

REPUBLIC OF SERBIA

# **LAW ON FOREIGNERS**

Belgrade, 2019

## LAW ON FOREIGNERS

*Note:* This is a true translation of the original Law,  
but it is not legally binding.

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*ZAKON O STRANCIMA*

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# LAW ON FOREIGNERS\*

*PUBLISHER'S NOTE: Law on Amendments and Additions to the Law on Foreigners (Službeni glasnik RS, No. 31/19) entered into force on the eighth day from the date of its publication in the Službeni glasnik Republike Srbije, i.e. on 7 May 2019, with the exception of the provisions of Art. 1 and 5 (amending Art. 22 and 41 of the Law) which shall be applied as of 1 January 2020 and the provisions of Article 6 (adding title of Article 41a and Article 41a) which shall be applied as of 1 December 2020 (see Article 18 of the Law – 31/2019-7).*

## I. BASIC PROVISIONS

### Scope of the Law

#### Article 1

This Law shall regulate the conditions for entry, movement, stay and return of foreigners, as well as the competencies and tasks of the state administration authorities of the Republic of Serbia relating to entry, movement, stay of foreigners in the territory of the Republic of Serbia and their return from the Republic of Serbia.

### Application of the Law

#### Article 2

(1) This Law shall not apply to the foreigners which:

1) have submitted their applications for asylum or who were granted asylum or temporary protection in the Republic of Serbia, unless laid down otherwise by the law;

2) enjoy privileges and immunities pursuant to the international law in the part that is excluded by such privileges and immunities;

3) have been granted the status of refugees within the meaning of the Law on Refugees.

(2) Provisions of the Convention Relating to the Status of Stateless Persons shall apply to stateless persons, if that is more favourable for them.

### Meanings of Expressions

#### Article 3

(1) Individual expressions used in this Law shall have the following meanings:

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\* Published in the *Službeni glasnik RS*, Nos. 24/18 of 26 March 2018 and 31/19 of 29 April 2019. The latest changes are given in *italic*.

1) **a foreigner** shall be each person who does not have the citizenship of the Republic of Serbia;

2) **a competent authority** shall be the organisational unit of the Ministry of Interior, Police Directorate – outside of the seat, which performs the tasks relating to the movement and stay of foreigners;

3) **border police** is the organisational unit of the Ministry of Interior, Police Directorate – in the seat, which performs the tasks of border control and the tasks relating to the movement and stay of foreigners;

4) **a diplomatic-consular mission of the Republic of Serbia** (hereinafter: a diplomatic-consular mission) is a permanent diplomatic mission and consular post of the Republic of Serbia in a foreign country which is authorized to issue visas as defined in the Vienna Convention on Diplomatic Relations;

5) **an entry** shall be the arrival of foreigners in the territory of the Republic of Serbia, which has been approved by the border police, by crossing the state border, i.e. a border crossing point at which border control is carried out, where retaining of foreigners in the transit area of an airport or in the anchorage of a terminal or a port through which the international traffic is carried out shall not be considered, within the meaning of this Law, to constitute an entry into the Republic of Serbia;

6) **transit** shall imply passing across the territory of the Republic of Serbia;

7) **border control** shall imply the control of persons and travel documents, control of the means of transport and control of objects that is carried out in the area of the border crossing point in response to an intention to cross the state border or immediately after having crossed the state border and other controls in compliance with the law;

8) **reasons relating to the protection of security of the Republic of Serbia** are an expression of the need to protect the vital and permanent national values which are laid down in the Constitution and the law, including the security of its citizens;

9) **a stateless person** shall be a foreigner who is not considered as a national by any state under the operation of its law;

10) **the country of origin** shall be the country of which the foreigner has the nationality, i.e. the country in which the stateless person had the usual place of residence;

11) **the usual place of residence** shall be the place in which the foreigner remained under circumstances based on which it can be concluded that he/she did not stay in such place or area temporarily only;

12) **a foreign travel document** shall be the personal, family, collective, diplomatic or official passport, seaman's book and certificate of discharge furnished with a visa and another document recognized in international treaties as a travel document, based on which the identity of its holder can be established, the validity term of which has not expired and which has been issued in compliance with the regulations of a foreign state, i.e. a relevant act of an international organisation;

