measure or the measure referred to in Article 110 of this Law is in force, or an entry ban has been imposed on him;
9. where national i.e. internal security or public health-related reasons require that.

In the case referred to in paragraph 1 above the administrative authority in charge of police affairs (hereinafter referred to as the Police) shall adopt a decision on the refusal of entry.

A decision on refusal of entry shall be made without hearing the foreign national concerned.

The decision on refusal of entry may be subject to an appeal that is submitted via the nearest diplomatic or consular mission of Montenegro abroad (hereinafter referred to as the Diplomatic and Consular Mission), within eight days as of the day of receiving the decision.

The state administration authority in charge of internal affairs (hereinafter referred to as the Ministry) shall decide on the appeal referred to in paragraph 4 above.

The appeal referred to in paragraph 4 above shall not postpone the decision enforcement.

Exceptionally, the appeal referred to in paragraph 4 of this Article shall postpone the decision enforcement if the Police estimates that the life or freedom of the foreign national are jeopardized in the country of origin due to his racial, religious or national affiliation, due to the affiliation to a particular social group or due to political opinion, or where he could be subject to torture or inhuman and degrading treatment or punishment, or he could be subject to a death penalty, as well as his returning to a country where there is danger of him being forcibly returned to the country of origin.

The refusal of entry shall be affixed to the foreign national's travel document.

The Police shall keep records on the refusal of entry imposed on foreign national.

The Ministry shall set down the form and manner for affixing the refusal referred to in paragraph 8 above.

## **Entry, Movement and Stay**

### **Article 9**

A foreign national may enter, move throughout and stay in Montenegro if he holds a valid foreign travel document with a visa affixed to it, or a valid foreign travel document accompanied by a temporary residence permit, a temporary residence and work permit or permanent residence permit, unless otherwise provided for under this Law or an international treaty.

A foreign travel document issued in the last ten years and whose validity shall not expire at least three months after the planned date of departure from the territory of Montenegro shall be deemed valid.

Notwithstanding paragraph 2 of this Article, in a justified emergency, the validity period of the foreign travel document may be shorter, but it cannot expire before the planned date of departure from the territory of Montenegro.

A foreign national whom Montenegro is under an obligation to admit pursuant to an international treaty and where it is required for humanitarian, or internal security or public health reasons may enter Montenegro without a valid foreign travel document.

Certain countries' nationals may enter Montenegro also if they hold a valid identity card issued by the competent authority of another country, or any other document based on which their identity and nationality can be confirmed, in accordance with an international treaty or the regulation on the visa regime referred to in paragraph 2 of Article 14 of this Law.

A foreign national's stay in the transit area of an airport or within the anchorage area of a port or a quay shall not be considered an entry into Montenegro in terms of this Law.

### **Restriction of or ban on movement**

#### **Article 10**

A foreign national's movement within a certain region of Montenegro shall be restricted or banned where national i.e. internal security or public health reasons require so, according to the law.

### **Entry of a foreign national holding multiple citizenships**

#### **Article 11**

If a foreign national who has entered Montenegro has multiple citizenships, he is considered a citizen of the state who issued him with a foreign travel document with which he entered Montenegro.

During his stay in Montenegro, the foreign national referred to in paragraph 1 of this Article shall be under an obligation to use the foreign travel document with which he entered Montenegro.

### **Entry and Exit based on collective travel document**

#### **Article 12**

A foreign national whose name is entered in the foreign travel document of another person may enter into and exit from Montenegro only accompanied by the person holding the foreign travel document in which his name is entered.

Foreign nationals holding either a collective passport or another collective foreign travel document may enter into and exit from Montenegro only if they are together.

Each of foreign nationals whose name is in the travel document referred to in paragraph 2 above must hold also another document--with his personal photo in it—to serve as his own identification.

The leader of such group of foreign nationals must hold his personal passport.

## **Obligations of the Carrier**

### **Article 13**

A carrier may bring a foreign national to a border crossing point or to the territory of Montenegro if the foreign national meets the requirements referred to in Article 9 of this Law.

If a foreign national is not permitted to enter Montenegro, the carrier shall be under an obligation to transport back the foreign national from the border crossing point or from Montenegro at his expense, and where that is impossible, the carrier shall be under an obligation to find a different manner of transport for foreign national at his own expense or, where such different manner of transport is impossible, the carrier shall be under an obligation to bear costs that are incurred during the foreign national's stay and his transport back.

The provision of paragraph 2 above shall be also applicable to a carrier that has brought a foreign national who is transiting the territory of Montenegro if the carrier refused to transport the foreign national to the country of destination or if the foreign national is subject to an entry ban imposed by that country.

An organizer of tourist or business travels who delivers services to a foreign national shall bear the costs incurred by forced removal of that foreign national from Montenegro including the costs incurred due to the foreign national's stay in a reception centre for foreigners if the foreign national has been subjected to forced removal in accordance with this law, and does not have sufficient resources to compensate for the costs.

Any natural person or any legal entity upon whose invitation a foreign national has been either issued a visa or granted entry in Montenegro shall also have the obligation referred to in paragraph 4 above, if these costs cannot be compensated by the organizer of tourist or business travels, i.e. by the foreign national concerned.

## **III. VISAS**

### **Visas and visa regime**

#### **Article 14**

A visa is the permission ensuring a foreign national to enter, stay in and transit the territory of Montenegro.

Upon a proposal of the state administration authority in charge of foreign affairs, the Government of Montenegro (hereinafter referred to as the Government) shall regulate the visa regime.

### **Visa Types**

#### **Article 15**

In terms of this Law, an airport-transit visa (A Visa), a short stay visa (C Visa) and a long stay visa (D Visa) shall be considered as a visa.

## **Airport transit visa (A Visa)**

### **Article 16**

A foreign national shall be issued an airport-transit visa (A Visa) for single or multiple transiting through an international transit terminal of an airport during a layover or a transfer between two international flight legs, without actually entering the territory of Montenegro.

A foreign national who does not leave an airplane or international transit terminal of an airport of Montenegro during his stopover at the airport shall not be required to have a visa.

In the event referred to in paragraph 2 of this Article, whereas due to national and/or internal security reasons, the Government may require certain countries' nationals to hold airport-transit visas (A visa).

Issued airport-transit visa validity shall include also the additional 15-day period.

With the exception of paragraph 4 above, the additional period shall not be approved if internal security reasons require so.

Multiple-entry airport transit visa (A visa) shall be issued with a validity period of up to six months.

The state administration authority in charge of foreign affairs shall regulate an airport transit visa (A visa) issuing requirements in more details.

## **Short stay visa (C Visa)**

### **Article 17**

A short stay visa (C Visa) shall be issued for purpose of transiting through Montenegro or for entering as well as for staying in the territory of Montenegro, whereas such stay may not be longer than 90 days within a time period of 180 days counted as of the first day of entry.

A short stay visa (C Visa) shall be issued as single-, double- or multiple-entry visa for entering Montenegro.

Multiple-entry short stay visa (C Visa) validity shall range from six months to five years if a foreign national

1. has proved a need for traveling or has justified his intention to travel frequently i.e. regularly, while particularly for business or family reasons, and
2. has proved that he will not misuse an issued visa, in particular by using visas previously issued according to the Law, having funds he has in the country of origin and by his actual intention to leave the territory of Montenegro prior to the expiration of the visa he requested.

In an event of transiting through Montenegro, the period for which a short stay visa (C Visa) is issued should correspond to the time required by such transiting.

The short stay visa validity shall include also the additional 15-day period.

Notwithstanding paragraph 5 above, the additional period shall not be approved if internal security reasons require so.

A foreign national coming for a private or a business visit to a natural person or a legal entity in Montenegro may be required to present an affidavit of support i.e. a letter of invitation or any other evidence corroborating that the natural person or the legal entity will bear his stay in Montenegro-related costs, including also his accommodation and support costs and those for his departure from Montenegro.

An issued short stay visa (C Visa) shall not be any guarantee that a foreign national will be permitted to enter Montenegro.

The state administration authority in charge of foreign affairs shall regulate in more details short stay (C Visa) issuing requirements.

### **Long stay visa (D Visa)**

#### **Article 18**

A foreign national intending to stay in Montenegro for longer than 90 days—for performing business activities or work or serving in foreign accredited diplomatic and consular missions and representative offices of international organizations in Montenegro—but not for longer than 180 days—counted as of the first entry day—in a time period of one year, shall be issued a long stay visa (D Visa).

A long-stay visa (D Visa) shall be issued as single- or multiple-entry visa for entering Montenegro.

A foreign national holding an affidavit of support i.e. a letter of invitation issued by either a natural person or a legal entity, or other evidence corroborating that the natural person or the legal entity will bear his stay in Montenegro-related costs, including also his accommodation and support costs and those for his departure from Montenegro, may be issued a long stay visa (D Visa).

A long stay visa (visa D) may be issued to a foreign national who intends to stay in Montenegro for purpose of performing service in a foreign diplomatic or consular mission and representative office of international organizations, accredited in Montenegro, if he has evidence on performance of service in such mission or representative office.



The state administration authority in charge of foreign affairs shall regulate a long stay visa (D Visa) issuing requirements in more details, upon previously obtained opinion of the Ministry.

### **Visa issuing competence**

#### **Article 19**

A foreign national who needs a visa to enter Montenegro shall be under an obligation to obtain the visa prior to entering Montenegro.

The state administration authority in charge of foreign affairs shall issue visas through a diplomatic and consular mission.

Prior to issuing a visa, the state administration authority in charge of foreign affairs shall obtain the respective consents of the National Security Agency of Montenegro (hereinafter referred to as the Agency) and the Police, for finding out whether there are any national and/or internal security reasons preventing a visa issuing, and for a long stay visa (D Visa) issuing for work purposes, the consent of the Ministry shall be obtained as well.

The Agency, the Police and the Ministry shall be under an obligation to submit to the state administration authority in charge of foreign affairs with the consent referred to in paragraph 3 above, promptly within the period of not later than seven days as of the day of receiving such consent request.

If the state administration authority in charge of foreign affairs does not receive the Agency, the Police or the Ministry's consents respectively within the deadline referred to in paragraph 4 above, it shall be considered that reasons referred to in paragraph 3 above for a visa issuing do not exist.

Notwithstanding paragraph 3 above, a foreign national who is to come at a state authority, a state administration authority and a diplomatic or consular mission head's invitation may be issued a single-entry short stay visa (C Visa), without a consent from the Police and the Agency.

The state administration authority in charge of foreign affairs shall be under an obligation to inform immediately both the Police and the Agency of any visa issuing according to paragraph 6 above.

A visa may be issued also by the Police at a border crossing point, according to Article 31 of this Law.

The state administration authority in charge of foreign affairs shall regulate visas issuing requirements in more details.

## **Representation**

### **Article 20**

In the countries wherein Montenegro does not have their diplomatic and consular mission, another country's diplomatic or consular mission may represent Montenegro during the visa issuing procedure, according to both an international treaty and a law governing foreign affairs.

## **Visa application submission**

### **Article 21**

A visa application shall be submitted to a diplomatic and consular mission, in the required form and personally.

A foreign national whose name has been entered in the travel document of another foreign national who is a visa applicant, such foreign national shall submit a visa application in the required form referred to in paragraph 1 above.

A visa application shall be accompanied by a travel document, a photo, the evidence of the purpose and circumstances of transiting through or staying in Montenegro and a evidence of administrative fee payment.

Notwithstanding paragraph 1 above, a foreign national's visa application may be submitted by the authorized foreign legal entity referred to in Article 22 of this Law, and the visa application for a holder of a diplomatic or official passport as well as for a member of an official delegation may be submitted by the competent authority of another state with a diplomatic note.

The state administration authority in charge of foreign affairs shall set down the visa application form referred to in paragraph 1 above and the evidence of the purposes and circumstances of transiting through or staying in Montenegro referred to in paragraph 3 above.

### **Article 21a**

A foreign national may submit an application for issuing a visa in electronic format through the information system managed by the state administration authority competent for foreign affairs.

The application under paragraph 1 above shall be submitted in the prescribed form under Article 21 paragraph 1 of this Law.

Along with the application under paragraph 1 above the scanned travel document, the evidence on the purpose and conditions of transit or stay in Montenegro and a photograph in digital format shall be submitted.

In the event of submission of application in electronic form the administrative fee shall be paid through the information system referred to in paragraph 1 above.

The closer manner of submitting the application and documents under paragraphs 1, 2 and 3 above shall be regulated by the state administration authority competent for foreign affairs.

## **Visa application submission via authorized person**

### **Article 22**

The state administration authority in charge of foreign affairs may authorize a foreign legal entity to gather visa applications and the required enclosed documents in another country.

## **Travel medical insurance**

### **Article 23**

A foreign national applying for issuing of a single- or double-entry short stay visa (C Visa) for Montenegro shall be under an obligation to prove his possession of appropriate and valid travel medical insurance to cover costs that might be incurred due to his returning back to the country of origin from which he came, due to health reasons, emergency medical care needed i.e. emergency hospital treatment, or death during his stay in Montenegro.

A foreign national applying for a multiple-entry short stay visa (C Visa) for Montenegro shall be under an obligation both to prove his holding an appropriate travel medical insurance the validity of which is lasting for as long as the period of his first intended visit and to give a signed statement acknowledging his obligation to have travel medical insurance for the purposes of his future visits.

Notwithstanding paragraphs 1 and 2 above, the evidence of travel medical insurance shall not be mandatorily submitted by

1. holders of diplomatic travel documents,
2. seafarers and other persons who already have their respective professions-based travel medical insurances.

## **Travel document to which visa is affixed**

### **Article 24**

A visa may be issued if a foreign travel document

1. is valid for at minimum three months after the intended date for departure from Montenegro, or, in an event of multiple visits, after the last intended date for departure from Montenegro;
2. comprises at minimum two blank pages;
3. its issuing took place within a past ten-year period.

Notwithstanding item 1 in paragraph 1 above, in justifiable and urgent events, a visa may be affixed to a foreign travel document whose validity is shorter, whereas such visa validity period may not be longer than the foreign travel document's validity.

## **Deadline for decision on visa application**

### **Article 25**

A visa application shall be decided within ten days as of the application day.

The deadline referred to in paragraph 1 above may be extended for up to 30 days where there is a need to have an application additionally considered.

Exceptionally, where a visa issuing requires additional documents to be provided, the deadline may be extended for up to 60 days.

### **Visa issuing method**

#### **Article 26**

A visa is granted in the form of a visa sticker affixed to the valid foreign travel document.

Notwithstanding paragraph 1 above, where a travel document does not comprise at least two blank pages or it has not been issued within a preceding ten-year period, a visa shall be entered in the mandatory visa form if so is required by humanitarian reasons or a Montenegrin national interest.

The state administration authority in charge of foreign affairs shall regulate the visa form and manner in which the visa is affixed to a foreign travel document as well as the visa form referred to in paragraph 2 above and the more detailed content of the visa referred to in paragraph 3 above.

If the visa application has been submitted in accordance with Article 21a of this Law, the visa shall be issued through the information system and it shall contain a barcode, a photograph and personal information of the applicant.

### **Reasons to refuse visa issuing**

#### **Article 27**

A foreign national shall not be issued a visa if

1. he has enclosed a damaged, forged or somebody else's travel document with his visa application;
2. he has not supplied evidence justifying the purposes and circumstances of the intended stay;
3. he has not submitted a evidence of either his possession of sufficient resources for his support during the time of his intended stay in Montenegro, for his return to his country of origin or residence or for his transiting to a third country that admits him or he cannot obtain such resources in a legal manner;
4. he stayed in Montenegro for 90 days, whereas 180 days have not passed as of the day of his first entry;
5. he has been imposed the entry and stay ban in Montenegro, or he has been subjected to international measures for entry restrictions which bind Montenegro;
6. if so is required by the Montenegrin national i.e. internal security, or public health reasons;
7. he has not submitted the evidence of travel medical insurance;

8. there are grounds for suspicions about the authenticity of submitted evidence and their respective contents, trustworthiness of statements of the foreign national, or about his intention to leave Montenegro prior to the expiration of the requested visa validity period.

In the events referred to in paragraph 1 above, the state administration authority in charge of foreign affairs shall issue a decision on rejecting to issue such a visa to a foreign national.

An appeal against the decision referred to in paragraph 2 above may be submitted to the state administration authority in charge of foreign affairs—via the diplomatic or consular mission within eight days as of the day of receiving the decision.

In an event of the visa issuing rejection, on the day the decision becomes final, i.e. legally effective, the foreign national concerned shall be given back the documents he enclosed to his visa application.

Exceptionally, also where there are the reasons referred to in paragraph 1 above and if so required by humanitarian reasons, Montenegro's interests or undertaken international commitments, a foreign national may be issued a visa.

In the case referred to in paragraph 5 of above, a foreign national may be allowed to enter only at a certain border crossing point.

### **Short stay visa (C Visa) extension**

#### **Article 28**

A short stay visa (C Visa) validity may be

1. extended for humanitarian or Force Majeure reasons;
2. extended for serious personal reasons.

A visa extension application of a short stay visa (C Visa) shall be submitted to the Police in the place of a foreign national's stay, prior to the visa validity expiration and in the required form.

The visa validity period of the short-stay visa (C Visa) may be extended only where an applicant presents evidence of humanitarian or Force Majeure reasons, or serious personal reasons existing.

The Police shall issue a decision concerning the application referred to in paragraph 2 above within seven days.

Pending the adoption of the decision referred to in paragraph 4 above, a foreign national concerned may stay in Montenegro.

In an event of the approval of a visa validity extension for short stay visa (C Visa), the Police shall have the visa sticker affixed to the foreign travel document in accordance with Article 26 of this Law.

The visa extension of the short stay visa (C Visa) shall be refused where there are reasons referred to in Article 27 paragraph 1 of this Law.

If a foreign national withdraws the application referred to in paragraph 2 above, the Police shall abort the procedure.

In the event referred to in paragraphs 7 and 8 above, a foreign national concerned shall be given back the documents he enclosed to his application.

### **Visa annulment and revocation**

#### **Article 29**

A visa shall be annulled where subsequent findings have shown that requirements for its issuing were not met or where there are serious grounds for a suspicion that the visa was issued based on incorrect and untrue data or false evidence.

A visa shall be revoked where findings have shown that requirements for its issuing are not met any more.

A visa shall be annulled or revoked upon a decision made by either the diplomatic or consular mission or the Police.

A foreign national shall be served his visa annulment or revocation decision.

An appeal against the decision referred to in paragraph 4 above may be submitted to the state administration authority in charge of foreign affairs—via the diplomatic or consular mission and within eight days as of receiving the decision.

Such appeal shall not postpone the enforcement of the decision referred to in paragraph 4 above.

A visa may be revoked also upon a personal request of the foreign national to whom it was issued via decision of a diplomatic or consular mission or the police. In that event, no appeal shall be allowed.

In an event of issuing the decision referred to in paragraph 4 and 7 above, the annulment of the visa sticker affixed to a foreign travel document shall be carried out, in the manner as prescribed by the state administration authority in charge of foreign affairs.

## **Visa issuing at border crossing point**

### **Article 30**

At a border crossing point and upon his personal request, a foreign national may be issued a short stay visa (C Visa)

1. for a 15-day stay;
2. for purposes of transit.

The visa referred to in paragraph 1 above may be issued to a foreign national if

- he has not been in situation both to submit a visa application according to Article 21 of this Law and to present the documents proving the existence of unexpected and imperative reasons for entering Montenegro;
- he has made his return to the country of origin or residence or transit certain;
- the reasons referred to in Article 27, paragraph 1, item 1 through 6 and item 8 of this Law, do not exist; and
- his travel document meets the requirements referred to in Article 24, paragraph 1, items 1 and 3 of this Law.

When a visa application is submitted at a border crossing point, the applicant does not have to provide travel medical insurance if it cannot be obtained at the border crossing point or in case of entering Montenegro for humanitarian reasons.

### **Visa issuing at the border crossing point to a seafarer**

#### **Article 31**

A transit short stay visa (C Visa) shall be issued at a border crossing point to a seafarer if:

- 1) he is the holder of seaman's book or another document that is recognized as the seafarer identification document according to the provisions of international treaties; and
- 2) he meets the requirements referred to Article 30, paragraph 2 indents 1, 2 and 3 of this Law, and he is crossing the border of Montenegro in order to sign on, re-sign on or sign off from a vessel on the board of which he has, will have or had his job as a seafarer.

While applying for the visa referred to in paragraph 1 above, a seafarer need not present his travel medical insurance where it is impossible to obtain it at the border crossing point or in the case where he is entering Montenegro due to humanitarian reasons.

In an event of issuing the visas referred to in paragraph 1 above and paragraph 1 of Article 30 of this Law respectively, the Police shall either affix the visa sticker to a foreign travel document or enter it in the mandatory visa form in accordance with Article 26 of this Law.

### **Rejecting visa application at the border crossing point**

#### **Article 32**

By their decision, the Police shall reject the visa applications referred to in paragraph 1 of Articles 30 and 31 of this Law respectively if the prescribed requirements have not been met.

The decision referred to in paragraph 1 of this Article may be issued without the foreign national's statement.

An appeal against the decision referred to in paragraph 1 above may be submitted to the state administration authority in charge of foreign affairs—via the nearest diplomatic or consular mission and within eight days as of receiving the decision.

Such appeal shall not postpone the enforcement of the decision referred to in paragraph 1 above.

The Police shall immediately inform the state administration authority in charge of foreign affairs about the submitted visa applications and the issued visas referred to in Articles 30 and 31 of this Law as well as about the visa application rejection decisions referred to in paragraph 1 above.

#### **IV. FOREIGN NATIONAL'S RESIDENCE**

##### **Types of residence**

###### **Article 33**

In terms of this Law, a foreign national's residence in Montenegro shall be

1. a stay of up to 90 days;
2. temporary residence;
3. permanent residence.

##### **1. Stay for up to 90 days**

##### **Right to stay for up to 90 days**

###### **Article 34**

A foreign national may stay in Montenegro for up to 90 days based on a short stay visa (C Visa) or without a visa, according to the visa regime regulation referred to in paragraph 2 of Article 14 of this Law.

In the event referred to in paragraph 1 above, a foreign national may stay in Montenegro for up to 90 days in 180-day period counted as of the day of his first entry, unless otherwise has been provided for by this Law or an international treaty.

A foreign national who stayed in Montenegro for 90 days in accordance with paragraphs 1 and 2 above may re-enter and stay in Montenegro after a 180-day period expiration counted as of the day of the first entry.

##### **Reasons for canceling stay of up to 90 days**

###### **Article 35**



A stay of up to 90 days of a foreign national may be cancelled if:

- 1) he does not meet entry and stay requirements in Montenegro as prescribed by this Law;
- 2) this is required by national, or internal security reasons;
- 3) he does not justify the purposes and circumstances of his entry and stay of up to 90 days;
- 4) he has been returned to Montenegro pursuant to an international agreement (readmission), due to an illegal stay;
- 5) there are grounds for suspicions that his stay is not for the purposes for which it was approved;
- 6) he has not settled his financial and legal obligations that became due pursuant to a final judgment rendered by the court.

### **Deciding upon the up to 90-day stay cancellation**

#### **Article 36**

The Police shall both issue a decision concerning a stay cancellation referred to in Article 35 of this Law and enter such stay cancellation in a foreign travel document.

The decision referred to in paragraph 1 above shall set down the deadline within which the foreign national concerned must leave the territory of Montenegro, while the ban from entering Montenegro may be imposed as well.

The entry ban period referred to in paragraph 2 above may range from 30 days to one year and it shall be counted as of the day of leaving Montenegro.

The Ministry may be presented an appeal against the decision referred to in paragraph 1 above, within eight days as of the day of receiving the decision.

The appeal referred to in paragraph 4 above shall not postpone the decision enforcement.

The Ministry shall set down the manner in which a stay cancellation referred to in paragraph 1 above shall be entered.

### **Long-stay visa (D Visa)-based stay cancellation**

#### **Article 37**

The provisions of Articles 35 and 36 of this Law shall be accordingly applied to a foreign national's stay cancellation based on issued long-stay visa (D Visa).

## **2. Temporary residence**

### **2.1. Common provisions**

#### **Temporary residence purpose**

### **Article 38**

A temporary residence may be granted to a foreign national intending to stay in Montenegro for longer than 90 days for the purposes of

- 1) family reunification;
- 2) schooling;
- 3) participation in international student exchange programs or in other youth programs;
- 4) specialization, professional competence training or practical training of foreign nationals;
- 5) scientific research work;
- 6) medical treatment;
- 7) humanitarian reasons;
- 8) exercising the right to enjoy as well as to dispose of a real property owned in Montenegro;
- 9) religious service;
- 10) volunteering in the European Voluntary Service Programme;
- 11) a stateless person's stay;
- 12) work; and
- 13) other events, according to the law and an international treaty.

### **Temporary residence permit**

#### **Article 39**

In the events referred to in Article 38, paragraph 1 items 1 through 11 and item 13 of this Law, a temporary residence permit shall be issued.

A foreign national who has been issued a temporary residence permit may stay in Montenegro according to the purposes for which the temporary residence was granted to him.

### **Temporary residence and work permit**

#### **Article 40**

In the event referred to in Article 38, paragraph 1 item 12 of this Law, a temporary residence and work permit shall be issued.

In the case referred to in Article 38 paragraph 1 item 13 of this Law a foreign national who according to international law enjoys the privileges and immunity may be issued with a permit for temporary residence and work if this has been regulated by an international agreement.