13) **an identity card for foreigners** shall be an identity document which is issued to a permanently residing foreigner, i.e. to a temporarily residing foreigner who doesn't have a valid travel document;

14) **a carrier** shall be a legal person, an entrepreneur, i.e. a natural person registered for public transportation of passengers in air, road, waterborne or railway traffic;

15) **a minor** shall be a foreigner who has not turned eighteen years;

16) **an unaccompanied minor** shall be a foreigner who has not turned eighteen years of age and who is, on the occasion of entry into the Republic of Serbia, unaccompanied by his/her parents, guardians or an adult person who is responsible for him/her or who has,

following the entry in the Republic of Serbia, become unaccompanied by the parents or guardians or an adult person who is responsible for him/her;

17) **employment** shall be entering into employee-employer relation or employment of foreigners within the meaning of regulations governing employment of foreigners in the Republic of Serbia;

18) **family reunification** shall be entry and residence by the immediate family members of a national of the Republic of Serbia or of a foreigner who is residing lawfully in the territory of the Republic of Serbia in order to preserve the family unit;

19) **a student** shall be a foreign national who has been enrolled at an accredited establishment of higher education with the aim of acquiring higher education, in compliance with the regulations governing the field of higher education;

20) **a pupil** shall be a foreign national who has been enrolled in elementary or secondary education in compliance with the regulations governing the field of elementary or secondary education;

21) **scientific and research work** shall be the creative work which is performed on a systematic basis with a view to improving the knowledge level and its application in all fields of science, in compliance with regulations governing the scientific and research activity;

22) **a scientific and research organisation** shall be a public or private organisation pursuing scientific and research work in the Republic of Serbia;

23) **a scientific researcher** shall be a foreign national who acquired a doctoral degree in a certain field of science or who holds a relevant higher education degree enabling his/her access to doctoral studies, and who has been elected by the scientific and research organisation to conduct his/her research activity;

24) **particularly vulnerable persons shall be:** the persons with disabilities, elderly persons, pregnant women, single parents with underage children, victims of torture, rape or some other form of serious violence (including domestic and intimate partner violence which can be caused by the sex, gender, sexual orientation and gender identity), victims of human trafficking, persons facing the threat of torture, inhumane or degrading treatment or punishment in their countries of origin due to their sexual orientation or gender identity, minors and unaccompanied minors;

25) **unauthorized residence** shall be the presence, in the territory of the Republic of Serbia, of a foreigner who does not fulfil or who no longer fulfils conditions for entry or further stay in the territory of the Republic of Serbia;

26) **return** shall be the procedure of returning of a foreigner, either voluntary or compulsorily, to the country of origin, a transit country in compliance with the bilateral agreements or readmission agreements or to a country to which the foreigner returns voluntarily and in which he/she shall be accepted;

27) **compulsory removal** shall be the enforcement of the obligation to return with exercising of police powers;

28) **a shelter for foreigners** (hereinafter referred to as: the shelter) shall be a facility for accommodation of foreigners who have not been authorized to enter the country or for whom decisions on expulsion, removal from the country or on return have been passed, who cannot, however, be immediately removed and who have been, in compliance with the law, ordered to stay under enhanced police surveillance;

29) **a residential address** shall be the city/town, municipality, populated place, street, house number, floor and apartment number at which a foreigner intends to stay during his/her authorized temporary residence in the Republic of Serbia.

## **Gender Neutrality of Expressions**

### Article 4

All expressions in this Law shall have equal gender meaning, irrespective of whether they are used in the masculine or feminine gender and they shall equally pertain to the masculine and to the feminine gender.

## **The Use of Travel Documents**

### Article 5

(1) A foreigner with multiple nationalities shall be considered to be a national of the state which has issued the travel document with which he/she has entered the Republic of Serbia.

(2) During his/her stay in and on the occasion of his/her exit from the Republic of Serbia, the foreigner shall be obliged to use the travel document of the state with which he/she entered the Republic of Serbia.

## **Entry and Stay of Foreigners**

### Article 6

A foreigner may enter and stay into the Republic of Serbia under conditions laid down by this Law, with the valid travel document in which a visa or an authorisation of stay has been entered, unless specified otherwise by the law or an international treaty.

## **Compliance with the Law**

### Article 7

(1) A foreigner shall be obliged to cooperate with the state authorities which are, in compliance with this Law, competent for foreigners and to provide all the necessary documentation, proof and information necessary for conducting procedures in compliance with this Law, which the competent authority cannot collect on its own.

(2) The competent authority shall, of its own motion or at the request of the party, provide a record number to the foreigner.

(3) The structure of the foreigner's record number shall be determined in compliance with the provisions of the Law on Citizens' Unique Personal Identification Numbers, so that the permanently settled foreigners and the foreigners who have been granted asylum in the Republic of Serbia are allocated the register number 06, and that all the other categories of a foreigners are allocated the register number of 66.

(4) With the aim of conducting procedures laid down by this Law, collecting the foreigners' biometric data (a photograph, fingerprints and palm prints and signature) shall be performed in compliance with the regulation on records and data processing in the field of home affairs.

## **Obligations of State Authorities, Natural and Legal Persons**

### Article 8

(1) The state authorities, legal persons, entrepreneurs and/or natural persons shall be obliged to, without delay, notify the competent authority of about the foreigner who is illegally staying or for whom conditions relating to the termination of rights to temporary residence or permanent settlement in the Republic of Serbia have occurred.



(2) The court which has passed the final judgement whereby a foreigner is pronounced guilty of a crime for which the foreigner is prosecuted *ex officio* or responsible of a misdemeanour, shall be obliged to, without delay, notify the competent authority thereof.

(3) Prior to releasing a foreigner, an institution for execution of criminal sanctions shall be obliged to notify the competent authority thereof.

### **Security Protection of the Republic Of Serbia and Its Citizens in Decision Making Procedures on the Rights and Obligations of Foreigners**

#### **Article 9**

(1) In the procedure of decision making on the rights and obligations of foreigners in relation to the entry into and stay in the territory of the Republic of Serbia, the Ministry of Interior shall acquire the opinion of the state authority competent for the protection of security of the Republic of Serbia in respect of the assessment of whether the entry or stay of foreigners into the territory of the Republic of Serbia is an unacceptable risk for security.

(2) With the aim of crime prevention and improving protection of public security, the assessment of security risk from the entry or stay of foreigners into the territory of the Republic of Serbia can additionally be provided by an organisational unit of the Ministry of Interior that is competent for combatting organized crime and terrorism.

(3) An unacceptable security risk shall exist where available information and intelligence is indicative of the foreigner's advocating, inciting, aiding, preparing or undertaking activities whereby he/she is jeopardizing the constitutional organisation and security of the Republic of Serbia, resources protected by the international law and national, regional and global security of significance for the Republic of Serbia and the legal order.

(4) In the procedure of passing the assessment of security risk, the authorities referred to in paragraphs (1) and (2) of this Article shall additionally collect and check personal data and information related thereto, in compliance with the regulation on records and processing of data in the field of home affairs.

(5) In the procedure referred to in paragraph (4) of this Article, an interview can be conducted with the person whose rights and obligations are being decided on, with the persons related to him and with other persons as well, information can be collected from legal persons, competent state authorities, registers, records, collections of data and databases maintained on the basis of the law can be inspected and other actions can be taken as well in compliance with the law and regulations passed on the basis of the law.

(6) On the occasion of passing the assessments of security risks and on the basis of data collected, the authorities referred to in paragraphs (1) and (2) of this Article shall consider whether the entry and stay of foreigners into the territory of the Republic of Serbia is jeopardizing the security of the Republic of Serbia and its citizens, to the degree where this presents an unacceptable risk to security.

(7) Information referred to in paragraph (5) of this Article shall be classified with a secrecy classification level in compliance with the provisions of the law governing confidentiality of information.

(8) Where it is assessed in the course of a decision making procedure on the rights and obligations of foreigners that the entry to and stay of a foreigner in the territory of the state presents an unacceptable security risk, the decision whereby entry or stay of a foreigner into the territory of the Republic of Serbia is denied shall be passed by the competent authority, except where the reasons referred to in Article 83, paragraph 3 of this Law exist.