A foreign national's work in terms of paragraph 1 above shall include employment, seasonal employment and posted worker's work.

Exceptionally, a foreign national may stay and work in Montenegro based on a work registration certificate issued according to this Law.

## **Permit forms**

### **Article 41**

The permits referred to in Articles 39 and 40 of this Law shall be considered as public documents by which a foreign national proves that he has been granted temporary residence i.e. temporary residence and work.

The permits referred to in paragraph 1 above shall be issued in the prescribed form, according to the European and international standards, and they shall comprise Montenegro's Coat of Arms; the name "Montenegro"; the permit's designation; protective components; and sections for entering personal and other data.

The data referred to in paragraph 2 above shall be: family name and first name; the unique personal identification number of the foreigner; gender; nationality; day, month and year of birth; the permit's number; the permit issuing date; the permit validity expiration date; personal photo; signature; issuing authority designation; the legal rationale for the permit issuing; information on the right to employment and machine readable data.

Besides the data referred to in paragraph 3 of this Article, a temporary residence and work permit form shall include also the following data: occupation; the employer's designation i.e. first and family name, registered office i.e. address, and tax identification number of the employer.

The Ministry shall enter the data referred to in paragraphs 3 and 4 of this Article in the permit forms.

The data comprising machine readable data shall be set down by the Ministry, according to the ICAO Dos 9303 recommendations.

The cost of developing the permit form referred to in paragraph 1 above shall be borne by the applicant.

The form of the permit for temporary residence and permit for temporary residence and work as well as the amount of the cost referred to in paragraph 7 of this Article, shall be defined by the Ministry.

## **Competence for form developing**

### **Article 42**

The form for temporary residence permit and temporary residence and work permit form shall be developed by the Ministry.

The Ministry may entrust developing the permit forms referred to in paragraph 1 above to a legal entity, according to the regulations governing public procurements.

In the event referred to in paragraph 2 above, a contract shall stipulate the Ministry's rights to examine and control documents relating to developing, storing and delivering permit forms.

### **Requirements for permits issuing**

#### **Article 43**

A foreign national may be issued a temporary residence permit and a temporary residence and work permit if:

- 1) he possesses sufficient funds to support himself;
- 2) he has provided accommodation;
- 3) he holds health insurance;
- 4) he holds either a valid foreign travel document or identity card issued to him by another country's competent authority, the validity period of which must be at minimum three months longer than the period of his granted stay, or a stateless travel document;
- 5) he has not been imposed an entry and stay ban in Montenegro;
- 6) in Montenegro he has not been pronounced a final judgment sentencing him to an effective imprisonment longer than six months, for a criminal offence that is pursued ex officio, or a judgment legal effects ceased;
- 7) in his country of origin he has not been pronounced a final judgment sentencing him to an effective imprisonment longer than six months, for a criminal offence that is pursued ex officio, or a judgment legal effects ceased;
- 8) national and/or internal security or public health-related restrictions do not exist;
- 9) he has submitted evidence justifying his permit application.

Where it is about issuing the permit referred to in paragraph 1 above to a foreign national under the age of 16, it shall not be required to supply the evidence referred to in items 6 and 7 of paragraph 1 above.

### **2.2 Temporary residence permit**

#### **Temporary residence for family reunification**

##### **Article 44**

A temporary residence permit for family reunification shall be granted to a foreign national who is an immediate family member of a Montenegrin national or who is an immediate family member of another foreign national who has been granted either a permanent residence or a temporary residence in Montenegro.

In terms of paragraph 1 above, immediate family shall be:

1. spouses,
2. their minor children born in or out of wedlock,
3. step children and adopted children until they turn 18,
4. parents or adoptive parents of minor children.

With the exception of paragraph 2 above, another relative may also be considered as an immediate family member if there are distinct, personal or humanitarian reasons for family reunification in Montenegro.

In the case of a polygamous marriage, family reunification shall be allowed only to one spouse.

The temporary residence permit referred to in paragraph 1 above shall not be issued to a family member of a foreign national who has been issued a residence and work permit for seasonal employment.

Temporary residence permit for family reunification shall be issued with a validity period not exceeding one year, or until the expiry of the validity period of the temporary residence permit of the foreign national with whom the reunification is requested.

### **Family reunification-based extended stay (autonomous residence)**

#### **Article 45**

Temporary residence permit for family reunification may be extended where the Montenegrin citizen has deceased, as well as in an event of the dissolution of marriage that lasted continuously for at minimum three years in Montenegro.

Notwithstanding paragraph 1 above the permit for temporary residence for purpose of family reunification may be extended for a foreign national who is a victim of the criminal offence of domestic violence or violence in a family community, regardless of the period of duration of the marriage.

The permit referred to in paragraph 1 above shall be extended, i.e. issued to a child who has attained the age of majority, where he or she fulfills the requirements referred to in items from 1 to 8 of paragraph 1 of Article 43 of this Law and where he or she had a granted temporary residence in Montenegro for a continuous three-year period for purpose of family reunification.

### **Marriage of Convenience**

#### **Article 46**

Temporary residence permit for family reunification shall not be granted to a foreign national if it has been found that the marriage was concluded as one of convenience.

In terms of paragraph 1 above, a marriage of convenience is considered to be the marriage that a foreign national entered into with the sole aim of obtaining an entry into or residence in Montenegro contrary to this Law.

Circumstances that may indicate that a marriage is one of convenience are as follows:

- 1) spouses do not observe the marital community;
- 2) spouses fail to fulfill marriage obligations;
- 3) spouses have not met before the conclusion of their marriage;
- 4) spouses do not speak a language they both understand;
- 5) spouses do not provide true personal data;
- 6) funds were given to conclude the marriage, however, not as a custom of giving dowry, where the spouses come from the countries cherishing the tradition of the dowry;
- 7) where there is evidence that the spouses used to conclude marriages of convenience before either in Montenegro or in a foreign country.

### **Temporary residence for schooling**

#### **Article 47**

A temporary residence permit for schooling may be issued to a foreign national who meets the requirements set down in Article 43 of this Law and who supplies his schooling certificate as evidence substantiating the justification of his application.

The temporary residence referred to in paragraph 1 above—for the purposes of completing the schooling—may be extended for maximum up to two years after the running out of the deadline defined for schooling completion.

In order to have a temporary residence permit issued to a minor foreign national, a parental or guardian or legal representative consent shall be required.

### **Temporary residence for the participation in international pupil and student exchange programs or in other youth programs**

#### **Article 48**

A foreign national coming to Montenegro for the participation in international pupil and student exchange programs or in other youth programs may be issued a temporary residence permit if he meets the requirements set down in Article 43 of this Law and if as an evidence to substantiate the justification of his application he supplies also the following:

- 1) certificate of the state administration authority responsible for the implementation of international treaties on pupil or student exchange programs, corroborating the participation of the foreign national in the international exchange program,

- 2) certificate of a competent authority or institution of financing the costs of schooling or study, support, accommodation and health insurance as well as the costs of return of the foreign national back to the country whose citizen he is.

In order to have the permit referred to in paragraph 1 above issued to a minor foreign national, a parental or guardian or legal representative consent shall be required.

A student who has been issued the permit referred to in paragraph 1 above may work in Montenegro, but no longer than 15 hours a week.

After the completion of studies, the foreign national referred to in paragraph 3 above who meets the requirements set down in Article 43 of this Law may be issued a temporary residence permit in Montenegro for a validity period of nine months in order to seek employment.

More detailed requirements and the manner of issuing a temporary residence permit for participation in international pupil and student exchange programs or other youth programs shall be prescribed by the Ministry, with the consent of the state administration authority competent for education affairs.

### **Temporary residence for specialization, professional training or practical training of foreign national**

#### **Article 49**

A temporary residence permit for specialization, professional training or practical training may be issued to a foreign national who fulfils the conditions as per Article 43 of this Law and evidences the grounds for application by presenting the certificate of the competent authority, institution, or other legal entity in Montenegro that his/her specialization, professional training or practical course was approved, as well as the curriculum of the specialisation, professional training or practical training also defining the duration thereof.

The permit referred to in paragraph 1 of the Article hereof may be issued to a foreign national who has acquired a higher education qualification, for the purpose of professional training of interns, or to a foreign national who studies in another country for the purpose of practical training necessary to acquire a higher education qualification, who fulfils the conditions as per Article 43 of this Law, and who in addition to submitting the confirmation and the curriculum referred to in paragraph 1 of the Article hereof, shall also submit the evidence of education level and qualifications acquired two years prior to filing the application, i.e., the evidence of the obligation to attend practical training for the purpose of acquiring a higher education qualification.

Professional training i.e., the practical training referred to in paragraph 2 of the Article hereof shall be conducted in accordance with the curriculum containing:

- 1) description of the curriculum for professional training of interns i.e. for the practical training of students, and training i.e. education objectives and phases;
- 2) length of internship i.e. of practical training;
- 3) number of hours of professional training of interns, i.e. the hours of practical training;

4) method of conducting and supervising the professional training of interns, i.e. the practical training;

5) rights and obligations between interns i.e. the students attending the professional training and the employer.

The permit referred to in paragraph 1 of this Article shall be issued to a foreign national who was granted specialisation, professional training or practical training or to a foreign national who was granted professional training of interns or practical training referred to in paragraph 2 of the Article hereof, provided that a prior approval has been obtained from the state administration authority in charge of the matters for which the permit is issued.

## **Temporary residence for scientific and research work**

### **Article 50**

A temporary residence permit for scientific and research work may be issued to a foreign researcher who fulfils conditions as per Article 43, paragraph 1 items 1 and 2 and items 4 to 9 of this Law, and evidences the grounds for the application by submitting the contract concluded with a scientific or research institution or institution of higher education or with another legal entity or natural person, in accordance with the Law.

The researcher referred to in paragraph 1 of this Article shall be a foreign national who has acquired an academic title of the Doctor of Philosophy or an appropriate higher education qualification which enables him or her the access to doctoral programmes, and who has been elected by a scientific and research institution or institution of higher education or other legal entity or natural person in Montenegro to carry out scientific and research activities for which such qualification is normally required.

The contract referred to in paragraph 1 of this Article shall include:

- 1) title or purpose of scientific and research activity or the research area;
- 2) commencement date and completion date or the assessed duration of the scientific and research activity;
- 3) obligation of a foreign researcher that he shall complete a scientific and research activity within the agreed period;
- 4) obligation of a scientific and research institution or institution of higher education or other legal entity or natural person with whom the foreign researcher has concluded the contract that they shall create the conditions for such a foreign national to complete scientific and research activities;
- 5) information of conducting scientific and research activity in one or more EU member states, if such information is known at the moment of the conclusion of the contract.

Temporary residence permit for scientific and research work shall be issued with the validity period of up to one year.

The foreign researcher who has been issued the temporary residence permit for scientific and research work shall be entitled to the same tax reliefs as the Montenegrin nationals, in accordance with the Law.

The foreign researcher referred to in paragraph 1 of this Article may work as a lecturer or professor, however, not longer than 15 hours a week.

After the completion of the research, the foreign researcher, who meets the conditions as per Article 43 of this Law, may be issued a temporary residence permit in Montenegro with the validity period of nine months, for the purpose of seeking employment.



A foreign researcher, who has concluded the contract with a scientific and research institution in an EU member state and under such contract his or her stay in such country is approved, may work in Montenegro for the purpose of research without temporary residence and work permit or work registration certificate, up to three months, provided that he or she possesses sufficient funds to support himself or herself and that there are no obstacles in terms of national i.e. internal security or public health.

A foreign researcher, who has concluded the contract with the scientific and research institution in a EU member state, and under such contract his stay in such country is approved, must have a temporary residence permit referred to in paragraph 1 of this Article if he wishes to work in Montenegro for longer than three months for the purpose of conducting a research.

A scientific and research institution, an institution of higher education, other legal entity or natural person who has concluded the contract with a foreign researcher who has been issued the permit referred to in paragraph 1 of this Article shall promptly inform the Ministry of any circumstances which may prevent the enforcement of the contract.

More detailed conditions and manner of issuing temporary residence permit for the purpose of scientific and research work shall be prescribed by the Ministry, with the approval of the state administration authority in charge of scientific affairs.

### **Temporary residence for medical treatment**

#### **Article 51**

A temporary residence permit for medical treatment in Montenegro may be issued to a foreign national who fulfils the conditions as per Article 43 hereof and evidences the grounds for his or her application by submitting a certificate issued by healthcare institution in which he or she is to be treated, and which shall also contain the time required for treatment.

A temporary residence permit for medical treatment may be extended for the period which is necessary for the medical treatment of a foreign national.

### **Temporary residence for humanitarian reasons**

#### **Article 52**

A temporary residence permit for humanitarian reasons may be issued to:

- 1) a foreign national presumed to have been the victim of a crime of trafficking in human beings or of a crime of domestic violence;
- 2) a foreign minor, who has been abandoned or is a victim of organised crime, or is without parental care for other reasons, or is unaccompanied, or according to the employment regulations is illegally employed;
- 3) a foreign national for particularly justified reasons of humanitarian nature (events of force majeure, severe illness, permanent disability and other justified cases whose circumstances indicate their humanitarian character).

The foreign national referred to in paragraph 1 of this Article does not have to fulfil the conditions as per Article 43 paragraph 1 items 1, 2 and 3 of this Law.

A temporary residence permit for humanitarian reasons shall be issued based on the appropriate evidence produced by an international organisation, non-governmental organisation, or state administration authority who provides assistance

and protection to the foreign national referred to in paragraph 1 of this Article, or evidence produced by a competent state authority confirming that the foreign national collaborates in the investigation of criminal offences.

A temporary residence permit for humanitarian reasons shall be issued with the validity period of up to one year and may be extended as long as the reasons referred to in paragraph 1 of this Article exist.

### **Rights of foreign national with residence granted for humanitarian reasons**

#### **Article 53**

The foreign national who has been issued a temporary residence permit for humanitarian reasons shall have the right to accommodation, health care, education, work, and financial assistance, in accordance with the Law.

### **Reflection period**

#### **Article 54**

The foreign national for whom the police determines to be the victim of the crime of trafficking in human beings shall have the right to decide, within 90 days, whether he or she will cooperate in the criminal procedure or whether he or she will either join criminal prosecution or become a witness in such a procedure (reflection period).

In cooperation with authorities, non-governmental and other organisations that are in charge or that deal with the prevention, education, reporting, and prosecution of the perpetrators and protection of the victims of trafficking in human beings and, in regard to a minor foreign national, in cooperation with the Centre for Social Work, the police shall establish if the foreign national is a victim of a crime of trafficking in human beings.

### **Protection of foreign nationals with residence granted for humanitarian reasons**

#### **Article 55**

A foreign national who has been issued a temporary residence permit for humanitarian reasons cannot be subject to forced removal due to an illegal entry or stay in Montenegro.

The foreign national referred to in paragraph 1 of this Article, for whom there is a reasonable concern that by giving a statement in a criminal procedure he or she could be exposed to the threat for his or her life, health, physical integrity or freedom, shall be provided with protection and the exercise of rights in accordance with the law governing witness protection.

A minor foreign national, for whom it has been established to have been the victim of a crime of trafficking in human beings, shall not be returned to any state if, after the evaluation of the threat and his or her security, there are circumstances which indicate that such return would not be in his or her best interest.

### **Temporary residence for use and disposal of the right to real estate**

#### **Article 56**

A temporary residence permit for use and disposal of the right to real estate possessed by a foreign national in Montenegro may be issued to a foreign national who fulfils the conditions as per Article 43 of this Law and who evidences the grounds

for the application by submitting a real estate folio in the land register or other evidence confirming the ownership of such real estate, in accordance with the law governing the real estate cadastre.

The permit referred to in paragraph 1 above may be issued to a foreign national who is a co-owner of ½ of the immovable property.

For the purpose of paragraph 1 of the Article hereof, real estate shall be considered family houses, country cottages, villas, apartments, hospitality industry facilities, residential and office buildings, and business premises.

### **Temporary residence for the performance of a religious service in Montenegro**

#### **Article 57**

A temporary residence permit for the performance of a religious service in Montenegro may be issued to a foreign national who fulfils the conditions as per Article 43 of this Law and who evidences the grounds for the application by submitting the confirmation that the religious community in which he or she intends to perform a religious ceremony and religious affairs has registered its activities and seat in Montenegro in accordance with the regulations governing the legal status of religious communities.

### **Temporary residence for volunteer service within the European Voluntary Service**

#### **Article 58**

A temporary residence permit for volunteer service within the European Voluntary Service may be issued to a foreign national aged between 18 and 30, who fulfils the conditions as per Article 43 of this Law and who evidences the grounds for the application by submitting the concluded contract on volunteer service signed for the purpose of participation in the volunteer programme.

The European Voluntary Service is a service founded by the European Union, where the European volunteering organisations participate, and which enables young people to carry out volunteer service within the volunteer programme in certain European countries.

Volunteer programme is the accepted activity programme implemented on the principles of solidarity, and its objectives are of the general interest for non-profit purposes, whereas the activities are not paid for, except for the reimbursement of costs, i.e., pocket money.

### **Establishing the status and issuing of travel document to a stateless person**

#### **Article 59**

The application for establishing whether the applicant is a stateless person shall be filed to the Ministry personally, in the place of residence, on the prescribed form, whereof a certificate shall be issued.

The application referred to in paragraph 1 of this Article may not be filed by a foreign national who has filed an application for the international protection in Montenegro, or his or her status of a refugee has been recognised in Montenegro, or additional protection has been granted to him or her, in accordance with the Law on Asylum ("Official Gazette of the Republic of Montenegro ", number 45/06), or who has been granted asylum or

subsidiary protection in accordance with the law governing international and temporary protection of foreign nationals.

In the procedure upon the application referred to in paragraph 1 of this Article, the Ministry may obtain or exchange information with the state authorities, state administration authorities, authorities of other states, and international organisations and non-governmental organisations.

The Ministry shall decide on the application referred to in paragraph 1 of this Article by issuing a Decision.

Under its Decision, the Ministry shall reject the application referred to in paragraph 1 of this Article, if:

- in the conducted procedure, it is established that the applicant is the citizen of a particular state, or, that he or she may acquire the citizenship of another state according to the laws of such state;

- this is required due to the reasons of national or internal security.

Against the decision referred to in paragraph 5 of this Article an appeal may be lodged to the Ministry.

the Ministry shall issue to the person who in the conducted procedure is established to be a stateless person, at personal request, a travel document for a stateless person, with a validity period of one year.

The application for the issuing of a travel document referred to in paragraph 7 of this Article shall be submitted to the Ministry in the place of residence, on the prescribed form.

When filing the application referred to in paragraph 8 of this Article, the stateless person shall be photographed, his or her fingerprints of two fingers shall be taken and the digitalised personal signature, in accordance with the law governing the issuing of a personal identity card.

The application under paragraph 1 above shall be decided upon within six months from the day of the duly submission of the application.

The application form referred to in paragraphs 1 and 8 of this Article, more detailed manner of conducting the procedure referred to in paragraph 3 of this Article, and a travel document form for a stateless person, shall be prescribed by the Ministry.

## **Temporary residence of a stateless person**

### **Article 60**

The stateless person under Article 59 of this Law may be issued a temporary residence permit provided that he or she fulfils the conditions as per Article 43 paragraph 1 items 2 to 5 of this Law, and evidences the grounds for application by submitting the evidence that he or she has been actually residing in Montenegro for a minimum of three years prior to filing the application and that he or she intends to continue his or her stay in Montenegro.

A stateless person may stay in Montenegro based on a travel document for a stateless person or temporary residence permit.

## **Application for issuing of temporary residence permit**

### **Article 61**

The application for issuing of a temporary residence permit shall be personally filed by a foreign national, to the Ministry in the place of residence, on a prescribed form, whereof a certificate shall be issued.

In addition to the application referred to in paragraph 1 of this Article, the foreign national shall submit the evidence of the fulfilment of conditions as per Article 43 paragraph 1 items 1, 2, 3, 4, 7 and 9 of this Law.

When filing the application referred to in paragraph 1 of this Article, the foreign national shall be photographed, his or her fingerprints of two fingers shall be taken and the personal digitalised signature, in accordance with the law governing the issuing of a personal identity card.

The fingerprints of two fingers and a signature shall not be taken from children younger than 12 years of age.

The foreign national who prior to the expiry of residence period of 90 days, duly files the application for the issuing of a temporary residence permit, may remain in Montenegro until the issuing of an enforceable decision.

The application form referred to in paragraph 1 of this Article shall be prescribed by the Ministry.

### **Deciding on the application**

#### **Article 62**

A temporary residence permit shall be issued by the Ministry, upon previously obtained opinion from the Agency and the police on the existence of any obstacles for the reasons of national or internal security as per Article 43 paragraph 1 item 8 of this Law.

The Agency and the police shall promptly submit to the Ministry the opinion referred to in paragraph 1 of this Article, and not later than ten days from the date of receipt of the request for opinion.

If the Ministry does not receive the opinions referred to in paragraph 2 of this Article within the prescribed period, it shall be considered that there are no obstacles for the issuing of a temporary residence permit.

Decision on the application for the issuing of a temporary residence permit shall be made within 40 days from the date when the application was duly filed.

Decision on the refusal of the application for the issuing of a temporary residence permit shall be made under the Decision.

Against the Decision referred to in paragraph 5 of this Article, an appeal may be lodged to the Ministry within eight days from the date of receipt of the Decision.

More detailed conditions and manner of issuing the temporary residence permit referred to in Articles 44, 45, 47, 49, 51, 52, 56, 57, 58 and 60 of this Law shall be prescribed by the Ministry.

**Validity**  
**Article 63**

A temporary residence permit shall be issued for the validity period of up to one year.

**Extension of temporary residence**  
**Article 64**

The foreign national shall personally file to the Ministry the application for the extension of a temporary residence permit, in the place of residence, not later than within 30 days prior to the expiry of the validity period of the temporary residence permit.

In addition to the application referred to in paragraph 1 of this Article, submitted shall be a valid foreign travel document or a personal identity card of a foreign national issued by the authority of another country, or a travel document for a stateless person, or a temporary residence permit issued to a stateless person and the evidence of the grounds of application for the issuing of a temporary residence permit, and if five years have passed from the date when the data under Article 61 paragraph 3 of this Law were taken, the foreign national shall also provide those data.

In the event that the application for the extension of the permit is approved, a temporary residence permit shall be issued with the new validity period of up to one year.

The procedure of extension of a temporary residence permit shall be subject to the provisions of Article 62 of this Law.

The application form referred to in paragraph 1 of this Article shall be prescribed by the Ministry.

**Termination of validity of the temporary residence permit**  
**Article 65**

A temporary residence permit shall cease to be valid:

- 1) upon the expiry of the validity period;
- 2) after the reasons for which the permit was issued have ceased to exist;
- 3) if during his or her temporary residence the foreign national stays outside Montenegro for more than 30 days;
- 4) if the existence of the reasons as per Article 8 of this Law is subsequently determined;
- 5) if the foreign national has been imposed a protective measure of expulsion of foreign national from the country, a protective measure of expulsion of foreign national from the territory of Montenegro, or the Decision has been issued as per Article 110 of this Law;
- 6) if the foreign national does not use his residence in Montenegro for the purpose for which such residence was granted;
- 7) in the event when a foreign national was granted a temporary residence permit for the purpose of family reunification, and it is subsequently determined that the marriage was arranged for convenience;
- 8) when a foreign national acquires the right to permanent residence.

Exceptionally from paragraph 1 item 3 of this Article, a temporary residence permit shall not cease to be valid for a foreign national who, for justified reasons, stayed outside Montenegro for up to 90 days, provided that he or she has previously informed the police of the reasons for leaving Montenegro.

Exceptionally from paragraph 1 item 4 of this Article, a temporary residence permit issued for family reunification shall not cease to be valid in the event of a severe illness or

disability of a foreign national which has occurred after the issuing of the residence permit.

A temporary residence permit shall not cease to be valid for a foreign national who was granted residence as per Article 38 paragraph 13 of this Law, despite the fact that he has stayed outside Montenegro for longer than 30 or 90 days.

The police shall inform the Ministry of the reasons for termination of temporary residence permit validity referred to in paragraph 1 items 2 to 7 of this Article.

the Ministry shall issue the Decision on the termination of temporary residence permit validity as per paragraph 1 items 2 through 7 of this Article.

The Decision referred to in paragraph 6 of this Article shall determine the period within which the foreign national must leave Montenegro, which may not be longer than 30 days, and also a entry and stay ban in Montenegro may be pronounced for the period of one to five years.

The period of entry and stay ban referred to in paragraph 7 of this Article shall be counted from the date of leaving Montenegro.

Against the Decision referred to in paragraph 6 of this Article an appeal may be lodged to the Ministry, within eight days from the date of receipt of the Decision.

### **2.3. Temporary residence and work permit**

#### **Temporary residence for work**

##### **Article 66**

In Montenegro, a foreign national may work under a temporary residence and work permit or work registration certificate, unless otherwise provided for by this Law.

A foreign national may work in Montenegro only on jobs for which the temporary residence and work permit or work registration certificate was issued to him or her, and only for an employer who employs him or her.

Notwithstanding paragraph 2 above, a foreign national may be issued with a permit for temporary residence and work for the purpose of carrying out the duties of an executive director at several employers, in accordance with the regulations governing the area of employment.

The employer may assign the foreign national only to the jobs for which a temporary residence and work permit or work registration certificate was issued to such a foreign national.