(9) In the decision making procedure upon an appeal, the second instance authority shall inspect the facts and circumstances on which the negative assessment of security risk is based

and shall be obliged to handle them in compliance with the provisions of the law regulating confidentiality of information.

### **Procedural Rules in the Decision Making Procedure on the Rights and Obligations of Foreigners**

#### Article 10

In a decision making procedure on the rights and obligations of foreigners prescribed by this Law, provisions of the law regulating the general administrative procedure shall apply, unless where specified otherwise by this Law.

## **II. ENTRY AND EXIT OF FOREIGNERS TO AND FROM THE REPUBLIC OF SERBIA**

### **Border Control**

#### Article 11

Border control of foreigners shall be performed on the occasion of their entering to and exiting from the Republic of Serbia, in compliance with the law.

### **Entry and Exit on a Collective Travel Document**

#### Article 12

(1) A foreigner who is included in a collective travel document of another person may enter into and exit from the Republic of Serbia with the person in whose travel document he/she is included only.

(2) The foreigners who have a collective travel document may enter in and exit from the Republic of Serbia together.

(3) The foreigners who are included in a collective travel document must additionally have a document with a photo, based on which their identity can be established.

(4) The leader of the group must have his/her own travel document.

### **Obligations of a Carrier**

#### Article 13

(1) A carrier may bring a foreigner to a border crossing only if the foreigner possesses a valid travel or another document to which a visa or an approval of stay has been affixed, unless where determined otherwise by a law or an international treaty.

(2) If a foreigner is denied entry to the Republic of Serbia, the carrier which has transported him shall be obliged to transport the foreigner away without any delay, at their own expense. Where it is not possible to provide transportation within a reasonable time, the carrier shall bear the costs of stay and compulsory removal of the foreigner from the Republic of Serbia.

(3) Provisions of paragraph (2) of this Article shall additionally apply to the carrier which transported the foreigner to the international transit area of an airport, if another carrier has refused to transport the foreigner to the country of destination or if the foreigner is forbidden to enter the country of destination.

(4) When a foreigner who has come to the Republic of Serbia as a participant to a tourist or a business trip stays illegally in the Republic of Serbia, and where his/her illegal stay has come as a result of an omission from the part of the organizer of the tourist or business trip, the organizer shall be obliged to, if the foreigner has no means, bear the costs of his/her stay and compulsory removal.

## **Illegal Entry**

### **Article 14**

(1) An illegal entry to the Republic of Serbia shall be considered to be the entry:

- 1) outside of the place determined for crossing of the state border;
- 2) by avoiding border control;
- 3) without a travel or another document which is used for crossing of state border;
- 4) by using someone else's, invalid, i.e. fraudulent travel or another document;
- 5) by providing false information to the border police;
- 6) in the course of duration of the protective measure of removal or security measure of expulsion of foreigners, i.e. the measure of entry ban.

(2) Assisting or attempted assisting a foreign national to illegally enter to the Republic of Serbia, transit through the territory of the Republic of Serbia or illegally stay in the territory of the Republic of Serbia shall be prohibited.

(3) Assisting within the meaning of paragraph (2) of this Article shall not be considered to include assisting for the purpose of saving life, preventing injuries, providing emergency medical assistance, providing humanitarian assistance, i.e. assisting from humanitarian reasons, without any intention of preventing or postponing a compulsory removal.

## **Denial of Entry**

### **Article 15**

(1) The border police shall deny entry to the Republic of Serbia to a foreigner if:

- 1) the foreigner does not have a valid travel document or visa, where it is required;
- 2) the foreigner does not have sufficient means to support himself during his/her stay in the Republic of Serbia, for return to the country of origin or for transit to another country, or where he/she has not been provided subsistence in some other manner during his/her stay in the Republic of Serbia;
- 3) the foreigner is in transit and he/she does not fulfil conditions for entry to another transit country or to the country of final destination;
- 4) the protective measure of removal, the security measure of expulsion of foreigners, i.e. the ban on entry to the Republic of Serbia is in force against the foreigner;
- 5) the foreigner does not have the certificate of inoculation or another proof that he/she has not fallen ill, where he/she is coming from an area affected by an epidemic of infectious diseases;
- 6) the foreigner does not have the travel medical insurance for the period of his/her intended stay in the Republic of Serbia;
- 7) that is required by the reasons relating to security of the Republic of Serbia and its citizens;

8) it is determined that there is a negative assessment of security risks within the meaning of Article 9 of this Law in relation to the entry and stay of foreigners into the territory of the Republic of Serbia;

9) that is an obligation of the Republic of Serbia in relation to implementation of international restrictive measures;

10) it is determined that the foreigner uses fraudulent documents;

11) the foreigner has already stayed 90 days in the Republic of Serbia within a period of 180 days, unless where laid down otherwise by an international treaty, unless where it is a foreigner who has a visa for a longer stay (visa D) or has been granted temporary residence;

12) there is reasonable suspicion that he/she shall not use his/her stay for the intended purpose;

13) there is reasonable suspicion that he/she shall not leave the Republic of Serbia prior to the expiry of validity of his/her visa, i.e. where there is potential for illegal migration upon his/her entry into the Republic of Serbia.

(2) The entry shall be refused by means of a decision on denial of entry issued in the prescribed form in writing in which reasons for the denial of entry referred to in paragraph (1) of this Article shall be indicated. The denial of entry shall be recorded in the travel document of the foreigner.

(3) By way of exception, a foreigner for whom it is determined that there are some of the obstacles referred to in paragraph (1) of this Article can be authorized to enter the Republic of Serbia where there are humanitarian reasons for that, an interest of the Republic of Serbia or where this is called for by the international obligations of the Republic of Serbia.

(4) The entry shall be approved by means of a decision on approval of entry issued in the prescribed form in which the reason for entry, place and address of accommodation in the Republic of Serbia, the time period during which the foreigner may lawfully stay in the Republic of Serbia and the border crossing point at which the foreigner must depart from the Republic of Serbia shall be indicated.

(5) The appearance of the form on denial of entry to the Republic of Serbia, form on approval of entry to the Republic of Serbia and the method of entering information on denial of entry shall be prescribed by the Minister in charge of home affairs.

(6) An appeal may be filed against the decision on denial of entry.

(7) The Government shall prescribe more detailed conditions for denial of entry referred to in paragraph (1), points 2), 5), 7), 8) and 12) of this Article.

### **Entry and Stay without a Visa**

#### Article 16

(1) It can be determined by means of an international treaty or a Government decision that nationals of certain countries may enter to the Republic of Serbia without a visa, where there are no obstacles referred to in Article 15 of this Law.

(2) The Government may decide that nationals of certain countries may enter to the Republic of Serbia with the valid identity cards as well, where there are no obstacles referred to in Article 15, paragraph (1), points 2) through 13) of this Law.

(3) A foreigner who does not need a visa or a travel document for entry to the Republic of Serbia may stay there up to 90 days over any time period of 180 days, counting from the first entry, unless where laid down otherwise by an international treaty.

## **Exit**

### **Article 17**

(1) A foreigner may freely leave the Republic of Serbia.

(2) By way of exception, the border police shall temporarily prohibit the foreigner to depart from the Republic of Serbia where:

1) he/she does not possess a valid travel or another document which is used for crossing of state border;

2) he/she does not possess a visa required for entry to another country;

3) there is a reasonable suspicion that, by departing from the Republic of Serbia, he/she could avoid criminal, i.e. misdemeanour prosecution, serving of a prison sentence, enforcement of a court order, deprivation of liberty or enforcement of a due property liability, upon an order of a competent state authority or a court.

(3) When the reasons referred to in paragraph (2) of this Article have ceased, the foreigner shall be permitted to depart from the Republic of Serbia.

## **III. VISAS**

### **General Provisions**

#### **Article 18**

(1) A visa is an authorisation for the entry, stay or transit obtained by a foreigner prior to the entry to the territory of the Republic of Serbia.

(2) A visa issued shall not be a guarantee that a foreigner shall be allowed to enter the Republic of Serbia.