In business premises or in the place of work of the foreign national, the employer must keep the copy of the residence and work permit or the copy of the work registration certificate of a foreign national who works for such an employer.

The employer shall inform the Ministry of the termination of foreign national's employment prior to the expiry of the residence and work permit validity, and not later than within eight days from the date of foreign national's termination of employment.

The employer shall not employ or use the work of a foreign national who illegally resides in Montenegro.

#### **Exceptions from the obtainment of permits**

##### **Article 67**

A foreign national may work in Montenegro without a temporary residence and work permit or work registration certificate, provided that he or she has:

1) a temporary residence permit for family reunification with a Montenegrin national or with a foreign national who holds a permanent residence permit, temporary residence permit for scientific and research work, or temporary residence and work permit for movement of person within a foreign company;

2) temporary residence permit for studying;

3) temporary residence permit for humanitarian reasons;

4) temporary residence permit for a stateless person;

5) certificate of registered residence as per Article 152 of this Law;

6) temporary residence permit for a third-country national to whom permanent residence in another member state of the European Union was granted;

7) temporary residence permit for family reunification with the holder of the EU Blue Card as per Article 189 of this Law;

8) a recognised refugee status or granted additional protection in accordance with the Law on Asylum ("Official Gazette of the Republic of Montenegro ", number 45/06), i.e., granted asylum or subsidiary protection or temporary protection in accordance with the law governing international and temporary protection of foreign nationals.

A foreign national who holds a temporary residence permit for family reunification with a foreign national who holds a temporary residence permit for work, may work in Montenegro upon the expiry of one year from the issue date of temporary residence permit.

The foreign national referred to in paragraph 1 of this Article shall have a free access to the labour market of Montenegro, unless otherwise provided for by a special law.

In business premises or in the place of work of the foreign national, the employer must keep the copies of the temporary residence permit, work registration certificate, or evidence of the recognised refugee status and granted additional protection, or evidence of the granted asylum or subsidiary protection or temporary protection referred to in paragraph 1 items 1 through 8 of this Article.

The employer who employs the foreign national referred to in paragraph 1 of this Article shall inform the Ministry thereof, within eight days from the date of employment or beginning of work of the foreign national or from the employment termination of the foreign national.

### **Purpose of temporary residence and work permits**

#### **Article 68**

A temporary residence and work permit, according to its purpose, may be issued for:

1) employment of a foreign national ;

2) seasonal work of a foreign national ;

3) work of a posted worker.

A posted worker is a foreign national who, for a limited period of time, works in Montenegro which is not the country in which he or she usually works.

The permit referred to in paragraph 1 item 3 of this Article relates to:

1) provision of the agreed services;

2) movement of person within a foreign company.



## **Conditions for issuing of temporary residence and work permit for employment and seasonal employment**

### **Article 69**

A temporary residence and work permit for employment and seasonal employment shall be issued to a foreign national who fulfils the conditions as per Article 43 of this Law, and evidences the grounds for application by submitting:

- 1) written offer of an employer for the employment of a foreign national at a particular job position;
- 2) evidence of the acquired level of education and qualifications;
- 3) evidence of medical fitness.

The evidence referred to in paragraph 1 item 1 of this Article shall not be submitted for entrepreneurs and executive directors of business entities where they are the only owners or where they own more than 51% of equity, whereby they shall be obliged to submit, in addition to the application, the evidence of ownership and registration of the entrepreneur or a business entity.

Exceptionally, the permit for temporary residence and work for entrepreneurs and executive directors of business entities where they are the only owners or where they own more than 51% of equity may be issued to a foreign national who is older than 67 years of age.

A temporary residence and work permit for seasonal employment shall not be issued to a foreign national if it is determined that such a foreign national intends to illegally enter another country or does not intend to leave the territory of Montenegro on the date of expiry of the temporary residence and work permit.

A temporary residence and work permit for seasonal employment shall not be issued to a foreign national if:

- 1) the employer from whom he or she has received the offer more than twice has been punished due to illegal employment or failure to register the work of foreign national;
- 2) if the bankruptcy procedure of the company which sent him or her the offer is pending or such company has been in bankruptcy;
- 3) the employer from whom he or she has received the offer does not carry out the business activity; or
- 4) the employer from which he or she has received the offer has been punished because it failed to meet the liabilities for taxes and contributions for its employees.

## **Employment of foreign nationals**

### **Article 70**

A temporary residence and work permit for employment of a foreign national shall be issued with the validity period of up to one year.

The permit referred to in paragraph 1 of this Article may be extended for a maximum of up to two years.

A temporary residence and work permit for entrepreneurs and executive directors in business entities where they are the only owners or where they own more than 51% of equity may be extended as long as they fulfil the conditions as per Article 43 of this Law.

The employer shall conclude an employment contract with a foreign national, within 24 hours from the date of issuing of the temporary residence and work permit for employment,

and shall register such foreign national for compulsory social insurance, in accordance with the labour regulations.

If the foreign national does not start working within the period referred to in paragraph 4 of this Article, the employer shall inform the Ministry thereof, for the purpose of annulment of the residence and work permit, within no later than three days.

### **Seasonal employment of foreign nationals**

#### **Article 71**

Seasonal employment of a foreign national shall mean a temporary employment for the purpose of seasonal works in the business activities of a seasonal character.

The temporary residence and work permit for seasonal employment shall be issued within the time period of one year, and shall have a validity period of up to six months.

Exceptionally, if the performance of seasonal work so requires, the permit referred to in paragraph 2 of this Article may be extended for two more months, for work for the same or another employer, whereby the permit validity period may not exceed eight months within a time period of one year.

The employer shall conclude an employment contract with a foreign national, within eight days from the date of issuing of the temporary residence and work permit for seasonal employment, and shall register such a foreign national for compulsory social insurance, in accordance with the labour regulations.

If the employer fails to conclude the employment contract with the foreign national within the period referred to in paragraph 4 of this Article, he shall notify the Ministry thereof, for the purpose of annulment of the residence and work permit, within no later than three days.

### **Provision of agreed services by a foreign national**

#### **Article 72**

A foreign national may provide the services agreed under the contract concluded between a foreign company and a legal entity with the seat in Montenegro to which the services are rendered.

The agreed services may be provided by a foreign national who is registered for carrying out business or other activities in another country, under the contract concluded with a legal entity which has a seat in Montenegro (hereinafter: "independent expert").

The agreed services may be provided by a foreign national who is employed by a foreign company referred to in paragraph 1 of this Article.

### **Conditions for issuing of temporary residence and work permit for the provision of agreed services**

#### **Article 73**

A temporary residence and work permit for the provision of agreed services shall be issued to a foreign national who fulfils the conditions as per Article 43 of this Law, and who evidences the grounds for application by submitting the following documents, which must be translated into the Montenegrin language by a certified translator:

- 1) contract on the provision of agreed services;
- 2) evidence that he or she is employed by a foreign company;

3) evidence that he or she has at least one year of work experience in a particular area which is the subject matter of the service contract;

4) evidence that he or she possesses professional qualifications in the events when this is necessary for the provision of services in accordance with the law governing the provision of services in Montenegro;

5) evidence on social insurance issued by the competent authority.

The evidence referred to in paragraph 1 item 2 of this Article shall not be submitted by an independent expert.

A temporary residence and work permit for the provision of agreed services shall be issued with the validity period of up to one year and may be extended until the completion of the agreed services, that is, for no longer than two years.

### **Movement of persons within a foreign company**

#### **Article 74**

A foreign company may temporarily post its employee for work to a part of foreign company or to a foreign company which it has founded and which is registered in Montenegro, provided that such an employee has at least:

- worked for one year on a job position of a manager or a specialist;
- worked for three months in the capacity of an intern with university education who is posted to such company for professional training and during such time receives wage allowances.

For the purpose of paragraph 1 of this Article, manager is a person who performs the managerial activities, or is a member of the management of a foreign company, or manages or runs an organisational unit under the decisions and the instructions of the management or shareholders of the company, or performs the activities of monitoring and control of the professional or managerial staff, and has authority to employ, dismiss and other authorities in connection with the organisation of the work of employees.

For the purpose of paragraph 1 of this Article, a specialist shall mean a person who possesses professional knowledge necessary for the operations of a foreign company, including the possession of a high level of professional development, appropriate professional experience, and possible membership in an authorised professional association.

### **Conditions for issuing temporary residence and work permit for movement of persons within a foreign company**

#### **Article 75**

A temporary residence and work permit for movement of persons within a foreign company shall be issued to a foreign national who fulfils the conditions as per Article 43 of this Law and who evidences the grounds for application by submitting the following documents, which must be translated in the Montenegrin language by a certified translator:

1) evidence of temporary posting and fulfilment of the conditions as per Article 74 of this Law;

2) evidence of social insurance issued by the competent authority;

3) agreement on training of interns as per Article 74 paragraph 1 indent 2 of this Law, which contains the duration and manner of training the intern, and the manner of supervision over the training of interns, as well as the intern training curriculum;

4) evidence that a foreign company is a founder of a company in Montenegro or part of a foreign company to which he or she is posted;

5) evidence that upon the expiry of the temporary posting as per Article 74 of this Law, the foreign national shall be returned for work to the foreign company from which he was temporary posted.

A temporary residence and work permit for movement of persons within a foreign company shall be issued to the foreign national as per Article 74 paragraph 1 indent 1 of this Law with the validity period of up to one year, and may be extended until the completion of business activities, that is, for a maximum of up to two years.

A temporary residence and work permit for movement of persons within a foreign company shall be issued to the foreign national as per Article 74 paragraph 1 indent 2 of this Law with the validity period of up to one year, and may be extended for a maximum of one more year.

A temporary residence and work permit for movement of persons within a foreign company shall not be issued to a foreign national if:

- 1) the submitted evidence has been obtained by fraud or has been forged;
- 2) the main reason for founding a company in Montenegro or part of a foreign company is to facilitate the entry of a foreign national referred to in Article 74 paragraph 1 of this Law;
- 3) the deadline as per paragraphs 2 and 3 of this Article has expired;
- 4) the employer has been punished due to illegal employment and failure to register the work of a foreign national.

### **Annual quota for work of foreign nationals**

#### **Article 76**

Annual number of temporary residence and work permits for foreign national s (hereinafter: “annual quota”) shall be determined by the Government, in accordance with the migration policy, status and movements on the labour market in Montenegro, not later than until 30 November of the current year for the subsequent year.

The annual quota shall determine the business activities where the foreign nationals may be employed.

Within the annual quota, the annual quota for employment and for seasonal employment of foreign nationals shall be separately determined.

### **Determination of annual quota**

#### **Article 77**

The annual quota shall be determined on the proposal of the state administration authority in charge of labour affairs, upon previously obtained opinions of the Employment Agency of Montenegro (hereinafter: “Agency”), state administration authorities in charge of particular business activities for which annual quota is determined, and the Social Council.

The Government may restrict the annual quota, increase the number, or make rearrangements by purposes, if that is conditioned by the changed ratio between labour market supply and demand or due to special conditions in particular business activities.

The criteria and the procedure for determining the annual quota shall be determined by the Government, upon the proposal of the state administration authority in charge of labour affairs.

### **Work of a foreign national beyond the annual quota**

#### **Article 78**

A temporary residence and work permit beyond the annual quota may be issued to a foreign national:

- 1) who carries out business activities in Montenegro under an international treaty concluded between Montenegro and other state, under the condition of reciprocity;
- 2) who teaches in the educational institutions in the language and script of the members of minority nations and other national minority communities;
- 3) a professional athlete or sports worker who works in Montenegro in accordance with the law governing sports;
- 4) an executive director of a company and an entrepreneur who is registered in Montenegro in accordance with the law governing the form of carrying out business activities and their registration;
- 5) who possesses higher education and is employed by the employer at managerial job positions;
- 6) who is temporarily posted as a manager, a specialist or an intern, in accordance with Article 74 of this Law;
- 7) for the purpose of provision of the agreed services as per Article 72 of this Law;
- 8) with domicile in a neighbouring country, who is employed and works in Montenegro and at least once a week returns to the place of domicile (daily migrant);
- 9) who is included in the implementation of development projects from the list of development projects determined by the Government, upon the proposal of the administration authority in charge of development projects, not later than until 30 November of the current year for the subsequent year.

### **Application for issuing of temporary residence and work permit**

#### **Article 79**

The application for issuing of temporary residence and work permit shall be submitted to the Ministry, personally by a foreign national, in the place of residence, on a prescribed form.

In addition to the evidence of the grounds of application as per Article 73 and Article 75 of this Law, together with the application referred to in paragraph 1 of this Article, the foreign national shall submit the evidence of the fulfilment of conditions as per Article 43 paragraph 1 items 1, 2, 3, 4, 7 and 9 of this Law.

When filing the application referred to in paragraph 1 of this Article, the foreign national shall be photographed, his fingerprints of two fingers shall be taken as well as the personal digitalised signature, in accordance with the law governing the issuing of a personal identity card.

Exceptionally, the application for the issuing of temporary residence and work permit may also be filed by an employer in the place of the intended residence of a foreign national.

The Ministry shall issue a certificate of the acceptance of the application for issuing of temporary residence and work permit, and such certificate shall contain the determined deadline within which the applicant may take over the permit.

In the event that the application is filed in accordance with paragraph 4 of this Article, the foreign national shall report to the Ministry in the place where the application was submitted, within five days from the date of the certificate issuing, for the purpose of providing the information referred to in paragraph 3 of this Article. Otherwise, the employer shall be considered to have waived the application.

The foreign national who has been issued visa for a longer stay (visa D) for the purpose of work, shall file the application for the issuing of a temporary residence and work permit, within ten days from the date of visa issuing.

The foreign national who has duly filed the application for the issuing of a temporary residence and work permit prior to the expiry of his stay of 90 days, may remain in Montenegro until the issuing of an enforceable decision.

The application form referred to in paragraph 1 of this Article shall be prescribed by the Ministry.

### **Deciding upon the application for issuing of temporary residence and work permit**

#### **Article 80**

A temporary residence and work permit shall be issued by the Ministry, in accordance with Article 62 paragraphs 1, 3 and 5 of this Law.

The Agency and the police shall promptly submit to the Ministry the opinion referred to in Article 62 paragraph 2 of this Law and not later than within seven days from the date of receipt of the request for opinion.

Decision on the application for the issuing of a temporary residence and work permit shall be made within 15 days from the date when the application was duly filed.

Exceptionally from paragraph 3 of this Article, decision on the application for the issuing of a temporary residence and work permit for seasonal employment to a foreign national to whom the permit for seasonal employment has been issued at least two times in the past five years, shall be made within ten days.

If the applicant for the issuing of temporary residence and work permit fails to take over such permit not later than within five days upon the expiry of the period indicated in the permit referred to in Article 79 paragraph 5 of this Law, the applicant shall be considered to have waived the application.

Against the decision on the rejection of the application for issuing of the temporary residence and work permit an appeal may be lodged to the Ministry, within eight days from the date of receipt of the decision.

Exceptionally from paragraph 6 of the Article hereof, an administrative procedure may be initiated against the decision on the rejection of the application for the issuing of temporary residence and work permit due to the fact that the annual quota has been reached.

The Ministry shall prescribe more detailed conditions and the manner of issuing temporary residence permit.

## **Filing the application for issuing of temporary residence and work permit for seasonal employment, and delivery thereof**

### **Article 81**

The foreign national shall file the application for the issuing of temporary residence and work permit for seasonal employment to the Ministry, through diplomatic or consular mission in the country of origin.

The application referred to in paragraph 1 of this Article shall be filed by the foreign national, personally.

In addition to the application referred to in paragraph 1 of this Article, the foreign national shall be obliged to submit the evidence of the fulfilment of conditions as per Article 43 paragraph 1 items 1, 2, 3, 4, 7 and 9 of this Law, and the evidence of the grounds for application as per Article 69 paragraph 1 items 1 and 3 of this Law.

When filing the application referred to in paragraph 1 of this Article, the foreign national shall be photographed, his or her fingerprints of two fingers shall be taken and as well as the digitalised personal signature, in accordance with the law governing the issuing of a personal identity card.

The diplomatic or consular mission shall issue to the foreign national the certificate of the receipt of application for issuing of temporary residence and work permit referred to in paragraph 1 of this Article, which shall contain a defined period within which the applicant may take over the permit.

The temporary residence and work permit shall be delivered to the foreign national through a diplomatic or consular mission.

More detailed conditions and the manner of filing the application for issuing of the permit referred to in paragraph 1 of this Article, and the delivery of such permit, shall be prescribed by the Ministry.

## **Application for extension of temporary residence and work permit**

### **Article 82**

A foreign national or an employer shall file the application for extension of temporary residence and work permit to the Ministry, in the place of residence of the foreign national, in the seat of the employer in Montenegro, or in the place of work of the foreign national, not later than within 30 days prior to the expiry of the validity period of the temporary residence and work permit.

In addition to the application referred to in paragraph 1 of this Article, submitted shall be a valid travel document or personal identity card of the foreign national issued by the competent authority of another country, and the evidence of the grounds of application for the issuing of temporary residence and work permit, and if five years have passed from the date when the data as per Article 79 paragraph 3 of this Law have been taken, the foreign national shall also provide those data.

In addition to the evidence referred to in paragraph 2 of this Article, for the purpose of extension of the temporary residence and work permit for employment and seasonal employment, the evidence shall be submitted that the liabilities for taxes and contributions during the validity period of the temporary residence and work permit have been met.

If the application for extension of the temporary residence and work permit is approved, the temporary residence and work permit with the new validity period of up to one year shall be issued.

The procedure of extension of temporary residence and work permit shall be subject to the provisions of Article 80 of this Law.

The application form for the extension of the temporary residence and work permit shall be prescribed by the Ministry.

## **Termination of temporary residence and work permit**

### **Article 83**

A temporary residence and work permit shall cease to be valid:

- 1) upon the expiry of the validity period;
- 2) upon the termination of employment contract or the contract on the provision of the agreed services, or upon the termination of the decision on temporary posting;
- 3) if a foreign national carries out business activities for which the temporary residence and work permit has not been issued to him;
- 4) if the existence of the reasons as per Article 8 of this Law is subsequently determined;
- 5) if the foreign national has been pronounced a protective measure of expulsion of foreign national from the country, a protective measure of expulsion of foreign national from the territory of Montenegro, or the Decision has been issued as per Article 110 of this Law;
- 6) if during temporary residence the foreign national stays outside Montenegro for longer than 30 days;
- 7) if the employer from whom he has received the offer has been punished due to illegal employment or failure to register the work of foreign national;
- 8) if the bankruptcy procedure of the company which sent him or her the offer is pending or such a company has been in bankruptcy;
- 9) if the employer from whom he has received the offer does not carry out the business activity;
- 10) if the employer from which he has received the offer has been punished because it failed to meet the liabilities for taxes and contributions for its employees;
- 11) if the main reason for founding a company or part of a foreign company in Montenegro is to facilitate the entry of a foreign national referred to in Article 74 paragraph 1 of this Law; or
- 12) when the foreign national acquires the right to a permanent residence.

Exceptionally from paragraph 1 item 6 of this Article, a temporary residence and work permit shall not cease to be valid for a foreign national who, for justified reasons, stayed outside Montenegro for up to 90 days, provided that he or she has previously informed the police of the reasons for leaving Montenegro.

A temporary residence and work permit shall not cease to be valid for the foreign national as per Article 78 paragraph 1 items 3,4, 5, 8 and 9 of this Law, despite the fact that he has stayed outside Montenegro for longer than 30 i.e. 90 days.

The police, labour inspection, employer, and other authorities which, within their competence, may establish the existence of the reasons for termination of temporary residence and work permit validity referred to in paragraph 1 items 2 through 6 of this Article, shall inform the Ministry thereof.

The Ministry shall issue a decision on the termination of the validity of temporary residence and work permit referred to in paragraph 1 items 2 through 6 of this Article.



The decision referred to in paragraph 5 of this Article shall determine the time limit within which the foreign national must leave Montenegro, which may not be longer than 30 days, and in the events referred to in paragraph 1 items 3, 4 and 5 of this Article, also an entry and stay ban in Montenegro may be pronounced for the period from one to five years.

The period of the entry ban referred to in paragraph 6 of this Article shall become effective from the date of leaving Montenegro.

Against the decision referred to in paragraph 5 of this Article an appeal may be lodged to the Ministry, within eight days from the date of receipt of the decision.

### **Annulment of temporary residence and work permit**

#### **Article 84**

Temporary residence and work permit shall be annulled:

- 1) if it has been issued based on the untrue information on a foreign national or employer;
- 2) in the event as per Article 70 paragraph 5 and Article 71 paragraph 5 of this Law; or
- 3) if the foreign national does not use his residence in Montenegro for the purpose for which the residence was granted to him.

The decision on the annulment of the temporary residence and work permit shall be issued by the Ministry.

Against the decision referred to in paragraph 2 of this Article an appeal may be lodged to the Ministry, within eight days from the date of receipt of the decision.

The appeal shall not postpone the execution of the decision.

### **Work registration certificate**

#### **Article 85**

Under the work registration certificate issued in Montenegro, the following foreign nationals may reside and work for up to 90 days, within the time period of one year:

- 1) those who perform business activities in Montenegro under international agreements concluded between Montenegro and an international organisation or the European Union on the professional and technical assistance or under the other ratified international treaties;
- 2) founders, members of controlling and managing bodies and executive bodies of a company as well as auditors engaged by such company;
- 3) those invited to participate in a scientific and research project of importance for Montenegro as professors or lecturers and scientists;
- 4) lecturers participating in organized professional meetings and seminars;
- 5) civil and military servants of governments of other countries coming to Montenegro under an cooperation agreement with the Government;
- 6) those performing the services for which higher education or specialised knowledge and experience is required, provided that a prior approval was obtained from the state administration authority in charge of business activity for which the service is rendered;
- 7) those performing research activities in Montenegro approved by the Government;
- 8) correspondents accredited in Montenegro or foreign media reporters;

9) artists and technical staff for opera, ballet, theatre, concerts, fine arts and other cultural events, if they do not stay in Montenegro for longer than 30 days i.e. three months a year, with interruptions;

10) authors and performers in the area of film, television, music, music and performing, dancing and ballet industry, as well as accompanying technical staff, if they do not stay in Montenegro for longer than 30 days i.e. three months a year, with interruptions;

11) employees of a foreign company who conduct additional training and professional development of employees, as well as employees who take additional trainings and professional development in a legal entity with the seat in Montenegro which is connected with a foreign company by business or ownership;

12) those coming to Montenegro for the participation in sports competitions;

13) those carrying out the activities of delivery, assembly, and servicing of machinery and equipment, if their work does not last longer than 30 days uninterruptedly i.e. three months a year in total, with interruptions;

14) those participating in fair or exhibition events where their employer exhibits;

15) pupils or students who carry out their apprenticeship in Montenegro under the international pupil i.e. student exchange agreement;

16) those active in registered humanitarian organisations;

17) service providers negotiating the sale of services or concluding service agreements;

18) staff of a circus or an amusement park.

Legal entities and natural persons using the services of the foreign national referred to in paragraph 1 of this Article shall have a concluded agreement or other evidence of doing business with a foreign national or foreign employer who posts a foreign national to Montenegro for work, prior to coming of such a foreign national to Montenegro.

Prior to the beginning of work of the foreign national referred to in paragraph 1 of this Article, legal entities and natural persons referred to in paragraph 2 of this Article shall submit the application for work registration at the place of business or in the seat of the employer, whereof the Ministry shall promptly issue the work registration certificate.

Under the issued work registration certificate, a foreign national may work on the entire territory of Montenegro for the same employer or service recipient.

The Ministry shall prescribe more detailed conditions for the issuing of work registration certificate, work registration application form, and the work registration certificate form.

### **3. Permanent residence**

#### **Right to permanent residence**

##### **Article 86**

A permanent residence permit may be issued to a foreign national who, until the date of filing the application for the permit issue, has legally resided in Montenegro, for uninterrupted five years, based on:

- granted temporary residence;

- recognized refugee status or granted additional protection in accordance with the Law on Asylum ("Official Gazette of the Republic of Montenegro ", number 45/06), or the granted asylum or subsidiary protection in accordance with the law governing international and temporary protection of foreign nationals.

Exceptionally, a permanent residence permit may be issued to a foreign national who, until the date of filing the application for the issuing of permit, had a granted temporary

residence in Montenegro for less than five years uninterruptedly, if required by humanitarian reasons or if that is in the interest of Montenegro.

The foreign national shall be considered to have uninterruptedly resided in Montenegro when in the period of five years he was absent from Montenegro several times, up to ten months in total, or was absent one time, up to six months.

If a foreign national previously had the temporary residence granted in Montenegro for schooling or specialization, professional training or practical training, only a half of the time spent under the granted temporary residence shall be taken into account as the time necessary for granting a permanent residence.

For the time necessary for granting permanent residence to a foreign national to whom asylum or subsidiary protection has been granted in accordance with the law governing international and temporary protection of foreign nationals, a half of the time that has passed from the filing of application for international protection until the issuing of the decision under which the international protection is granted shall be taken into account. If the time from the filing of application for international protection until the issuing of the decision under which the international protection is granted was longer than 18 months, such entire time shall be taken into account.