### **Types of Visas**

#### **Article 19**

The types of visas shall be:

1) the airport transit visa (visa A);

2) the short-stay visa (visa C);

3) the long-stay visa (visa D).

### **Airport Transit Visa (Visa A)**

#### **Article 20**

(1) A foreigner who between landing and departure at an airport in the Republic of Serbia does not leave the international transit area of such airport or the aircraft shall not need a visa.

(2) The Government of the Republic of Serbia may determine that the nationals of certain countries, where that is called for by the reasons relating to security of the Republic of Serbia and its citizens, must have the airport transit visa.

(3) The airport transit visa shall not be obtained by the foreigners who does not require a visa for entry to the Republic of Serbia, a foreigner who have valid visas for entry to the

Republic of Serbia or authorisations for stay, the family members of a national of the Republic of Serbia, holders of diplomatic and official passports, as well as members of aircraft crew, in compliance with the Convention on International Civil Aviation (Službeni glasnik FNRJ – International Treaties and other Agreements, No. 3/54).

(4) The airport transit visas shall be issued with the validity period of up to 6 months and it shall authorize a single transit or multiple transits through the international transit area of the airport without a possibility of any entries into the territory of the Republic of Serbia.

### **A Short-stay Visa (Visa C)**

#### Article 21

(1) A short-stay visa is an authorisation for entry to the Republic of Serbia, transit through the territory of the Republic of Serbia or stay in the territory of the Republic of Serbia of up to 90 days within any period of 180 days, counting from the date of the first entry.

(2) A short-stay visa shall be issued for travels of all purposes except for those for which a longer-stay visa is issued or a temporary residence is granted.

(3) A short-stay visa cannot serve as grounds for submission of an application for temporary residence in the Republic of Serbia, unless where provided for otherwise by this Law.

(4) A short-stay visa shall be issued for one, two or multiple entries to the Republic of Serbia.

(5) The validity period of a short-stay visa may not exceed five years.

### **A Long-stay Visa (Visa D)**

#### Article 22

(1) A long-stay visa is an authorisation for entry to and stay in the territory of the Republic of Serbia for a period from 90 to 180 days.

(2) A foreigner who, in compliance with the visa regime for entry to the Republic of Serbia, requires a visa and who intends to submit an application in the Republic of Serbia for granting temporary residence shall obtain a long-stay visa.

*(3) A foreigner who has been issued a long-stay visa on the basis of employment shall exercise the right to employment in compliance with the regulations governing employment of foreigners.\**

*(4) Before the expiry of validity term of the long-stay visa on the basis of employment, the foreigner shall submit an application for approval of temporary stay on the basis of employment, where his/her hiring in the Republic of Serbia exceeds the validity term of the long-stay visa.\**

### **Competence for Visa Issuing**

#### Article 23

(1) A visa shall be issued by a diplomatic-consular mission, unless where determined otherwise by this Law.

(2) A visa application shall be considered and it shall be decided upon by the diplomatic-consular mission in the consular territory of which the person submitting the application lawfully resides.

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\* Published in the *Službeni glasnik RS*, No. 31/19 of 29 April 2019.

(3) By way of exception, a diplomatic-consular mission shall additionally consider and decide on an application submitted by a foreigner, who is lawfully staying in its consular territory and who has no residence in such a country, in cases where he/she encloses proof of urgency for the travel to the Republic of Serbia for which he/she requires the visa.

(4) In the countries in which the Republic of Serbia has no diplomatic-consular missions, mutual representation in the visa issuing procedures can be laid down by means of an international treaty.

(5) By way of exception from paragraph (1) of this Article, a short-stay visa may, in compliance with Article 34 of this Law, be issued by the border police.

## **A Foreign Travel Document**

### Article 24

(1) On the occasion of submitting an application for visa issuing, a foreigner must enclose the foreign travel document the validity period of which shall exceed the intended date of departure from the Republic of Serbia by three months at the minimum, which shall have two successive empty pages at the minimum and which has been issued within the past ten years.

(2) By way of exception, where that is in the interest of the Republic of Serbia or where there are humanitarian reasons for that, on the occasion of submitting an application for a visa, a foreigner may enclose a travel document which does not conform to the conditions referred to in paragraph (1) of this Article.