### **Right of children to permanent residence**

#### **Article 87**

A permanent residence permit may be issued to a child:

- 1) whose one parent, at the time of his or her birth, is a Montenegrin national and domiciled in Montenegro;
- 2) whose both parents, at the time of his or her birth, have a granted permanent residence;
- 3) whose one parent, at the time of his or her birth, has a granted permanent residence, whereas the other parent is either unknown or dead.

### **Conditions for issuing of permanent residence permit**

#### **Article 88**

A foreign national may be issued a permanent residence permit if he:

- 1) has a valid travel document i.e. a travel document for a stateless person;
- 2) has permanent, regular and sufficient funds to support himself;
- 3) has health insurance;
- 4) has accommodation provided for;
- 5) has knowledge of the Montenegrin language at the level which enables elementary communication.

A foreign national shall not be issued a permanent residence permit if the reasons of national i.e. internal security so require.

The test of the Montenegrin language referred to in paragraph 1 item 5 of this Article shall be conducted by a higher education institution which carries out the Montenegrin Language and Literature Programme in accordance with a special curriculum adopted by the National Education Council.

A foreign national, who until the date of filing the application for the issuing of a permanent residence permit has legally resided in Montenegro for five years

uninterruptedly, based on the recognized refugee status or granted additional protection in accordance with the Law on Asylum ("Official Gazette of the Republic of Montenegro ", number 45/06), i.e., based on the granted asylum or subsidiary protection in accordance with the law governing international and temporary protection of foreign nationals, shall not be obliged to meet the conditions referred to in paragraph 1 item 1 and 3 of this Article.

### **Filing the application for issuing of permanent residence permit**

#### **Article 89**

The application for issuing of a permanent residence permit shall be personally filed to the Ministry by a foreign national, in the place of residence, on the prescribed form.

The application referred to in paragraph 1 of this Article for the child referred to in Article 87 paragraph 1 items 1 and 2 of this Law shall be filed by one parent, with the approval of another parent, and for the child referred to in Article 87 paragraph 1 item 3, by one parent.

At the moment of filing the application for the issuing of permanent residence permit a foreign national must have a granted temporary residence, recognized refugee status, or granted additional protection, in accordance with the Law on Asylum ("Official Gazette of the Republic of Montenegro ", number 45/06), i.e., a granted asylum or subsidiary protection in accordance with the law governing international and temporary protection of foreign nationals.

In addition to the application referred to in paragraph 1 of this Article, a foreign national shall submit the evidence of the fulfilment of conditions as per Article 88 of this Law.

The evidence on the fulfilment of the conditions under Article 88 paragraph 1 item 5 of this Law shall not be submitted for a foreign national younger than the age of 14 and older than the age of 65.

When filing the application referred to in paragraph 1 of this Article, the foreign national shall be photographed, his or her fingerprints of two fingers shall be taken as well as the personal digitalised signature, in accordance with the law governing the issuing of a personal identity card.

Fingerprints of two fingers and signature shall not be taken from the children younger than 12 years of age.

### **Deciding on the application for issuing of permanent residence permit**

#### **Article 90**

A permanent residence permit shall be issued by the Ministry, upon previously obtained opinion from the Agency and the police on any obstacles for the reasons of national i.e. internal security as per Article 88 paragraph 2 of this Law.

The Agency and the police shall promptly submit to the Ministry the opinion referred to in paragraph 1 of this Article, and not later than 60 days from the date of receipt of the request for opinion.

If the Ministry does not receive the opinions referred to in paragraph 2 of this Article within the prescribed period, it shall be considered that there are no obstacles for the issuing of a permanent residence permit.

Decision on the application for issuing of a permanent residence permit shall be made within six months from the date when the application was duly filed.

Decision on the rejection of the application for issuing of a permanent residence permit shall be made under a decision.

Against the decision referred to in paragraph 5 of this Article, administrative procedure may be initiated.

Permanent residence shall not be granted to the foreign national whose refugee status or additional protection was revoked, that is, whose asylum or subsidiary protection was annulled after the application was filed.

The manner of issuing a permanent residence permit and the application form referred to in Article 89 of this Law shall be prescribed by the Ministry.

### **Duration of permanent residence**

#### **Article 91**

A foreign national shall be granted permanent residence in Montenegro for an indefinite period.

A permanent residence permit shall be issued with the validity period of five years, with the obligation of extension.

The application for extension of the permit referred to in paragraph 2 of this Article shall be submitted within eight days from the date of expiry of permit validity.

To a foreign national younger than four years of age, a permanent residence permit shall be issued with the validity period of two years.

### **Permanent residence permit form**

#### **Article 92**

Permanent residence permit is a public document with which a foreign national evidences that he is granted permanent residence in Montenegro.

The permit referred to in paragraph 1 of this Article shall be issued on a prescribed form containing: the coat of arms of Montenegro, designation "Montenegro ", designation of permit, and protective elements and sections for entry of personal and other data.

The data referred to in paragraph 2 of this Article shall be: surname, name, unique foreign national's identification number, sex, citizenship, day, month and year of birth, permit number, date of issue, expiry date, photograph, signature, name of issuing authority, and machine readable record.

The entry of the data referred to in paragraph 3 of this Article in the permit form shall be made by the Ministry.

The data containing machine readable record shall be determined by the Ministry in accordance with the recommendations ICAO Dos 9303.

The costs of the preparation of permit form referred to in paragraph 1 of this Article shall be borne by the applicant.

Permanent residence permit form shall be prepared by the Ministry, in accordance with Article 42 of this Law.

### **Rights of a foreign national with granted permanent residence**

#### **Article 93**

A foreign national holding a permanent residence permit shall have the right to:

- 1) work, work placement, and the rights during unemployment;

- 2) education and professional development;
- 3) recognition of diplomas and certificates;
- 4) social assistance, health and pension insurance;
- 5) tax reliefs in accordance with the law;
- 6) access to the goods and services market;
- 7) freedom of association, connection and membership in organisations which represent the interests of workers or employers.

The rights referred to in paragraph 1 of this Article shall be exercised in accordance with the laws governing the manner of exercising such rights.

## **Termination of permanent residence**

### **Article 94**

Permanent residence shall terminate if:

1) the foreign national has been convicted in Montenegro by a final judgement pronouncing non-suspended term of imprisonment exceeding six months, for a criminal offence prosecutable *ex officio*;

2) that is required for the reasons of national i.e. internal security;

3) the foreign national has provided false information on identity or the permanent residence permit has been issued based on the untrue information on the foreign national;

4) the foreign national has been pronounced a protective measure of expulsion of foreign national from the country, a protective measure of expulsion of foreign national from the territory of Montenegro, or the Decision has been issued as per Article 110 of this Law;

5) it is established that the foreign national has moved from Montenegro or has uninterruptedly stayed in another country for longer than one year;

6) the foreign national has abandoned permanent residence;

7) the foreign national has acquired Montenegrin citizenship.

The foreign national whose permanent residence has terminated in accordance with paragraph 1 items 5 and 6 of this Article may be re-issued the permanent residence permit if, prior to filing the new application for issuing of permanent residence permit, he has lawfully resided in Montenegro for uninterrupted three years, under the granted temporary residence.

A foreign national whose permanent residence has terminated in accordance with paragraph 1 item 5 of this Article may be re-issued the permanent residence permit if it is established that he stayed outside Montenegro longer than one year as a victim of trafficking in human beings (illicit marriage).

The Ministry shall issue the decision on the termination of permanent residence referred to in paragraph 1 items 1 through 5 of this Article.

Prior to issuing the decision referred to in paragraph 3 of this Article, the following shall be particularly taken into account:

1) duration of stay in Montenegro;

2) personal, family, economic and other circumstances;

3) foreign national's age;

4) consequences of termination of permanent residence on the foreign national and members of his or her family;

5) connection with the country of residence or lack of connection with the country of origin.

The decision referred to in paragraph 3 of this Article shall determine the time limit within which the foreign national must leave Montenegro, and which may not exceed 30 days from the date of submission of the decision, and in the events referred to in paragraph 1 items 2 through 5 of this Article, an entry and stay ban in Montenegro may also be pronounced for the period from one to five years.

The time of entry ban referred to in paragraph 5 of this Article shall start running from the date of leaving Montenegro.

Against the decision referred to in paragraph 3 of this Article an administrative procedure may be initiated.

## **Obstacles for the reasons of national security**

### **Article 95**

The existence of reasons i.e. obstacles in terms of national security referred to in Article 8 paragraph 1 item 9, Article 10, Article 16 paragraph 3, Article 27 paragraph 1 item 6, Article 35 paragraph 1 item 2, Article 43 paragraph 1 item 8, Article 50 paragraph 8, Article 59 paragraph 5, Article 88 paragraph 2, Article 94 paragraph 1 item 2, Article 107 paragraph 2 item 6, Article 111 paragraph 3 item 4, Article 121 paragraph 2 item 5, Article 130 paragraph 2, Article 136 paragraph 6, Article 137 paragraph 5, Article 143 paragraph 1 item 4, Article 149 paragraph 1 item 2, Article 150 paragraph 1 item 3, Article 161 paragraph 1 item 3 and paragraph 3 and Article 174 paragraphs 2 and 5 of this Law, shall be determined by the Agency which shall submit its opinion thereof to the Ministry or to the police, unless otherwise provided for by this Law.

The reasons or obstacles in terms of national security referred to in paragraph 1 of this Article, Article 19 paragraph 3, Article 62 paragraph 1, Article 90 paragraph 1, Article 158 paragraph 2, Article 164 paragraph 3, Article 171 paragraph 3, Article 186 paragraph 3 and Article 197 paragraph 1 of this Law, shall exist if the person:

- 1) carries out or has carried out the activities which could lead to the commission of criminal offences against humanity and other resources protected by the international law;
- 2) carries out the activities which could lead to the commission of criminal offences against the constitutional system and security of Montenegro;
- 3) belongs or has belonged to the organizations and groups advocating violent change of the constitutional system or acting in the manner which threatens human rights and freedoms stipulated by the Constitution;
- 4) publically advocates and disseminates ideas which incite national, religious or racial discrimination;
- 5) belongs or has belonged to the organisations and organized criminal groups which prepare or commit criminal offences or supports such organisations and groups in any other way;
- 6) has or has had connections or maintains connections with persons who unauthorisedly collect classified and other data, terrorists, saboteurs, members of organized criminal groups, or persons for whom there is a reasonable doubt that they belong to such groups;
- 7) does not respect the state of Montenegro and its symbols, fails to execute decisions of courts, state administration authorities and other authorities, or circumstances point out that such person would not respect the legal system of Montenegro after being issued a

temporary residence permit, temporary residence and work permit, and permanent residence permit;

8) carries out other activities which may pose a threat to national and international security.

When based on the opinion of the Agency, the Ministry or the police issues the decision that there are reasons i.e. obstacles referred to in paragraph 2 of this Article, such reasons shall not be specified in the rationale of the decision.

## **V. REGISTRATION AND DEREGISTRATION OF RESIDENCE FOR FOREIGN NATIONAL**

### **Filing application for registration and deregistration**

#### **Article 96**

A foreign national who has been issued a long-stay visa (visa D) or who stays in Montenegro for up to 90 days in accordance with Article 34 of this law, shall file the application for registration of residence on a prescribed form, in the place where he or she intends to stay.

In the event that the foreign national who has been issued a temporary residence permit, a temporary residence and work permit, and a permanent residence permit, intends to temporarily stay in another place in Montenegro for longer than three days, he or she shall file the application for registration of residence.

The foreign national referred to in paragraph 1 of this Article shall file the application for registration of residence also in the event when he or she intends to stay in another place in Montenegro for longer than 24 hours.

The foreign national shall file to the police the application for registration referred to in paragraphs 1, 2 and 3 of this Article, within 24 hours from his or her arrival to the place of residence.

The foreign national referred to in paragraphs 1, 2 and 3 of this Article shall file to the police the application for deregistration of residence, on a prescribed form, within 24 hours prior to leaving the place of residence.

The application for deregistration of residence shall not be filed if the foreign national leaves the place of residence upon the expiry of the time of residence specified in the application.

For a child, the registration and deregistration referred to in paragraphs 1 through 5 of this Article shall be filed by a foreign national parent, adoptive parent, guardian, foster parent or the persons to whom the child is entrusted for care, raising, upbringing and education.

The registration and deregistration referred to in paragraphs 1 through 5 of this Article shall contain the following data: surname and name; sex; place, country and date of birth; citizenship; unique identification number; place of residence and address (street and number, number of entrance and apartment i.e. street and house number); date and hour of registration and time of stay; date and hour of deregistration; type, number, validity period of foreign travel document or personal identity card issued by the competent authority of another country; country issuing foreign travel document or other document; type, number, validity period and place of visa issue; date and place of entry into Montenegro; surname, name and unique identification number of the user of the facility where the foreign national stays and other data, as necessary.



The application form for registration and deregistration of residence for a foreign national referred to in paragraphs 1 and 5 of this Article shall be prescribed by the Ministry.

## **Filing the application for registration and deregistration by the accommodation provider**

### **Article 97**

In the event when a foreign national uses the services of an accommodation provider, the obligation to file the application for registration and deregistration of residence for the foreign national referred to in Article 96 of this Law shall be on the accommodation provider.

The application for registration and deregistration referred to in paragraph 1 of this Article shall be filed to the police, on the prescribed forms, in the place where the residence of foreign national is registered, within 12 hours from the arrival, in accordance with Article 99 of this Law.

The application for registration and deregistration referred to in paragraph 1 of this Article, in addition to data as per Article 96 paragraph 8 of this Law, shall also contain the following data: name and seat i.e. surname and name of the accommodation provider; name of accommodation facility; tax identification number of accommodation provider; registration number i.e. identification number of accommodation provider and address to which the foreign national is registered i.e. from which he is deregistered.

The foreign national using the accommodation services referred to in paragraph 1 of this Article shall provide the accommodation provider with the data referred to in Article 96 paragraph 8 of this Law.

For a legally incapacitated foreign national, the data referred to in paragraph 4 of this Article shall be provided to the accommodation provider by a parent, guardian or family member of such foreign national.

Exceptionally from paragraphs 1 and 2 of this Article, when registering or deregistering the residence of an organized group of foreign nationals which comprises of a minimum of ten foreign nationals, and when their stay does not last longer than eight days, a list of group members may be submitted which shall contain, for each member, the data referred to in paragraph 3 of this Article.

The accommodation provider shall check the truthfulness of data by inspecting a foreign travel document and shall specify true data in the application for registration and deregistration of residence.

The forms referred to in paragraph 2 of this Article shall be prescribed by the Ministry, with the prior approval of the state administration authorities in charge of tourism affairs.

## **Records of accommodation provider**

### **Article 98**

The accommodation provider shall keep the records on foreign nationals to whom he or she provides the accommodation services.

In the records referred to in paragraph 1 of this Article the accommodation provider shall enter the data referred to in Article 97 paragraph 3 of this Law, and such data must be accurate.

The data referred to in paragraph 2 of this Article shall be kept for two years from the date of their entry in the records, after which the accommodation provider shall delete them.

The accommodation provider shall enable the police to inspect the records referred to in paragraph 1 of this Article.

The content and manner of keeping the records referred to in paragraph 1 of this Article shall be prescribed by the Ministry.

### **Manner of filing the application for registration and deregistration**

#### **Article 99**

The accommodation provider shall electronically file the application for registration and deregistration of residence for a foreign national, and if they are not technically capable to submit the application in such manner, the accommodation provider may submit the application for registration and deregistration of residence through a tourist organisation referred to in Article 100 of this Law or to the police, on a prescribed form, in writing.

The lack of technical capabilities referred to in paragraph 1 of this Article shall be determined by the police, whereof a certificate shall be issued to the accommodation provider.

The accommodation provider shall submit the certificate referred to in paragraph 2 of this Article when registering or deregistering the residence of a foreign national, on a prescribed form, and in writing.

Exceptionally from paragraph 1 of this Article, the accommodation providers in a household or village household may submit the registration and deregistration of residence electronically or through a tourist organization referred to in Article 100 of this Law, without the obligation of the police referred to in paragraph 2 of this Article.

The manner of filing the application for registration and deregistration of residence for a foreign national shall be prescribed by the Ministry.

### **Filing the application for registration through a tourist organisation**

#### **Article 100**

A foreign national residing in Montenegro for tourist purposes, who does not use the services of an accommodation provider, may file the application for registration and deregistration of residence for a foreign national in accordance with this Law, through a tourist organization in the place of residence, and if there is no tourist organization founded in the place of residence, through a competent local government authority.

The tourist organization or the competent authority of the local government referred to in paragraph 1 of this Article shall electronically submit to the police the application for registration or deregistration, promptly upon its receipt.

The filing of the application for registration and deregistration through a tourist organization or the competent local government shall not be charged.

More detailed manner of filing the application for registration or deregistration referred to in paragraph 1 of this Article shall be prescribed by the Ministry, with the prior approval of the state administration authority in charge of tourism affairs.

**Other obligations regarding filing the application  
for registration and deregistration**

**Article 101**

A company, an entrepreneur and a person visited by a foreign national with residence of up to 90 days and to whom accommodation is provided for longer than 12 hours, shall file to the police the application for registration and deregistration of residence for such foreign national, within 12 hours from the arrival i.e. departure of the foreign national.

A healthcare institution admitting a foreign national for medical treatment shall file to the police the application for registration of residence for such foreign national, within 12 hours from the hour of admission of the foreign national for treatment, unless the foreign national has registered his or her stay.

Upon the completed treatment, the healthcare institution shall file to the police the application for deregistration of residence for the foreign national, within the time limit referred to in paragraph 2 of this Article.

A healthcare or other institution shall have the obligation referred to in paragraphs 2 and 3 of this Article in the event that a foreign national is accommodated in such an institution for enforcement of a security measure i.e. a protective measure.

Administration authority in charge of enforcement of prison sentence and institution and organization where juvenile prison sentence and institutional corrective measure are enforced, shall file to the police the application for registration and deregistration of residence for foreign national, within 12 hours from the admission i.e. release of the foreign national.

The application for registration and deregistration of residence for the foreign national referred to in paragraphs 1 through 5 of this Article shall be filed on the forms referred to in Article 97 paragraph 2 of this Law.

**Registration validity period**

**Article 102**

The registration of residence shall be valid until the expiry of the residence duration specified in the application.

If the registration of residence does not specify the duration of residence, and the application for deregistration has not been filed, the registration of residence shall be valid for six month, i.e. for the foreign national with the residence of up to 90 days, it shall be valid up to the expiry of such residence.

Upon the expiry of the duration of residence specified in the registration of residence, i.e. upon the expiry of six months, or the expiry of residence of up to 90 days, the residence shall be deregistered *ex officio*.

**Events when the registration of residence is not mandatory**

**Article 103**

The application for registration of residence shall not be filed for the foreign national who is:

- 1) accommodated in the reception centre for victims of violence;

2) a member of a unit for protection, rescue and assistance, if upon the invitation of the state authorities he or she participates in the elimination of consequences of a natural disaster.

## **VI. ILLEGAL ENTRY, STAY AND DEPARTURE FROM MONTENEGRO**

### **Duty of a foreign national to leave Montenegro**

#### **Article 104**

A foreign national who has illegally entered i.e. illegally stays in Montenegro must leave its territory promptly or within the period defined for him or her in accordance with this Law.

The illegal entry to Montenegro shall be considered made if the foreign national crosses the state border outside the place or time designated for crossing of the state border or avoids or attempts to avoid the border control.

In accordance with this Law, an illegal stay in Montenegro shall be considered the stay of the foreign national who fails to fulfil or no longer fulfils the conditions for entry and stay prescribed by this Law.

The foreign national shall be considered to have left Montenegro by entering the country that he or she came from or another country where he or she was granted the entry.

If the foreign national considers that he or she legally resides in Montenegro, he or she shall be obliged to provide the evidence thereof.

### **Obligation to inform**

#### **Article 105**

The competent state authority who has initiated the misdemeanour proceedings or criminal proceedings against the foreign national for the acts prosecutable *ex officio*, shall promptly inform the police of the initiation and completion of the proceedings.

The competent state authority who has issued a decision under which a foreign national is found guilty of a committed misdemeanour or criminal offence prosecutable *ex officio*, shall promptly, upon issuing the decision, inform the police thereof.

The administrative authority in charge of enforcement of the imprisonment sentence shall, at least 48 hours before releasing the foreign national, inform the police thereof.

### **Measures for ensuring return**

#### **Article 106**

In accordance with this Law, the measures for ensuring the return of a foreign national shall be:

- 1) voluntary departure from Montenegro;
- 2) expulsion of the foreign national ;
- 3) entry and stay ban;
- 4) forced removal;
- 5) restriction on freedom of movement;
- 6) obligation of the foreign national in the return procedure;
- 7) other measures stipulated by this Law.

Measures referred to in paragraph 1 of this Article shall be enforced by the police.

## **Decision on return**

### **Article 107**

The police shall issue and deliver the decision on return to the foreign national who illegally stays in Montenegro.

The foreign national referred to in paragraph 1 of this Article shall not be issued the decision on return if:

1) he or she has been pronounced an additional security measure for the expulsion of foreign national from Montenegro or protective measure of expulsion of foreign national from the territory of Montenegro due to a criminal offence or misdemeanour with elements of violence;

2) he or she has illegally entered Montenegro and the circumstances based on which he or she would be allowed to stay in Montenegro do not exist;

3) he or she has been issued the decision on the refusal of entry in accordance with Article 8 of this Law;

4) the procedure for his or her extradition is pending under an international treaty;

5) there is a risk of evasion of obligation to leave Montenegro or if the foreign national prevents the enforcement of forced removal and return referred to in Article 125 of this Law;

6) his or her application for temporary residence permit has been rejected as evidently unfounded or such rejection is required for the reasons of national i.e. internal security of Montenegro.

The decision referred to in paragraph 1 of this Article shall determine the period within which a foreign national shall be obliged to leave Montenegro voluntarily and which may not be shorter than seven days or longer than 30 days.

The period for voluntary leaving of Montenegro defined in the decision on return may be extended by the police, upon the application of a foreign national, however not longer than 90 days, taking into account the circumstances of that particular case, notably the duration of stay, family and social ties, or whether the foreign national has children who attend school.

Regarding the extension of the time limit referred to in paragraph 4 of this Article, the foreign national shall be informed in writing.

If prior to leaving Montenegro the foreign national, for whom the decision on return was issued, has been granted residence, the decision on return shall cease to be valid upon the issuing of the decision on granting residence.

In the decision on return, the police may pronounce to the foreign national the entry and stay ban, taking into account relevant circumstances of each individual case, and such ban may not be shorter than 30 days or longer than five years.

The foreign national referred to in paragraph 1 of this Article shall leave Montenegro within the time limit defined in the decision on return, and when leaving Montenegro shall register with the officer working on the border crossing point.

In the procedure, the foreign national who illegally stays and who does not understand the Montenegrin language shall be provided with the translation into the language he or she understands i.e. into the language which he or she is reasonably expected to understand.

The decision on return shall be translated upon the request of the foreign national.

The decision on return may be issued even without conducting the misdemeanour proceedings against the foreign national who illegally stays in Montenegro.

## **Appeal against the decision on return**

### **Article 108**

Against the decision on return an appeal may be lodged to the Ministry, within five days from the date of receipt of the decision.

The Ministry shall decide on the appeal referred to in paragraph 1 of this Article within 15 days from the date of receipt of the appeal.

## **Voluntary departure from Montenegro**

### **Article 109**

Voluntary departure from Montenegro defined in the decision on return as per Article 107 of this Law shall mean the departure of a foreign national to the country of origin, the country from which he or she has entered Montenegro, or another country where he or she will be admitted.

The foreign national who illegally stays in Montenegro shall have the right to apply for voluntary departure from Montenegro.

In the event referred to in paragraph 2 of this Article, the foreign national shall have the right to ask for the assistance of an international or non-governmental organization dealing with providing aid to foreign nationals who voluntarily depart from Montenegro.

In order to encourage voluntary departure from Montenegro referred to in paragraph 2 of this Article:

- The Ministry may conclude agreements with the competent authorities of other countries and with international organizations for the implementation of international treaties, as well as with non-governmental organisations;
- the police may annul the decision on the expulsion of foreign national i.e. annul or shorten the entry and stay ban;
- the police may provide a travel document and a travel ticket for return, and necessary financial assistance.

If the foreign national who illegally stays in Montenegro has applied for voluntary departure from Montenegro after the decision on expulsion referred to in Article 4 indent 2 of this Article has been annulled, the police shall issue a decision on voluntary return.

The Ministry shall prescribe a more detailed manner and procedure for voluntary departure.

## **Expulsion of foreign national**

### **Article 110**

If the foreign national fails to leave Montenegro within the time limit defined in the decision on return, the police shall issue the decision on the expulsion of foreign national.

The police shall issue the decision on expulsion of foreign national in the event referred to in Article 107 paragraph 2 items 5 and 6 of this Law.

The police may issue the decision on expulsion of foreign national under a final decision of the competent state authority, if the foreign national:

- 1) violates regulations governing employment and work of foreign nationals;
- 2) aids in the illegal entry, transit or stay;
- 3) enters a marriage of convenience;
- 4) breaches the regulations governing prevention of violence at sports events, public law and order, weapons, or drug abuse;

- 5) evades tax liabilities;
- 6) commits a criminal offence prosecutable *ex officio*;
- 7) has been convicted of a criminal offence in the first degree in another country, which is also punishable under Montenegrin regulations;
- 8) repeats misdemeanours;
- 9) commits a misdemeanour with the elements of violence.

The entry and stay ban in Montenegro shall be pronounced under the decision on expulsion of foreign national, which may not be shorter than three months or longer than 20 years, and forced removal from Montenegro shall be determined.

The decision on expulsion may be issued even without the conducting of the misdemeanour proceedings against the foreign national who illegally stays in Montenegro.

The police shall inform the Ministry of the issuing of the decision on expulsion of foreign national in the events referred to in paragraph 3 of this Article, for the purpose of annulment of the residence permit.

In the course of the procedure for issuing the decision on expulsion, the foreign national who has illegally stayed and worked shall be informed of the possibilities to receive wage allowances and payment of contributions he or she is entitled to in accordance with the labour regulations, as well as of the legal remedies for the protection of such rights.

In the procedure, the foreign national who illegally stays and who does not understand the Montenegrin language shall be provided with the translation into the language he or she understands or into the language which he or she is reasonably expected to understand.

The decision on expulsion shall be translated upon the request of the foreign national.

Against the decision on expulsion of foreign national an appeal may be lodged to the Ministry, within five days from the date of receipt of the decision.

## **Protection against expulsion**

### **Article 111**

The decision on expulsion of foreign national may not be issued in the events as per Article 116 paragraphs 1 and 2 of this Law.

When issuing a decision on expulsion, duration of stay shall be taken into account, as well as private or family life, economic connections and the level of social and cultural integration of foreign national in Montenegro, as well as his connections with the country of origin. When it comes to an unaccompanied foreign national minor, the circumstances referred to in Article 116 paragraph 3 of this Law shall also be taken into account.

The decision on expulsion of foreign national who has been granted a permanent residence in Montenegro, three years of temporary residence for family reunification with Montenegrin national or with a foreign national with permanent residence, may be issued only if:

- 1) due to an intentionally committed criminal offence, the foreign national has been convicted by a final judgement pronouncing a non-suspended term of imprisonment exceeding one year;
- 2) due to an intentionally committed criminal offence, the foreign national has been convicted several times in the period of five years, by a final judgement to a term of imprisonment in the total duration of minimum three years;

3) due to a criminal offence against the values protected by the international law, the foreign national has been convicted of an unconditional term of imprisonment;

4) it is required for the reasons of national security.

The police shall inform the Ministry of the issuing of the decision on expulsion of foreign national in the events referred to in paragraph 3 of this Article, for the purpose of annulment of the residence permit.

### **Revocation and shortening of the entry and stay ban**

#### **Article 112**

The entry and stay ban referred to in Article 107 paragraph 7 and Article 110 paragraph 4 of this Law shall be effective from the date when the foreign national has left Montenegro and shall cease to be valid upon the expiry of the time for which it has been imposed.

The police may issue the decision revoking or shortening the period of entry and stay ban, if the reasons have ceased to exist or if the circumstances based on which the decision on expulsion was issued have changed.

A foreign national may submit the application for revoking or shortening of the entry and stay ban referred to in paragraph 2 of this Article upon the expiration of a half of the time of the pronounced entry and stay ban, and in any case upon the expiration of 3 years of the commencement of the entry and stay ban.

Upon the application of a foreign national, the police may revoke or shorten the entry and stay ban, on humanitarian grounds, or upon the application of a foreign national if the foreign national proves that he or she has voluntarily enforced the decision on return.

An appeal may be lodged against the decision on rejecting the application referred to in paragraphs 3 and 4 of this Article, whereof the Ministry shall decide.

### **Free legal aid**

#### **Article 113**

In the procedure before the Administrative Court of Montenegro (hereinafter: "Administrative Court") in connection with the decision on expulsion, a foreign national shall be entitled to free legal aid in accordance with the law governing free legal aid.

### **Forced removal**

#### **Article 114**

A foreign national shall be subject to forced removal from Montenegro:

1) if the decision on his or her expulsion referred to in Article 110 paragraphs 1, 2 and 3 of this Law has been issued;

2) in the events referred to in Article 107 paragraph 2 items 1 through 4 of this Law.

The foreign national referred to in paragraph 1 of this Article shall be escorted by the police officers for the purpose of leaving Montenegro.

A foreign national subject to forced removal shall not hinder the forced removal in any way.

In order to ensure that the forced removal is carried out with the observance of the fundamental human rights of the foreign national subject to forced removal, a forced



removal may be technically recorded, and the foreign national shall be informed of the purpose of recording.

Carrying out of forced removal and of measures for the protection of human rights and freedoms of the foreign national who is subject to forced removal shall be monitored by the Protector of Human Rights and Freedoms of Montenegro (hereinafter: “Protector of Human Rights and Freedoms”), in accordance with the Law.

To the Protector of Human Rights and Freedoms, the police shall:

- submit the information of the time, place and manner of forced removal of foreign national and of the document under which a foreign national is forcibly removed;
- upon application of the Protector in connection with the conducting of forced removal and measures for the protection of human rights and freedoms of the foreign national who is subject to forced removal, make available all data within the competence of the police, enable direct inspection of the official records, documents and data, and submit the copies of the requested records and documents, regardless of the classification level;
- enable free access to all premises accommodating the foreign nationals who are subject to forced removal.

The police shall cooperate with the Protector of Human Rights and Freedoms in carrying out the activities referred to in paragraph 5 of this Article.

In the course of forced removal, the police may cooperate with state administration authorities, competent authorities of other states, or with international and non-governmental organisations.

For efficient supervision over forced removal, the Ministry may conclude agreements with the competent bodies of other states and international organisations for the purpose of implementation of international treaties, as well as with non-governmental organisations.

A foreign national may be forcibly removed to:

- the country of his or her origin,
- the country from which he or she came to Montenegro,
- another country where he or she will be accepted, upon his consent.

The Ministry shall prescribe more detailed manner and procedure for forced removal.

### **Forced removal under the decision of the member state of the European Union on expulsion of foreign national**

#### **Article 115**

A foreign national with the granted temporary residence in Montenegro shall be subject to forced removal if it is established that the EU member state has issued against him or her a legally effective decision on expulsion:

- 1) because he or she was convicted of a criminal offence and pronounced the term of imprisonment of minimum one year;
- 2) because he or she is suspected to have committed or intended to commit a criminal offence in the first degree;
- 3) because of the violation of the provisions on entry and stay of the law of such state.

The EU member state who has issued the decision on expulsion shall be informed of the forced removal of the foreign national.

The provisions of paragraph 1 of this Article shall not apply to the nationals of an EU member state, their family members, and to the family members of Montenegrin nationals.

## **Prohibition of forced removal**

### **Article 116**

It shall be prohibited to forcibly remove a foreign national to a state where his or her life or freedom would be jeopardised on account of his or her race, religion or nationality, membership in a particular social group or political opinion or where he or she might be exposed to torture or inhuman and degrading treatment or punishment, or where he could be subject to a death penalty, and to a state where he or she would be in danger of being subject to forced removal to the country of origin.

It shall be prohibited to forcibly remove a foreign national if that would be contrary to the Convention for the Protection of Human Rights and Fundamental Freedoms, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, and the Convention on the Exercise of Children's Rights.

Taking into account the best interests of the child, an unaccompanied foreign national minor shall be subject to forced removal to a state in which he or she shall be handed over to a member of his or her family, to an appointed guardian, or to an institution for receiving children.

## **Temporary postponement of forced removal**

### **Article 117**

A forced removal may be temporarily postponed if the foreign national's identity has not been established, if his or her forced removal would produce serious consequences on his or her health, due to the impossibility of transportation, or for other justified reasons due to which the foreign national may not be subject to forced removal.

The decision on the temporary postponement of forced removal shall be issued by the police.

The decision referred to in paragraph 2 of this Article may define the following obligations:

- 1) depositing travel instruments, travel documents and travel tickets;
- 2) depositing particular financial means;
- 3) prohibition to leave particular address where his or her accommodation is;
- 4) reporting to the police at a particular time.

The decision referred to in paragraph 2 of this Article shall determine the time of postponement, which may not be longer than six months.

In the event that the forced removal is temporarily postponed, the obligation of the foreign national to leave Montenegro shall continue to be effective.

During temporary postponement of forced removal, the foreign national shall have the right to health care in accordance with the regulations governing health care.

A foreign national minor shall have the right to education for the period for which his or her forced removal has been temporarily postponed, in accordance with the regulations governing the area of education.

## **Annulment of temporary postponement of forced removal**

### **Article 118**

Temporary postponement of forced removal may be annulled if the reasons for temporary postponement of forced removal as per Article 117 paragraph 1 of this Law

have ceased to exist, or the foreign national fails to meet the obligations as per Article 117 paragraph 3 of this Law.

The decision on annulment of the temporary postponement of forced removal shall be issued by the police.

Against the decision on the annulment of temporary postponement of forced removal, an appeal may be lodged to the Ministry, within eight days from the date of receipt of the decision.

The appeal referred to in paragraph 3 of this Article shall not postpone the execution of the decision.

### **Termination of temporary postponement of forced removal**

#### **Article 119**

Temporary postponement of forced removal shall terminate:

1) upon the expiry of the time for which the foreign national was imposed temporary postponement of forced removal;

2) upon the annulment of the decision on temporary postponement of forced removal;

3) if the residence of a foreign national has become legal.

The foreign national referred to in paragraph 1 items 1 and 2 of this Article shall be subject to forced removal.

### **Joint flights of the EU member states**

#### **Article 120**

The Ministry shall organise and take part in joint flights of the EU member states for the purpose of forced removal by air.

### **Assistance to the EU member state in forced removal by air**

#### **Article 121**

At the request of the competent authority of an EU member state, the police shall provide assistance in the case of transit for the purpose of forced removal by air.

The request for assistance referred to in paragraph 1 of this Article shall be rejected if:

1) a foreign national who is subject to forced removal was accused in Montenegro of having committed a criminal offence or if a warrant of his or her deprivation of liberty was issued, so that he or she might start serving his or her prison sentence;

2) it is not possible to organise transit through other states or admission in the country of destination;

3) it is necessary to change flights in Montenegro from one airport to another;

4) forced removal is not possible for practical reasons;

5) that is required for the reasons of national i.e. internal security or public health, or if that would be contrary to the international interests of Montenegro;

6) in the event referred to in Article 116 of this Law.

In the event when the provision of assistance referred to in paragraph 1 of this Article has started, it shall be discontinued if the grounds referred to in paragraph 2 of this Article are subsequently discovered.

A request for assistance referred to in paragraph 1 of this Article may be rejected if:

- 1) a foreign national may be subject to forced removal by a direct flight to the country of destination;
- 2) the request was not submitted at the latest two days before transit;
- 3) the request was not submitted on a prescribed form;
- 4) the request is incomplete;
- 5) the transit will take longer than 24 hours.

In the events referred to in paragraph 4 items 1 and 2 of this Article, the request for assistance may not be rejected if particularly urgent and well-founded reasons exist.

### **Notification of actions upon the request for assistance in forced removal by air**

#### **Article 122**

Notification of actions upon the request referred to in Article 121 of this Law shall be submitted within two days, and in justified cases, this period may be extended by two more days.

The notification rejecting the request for assistance shall include the reasons for rejection.

### **Granting residence to a foreign national for whom the EU member state has issued the decision on expulsion**

#### **Article 123**

If an EU member state has issued the decision on expulsion of a foreign national, in the procedure of granting visas, the state administration authority in charge of foreign affairs and the Ministry shall pay attention to the interests of such state.

### **Restricting the freedom of movement**

#### **Article 124**

A foreign national may be deprived of liberty, brought in, and detained for up to 24 hours, only if that is necessary to ensure his or her presence in the procedure of cancellation of stay of up to 90 days and in the procedure of annulment of temporary postponement of forced removal.

A foreign national subject to forced removal may be deprived of liberty, brought in, and detained for up to 48 hours.

The police shall issue the decision on the deprivation of liberty of the foreign national referred to in paragraphs 1 and 2 of this Article.

After deprivation of liberty, the foreign national shall immediately be notified of the reasons for deprivation of liberty and that he or she may request the diplomatic or consular mission of the state of his nationality to be notified of such deprivation of liberty, unless that is otherwise provided for by an international treaty.

The competent centre for social work and the diplomatic or consular mission of the state of nationality shall be promptly notified of the deprivation of liberty of an unaccompanied foreign national minor.

Against the decision referred to in paragraph 3 of this Article a complaint may be lodged to the Administrative Court.

The procedure before the Administrative Court shall be urgent.

A foreign national shall be released as soon as the grounds for deprivation of liberty and detention cease to exist, and not later than upon the expiry of the time limit referred to in paragraphs 1 and 2 of this Article, except when actions are taken to enforce forced removal, or when the decision on accommodation in the reception centre referred to in Article 125 of this Law has been issued.

### **Accommodation of foreign nationals in the reception centre**

#### **Article 125**

The police shall restrict the freedom of movement for a foreign national for whom it is not possible to be removed forcibly or whose return may not be ensured by the enforcement of milder measures, by accommodating such a foreign national in the reception centre for foreign nationals (hereinafter: "Reception centre"), and particularly if there is a risk that the obligation to leave Montenegro will be evaded or if the foreign national prevents the enforcement of forced removal and return.

The circumstances indicating the existence of a risk that the obligation referred to in paragraph 1 of this Article will be evaded, are that the foreign national:

- 1) has not left Montenegro within the deadline defined in the decision;
- 2) has entered Montenegro prior to the expiry of the of entry and stay ban;
- 3) does not possess or has destroyed the document evidencing his or her identity;
- 4) has used a forged or other person's document;
- 5) has stated that he or she shall not meet the obligation to leave Montenegro;
- 6) does not have sufficient financial means;
- 7) does not have an ensured accommodation;
- 8) has been convicted for a criminal offence.

For the purpose of paragraph 1 of this Article, the foreign national shall be considered to have prevented the enforcement of the forced removal and return if:

- 1) he or she failed to observe the obligations defined in the decision on the enforcement of milder measures;
- 2) he or she has refused to provide personal data and documents necessary for forced removal or has provided false data.

### **Milder measures**

#### **Article 126**

For the purpose of Article 125 of this Law, milder measures shall mean:

- 1) depositing of travel instruments, travel documents and travel tickets;
- 2) depositing of particular financial means;
- 3) prohibition to leave particular address where his or her accommodation is;
- 4) reporting to the police at a particular time.

The decision on the enforcement of milder measures shall be issued by the police.

The decision shall determine the obligations referred to in paragraph 1 of this Article which are appropriate for the circumstances of that particular case, and which shall be effective until the forced removal.

Against the decision on the enforcement of milder measures a complaint may be filed to the Administrative Court, within five days from the date of the decision delivery.

During the enforcement of milder measures, the police may ensure the accommodation and support, funds and other financial means for the foreign national, or regarding such measures conclude agreements with international organisations or non-governmental organisations.

In the event of a large-scale entry or illegal stay in Montenegro, the decision on ensuring the temporary accommodation of foreign nationals who are subject to milder measures shall be issued by the Government.

### **Decision on accommodating a foreign national in a reception centre**

#### **Article 127**

The police shall issue the decision on the accommodation of a foreign national in the reception centre.

The accommodation in the reception centre may last only for the time required for forced removal and during the performance of activities aimed at forced removal, and not longer than six months.

Against the decision referred to in paragraph 1 of this Article a complaint may be lodged to the Administrative Court, within five days from the date of submission of the decision.

The procedure before the Administrative Court shall be urgent.

### **Extending accommodation in the reception centre**

#### **Article 128**

The accommodation in the reception centre may be shortened or extended for a maximum of 12 more months, if the foreign national refuses to cooperate or is late with the obtainment of necessary documents from another country.

The decision on shortening or extending the duration of accommodation in the reception centre referred to in paragraph 1 of this Article shall be issued by the police.

Against the decision referred to in paragraph 2 of this Article a complaint may be lodged to the Administrative Court, within five days from the date of decision delivery.

The procedure before the Administrative Court shall be urgent.

### **Right to visit in a reception centre**

#### **Article 129**

The representatives of state authorities and foreign diplomatic and consular missions whose nationals have been accommodated in the reception centre, and the representatives of international and non-governmental organisations dealing with the protection of human rights of persons whose freedom of movement is restricted, shall be enabled to visit the reception centre and inspect the conditions in the reception centre and the extent to which human rights are observed.

### **Authority to carry out searches and take biometric data**

#### **Article 130**

In the procedure of forced removal or accommodation of a foreign national in the reception centre, the police officers shall be authorised to search a foreign national and his personal possessions without a court warrant if the foreign national is suspected of

possessing weapons or objects that might be used in an attack, or is suspected that he or she would discard, hide or destroy the objects that may be used as evidence in a criminal or misdemeanour proceedings and in the procedure of forced removal.

The foreign national who illegally stays and does not have an identity document or there is a doubt as to his or her identity, fingerprints and a photograph may be taken, without his or her approval, if that is in the interest of national i.e. internal security, protection of the economic interests of the country, protection of health and moral values, or protection of rights and freedoms of others.

## **Rights and obligations of a foreign national in the reception centre**

### **Article 131**

A foreign national cannot leave the reception centre without permission and shall observe the rules of stay of the reception centre.

A foreign national in the reception centre is entitled to health care in accordance with the regulation on health care.

A foreign national who believes that he or she has been subjected to torture or other cruel, inhuman or degrading treatment or punishment by the staff or other detainees of the reception centre, may address the Protector of Human Rights and Freedoms.

The rules of stay and house rules of the reception centre shall be prescribed by the Ministry.

### **Stricter police supervision**

#### **Article 132**

To a foreign national accommodated in the Reception centre stricter police supervision may be imposed if he or she:

- 1) leaves the reception centre without permission or if there is a reasonable doubt that he or she will attempt to leave the reception centre;
- 2) physically attacks other foreign nationals, police officers, or other employees of the reception centre;
- 3) attempts to harm himself or herself;
- 4) behaves inappropriately, grossly offends and disparages other foreign nationals, police officers or other employees of the reception centre on any grounds;
- 5) prepares or fabricates the objects for attack, self-harm or escape from the reception centre;
- 6) engages in the preparation of intoxicating drugs in the reception centre;
- 7) intentionally damages clothes and other objects and means he or she has been given in the reception centre for use;
- 8) intentionally damages technical and other equipment in the reception centre;
- 9) intentionally interferes with the operation of technical equipment (audio-visual and lighting) installed in the premises for the purpose of physical and technical protection;
- 10) constantly refuses to obey orders of the police officers and fails to observe the effective legal regulations or otherwise grossly breaches the rules of stay of the reception centre.

A stricter police supervision shall include the restriction of freedom of movement of the foreign national in the reception centre and may be imposed for not longer than seven days.

The decision on a stricter police supervision shall be issued by the police.

Upon the issuing of the decision referred to in paragraph 3 of this Article, the police shall promptly submit to the Ministry the case files on the stricter police supervision, on the same day, or if the decision was issued on a non-business day, on the first business day.

The Ministry shall decide on the removal or extension of a stricter police supervision on the first subsequent business day at latest from the date of submission referred to in paragraph 4 of this Article.

The decision referred to in paragraph 3 of this Article shall be delivered to the foreign national who, against such decision, may file a complaint to the Administrative Court, within five days from the date of delivery.

The procedure before the Administrative Court shall be urgent.

The police shall lift stricter police supervision after the reasons referred to in paragraph 1 of this Article cease to exist.

If the Ministry decides to extend the stricter police supervision, upon the expiry of each seven days of such supervision, the police and the Ministry shall act in accordance with paragraphs 4 and 5 of this Article.

### **Release from and re-accommodation in the reception centre**

#### **Article 133**

A foreign national shall be promptly released from the reception centre if:

- 1) the reasons for the accommodation in the reception centre as per Article 125 paragraph 1 of this Law no longer exist,
- 2) it is reasonably expected that it shall not be possible to forcibly remove the foreign national within the deadlines defined in this Law.

The police shall submit to the Ministry the case files on the accommodation of a foreign national in the reception centre, not later than ten days prior to the expiry of three months from the date of accommodation of the foreign national in the reception centre.

Within ten days from the date of receipt of the case files referred to in paragraph 2 of this Article, the Ministry shall decide under the decision on release of the foreign national from the reception centre.

In the event of release referred to in paragraph 1 of this Article, the foreign national who was accommodated in the reception centre for the total duration of 18 months may be accommodated in the reception centre again, if due to the changed circumstances it can be reasonably expected that he or she will be able to be forcibly removed, and the reasons as per Article 125 paragraph 1 of this Law exist.

### **Procedure with minors**

#### **Article 134**

An unaccompanied foreign national minor and a foreign national minor younger than 14 years of age may be accommodated in the appropriate institution only if the forced removal cannot be ensured in any other way.

A foreign national minor older than 14 years of age, accompanied by a family member, may be accommodated in the reception centre only if the forced removal cannot be ensured in any other way.



The foreign national referred to in paragraphs 1 and 2 of this Article shall be accommodated in the premises suitable for the accommodation of a minor.

The members of the same family shall be accommodated in the reception centre, in the separate common room.

Stricter police supervision may be imposed on a foreign national minor, but only if he or she is accompanied by a parent or a legal guardian, whereby the attention must be paid to the best interests of the child.

The foreign national minor referred to in paragraphs 1 and 2 of this Article shall be provided with conditions appropriate for his or her age, and with the right to education in accordance with regulations governing education.

If there is a reasonable doubt as to whether the foreign national referred to in paragraphs 1 and 2 of this Article is under age, the age of such person may be investigated.

### **Compensation of costs**

#### **Article 135**

The costs of accommodation in the reception centre and the costs occurred during the forced removal shall be borne by the foreign national.

The costs referred to in paragraph 1 of this Article shall be settled from the funds taken from the foreign national on his or her admission to the reception centre, and from the other funds in possession of the foreign national.

If the foreign national does not possess any funds to settle the costs referred to in paragraph 1 of this Article, the costs shall be settled by:

- 1) a natural person or legal entity who assumed the obligation to bear the costs of the foreign national's stay;
- 2) the carrier who has not transported the foreign national in accordance with Article 13 paragraphs 2 and 3 of this Law;
- 3) the organizer of tourist or business travels as per Article 13 paragraph 4 of this Law;
- 4) an employer who has employed the foreign national contrary to this Law.

The amount of the costs of accommodation in the reception centre and the costs which have occurred on the occasion of the forced removal, shall be determined by the police through a decision according to actual costs.

The costs which cannot be collected from the foreign national in the manner referred to in paragraphs 2 and 3 of this Article shall be borne by the budget of Montenegro.

### **Procedure with the foreign national with granted residence in the EU member state**

#### **Article 136**

For a foreign national who illegally stays in Montenegro and to whom the residence is granted in an EU member state, the police shall issue the decision under which he or she shall be obliged to leave Montenegro and return to the EU member state where his or her residence is granted, and the deadline within which he or she shall be obliged to leave Montenegro shall be determined.

In the event that the foreign national for whom the decision referred to in paragraph 1 of this Article was issued fails to leave Montenegro within the deadline defined in such decision, the police shall issue the decision on return.

Prior to issuing the decision referred to in paragraph 2 of this Article, it shall be checked if the foreign national still has a granted residence in the EU member state.

In the procedure of issuing the decision referred to in paragraph 2 of this Article, the provisions on the issuing of the decision on return as per Article 107 of this Law shall accordingly apply.

In the event that the foreign national for whom the decision referred to in paragraph 2 of this Article was issued fails to leave Montenegro within the deadline defined in such decision, he or she shall be subject to forced removal.

The foreign national whose residence in Montenegro has terminated for the reasons of national i.e. internal security or who has been convicted after a final judgement for a criminal offence, may also be subject to forced removal to another state if such removal is not contrary to Article 116 of this Law.

### **Procedure with the foreign national with granted international protection in an EU member state**

#### **Article 137**

For a foreign national whose permanent residence in Montenegro has terminated and who was granted international protection in an EU member state, the decision on leaving Montenegro shall be issued.

Prior to issuing the decision referred to in paragraph 1 of this Article, it shall be verified if the foreign national still has granted international protection in an EU member state.

In the procedure of issuing the decision referred to in paragraph 1 of this Article, the provisions on the issuing of the decision on return as per Article 107 of this Law shall accordingly apply.

In the event that the foreign national for whom the decision referred to in paragraph 1 of this Article was issued fails to leave Montenegro within the deadline defined in such decision, he or she shall be subject to forced removal.

The foreign national whose permanent residence in Montenegro has terminated for the reasons of national or internal security or who has been convicted after a final judgement for a criminal offence and who has granted international protection in an EU member state, may also be subject to forced removal to another state if such removal is not contrary to Article 116 of this Law.

### **Special protection**

#### **Article 138**

When applying the measures for ensuring the return of a foreign national, the best interest of a foreign national minor and other vulnerable persons referred to in paragraph 2 of this Article shall be taken into account, as well as family life and health condition of the foreign national who is subject to such measures.

During the procedure of forced removal of a foreign national, particular attention shall be paid to foreign national minors, unaccompanied foreign national minors, persons with special needs, persons with disabilities, elderly persons, pregnant women, single parents with minor children, and the persons who were exposed to torture, rape or other severe forms of psychological, physical or sexual violence.

When applying the measures for the return of an unaccompanied foreign national minor, the competent centre for social work and a diplomatic or consular mission of the state whose national the minor is, shall be promptly informed thereof.

A more detailed manner and implementation of the procedure for special protection of foreign national minors when ensuring the application of the measures for return shall be prescribed by the Ministry, with the approval of the state administration authority in charge of the affairs of labour and social welfare, health, and education.

## **VII. DOCUMENTS FOR A FOREIGN NATIONAL**

### **Documents**

#### **Article 139**

The documents which may be issued to a foreign national shall be an emergency travel document for foreign national and a special travel document for foreign national.

### **Emergency travel document for foreign national**

#### **Article 140**

Emergency travel documents for foreign national shall be issued to a foreign national who does not possess a valid travel document, if:

- 1) his or her Montenegrin citizenship is terminated, for the purpose of going abroad;
- 2) he or she has lost a foreign travel document or has been otherwise left without it, whereas the state of his or her citizenship has neither any diplomatic or consular mission in Montenegro nor its interests are represented by another state, for the purpose of going abroad;
- 3) ) when abroad, he or she has lost a travel document for foreign national issued by the diplomatic or consular mission of Montenegro or the Ministry, for the purpose of his or her return to Montenegro;
- 4) he or she is subject to forced removal.

Exceptionally, an emergency travel document for foreign national may be issued to a foreign national in other cases, provided that there are reasonable grounds therefor.

An emergency travel document for foreign national in cases referred to in paragraph 1 items 1, 2 and 3 of this Article shall be issued upon the application of the foreign national, and in the event referred to in paragraph 1 item 4 of this Article it shall be issued *ex officio*.

When filing the application in cases referred to in paragraph 1 items 1, 2 and 3 of this Article, and when conducting forced removal in the case referred to in paragraph 1 item 4 of this Article, the foreign national shall be photographed, his or her fingerprints of two fingers shall be taken, as well as his or her digitalised personal signature, in accordance with the law governing the issuing of a personal identity card.

### **Competence for issuing emergency travel document**

#### **Article 141**

An emergency travel document for foreign national shall be issued by:

- 1) the Ministry, in the events referred to in Article 140 paragraph 1 items 1, 2 and 4 and paragraph 2 of this Law;

2) diplomatic or consular mission, with the prior approval of the Ministry, in the events referred to in Article 140 paragraph 1 item 3 of this Law.

An emergency travel document for foreign national shall be issued with the validity period of up to 30 days.

The form of the emergency travel document for foreign national shall be prescribed and prepared by the Ministry.

### **Special travel documents for foreign national**

#### **Article 142**

A special travel document for foreign national may be issued to a foreign national upon his or her application who in Montenegro had a recognised refugee status or granted additional protection in accordance with the Law on Asylum ("Official Gazette of the Republic of Montenegro ", number 45/06), i.e. granted asylum or subsidiary protection in accordance with the law governing international and temporary protection of foreign nationals, and who was granted permanent residence in accordance with this law, provided that he or she is not able to obtain the travel document from the state of his or her citizenship.

A special travel document for foreign national shall be issued by the Ministry, with the validity period of up to five years.

The form of the special travel document shall be prescribed and prepared by the Ministry.

### **Rejection of the application for the issuing of emergency travel document and special travel document for foreign national**

#### **Article 143**

An emergency travel document for foreign national and a special travel document for foreign national as per Articles 140 and 142 of this Law shall not be issued to a foreign national, if:

- 1) criminal or misdemeanour proceedings has been instituted against him or her;
- 2) he or she has been sentenced to imprisonment or a fine, until he or she serves the term of imprisonment or pays such fine;
- 3) he or she has not met due property and legal liabilities under a final court decision;
- 4) that is required for the reasons of national i.e. internal security or public health;
- 5) that is dictated by international obligations of Montenegro.

Notwithstanding paragraph 1 of this Article, an emergency travel document may be issued to a foreign national whose forced removal is underway.

The decision on the rejection of application for the issuing of documents referred to in Articles 140 and 142 of this Law shall be issued by the Ministry.

In the event referred to in paragraph 1 item 3 of this Law, the decision on the rejection of application for the issuing of documents referred to in Articles 140 and 142 of this Law shall be issued by the Ministry, if in the procedure of issuing an emergency travel document or a special travel document, the Ministry learns that due property and legal liabilities have not been met under the final decision of the court.

Against the decision referred to in paragraph 3 of this Article, a foreign national may lodge an appeal to the Ministry, within eight days from the date of receipt of the decision.

## **Seizure of an emergency travel document and of a special travel document**

### **Article 144**

A foreign national's emergency travel document for foreign national or a special travel document for foreign national shall be seized if the police establishes the existence of any of the reasons as per Article 143 paragraph 1 of this Law.

Against the decision as per paragraph 1 of this Article an appeal may be lodged to the Ministry, within eight days from the date of receipt of the decision.

The appeal referred to in paragraph 2 of this Article shall not postpone the execution of the decision.

## **VIII. IDENTITY DOCUMENTS**

### **Purpose of documents and ban on giving such documents to other persons for use**

#### **Article 145**

A foreign national shall prove identity with a foreign travel document, a valid identity card issued by a competent authority of another state, a temporary residence permit, a temporary residence and work permit, and a permanent residence permit.

A foreign national shall carry with him or her the document referred to in paragraph 1 of this Article and shall present it upon the request of the authorized official.

A foreign national may neither give his or her identity document to another person for use nor use an invalid document or another person's document as his or her own.

A foreign national shall use his or her personal name which is entered in the document referred to in paragraph 1 of this Article.

### **Replacement of identity documents**

#### **Article 146**

A foreign national shall replace a temporary residence permit, a temporary residence and work permit, and a permanent residence permit:

- 1) in the event of change in his or her personal data;
- 2) if the document is damaged or in a worn out condition and may no longer serve its purpose;
- 3) when a photograph does not correspond to the foreign national's appearance.

A foreign national shall file the application for the replacement of document within eight days of the day of the occurrence of the circumstances referred to in paragraph 1 of this Article.

The application referred to in paragraph 2 of this Article shall be filed to the Ministry.

### **Obligation to return documents**

#### **Article 147**

A foreign national shall return to the Ministry a temporary residence permit, a temporary residence and work permit, and a permanent residence permit, if:

- the permit has ceased to be valid;
- he or she has been granted Montenegrin citizenship;

- he or she is moving out of Montenegro or voluntarily leaves Montenegro;
- he or she was issued the decision on the termination of permit validity;
- the decision on his or her expulsion has been issued; or
- he or she is subject to forced removal.

### **Disappearance of identity documents**

#### **Article 148**

A foreign national shall promptly inform the Ministry or the nearest diplomatic or consular mission of the disappearance of the document referred to in Article 145 paragraph 1 of this Law.

The authorities referred to in paragraph 1 of this Article shall issue the decision on announcing the missing travel document invalid.

The number of document announced invalid shall be published in the "Official Gazette of Montenegro".

The costs of publishing referred to in paragraph 3 of this Article shall be borne by the foreign national.

### **Temporary seizure of identity documents**

#### **Article 149**

The police shall temporarily seize the document as per Article 145 paragraph 1 of this Law, if:

1) a foreign national is reasonably suspected of having committed a criminal offense for which he or she is prosecuted *ex officio* or of having committed a misdemeanour;

2) that is required for the reasons of national i.e. internal security or public health; or

3) he or she has failed to settle due property and legal liabilities under a final court decision.

The police shall issue a certificate of the temporary seizure of document referred to in paragraph 1 of this Article.

The police shall keep the document seized in accordance with paragraph 1 of this Article as long as the reasons for which it has been temporarily seized exist.

## **IX. ENTRY, EXIT, MOVEMENT, STAY AND WORK OF THE NATIONALS OF THE EU MEMBER STATES**

### **Entry into and leaving Montenegro**

#### **by the nationals of an EU member state**

#### **Article 150**

A national of an EU member state may enter Montenegro if:

1) he or she has a valid foreign travel document or personal identity card issued by the competent authority of such state;

2) he or she is not banned from entering and staying in Montenegro;

3) there are no grounds in relation to national i.e. internal security or public health.

A national of an EU member state may enter Montenegro without a visa or granted temporary residence.

If a national of an EU member state does not have the documents referred to in paragraph 1 item 1 of this Article, the police shall provide him or her with the opportunity to acquire necessary documents or otherwise prove that he or she is a national of the EU member state.

A national of an EU member state with the valid travel document or personal identity card issued by the competent authority of such state shall have the right to leave Montenegro for the purpose of travelling to another member state.

### **Stay of a national of an EU member state for up to 90 days**

#### **Article 151**

The national of an EU member state shall have the right to stay in Montenegro for up to 90 days from the date of entry into Montenegro, provided that he or she has a valid travel document or a personal identity card issued by a competent authority of such state.

### **Application for residence registration of a national of an EU member state**

#### **Article 152**

A national of an EU member state may stay in Montenegro for longer than 90 days:

- 1) for work or entrepreneurial activity;
- 2) for studying or professional training;
- 3) if he or she has enough funds to support himself or herself or his or her family members during his or her stay in Montenegro and has social insurance in Montenegro, regardless of the purpose of stay;
- 4) if he or she is a family member of a national of an EU member state.

### **Application for residence registration for the purpose of work or entrepreneurial activity**

#### **Article 153**

An application for residence registration for the purpose of work or entrepreneurial activity a national of an EU member state shall personally submit to the Ministry, in the place of residence, on a prescribed form.

In addition to the application referred to in paragraph 1 of this Article, the national of an EU member state shall submit:

- 1) a valid travel document or personal identity card issued by the competent authority of such state;
- 2) employment contract concluded with the employer or the evidence that he or she has been registered as an entrepreneur, in accordance with the law governing the forms of carrying out entrepreneurial activities and their registration.

The certificate of residence registration referred to in paragraph 1 of this Article shall be issued by the Ministry.

## **Termination of employment for a national of an EU member state**

### **Article 154**

A national of an EU member state, whose employment has terminated or who no longer carries out entrepreneurial activity, shall continue to stay in Montenegro under the certificate referred to in Article 153 paragraph 3 of this Law, if:

- 1) he or she is temporarily incapable of work due to illness or any kind of accident;
- 2) the need for his or her work has ceased to exist through no fault of his or hers, and he or she has worked in Montenegro for a minimum of one year and was registered with the competent authority as an unemployed person;
- 3) he or she becomes involved in the professional training programme which relates to the previous employment.

A national of an EU member state, whose fixed-term employment contract concluded for a term shorter than 12 months has terminated, and who is registered with the competent authority as an unemployed person, or if in the first 12 months of work in Montenegro under permanent employment contract he or she lost their job through no fault of his or hers and is registered as an unemployed person, shall continue to stay in Montenegro under the certificate referred to in Article 153 paragraph 3 of this Law, up to six months after the employment termination.

Paragraph 2 of this Article shall also apply to the national of an EU member state who is seasonally employed or is employed by the employer in another EU member state, and who provides the agreed services in Montenegro.

## **Application for residence registration for purpose of studying or professional training**

### **Article 155**

A national of an EU member state shall personally submit to the Ministry the application for residence registration for purpose of studying or professional training, in the place of residence, on a prescribed form.

In addition to the application referred to in paragraph 1 of this Article, a national of an EU member state shall submit:

- 1) a valid foreign travel document or personal identity card issued by a competent authority of such state;
- 2) evidence of possessing the means to support himself or herself and his or her family members;
- 3) evidence that he has health insurance;
- 4) certificate issued by the institution of higher education confirming that he or she studies in Montenegro.

The amount of funds used to support himself or herself referred to in paragraph 2 item 2 of this Article may not be lower than the amount of funds provided for social welfare received by a Montenegrin national, in accordance with the regulations governing social welfare.

The certificate of residence registration referred to in paragraph 1 of this Article shall be issued by the Ministry.



**Application for residence registration of a national of an EU member state who possesses sufficient funds to support himself or herself**

**Article 156**

A national of an EU member state shall personally file to the Ministry the application for residence registration in the event as per Article 152 paragraph 1 item 3 of this Law, in the place of residence, on the prescribed form.

In addition to the application referred to in paragraph 1 of this Article, the national of the EU member state shall submit:

- 1) a valid foreign travel document or a personal identity card issued by a competent authority of such state;
- 2) evidence that he or she has taken out health insurance for himself or herself and for his or her family members;
- 3) evidence of possessing sufficient means to support himself or herself and his or her family members while residing in Montenegro.

The amount of funds used to support himself or herself referred to in paragraph 2 item 3 of this Article may not be lower than the amount of funds provided for social welfare received by a Montenegrin national, in accordance with the regulations governing social welfare.

The certificate of residence registration referred to in paragraph 1 of this Article shall be issued by the Ministry.

**Application for residence registration of a family member of a national of an EU member state**

**Article 157**

A family member of a national of an EU member state shall personally file to the Ministry the application for residence registration in the event as per Article 152 paragraph 1 item 4 of this Law, in the place of residence, on the prescribed form.

Within the meaning of paragraph 1 of this Article, a family member shall be considered the persons as per Article 178 paragraph 3 of this Law.

In addition to the application referred to in paragraph 1 of this Article, a family member of the national of an EU member state shall submit:

- 1) a valid foreign travel document or personal identity card issued by the competent authority of such state;
- 2) evidence of possessing means to support himself or herself and his or her family members;
- 3) evidence that he or she, who has applied for the residence in Montenegro in accordance with this Law, is a family member of the national of the EU member state.

Exceptionally, the evidence referred to in paragraph 3 item 2 of this Article shall not be submitted by the family member of a national of an EU member state who stays in Montenegro for purpose of work or entrepreneurial activity.

The certificate of residence registration referred to in paragraph 1 of this Article shall be issued by the Ministry.

## **Procedure after applying for residence registration**

### **Article 158**

The certificate of residence registration as per Article 153 paragraph 3, Article 155 paragraph 4, Article 156 paragraph 4 and Article 157 paragraph 5 of this Law shall be issued within ten days from the date of application filing.

The certificate of residence registration referred to in paragraph 1 of this Article shall be issued upon previously obtained opinion of the Agency and the police on the existence of any obstacles for the reasons of national i.e. internal security.

The Agency and the police shall promptly submit to the Ministry the opinion referred to in paragraph 2 of this Article, and not later than seven days from the date of receipt of the request for opinion.

If the Ministry does not receive the opinions referred to in paragraph 3 of this Article within the prescribed period, it shall be considered that there are no obstacles for the issuing of a certificate of residence registration.

On the rejection of the application for the issuing of certificate of residence registration referred in Article 153 paragraph 3, Article 155 paragraph 4, Article 156 paragraph 4 and Article 157 paragraph 5 of this Law, the Ministry shall decide by issuing a decision.

Against the decision referred to in paragraph 5 of this Article an appeal may be lodged to the Ministry, within eight days from the date of receipt of the decision.

## **Termination of validity of the certificate of residence registration**

### **Article 159**

The certificate of residence registration of a national of an EU member state and of a member of his or her family shall cease to be valid if:

- 1) he or she is banned from entering and staying in Montenegro;
- 2) he or she was issued the certificate based on the untrue data or concealment of the actual objective and circumstances which were decisive for the issuing of the certificate;
- 3) the reasons on the grounds of which the certificate was issued have ceased to exist;
- 4) he or she deregisters his or her stay in Montenegro.

The police shall inform the Ministry of the reasons referred to in paragraph 1 items 2, 3 and 4 of this Article.

The Ministry shall issue the decision on the termination of validity of the certificate of residence registration.

When deciding on the termination of validity of the certificate of residence, the duration of stay, as well as personal, family, economic and other circumstances shall be particularly taken into account.

Against the decision referred to in paragraph 3 of this Article an appeal may be lodged to the Ministry, within eight days from the date of receipt of the decision.

## **Application forms and certificate**

### **Article 160**

The certificate referred to in Article 153 paragraph 3, Article 155 paragraph 4, Article 156 paragraph 4 and Article 157 paragraph 5 of this Law shall be issued on a prescribed form.

The Ministry shall prescribe the content and the form of the application for residence registration as per Article 153 paragraph 1, Article 155 paragraph 1, Article 156 paragraph 1 and Article 157 paragraph 1 of this Law and the certificate form referred to in paragraph 1 of this Article.

### **Entry into Montenegro by a third-country national who is a family member of a national of an EU member state**

#### **Article 161**

A family member of an EU member state national, who is a third-country national, may enter Montenegro for family reunification with a national of an EU member state if:

- 1) he or she has a valid travel document and issued visa, if visa is required, unless otherwise provided for by an international treaty;
- 2) he or she is not banned from entering and staying in Montenegro;
- 3) the reasons of national i.e. internal security or public health do not exist.

If a family member of an EU member state national who is a third country national, does not have the documents referred to in paragraph 1 item 1 of this Article, the police shall enable him or her to acquire the necessary document or otherwise prove that he or she is entitled to the freedom of movement and stay in the European Union as a family member of the national of the EU member state.

To the third-country national, who is a family member of the EU member state national, the police may issue a visa at the border crossing point, provided that the reasons of national i.e. internal security or public health do not exist. A third-country national, who is a family member of an EU member state national, shall be exempted from payment of the fee for visa issuing, in accordance with the law governing administrative fees.

The family member of the EU member state national, who is a third-country national with granted temporary residence in Montenegro, shall not need the visa to enter Montenegro.

A family member of an EU member state national, who is a third-country national with a valid foreign travel document issued by the competent authority of the third country, shall have the right to leave Montenegro for the purpose of travel to another EU member state.

### **Stay for up to 90 days for a third-country national who is a family member of the EU member state national**

#### **Article 162**

A third-country national, who is a family member of an EU member state national, shall have the right to stay in Montenegro for up to 90 days from the date of entry in Montenegro, provided that he holds a valid foreign travel document issued by the competent authority of the third country.

**Application for the issuing of temporary residence permit  
for a third-country national  
who is a family member of an EU member state national**

**Article 163**

A third-country national, who is a family member of an EU member state national, may be granted temporary residence if he or she has entered together with the EU member state national or is joining the EU member state national who temporarily stays in Montenegro for any of the reasons referred to in Article 152 paragraph 1 item 1, 2 and 3 of this Law.

A third-country national, who is a family member of an EU member state national, shall personally file to the Ministry the application for the issuing of a temporary residence permit, in the place of residence, on a prescribed form.

In addition to the application referred to in paragraph 2 of this Article, a third-country national, who is a family member of an EU member state national, shall submit:

- 1) a valid travel document;
- 2) an evidence of possessing the means to support himself or herself and his or her family members;
- 3) an evidence that he or she is a family member of the EU member state national.

Exceptionally, the evidence referred to in paragraph 3 item 2 of this Article shall not be submitted if the person referred to in paragraph 1 of this Article is a family member of the EU member state national who holds the certificate of residence registration for purpose of work or entrepreneurial activity.

When filing the application referred to in paragraph 2 of this Article, the national of the member state of the European Union shall be photographed, his or her fingerprints of two fingers shall be taken as well as his or her personal digitalised signature, in accordance with the law governing the issuing of a personal identity card.

Fingerprints of two fingers and digitalised personal signature shall not be taken from the children younger than 12 years of age.

The person referred to in paragraph 1 of this Article, who prior to the expiry of 90-day stay duly files the application for the issuing of temporary residence permit, may stay in Montenegro until the decision upon application is issued.

The application form referred to in paragraph 2 of this Article shall be prescribed by the Ministry.

**Deciding on application**

**Article 164**

Upon the receipt of the application for the issuing of a temporary residence permit as per Article 163 of this Law, the Ministry shall issue the certificate which shall determine the deadline within which the applicant may take over the permit.

The Ministry shall decide on the application for the issuing of a temporary residence permit as per Article 163 of this Law, within 20 days from the date when the application was duly filed.

The Ministry shall issue a temporary residence permit for a family member of an EU member state national, who is a third-country national, with the prior opinion of the existence of obstacles for the reasons of national i.e. internal security obtained from the Agency and the police.

The Agency and the police shall promptly submit to the Ministry the opinion referred to in paragraph 3 of this Article, and not later than seven days from the date of receipt of the request for opinion.

If the Ministry does not receive the opinions referred to in paragraph 4 of this Article within the prescribed period, it shall be considered that there are no obstacles for the issuing of a temporary residence permit referred to in paragraph 3 of this Article.

The permit referred to in paragraph 3 of this Article shall be issued with the validity period of five years or for a shorter period, if the foreign national who has been issued the permit intends to stay in Montenegro for a period shorter than five years.

The Ministry shall decide on the rejection of the application for the issuing of the permit referred to in paragraph 3 of this Article by issuing a decision.

Against the Decision referred to in paragraph 7 of this Article, an appeal may be lodged to the Ministry within eight days from the date of receipt of the Decision.

### **Extension of the right to temporary residence of a family member who is the national of the EU member state**

#### **Article 165**

In the event of death of the EU member state national whose residence was registered in accordance with this Law, or in the event of his or her departure from Montenegro, his or her family member, who is an EU member state national, shall keep the right to temporary residence if he or she proves that he or she is employed in Montenegro or carries on entrepreneurial activity and has funds for support and health insurance for himself or herself or his or her family members, or if he or she is studying or attends professional training and submits evidence that he or she has funds for support and health insurance for himself or herself and his or her family members.

In the event of death of a EU member state national whose residence was registered in accordance with this Law, his or her family member, who is a third-country national, shall keep the right to temporary residence if he or she stayed in Montenegro with the EU member state national for at least one year and proves that he or she is employed in Montenegro or carries on entrepreneurial activity or has funds for support and health insurance for himself or herself and his or her family members.

In the event that an EU member state national dies or leaves Montenegro, his or her children and the other parent taking care of such children shall keep the right to temporary residence, regardless of their citizenship, if the children stay in Montenegro and are enrolled in an educational institution, until the completion of their schooling.

In the event of a divorce or marriage annulment, the spouse of an EU member state national, who is an EU member state national, shall keep the right to temporary residence if he or she is employed in Montenegro or carries out entrepreneurial activity and has funds for support and health insurance for himself or herself and his or her family members, or if he or she is studying or attends professional training and submits the evidence that he or she has funds for support and health insurance for himself or herself and his or her family members.

In the event of a divorce or marriage annulment, the spouse of the EU member state national, who is a third-country national, and who is employed in Montenegro or carries out entrepreneurial activity, and submits evidence that has funds for support and health

insurance for himself or herself or his or her family members, shall keep the right to temporary residence:

1) if the marriage lasted at least three years, where the spouses spent a minimum of one year in Montenegro;

2) in the event of enforcement of a parental right over the children of the EU member state national who were entrusted to his or her custody by the agreement between spouses or under the court decision;

3) in the event of enforcement of a parental right over the minor children who stay in Montenegro and who are entrusted for care and custody to another parent by the agreement of the spouses or under the court decision;

4) due to extremely difficult circumstances such as domestic violence.

### **Termination of temporary residence permit validity for a third-country national who is a family member of the EU member state national**

#### **Article 166**

A temporary residence permit of a family member of the EU member state national, who is a third-country national, shall cease to be valid if:

1) he or she is banned from entering and staying in Montenegro;

2) he or she is granted temporary residence based on the untrue data or concealment of the actual objective and circumstances which were decisive for granting permanent residence;

3) the reasons for which he or she was issued a temporary residence permit have ceased to exist;

4) he or she deregisters his or her stay in Montenegro;

5) he or she has stayed outside Montenegro during the period of temporary residence for longer than six months per year;

6) during the validity period of temporary residence he or she has stayed outside Montenegro for longer than one year, uninterruptedly, unless he or she was absent for justifiable reasons such as pregnancy, birth of children, critical illness, studying, professional training, posting for work to another country or military service.

Of the reasons referred to in paragraph 1 items 2 through 6 of this Article the police shall inform the Ministry.

The Ministry shall issue the decision on the termination of temporary residence validity.

When deciding on the termination of a temporary residence permit validity, duration of stay and personal, family economic and other circumstances shall be particularly taken into account.

Against the decision referred to in paragraph 3 of this Article, the appeal may be lodged to the Ministry within eight days from the date of the decision receipt.

### **Permanent residence of an EU member state national**

#### **Article 167**

A permanent residence permit may be issued to an EU member state national who until the date of the submission of application for the issuing of the permit has legally resided in Montenegro, for five years uninterruptedly, under the certificate of residence registration.

The EU member state national shall be considered to have uninterruptedly resided in Montenegro even when in the period of five years, he or she was absent from Montenegro more than once in the total duration of up to one year, or for six months during one year, or was absent from Montenegro due to the military service.

Exceptionally from paragraph 1 of this Article, a permanent residence permit may be issued to the EU member state national if:

1) he or she has temporarily stayed in Montenegro for work or entrepreneurial activity and has stopped working due to the fact that the conditions have been met for his or her old-age pension in Montenegro, and has been previously employed in Montenegro for a minimum of one year and has uninterruptedly resided in Montenegro for longer than three years;

2) he or she is temporarily retired and has been previously employed in Montenegro for a minimum of one year and has uninterruptedly resided in Montenegro for longer than three years;

3) he or she has temporarily stayed in Montenegro for work or entrepreneurial activity and has stopped working due to permanent work incapacity, and has uninterruptedly resided in Montenegro for longer than two years;

4) he or she has temporarily stayed in Montenegro for work or entrepreneurial activity and has stopped working due to permanent work incapacity which is a consequence of a work-related injury or occupational disease based on which he or she has acquired disability pension in Montenegro, irrespective of the duration of his or her stay in Montenegro;

5) he or she has temporarily stayed in Montenegro for work or entrepreneurial activity and after three years of uninterrupted work and residence in Montenegro, became employed in another EU member state, kept the temporary residence in Montenegro, and returns to Montenegro at least once a week.

An uninterrupted stay in Montenegro as per paragraph 3 items 1, 2, 3 and 5 of this Article shall also be considered the period of residence for work or entrepreneurial activity of an EU member state national who has worked in another EU member state and has kept his or her residence in Montenegro.

The unemployment period recorded with the competent employment authority which has occurred through no fault of the EU member state national, and the period of incapacity for work due to illness or injury, shall be included in the employment period.

An EU member state national as per paragraph 3 items 1, 2, 3 and 5 of this Article, whose spouse, with whom he or she jointly stays in Montenegro, has Montenegrin citizenship or his or her Montenegrin citizenship was terminated upon the solemnization of marriage, shall be granted permanent residence regardless of the duration of stay and employment in Montenegro.

## **Permanent residence of a third-country national who is a family member of an EU member state national**

### **Article 168**

A permanent residence permit may be issued to a third-country national who is a family member of the EU member state national if until the date of filing the application for the issuing of permit he or she has legally resided in Montenegro with the EU member state national, for five years uninterruptedly, based on the granted temporary residence.

A third-country national who is a family member of the EU member state national shall be considered to have uninterruptedly resided in Montenegro even when in the period of five years, he or she was absent from Montenegro more than once in the total duration of up to one year or for six months during one year, or was absent from Montenegro due to the military service.

Exceptionally from paragraph 1 of this Article, a permanent residence permit may be issued to a third-country national who is a family member of the EU member state national, if:

- 1) the national of the EU member state with whom he or she has resided in Montenegro died during the temporary residence, for the purpose of work which has lasted for two uninterrupted years prior to death or for a shorter period if death occurred as a consequence of a work-related injury or occupational disease;
- 2) he or she has lost Montenegrin citizenship after marriage with the EU member state national who is employed or carries on entrepreneurial activity.

A family member who has acquired the right to permanent residence in accordance with Article 167 paragraph 1 of this Law, and who resides in Montenegro with an EU member state national, shall have the right to permanent residence, regardless of the duration of temporary residence in Montenegro.

### **Application for the issuing of permanent residence permit to an EU member state national**

#### **Article 169**

An EU member state national shall personally file the application to the Ministry for the issuing of a permanent residence permit, in the place of residence, on a prescribed form.

In addition to the application referred to in paragraph 1 of this Article, an EU member state national shall submit:

- 1) a valid travel document or a personal identity card issued by the competent authority of such state;
- 2) evidence that he or she meets the conditions as per Article 167 of this Law.

When filing the application referred to in paragraph 1 of this Article, the national of the EU member state shall be photographed, his or her fingerprints of two fingers shall be taken as well as his or her personal digitalised signature, in accordance with the law governing the issuing of a personal identity card.

Fingerprints of two fingers and signature shall not be taken from the children younger than 12 years of age.

### **Application for the issuing of a permanent residence permit to a third-country national**

#### **who is a family member of an EU member state national**

#### **Article 170**

A third-country national who is a family member of an EU member state national shall personally file to the Ministry the application for the issuing of permanent residence permit, in the place of residence, on a prescribed form.



In addition to the application, the person referred to in paragraph 1 of this Article shall submit a valid foreign travel document and evidence that he or she meets the conditions as per Article 168 of this Law.

When the person referred to in paragraph 1 of this Article files the application, he or she shall be photographed, his or her fingerprints of two fingers shall be taken as well as his or her personal digitalised signature, in accordance with the law governing the issuing of a personal identity card.

Fingerprints of two fingers and signature shall not be taken from the children younger than 12 years of age.

The application form referred to in Article 169 paragraph 1 of this Article and paragraph 1 of this Article shall be prescribed by the Ministry.

### **Deciding on the application for the issuing of permanent residence permit to an EU member state national**

#### **Article 171**

Upon the receipt of the application for the issuing of a permanent residence permit to an EU member state national, the Ministry shall issue the certificate which shall determine the deadline within which the applicant may take over the permit.

The Ministry shall decide on the application for the issuing of a permanent residence permit to the EU member state national, as soon as possible, not later than within 3 months from the date when the application was duly filed.

The Ministry shall issue a permanent residence permit to an EU member state national, with the prior opinion of the existence of obstacles for the reasons of national i.e. internal security obtained from the Agency and the police.

The Agency and the police shall promptly submit to the Ministry the opinion referred to in paragraph 3 of this Article, and not later than 60 days from the date of receipt of the request for opinion.

If the Ministry does not receive the opinions referred to in paragraph 3 of this Article within the prescribed period, it shall be considered that there are no obstacles for the issuing of a permanent residence permit.

A permanent residence permit shall be issued with the validity period of ten years.

The Ministry shall decide on the rejection of the application for the issuing of a permanent residence permit to an EU member state national, by issuing a decision.

Against the Decision referred to in paragraph 7 of this Article, an administrative procedure may be initiated.

### **Deciding on the application for the issuing of permanent residence permit to a third-country national who is a family member of an EU member state national**

#### **Article 172**

On the application for the issuing of a permanent residence permit to a third-country national who is a family member of an EU member state national, the Ministry shall decide within six months from the date when the application was duly filed.

The decision on the application for the issuing of a permanent residence permit referred to in paragraph 1 of this Article shall be subject to Article 171 paragraphs 2 through 8 of this Law.

### **Termination of permanent residence for an EU member state national and for a third-country national who is his or her family member**

#### **Article 173**

Permanent residence shall be terminated for an EU member state national, if:

- 1) his or her entry and stay in Montenegro is banned;
- 2) it is established that he or she has uninterruptedly resided outside Montenegro for more than two years.

The Ministry shall issue the decision on the termination of permanent residence.

Against the decision referred to in paragraph 2 of this Article an administrative procedure may be initiated.

The provisions of paragraphs 1, 2 and 3 of this Article shall also apply to the termination of permanent residence of a third-country national who is a family member of an EU member state national.

### **Expulsion of an EU member state national and a member of his or her family**

#### **Article 174**

To an EU member state national and his or her family member a decision on return may be issued, the deadline for voluntary departure from Montenegro may be defined or extended, i.e. an entry and stay may ban be imposed in accordance with Article 107 of this Law.

An EU member state national and his or her family member may be expelled from Montenegro if this is required for the reasons of national i.e. internal security or public health.

An EU member state national and his or her family member may not be expelled from Montenegro if the disease which poses a threat to public health has occurred three months after his or her entry to Montenegro.

When issuing a decision on expulsion of an EU member state national and his or her family member, duration of stay and personal, family, economic and other circumstances, the level of his or her social and cultural integration in Montenegro, age, health condition, and his or her connections with the country of origin shall be particularly taken into account.

The decision on expulsion of an EU member state national and his or her family member who is granted permanent residence in Montenegro or who uninterruptedly and legally resides in Montenegro for ten years or is a minor may be issued only if the reasons of national i.e. internal security exist, or if that is in the best interest of a foreign national minor.

An EU member state national and his or her family member shall be considered to illegally stay in Montenegro if they stay in Montenegro during the period of entry and stay ban within the meaning of Article 110 paragraph 4 of this Law.

Under the decision on expulsion referred to in paragraph 2 of this Article the deadline for leaving Montenegro may not be shorter than 30 days.

**Stay ban of an EU member state national  
and his or her family member**

**Article 175**

An EU member state national and his or her family member shall not stay in Montenegro during the period of the entry and stay ban, unless it is necessary that he or she personally presents his or her case in the procedure of deciding on his or her expulsion.

An EU member state national and his or her family member, who is banned from entering and staying in Montenegro, may file the application for annulment and shortening of the entry and stay ban, three years from the issuing of enforceable decision pronouncing the entry ban, whereby he or she shall submit the evidence that the circumstances due to which the decision on the entry ban was issued have materially changed.

If the decision on the expulsion of an EU member state national and his or her family member is not enforced within two years, the police shall check if the reasons referred to in paragraph 2 of this Article exist and if the police establishes that such reasons exist, they shall annul the decision on expulsion.

**Purpose of documents issued to EU member state nationals  
and members of their family**

**Article 176**

Certificate of residence registration, temporary residence permit and permanent residence permit issued to an EU member state national, a family member of an EU member state national, who is the national of the EU member state, and to a third-country national who is a family member of an EU member state national, shall be public documents with which the foreign national evidences that he or she has been granted temporary i.e. permanent residence in Montenegro.

An EU member state national and his or her family member shall carry with them the documents referred to in paragraph 1 of this Article and shall present them upon the request of the authorized official.

An EU member state national and his or her family member who does not carry with him or her the document referred to in paragraph 1 of this Article or any other identity document, shall provide appropriate details of himself or herself, upon the request of the police officer.

An EU member state national and his or her family member shall neither give the documents referred to in paragraph 1 of this Article to other person for use nor use an invalid document or other person's document as his or her own.

The termination of validity of documents referred to in paragraph 1 of this Article shall not constitute the grounds for the termination of residence or expulsion from Montenegro.

The obligations of foreign national and actions in the event of disappearance of documents referred to in paragraph 1 of this Article shall be subject to Article 148 of this Law.

## **Application forms and temporary and permanent residence forms for EU member state nationals and their family members**

### **Article 177**

A temporary residence permit and a permanent residence permit issued to an EU member state national, a family member of an EU member state national, who is a EU member state national, and a third-country national who is a family member of an EU member state national, shall be issued on a prescribed form which shall contain: the coat of arms of Montenegro, name "Montenegro", name of permit, and protective elements and sections for entry of personal and other data.

The data referred to in paragraph 1 of this Article shall be: surname, name, unique foreign national's identification number, sex, citizenship, day, month and year of birth, permit number, date of issuing, expiry date, photograph, signature, name of issuing authority, and machine readable record.

The entry of the data referred to in paragraph 2 of this Article into the permit form shall be made by the Ministry.

The data containing machine readable record shall be determined by the Ministry in accordance with the recommendations ICAO Dos 9303.

Permit forms referred to in paragraph 1 of this Article shall be prepared by the Ministry, in accordance with Article 42 of this Law.

The costs for the preparation of permit forms referred to in paragraph 1 of this Article shall be borne by the applicant.

Permit forms referred to in paragraph 1 of this Article and the amount of fee referred to in paragraph 6 of this Article shall be prescribed by the Ministry.

## **Rights of EU member state nationals and of their family members**

### **Article 178**

An EU member state national as well as his or her family member, who has the right to reside in Montenegro, regardless of whether he or she is an EU member state national or not, shall be equal to the rights of the Montenegrin nationals, in accordance with the Treaty on the Functioning of the European Union.

When issuing the documents on stay in accordance with this Law, the persons referred to in paragraph 1 of this Article shall be exempted from the payment of the fee in accordance with the Law governing administrative fees.

Within the meaning of paragraph 1 of this Article, the following shall be considered as family:

- 1) spouses;
- 2) children of up to and including 21 years of age or dependants, as well as children of spouses or partners;
- 3) relatives in a direct line who are dependants, as well as relatives in a direct line of spouses or partners;
- 4) a person who in the country from which he or she came from is a dependant, or a household member of an EU member state national, or when severe medical reasons strictly require an EU member state national to personally care for a family member.

The provisions of this Law relating to the EU member state nationals shall also relate to the nationals of Iceland, the Principality of Liechtenstein, Kingdom of Norway, and the Swiss Confederation.

**X. STAY AND WORK OF THIRD-COUNTRY NATIONALS WITH GRANTED  
PERMANENT RESIDENCE IN ANOTHER EU MEMBER STATE AND OF THEIR  
FAMILY MEMBERS**

**Entry and stay of third-country nationals with granted permanent residence in another EU  
member state**

**Article 179**

A third-country national with granted residence in another EU member state may stay in Montenegro for up to 90 days from the day of entry into Montenegro, i.e. until the expiry of the period for which visa or residence permit has been issued to him or her by another EU member state, if the validity period of visa or residence permit is shorter than 90 days.

A third-country national referred to in paragraph 1 of this Article, who intends to stay in Montenegro for longer than 90 days, shall prior to the expiry of visa or residence permit validity period issued by another EU member state, file to the Ministry the application for the issuing of a temporary residence permit.

**Application for the issuing of temporary residence permit to a third-country national with  
permanent residence granted in another EU member state**

**Article 180**

A third-country national as per Article 179 of this Law shall personally file to the Ministry the application for the issuing of a temporary residence permit, in the place of residence, on the form as per Article 61 paragraph 6 of this Law.

In addition to application referred to in paragraph 1 of this Article, a third-country national shall submit the evidence of the fulfilment of conditions as per Article 43 paragraph 1 items 1, 2, 3, 4, 7 and 9 of this Law.

When filing the application referred to in paragraph 1 of this Article, the third-country national shall be photographed, his or her fingerprints of two fingers shall be taken and as well as his or her digitalised personal signature, in accordance with the law governing the issuing of a personal identity card.

Fingerprints of two fingers and signature shall not be taken from the children younger than 12 years of age.

A third-country national who duly files the application for the issuing of a temporary residence permit prior to the expiry of 90-day stay, may stay in Montenegro until it is decided on the application.

**Application for issuing of a temporary residence permit for a family member of a third-  
country national with permanent residence granted in another EU member state**

**Article 181**

A family member of a third-country national with permanent residence granted in another EU member state shall personally file to the Ministry the application for the issuing of a temporary residence permit, on the form referred to in Article 61 paragraph 6 of this Law.

Within the meaning of paragraph 1 of this Article, a family member shall be persons referred to in Article 44 paragraph 2 of this Law.

In addition to the application referred to in paragraph 1 of this Article, a family member of a third-country national shall submit the evidence on the fulfilment of conditions as per Article 43 paragraph 1 items 1, 2, 3, 4, 7 and 9 of this Law, as well as:

- 1) evidence that his temporary residence is granted in another EU member state;
- 2) evidence that he or she is a family member of a third-country national with granted permanent residence in another EU member state.

The application referred to in paragraph 1 of this Article shall be subject to Article 180 paragraphs 3, 4 and 5 of this Law.

**Deciding on the application for the issuing of a temporary residence permit to a third-country national with permanent residence granted in another EU member state and to his or her family member**

**Article 182**

The decision on the application as per Articles 180 and 181 of this Law and the issuing of a temporary residence permit for a third-country national with permanent residence granted in another EU member state and to his or her family member shall be subject to Article 62 of this Law.

The extension of temporary residence, termination of permit, and expulsion of foreign national referred to in paragraph 1 of this Law shall be accordingly subject to the provisions of this Law relating to temporary residence of an EU member state national.

**Notifying the other EU member state**

**Article 183**

Of the issued temporary residence permit to a third-country national with permanent residence granted in another EU member state and to his or her family member, of the extension of the temporary residence, and of the expulsion of such persons, the Ministry shall notify the competent authority of another EU member state where permanent residence is granted to a third-country national.

**XI. STAY AND WORK OF THIRD-COUNTRY NATIONALS WITH HIGHER EDUCATION QUALIFICATIONS**

**Employment of a third-country national who possesses higher education qualifications**

**Article 184**

A third-country national with higher education qualifications who possesses necessary i.e. appropriate expertise and a temporary residence and work permit, may become employed in Montenegro in accordance with the regulations on employment.

Higher education qualification shall be considered a qualification acquired upon the completion of an appropriate study programme, in accordance with the regulations governing higher education.

Temporary residence and work permit of a third-country national with higher education qualifications (hereinafter: “EU Blue Card”) shall be issued to a foreign national who meets the conditions referred to in paragraph 1 of this Article and Article 43 of this Law.

## **Application for the issuing of a temporary residence and work permit**

### **Article 185**

A third-country national with higher education qualifications shall personally file to the Ministry the application for the issuing of a temporary residence and work permit, in the place of residence, on the form referred to in Article 79 paragraph 9 of this Law.

With the application referred to in paragraph 1 of this Article, a third-country national with higher education qualifications shall, in addition to evidence of the fulfilment of conditions as per Article 43 of this Law, submit:

1) employment contract concluded with the employer in Montenegro, for the term of minimum 12 months;

2) evidence of higher education or of completed undergraduate or postgraduate studies.

The contract referred to in paragraph 2 item 1 of this Article shall indicate annual gross salary the amount of which may not be lower than one and a half of average gross salary in Montenegro, according to the data of the administration authority in charge of statistics.

When filing the application referred to in paragraph 1 of this Article, the applicant shall be photographed, his or her fingerprints of two fingers shall be taken and as well as the digitalised personal signature, in accordance with the law governing the issuing of a personal identity card.

The person referred to in paragraph 1 of this Article, who duly files the application for the issuing of a temporary residence permit prior to the expiry of 90-day stay, may remain in Montenegro until the decision is issued on the application for the issuing of the EU Blue Card.

## **Deciding on the application for the issuing of the EU Blue Card**

### **Article 186**

The Ministry shall issue the confirmation of the receipt of the application for the issuing of the EU Blue Card determining the deadline within which the applicant may take over the EU Blue Card.

On the application for the issuing of the EU Blue Card it shall be decided within 20 days from the date of duly filed application.

The EU Blue Card shall be issued by the Ministry, with prior opinion of the Agency and the police of the existence of any obstacles for the reasons of national i.e. internal security.

The Agency and the police shall promptly submit to the Ministry the opinion referred to in paragraph 3 of this Article, not later than seven days from the date of receipt of the request for opinion.

If the Ministry does not receive the opinions referred to in paragraph 3 of this Article within the prescribed period, it shall be considered that there are no obstacles for the issuing of a temporary residence permit.

The rejection of the application for the issuing of the EU Blue Card shall be subject to the decision.

Against the decision referred to in paragraph 6 of this Article an appeal may be lodged to the Ministry within eight days from the date of receipt of the decision.

## **Validity period of the EU Blue Card**

### **Article 187**

The EU Blue Card shall be issued with the validity period of up to two years.

If the employment contract has been concluded for the term shorter than two years, the EU Blue Card shall be issued for the term of the employment contract, increased by additional three months.

## **Rejection of application for the issuing of the EU Blue Card**

### **Article 188**

The application for the issuing of the EU Blue Card shall be rejected if a third-country national does not meet the conditions as per Article 184 of this Law and fails to submit the evidence as per Article 185 paragraph 2 of this Law, or if it is established that the submitted documents were illegally obtained.

The Ministry may reject the application for the issuing of the EU Blue Card if the employer from whom he or she received the offer has been punished for illegal employment or has failed to register the work of a foreign national, or the applicant has breached the provisions of this law relating to the entry, stay and work of foreign nationals.

## **Work pursuant to the EU Blue Card**

### **Article 189**

A third-country national who has been issued the EU Blue Card (hereinafter: "EU Blue Card holder") may work in Montenegro only on the jobs for which the EU Blue Card has been issued to him or her, and only for the employer who employs him or her.

The employer may assign an EU Blue Card holder only to such jobs for which the EU Blue Card was issued.

The employer shall keep a copy of the EU Blue Card in the business premises or at the place of work of the foreign national.

Where the employment contract terminates and where other conditions based on which the EU Blue Card was issued cease to exist, the employer or the EU Blue Card holder shall notify the Ministry thereof, not later than within eight days from the date when such circumstances have arisen.

## **Extension of the EU Blue Card**

### **Article 190**

An application for the extension of the EU Blue Card shall be personally submitted to the Ministry, in the place of residence, no later than 30 days before the expiration of the EU Blue Card validity period.

The procedure for extension of the EU Blue Card shall be subject to the provisions of Article 186 of this Law.



## **Change of employer**

### **Article 191**

The EU Blue Card holder, who changes his employer within the first two years of stay in Montenegro, shall submit to the Ministry an application for the issuing of a new EU Blue Card, within eight days from the date of termination of employment with the initial employer.

After the expiry of the period of two years, the EU Blue Card holder shall notify the Ministry of the change of employer, within eight days of the change, and shall submit the new employment contract with the new employer.

The EU Blue Card referred to in paragraph 2 of this Article shall be valid until the expiry of its validity period.

## **The rights of the EU Blue Card holder**

### **Article 192**

The EU Blue Card holder in Montenegro shall have rights in accordance with Article 93 paragraph 1 items 2 through 7 of this Law.

## **Termination of the EU Blue Card validity**

### **Article 193**

The EU Blue Card shall cease to be valid:

- 1) upon the expiry of its validity period;
- 2) if the EU Blue Card holder has failed to notify the Ministry of the change of employer;
- 3) if the EU Blue Card holder works for an employer for which he was not issued the EU Blue Card;
- 4) if the EU Blue Card holder performs jobs for which the EU Blue Card was not issued, or performs other jobs for which he could not be issued the EU Blue Card;
- 5) if the EU Blue Card holder does not have any means to support himself or herself and he or she has applied for social welfare;
- 6) after the conditions for its issue have ceased to exist;
- 7) in the event that the employment contract as per Article 185 paragraph 2 item 1 of this Law terminates;
- 8) if during the validity of the EU Blue Card, the EU Blue Card holder was unemployed for more than three months without interruptions or became unemployed two or more times;
- 9) if the EU Blue Card holder was pronounced a protective measure of removal, a security measure of expulsion of foreign national from the state or protective measure of expulsion of foreign national from the territory of Montenegro;
- 10) when the EU Blue Card holder acquires the right to permanent residence.

Exceptionally from paragraph 1 item 2 of this Article, the EU Blue Card shall not cease to be valid if the EU Blue Card holder, for the reasons beyond his or her control, has failed to inform the Ministry of the change of employer.

The validity of the EU Blue Card shall not terminate for the EU Blue Card holder who during its validity became unemployed for no longer than three months, uninterruptedly.

In the event referred to in paragraph 3 of this Article, the EU Blue Card holder may seek other employment, whereof he or she shall inform the Ministry.

The Ministry shall issue the decision on the termination of validity of the EU Blue Card referred to in paragraph 1 items 2 through 9 of this Article.

Against the decision referred to in paragraph 5 of this Article an appeal may be lodged to the Ministry within eight days from the date of receipt of the decision.

### **Temporary residence of a family member of the EU Blue Card holder**

#### **Article 194**

A family member of the EU Blue Card holder may be issued a temporary residence permit for family reunification as per Article 44 of this Law, in accordance with the provisions of this law relating to the issuing of such permit.

A temporary residence permit for family reunification referred to in paragraph 1 of this Law shall be issued with the validity period until the expiry of the EU Blue Card validity.

A family member of the EU Blue Card to whom temporary residence is granted for the purpose of family reunification may become employed in Montenegro, in accordance with this Law.

### **Permanent residence of the EU Blue Card holder**

#### **Article 195**

A permanent residence permit may be issued to an EU Blue Card holder if until the date of submission of the application for the issuing of permit he or she has legally stayed in Montenegro pursuant to the EU Blue Card, for five uninterrupted years.

Exceptionally from paragraph 1 of this Article, a permanent residence permit may be issued to a third-country national who has stayed in another EU member state as an EU Blue Card holder for uninterrupted five years, of which he or she stayed in Montenegro as an EU Blue Card holder for a minimum of two years prior to filing the application for the issuing of a permanent residence permit.

It shall be considered that the EU Blue Card holder referred to in paragraphs 1 and 2 of this Article has uninterruptedly stayed in Montenegro even in the event when he or she stayed outside the European Union for up to one year, or more than once, up to 18 months in total.

Exceptionally from paragraph 3 of this Article, the EU Blue Card holder referred to in paragraphs 1 and 2 of this Article shall be considered to have uninterruptedly stayed in the area of the European Union also in the event when he or she stayed outside the European Union for uninterrupted 24 months, provided that he or she proves that he or she was absent for:

- 1) work or entrepreneurial activity;
- 2) charity work;
- 3) studying in the country of origin.

**Filing the application for the issuing of a permanent residence permit  
to an EU Blue Card holder**

**Article 196**

The application for the issuing of a permanent residence permit to an EU Blue Card holder shall be personally filed to the Ministry, in the place of residence, on the form referred to in Article 89 paragraph 1 of this Law.

In addition to the application referred to in paragraph 1 of this Article, a foreign national shall submit the evidence of the fulfilment of conditions as per Article 88 of this Law.

The application referred to in paragraph 1 of this Article shall be subject to the provisions of Article 89 of this Law.

**Deciding on the application for the issuing of permanent residence permit to the EU Blue  
Card Holder**

**Article 197**

The Ministry shall issue a permanent residence permit to the EU Blue Card holder upon previously obtained opinion of the Agency and the police on the existence of any obstacles for the reasons of national i.e. internal security.

On the application for the issuing of a permit referred to in paragraph 1 of this Article shall be decided within 3 months from the date when the application was duly filed.

If an EU Blue Card holder is issued a permanent residence permit, the permit shall contain the note: "former EU Blue Card holder".

The procedure of deciding on the application for the issuing of a permanent residence permit to an EU Blue Card holder shall be subject to the provisions of Article 90 of this Law.

**Termination of permanent residence of the EU Blue Card holder**

**Article 198**

Permanent residence of a third-country national and former EU Blue Card holder shall terminate if:

- 1) his or her entry and stay in Montenegro is banned;
- 2) it is established that he or she has stayed outside Montenegro for longer than uninterrupted two years.

The Ministry shall issue the decision on the termination of a permanent residence.

The procedure of deciding on the termination of permanent residence shall be subject to the provisions of Article 94 of this Law.

Against the decision referred to in paragraph 2 of this Article an administrative procedure may be initiated.

**Granting residence to a third-country national with the EU Blue Card issued in another  
EU member state**

**Article 199**

A third-country national with the EU Blue Card issued in another EU member state may file the application for the issuing of a temporary residence and work permit in Montenegro, after 18 months from the date of the Blue Card issue.

The application referred to in paragraph 1 of this Article shall be filed to the Ministry in accordance with Article 185 of this Law, not later than 30 days from the date of entry into Montenegro.

In addition to the application referred to in paragraph 2 of this Article, a third-country national with the EU Blue Card issued in another EU member state shall submit the evidence that the EU Blue Card has been issued to him or her in another EU member state for at least 18 months.

Decision on the application referred to in paragraph 2 of this Article shall be made in accordance with Article 186 of this Law.

The Ministry shall notify the EU member state where the EU Blue Card was issued to the applicant of the issuing of a temporary residence and work permit in Montenegro to the person referred to in paragraph 1 of this Article or of the rejection of application referred to in paragraph 2 of this Article.

### **Admission of the EU Blue Card holder**

#### **Article 200**

The police shall allow to the EU Blue Card holder and his or her family member to enter and stay in Montenegro if they have been rejected the application for the issuing of the EU Blue Card by another EU member state or if such state imposed on them the measures for leaving the country.

The paragraph 1 of this Article shall be applied also in the event that the EU Blue Card has expired or ceased to be valid.

The EU Blue Card holder, who returns to Montenegro together with family members in accordance with paragraph 1 of this Article, shall be entitled to work and to change the employer in accordance with Article 191 of this Law.

If for the EU Blue Card holder such document has ceased to be valid, he or she shall file the application for the issuing of a new EU Blue Card, in accordance with Article 185 of this Law.

### **Rights of the family member of the EU Blue Card holder who has moved**

#### **Article 201**

Family members of the EU Blue Card holder as per Article 199 of this Law shall have the right to join him or her for family reunification in accordance with Article 44 of this Law, if they have legally stayed with him or her in another EU member state.

The family members referred to in paragraph 1 of this Article shall submit to the Ministry the application for temporary residence for family reunification according to their place of residence, within 30 days from the date of entry into Montenegro.

In addition to the application referred to in paragraph 2 of this Article, the following shall be submitted:

- 1) a valid travel document i.e. visa, if necessary;
- 2) a permit evidencing that they have stayed in the EU member state as family members;
- 3) evidence of health insurance;
- 4) evidence of means to support themselves.

## **The EU Blue Card application form**

### **Article 202**

The EU Blue Card shall be issued on a prescribed form containing: the coat of arms of Montenegro, name "Montenegro ", name of permit, and protective elements and sections for entry of personal and other data.

The data referred to in paragraph 1 of this Article shall be: surname, name, unique foreign national 's identification number, sex, citizenship, day, month and year of birth, permit number, date of issuing, expiry date, photograph, signature, name of issuing authority, and machine readable record.

The entry of the data referred to in paragraph 2 of this Article in the permit form shall be made by the Ministry.

The data containing machine readable record shall be determined by the Ministry in accordance with the recommendations ICAO Dos 9303.

The EU Blue Card form shall be prepared by the Ministry, in accordance with Article 42 of this Law.

The EU Blue Card form shall be prescribed by the Ministry.

## **Exception from application**

### **Article 203**

The provisions of Articles 184 through 202 of this section shall not relate to the persons referred to in Article 3 paragraph 2 of the Directive 2009/50/EC on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment.

## **XII. MOVEMENT OF FOREIGN NATIONALS IN UNIFORM**

### **Conditions for wearing a foreign military uniform**

#### **Article 204**

During their stay in Montenegro, foreign nationals may move in foreign military uniforms if:

- 1) they are staying as members of a diplomatic or consular mission of a foreign country or in some other foreign mission with a diplomatic status in Montenegro as military representatives while the mission is underway;
- 2) they are on an official visit as members of a foreign military mission or foreign military delegation;
- 3) they are studying at military school;
- 4) they are passing through the territory of Montenegro as members of foreign military missions or foreign military delegations with diplomatic or official travel documents;
- 5) they are participating in a military exercise and training.

### **Conditions for wearing foreign police or customs uniforms**

#### **Article 205**

During their stay in Montenegro, foreign national s may travel in foreign police or customs uniforms if:

- 1) they are on an official visit as members of delegations of foreign police or customs authorities;
- 2) they are carrying out their duties on the basis of an international treaty;

- 3) they are studying at a police academy;
- 4) they are passing through the territory of Montenegro as members of foreign police or foreign customs delegations with diplomatic or official travel documents.

### **XIII. RECORDS**

#### **Types and competence for keeping records**

##### **Article 206**

The Ministry shall keep records of: issued temporary residence permits, issued temporary residence and work permits, issued permanent residence permits, certificates of residence registration issued to the EU member state nationals, temporary residence permits issued to third-country nationals who are family members of the EU member state nationals, permanent residence permits issued to the EU member state nationals and their family members, temporary residence permits issued to third-country nationals with permanent residence granted in another EU member state and to their family members, issued EU Blue Cards, permanent and temporary residence permits issued to third-country nationals with higher education qualifications and to their family members, emergency travel documents issued for foreign nationals, travel documents issued to stateless persons, and special travel documents issued to foreign nationals (hereinafter: "Documents"), extension of documents, data entered in the document forms, applications submitted for the issuing of documents, data contained in the application for the issuing of documents, documents submitted with the application for the issuing of documents, biometric data (photograph, fingerprints of two fingers and digitalized signature), termination of documents validity, reasons and date of termination of documents validity, documents announced invalid, documents declared missing, issued work registration certificates, and of the prepared document forms.

A state administration authority in charge of foreign affairs shall keep the records of: issued visas, rejected applications for the issuing of visas, and annulled visas and issued emergency travel documents for foreign nationals in another country.

The police shall keep the records of: foreign nationals who have registered, deregistered or changed the place of residence and who have resided in Montenegro for up to 90 days pursuant to a short-stay visa (Visa C), and a visa for longer stay (Visa D) or without visa, in accordance with the regulation on visa regime, foreign nationals who have registered i.e. deregistered the place where they temporarily reside and who are issued a temporary residence permit, temporary residence and work permit and permanent residence permit, foreign nationals who are banned from entering Montenegro, visas issued at the border crossing point, rejected applications for the issuing of visas, annulled and cancelled visas, temporarily seized documents, extended visas, foreign nationals whose stay of up to 90 days has been cancelled, issued opinions on the temporary residence, foreign nationals accommodated in a reception centre, foreign nationals to whom forced removal was pronounced, foreign nationals who entered Montenegro illegally, foreign nationals whose movement is restricted or prohibited in a particular area of Montenegro, foreign nationals whose stay is cancelled pursuant to the visa for a longer stay, issued opinions on permanent residence, foreign nationals who are expelled, foreign nationals who are issued the decision on return, foreign nationals whose freedom of movement is restricted, foreign nationals who are pronounced measures milder than the measures of accommodation in the reception centre, and the foreign nationals who are imposed a stricter police supervision.

The data and documents on personal identity cards for foreign nationals, issued prior to the effective date of this Law, shall be an integral part of the records referred to in paragraph 1 of this Article.

The records referred to in paragraphs 1 and 3 of this Article shall be electronically kept databases.

The content of records referred to in paragraphs 1 and 3 of this Article shall be prescribed by the Ministry, and the content of records referred to in paragraph 2 of this Article shall be prescribed by a state administration authority in charge of foreign affairs.

The data on a foreign national who was issued a temporary residence permit and a temporary residence and work permit shall be kept for five years after the deregistration of foreign national's residence, after which they shall be deleted from records.

### **Keeping the data**

#### **Article 207**

The data on a foreign national who has been issued a temporary residence permit and a temporary residence and work permit shall be kept for five years after the deregistration of foreign national's residence, after which they shall be deleted from records.

The data on a foreign national with residence of up to 90 days shall be kept five years after the deregistration of residence, where after they shall be deleted from records.

### **Use of the data**

#### **Article 208**

The data of the records referred to in Article 206 of this Law, except for the fingerprints and signature, may be used by the Ministry and the police, for the purpose of conducting activities within their competence.

State authorities, state administration authorities, local self-government authorities, local government authorities, and other authorities may use the data of the records, except for biometric data, for the purpose of conducting activities within their competence, provided that they have been authorized to use such data under the Law.

The authorities referred to in paragraphs 1 and 2 of this Article shall be obliged to ensure that the used data contained in the records are protected against accidental or unauthorized access, use, processing and forwarding, in accordance with the Law.

The data contained in the records may be used for statistical, scientific, research and other purposes, in accordance with the provisions stipulating personal data protection.

The data contained in the records may be used by a data subject, upon his or her request.

## **XIV. SUPERVISION**

### **Competence**

#### **Article 209**

The supervision of the implementation of this Law and regulations adopted based on this Law shall be conducted by the Ministry and state administration authority in charge of foreign affairs, within their defined competences.

The control of the movement and stay of foreign nationals shall be performed by the authorized person of the police, in accordance with this Law.

The inspection supervision shall be performed by the labour inspector and other competent inspection services, within their competences, in accordance with this Law and the law governing inspection supervision.

## **XV. PENAL PROVISIONS**

### **Article 210**

An employer-legal entity shall be punished for misdemeanour with a fine in the amount from 1,000 EUR to 10,000 EUR, if:

- 1) a student works longer than 15 hours a week (Article 48 paragraph 3);
- 2) a foreign national researcher works as a lecturer or professor longer than 15 hours a week (Article 50 paragraph 6);
- 3) assigns the foreign national to jobs for which a temporary residence and work permit i.e. a work registration certificate was not issued to him or her (Article 66 paragraph 4);
- 4) does not keep in business premises or workplace of a foreign national, a copy of the residence and work permit i.e. a copy of a work registration certificate of a foreign national employed by them (Article 66 paragraph 5);
- 5) fails to inform the Ministry of the termination of foreign national's employment prior to the expiry of the residence and work permit validity period, not later than within eight days from the date of termination of foreign national's employment (Article 66 paragraph 6);
- 6) employs or uses the work of a foreign national who illegally stays in Montenegro (Article 66 paragraph 7);
- 7) does not keep in business premises i.e. workplace of a foreign national a copy of a temporary residence permit, a copy of a work registration certificate, i.e. an evidence of the recognized refugee status or granted additional protection, or evidence on the granted asylum or subsidiary protection or temporary protection as per Article 67 paragraph 1 items 1 through 8 of this Article (Article 67 paragraph 4);
- 8) within eight days from the date of employment or beginning of foreign national's work, i.e. the termination of foreign national's employment as per Article 67 paragraph 1 of this Law, fails to inform the Ministry thereof (Article 67 paragraph 5);
- 9) within 24 hours from the date of the issuing of a temporary residence and work permit for employment or seasonal employment, fails to conclude employment contract with a foreign national and register such a foreign national for compulsory social insurance (Article 70 paragraph 4 and Article 71 paragraph 4);
- 10) fails to notify the Ministry, not later than within three days, that a foreign national has not started working, for the purpose of annulment of the residence and work permit (Article 70 paragraph 5 and Article 71 paragraph 5);
- 11) fails to submit the work registration certificate to the Ministry, prior to the beginning of work of the foreign national referred to in Article 85 paragraph 2 of this Law (Article 85 paragraph 3);
- 12) employs the EU Blue Card holder on the jobs for which the EU Blue Card was not issued (Article 189 paragraph 2);
- 13) does not keep the copy of the EU Blue Card in the business premises i.e. workplace of a foreign national (Article 189 paragraph 3);



14) fails to inform the Ministry in the event of termination of the employment contract and other conditions based on which the EU Blue Card was issued, not later than within eight days from the date of occurrence of such circumstances (Article 189 paragraph 4).

For the misdemeanour referred to in paragraph 1 of this Article a person responsible in the legal entity shall also be punished with a fine in the amount from 300 EUR to 2,000 EUR.

For the misdemeanour referred to in paragraph 1 of this Article an entrepreneur shall be punished by a fine in the amount from 300 EUR to 6,000 EUR.

For the misdemeanour referred to in paragraph 1 of this Article a protective measure of the prohibition of performing the business activity may also be pronounced in the duration of up to six months.

### **Article 211**

A legal entity shall be punished for a misdemeanour with a fine in the amount from 3,000 EUR to 5,000 EUR if:

1) it brings to the border crossing point or to the territory of Montenegro a foreign national who does not meet the conditions as per Article 9 of this Law (Article 13 paragraph 1);

2) it fails to transport the foreign national from the border crossing point, at its own expense, or fails to find another modality of transportation or fails to assume the costs incurred during the stay and return of such foreign national (Article 13 paragraph 2);

3) it fails to assume the obligation as per Article 13 paragraph 4 of this Law (Article 13 paragraph 5).

For the misdemeanour referred to in paragraph 1 of this Article a person responsible in the legal entity shall also be punished with a fine in the amount from 300 EUR to 1,200 EUR.

For the misdemeanour referred to in paragraph 1 of this Article an entrepreneur shall also be punished with a fine in the amount from 300 EUR to 1,200 EUR.

For the misdemeanour referred to in paragraph 1 of this Article a protective measure of the prohibition of performing the business activity may be pronounced in the duration of up to six months.

A natural person, upon whose invitation a foreign national has been issued visa or granted entry to Montenegro, shall be punished with a fine in the amount from 500 EUR to 2,000 EUR, when such foreign national has been subject to the forced removal in accordance with this Law, if such natural person fails to assume the costs incurred during the stay and return of the foreign national (Article 13 paragraph 5).

### **Article 212**

A legal entity shall be punished for a misdemeanour with a fine in the amount from 500 EUR to 3,000 EUR if:

1) it fails to file the application to the police for registration or deregistration as per Article 97 paragraph 1 of this Law, in the place where the residence of foreign national is registered, within 12 hours from the arrival (Article 97 paragraph 2);

2) it fails to check the truthfulness of data by inspecting a foreign travel document of the person to whom it provides accommodation services, and provides untrue data in the

application for registration and deregistration of residence filed to the police (Article 97 paragraph 7);

3) fails to keep records of foreign nationals to whom it provides accommodation services (Article 98 paragraph 1);

4) fails to keep data in records referred to in Article 98 paragraph 1 of this Law two years from the date of entry (Article 98 paragraph 3);

5) fails to enable the police to inspect the records referred to in Article 98 paragraph 1 of this Law (Article 98 paragraph 4);

6) when registering i.e. deregistering the residence of a foreign national, fails to submit the certificate referred to in Article 99 paragraph 2 of this Law, on a prescribed form and in writing (Article 99 paragraph 3);

7) fails to submit to the police the registration i.e. the deregistration electronically (Article 100 paragraph 2);

8) fails to submit to the police the registration or the deregistration for a foreign national with stay of up to 90 days, to whom it provides the accommodation for longer than 12 hours, within 12 hours from the arrival i.e. departure of a foreign national (Article 101 paragraph 1);

9) fails to submit to the police the certificate of residence registration for a foreign national who was admitted for medical treatment, within 12 hours from the hour of admission (Article 101 paragraph 2);

10) fails to submit to the police the deregistration of the residence of foreign national after the completed medical treatment, within 12 hours from the completion of treatment (Article 101 paragraph 3).

For the misdemeanour as per paragraph 1 of this Article a person responsible in the legal entity shall also be punished with a fine in the amount from 150 EUR to 500 EUR.

For the misdemeanour as per paragraph 1 of this Article a natural person who provides the accommodation services shall also be punished with a fine in the amount from 150 EUR to 500 EUR.

For the misdemeanour as per paragraph 1 of this Article an entrepreneur shall be punished with a fine in the amount from 300 EUR to 1,500 EUR.

### **Article 213**

A foreign national shall be punished for the misdemeanour with a fine in the amount from 200 EUR to 1,200 EUR if:

1) he or she enters, stays and moves in Montenegro without a valid foreign travel document which contains a visa or without a valid foreign travel document with which he or she has a temporary residence permit, a temporary residence and work permit, i.e. a permanent residence permit (Article 9 paragraph 1);

2) he or she fails to observe the restriction or prohibition of movement at a particular area of Montenegro (Article 10);

3) he or she fails to use the travel document with which he or she has entered Montenegro (Article 11 paragraph 2);

4) he or she stays in Montenegro contrary to the purpose for which the visa has been issued to him or her (Article 17 paragraph 1);

5) he or she fails to stay in Montenegro in accordance with the purpose for which the temporary residence has been granted to him or her (Article 39 paragraph 2);

- 6) he or she works longer than 15 hours a week (Article 48 paragraph 3);
- 7) he or she works longer than 15 hours a week (Article 50 paragraph 6);
- 8) he or she does not work pursuant to a temporary residence and work permit or work registration certificate (Article 66 paragraph 1);
- 9) he or she does not work in Montenegro on the jobs for which temporary residence and work permit or the work registration certificate has been issued to him or her and for the employer who employs him or her (Article 66 paragraph 2);
- 10) he or she has illegally entered or stays in Montenegro or fails to promptly leave its territory or within the period defined for him or her (Article 104 paragraph 1);
- 11) fails to observe the rules of stay in the reception centre or leaves the reception centre without permission (Article 131 paragraph 1);
- 12) does not carry with him or her, or upon the request of an authorized official, refuses to present the document evidencing his or her identity (Article 145 paragraph 2);
- 13) gives his or her identity document to another person for use, or uses invalid or other person's document as his or her own (Article 145 paragraph 3);
- 14) does not use his or her personal name which is entered in the document referred to in Article 145 paragraph 1 of this Law.

#### **Article 214**

A foreign national shall be punished with a fine in the amount from 60 EUR to 600 EUR if:

- 1) he or she fails to file the application for the extension of permit referred to in Article 91 paragraph 2 of this Law, within eight days from the date of expiry of the permit validity period (Article 91 paragraph 3);
- 2) he or she has been issued visa for a longer stay (visa D) or stays in Montenegro for up to 90 days and fails to file to the police the application for registration in the place where he or she intends to stay or if he or she intends to stay in another place for longer than 24 hours, within 24 hours from the arrival to the place of residence (Article 96 paragraphs 1, 3 and 4);
- 3) he or she has been issued a temporary residence permit, a temporary residence and work permit, or a permanent residence permit, and fails to file to the police the application for registration of residence in the event that he or she temporarily resides in another place in Montenegro for longer than three days (Article 96 paragraph 2);
- 4) he or she fails to file to the police the application for deregistration of residence within 24 hours prior to leaving the place of residence (Article 96 paragraph 5);
- 5) he or she fails to file the application for registration and deregistration of residence referred to in Article 96 paragraphs 1 through 5 of this Law for a child (Article 96 paragraph 7);
- 6) within eight days from the date of the occurrence of the reasons as per Article 146 paragraph 1 of this Law fails to file the application for the replacement of a document (Article 146 paragraph 2);
- 7) fails to return the temporary residence permit, temporary residence and work permit, and permanent residence permit if such permit has ceased to be valid or he or she has acquired Montenegrin citizenship or is moving out of Montenegro (Article 147 paragraph 1 indents 1, 2 and 3);
- 8) fails to report the missing identity document (Article 148 paragraph 1);

9) during the stay in Montenegro moves in a foreign military uniform, except in the cases stipulated in Article 204 of this Law;

10) during the residence in Montenegro moves in a foreign police uniform or a foreign customs uniform, except in the cases stipulated in Article 205 of this Law.

### **Article 215**

A national of the EU member state and a member of his or her family shall be punished for a misdemeanour with a fine in the amount from 200 EUR to 1,200 EUR if they do not carry or upon the request of an authorized official refuse to present the document evidencing their identity (Article 176 paragraph 2).

An EU Blue Card holder shall be punished for the offence with a fine in the amount from 200 EUR to 1,200 EUR if:

1) he or she works on the jobs for which he has not been issued the EU Blue Card or works for an employer by whom he or she has not been employed ( Article 189 paragraph 1);

2) he or she has failed to notify the Ministry in the event of termination of the employment contract or other conditions based on which the EU Blue Card was issued (Article 189 paragraph 4);

3) he or she has failed to file the application for the extension of the EU Blue Card, not later than within 30 days prior to the expiry of the EU Blue Card validity period (Article 190 paragraph 1);

4) upon the expiry of the period of two years, he or she fails to notify the Ministry of the change of employer within eight days from the date of the change of employer (Article 191 paragraph 2).

## **XVI. TRANSITORY AND FINAL PROVISIONS**

### **Deadline for the adoption of by-laws**

#### **Article 216**

The regulations for the implementation of this Law shall be adopted within six months from the date of entry into force of this Law.

Until the adoption of the regulations referred to in paragraph 1 of this Article, the effective by-laws adopted under the Foreign Nationals Law ("Official Gazette of Montenegro ", Nos. 56/14, 28/15 and 16/16) shall be applied, unless contrary to this Law.

#### **Article 216a**

The bylaw referred to in Article 21a shall be adopted and the bylaw referred to in Article 26 paragraph 3 shall be harmonised with this Law within six months from the day of entry into force of this Law.

### **Resolving initiated proceedings**

#### **Article 217**

Proceedings initiated before the entry into force of this Law shall be completed pursuant to regulations valid until the entry into force of this Law.

Proceedings initiated upon the applications for the issuing of a long-term residence or a temporary residence permit in accordance with Articles 105a and 105b of the Foreign Nationals Law ("Official Gazette of Montenegro", Nos. 82/08, 72/09, 32/11, 53/11, 27/13 and 61/13), which were filed until 31 December 2014, for the internally displaced persons from Kosovo who have temporarily kept the status in accordance with the Decision on the Temporary Retention of the Status of Displaced and Internally Displaced Persons in Montenegro ("Official Gazette of Montenegro", number 46/06), shall be completed in accordance with that Law.

The persons referred to in paragraph 2 of this Article, who are issued a long-term residence permit, after the expiry of its validity shall be issued a permanent residence permit in accordance with Article 91 of this Law, whereby in the procedure for the issuing of such permit, they shall be obliged to submit the issued long-term residence permit.

The persons referred to in paragraph 2 of this Article, who are issued a temporary residence permit for up to three years, in accordance with Article 105a paragraph 1 and 2 of the Foreign Nationals Law ("Official Gazette of Montenegro", Nos. 82/08, 72/09, 32/11, 53/11, 27/13 and 61/13), shall be issued a permanent residence permit in accordance with Article 220 paragraph 1 of this Law.

### **Validity of documents issued according to the previous regulations**

#### **Article 218**

A personal identity card of a foreign national who was granted long-term residence, a permanent residence permit for a foreign national who was granted permanent residence, a temporary residence permit for a foreign national who was granted temporary residence, temporary residence and work permit for a foreign national who was granted temporary residence and work, a travel document for a stateless person, an emergency travel document for a foreign national, a special identity card and a special identification document for a foreign national whose compulsory residence was pronounced, which have been issued according to regulations effective to date, shall be valid until the expiry of the period for which they have been issued.

### **Issuing of a permanent residence permit**

#### **Article 219**

The foreign nationals who until the date of entry into force of this Law were issued a personal identity card for a foreign national who was granted a long-term residence or a permanent residence permit, shall be issued a permanent residence permit in accordance with Article 91 of this Law, after the expiry of the validity period of such documents.

In the procedure upon the application for the extension of permit, the foreign national referred to in paragraph 1 of this Article shall submit a personal identity card issued to foreign nationals i.e. a permanent residence permit for which the validity period has expired.

A temporary residence granted in accordance with previously valid regulations shall be taken into account when defining the time necessary for granting permanent residence referred to in Article 86 paragraph 1 of this Law.

## **Internally displaced persons**

### **Article 220**

The foreign national who, until the date of entry into force of this Law, was issued a temporary residence permit of up to three years, in accordance with Article 105a paragraph 1 and 2 of the Foreign Nationals Law ("Official Gazette of Montenegro ", nos. 82/08, 72/09, 32/11, 53/11, 27/13 and 61/13), shall be issued a permanent residence permit if within the validity period of such permit he or she acquires a travel document issued by the country of origin and files the application for the issuing of a permanent residence permit, in accordance with this Law.

A person referred to in paragraph 1 of this Article and a person to whom the permit is issued in accordance with Article 217 paragraph 4 of this Law, may work in Montenegro for up to three years, until the expiry of the validity period of a temporary residence permit issued in accordance with Article 105a paragraphs 1 and 2 of the Foreign Nationals Law ("Official Gazette of Montenegro ", nos. 82/08, 72/09, 32/11, 53/11, 27/13 and 61/13).

## **Application of particular provisions**

### **Article 221**

The provisions of Article 50 paragraph 5, Article 67 paragraph 1 items 5, 6 and 7, Article 115, Articles 120, 121 and 122, Articles 150 through 203, Article 210 paragraph 1 items 12, 13 and 14 and Article 215 of this Law shall be applied from the date of accession of Montenegro to the European Union.

The provision of Article 81 of this Law shall apply as of 1 January 2021.

Article 79 of this Law shall apply to the filing of application for issuing a temporary residence and work permit for seasonal work and to the delivery of such permit until 31 December 2019, whereby the foreign national shall submit the evidence of justification of the grounds for application as per Article 69 of this Law.

### **Article 221a**

The provisions of Article 21a and Article 26 paragraph 3 of this Law shall be applied as of the day of entry into force of the bylaws referred to in Article 216a of this Law.

## **Termination of application of the previous laws**

### **Article 222**

On the date of entry into force of this Law, the Foreign Nationals Law shall cease to be effective ("Official Gazette of Montenegro", Nos. 56/14, 28/15 and 16/16).

## **Coming into force**

### **Article 223**

This Law shall enter into force on the eighth day from the date of its publishing in the "Official Gazette of Montenegro ".

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**EPA 342 XXVI**

**Podgorica, 14 February, 2018**

**The 26th Convocation of the Parliament of Montenegro**

**President,  
Ivan Brajović, signed**