(3) Where that is in the interest of the Republic of Serbia or where there are humanitarian reasons for that, and the travel document is not recognized by the Republic of Serbia, the visa shall be stamped in the form for affixing a visa.

(4) The appearance of the form for affixing a visa and the method of affixing a visa in the form shall be prescribed by the Minister in charge of foreign affairs.

## **Submission of Visa Applications**

### Article 25

(1) An application for visa issuing shall be submitted in person, in the prescribed form, three months prior to the intended beginning of the travel at the earliest.

(2) A diplomatic-consular mission may deviate from the personal submission of an application for visa where it is determined that the person submitting the application has lawfully used the previously issued visas. The persons included in the travel document of the person submitting the visa application shall submit separate applications for visas in the prescribed form.

(3) When submitting a visa application, the foreigner shall enclose:

- 1) the completed form of the visa application;
- 2) the travel document;
- 3) the photo;
- 4) proof of payment of the visa issuance fee;
- 5) proof of purpose and reasons for stay in the Republic of Serbia;
- 6) the invitation letter;
- 7) the relevant and valid travel medical insurance.

(4) The diplomatic-consular mission shall reject an application for visa issuing if the person submitting the application does not fulfil one or more general conditions referred to in

paragraph (3) of this Article or if he/she fails to submit the application within the prescribed time limit.

(5) In case of rejection of an application for visa issuing, the documents enclosed to the application and the amount of visa issuance fee shall be returned to the person submitting the application.

(6) Where there are humanitarian reasons or interest of the Republic of Serbia, a visa application shall additionally be considered in the case where some of the general conditions referred to in paragraph (3) of this Article are not fulfilled.

(7) Where an application for visa issuing is accepted for consideration, a seal shall be affixed to the travel document of the foreigner whereby the receipt of the visa application shall be confirmed.

(8) No seal shall be affixed to the diplomatic or official travel documents.

(9) The appearance of the form for submission of a visa application as well as of the stamp whereby the receipt of an application is confirmed shall be prescribed by the Minister in charge of the foreign affairs.

### **Proof of Compliance with the Conditions for Visa Issuing**

#### Article 26

(1) On the occasion of submitting an application for airport transit visa issuing, the person submitting the application shall be obliged to enclose proof of admissibility of entry to the following country on his/her planned route.

(2) On the occasion of submitting an application for a short-stay visa issuing, the person submitting the application shall be obliged to enclose proof:

- 1) of the purpose of his/her travel;
- 2) of sufficient amount of financial means for the costs of accommodation or another proof relating to accommodation;
- 3) of the amount of available means for subsistence during the intended stay and for the return to the country of origin or to the usual place of residence;
- 4) other proof based on which the intention of the person submitting the application to depart from the Republic of Serbia prior to the expiry of the requested visa can be verified.

(3) When submitting a long-stay visa application, the person submitting the application shall be obliged to, in addition to the proof referred to in paragraph (2) of this Article, enclose proof, i.e. documents which need to be enclosed on the occasion of submitting applications for temporary residence in compliance with the provisions of this Law (depending on the grounds for the stay).

(4) A diplomatic-consular mission may additionally consider an application for a short-stay visa issuing if one or more pieces of proof referred to in paragraph (2) of this Article is not enclosed, on condition that the visa applicant has lawfully used the previously issued visas and providing that there is no suspicion relating to the existence of reasons for denial of entry to the Republic of Serbia to foreigners referred to in Article 15 of this Law.

### **An Invitation Letter**

#### Article 27

(1) The legal or natural person that is inviting a foreigner to a private or business visit must enclose an invitation letter.



(2) In the invitation letter, the inviter shall undertake to bear the costs of stay and of the compulsory removal of the foreigner from the territory of the Republic of Serbia, as well as the costs of the stay and accommodation of the foreigner in the shelter for foreigners, where such costs cannot be collected from the foreigner.

(3) Where the inviter of a foreign national to the Republic of Serbia is a natural person, the invitation letter should include the statement referred to in paragraph (2) of this Article, information about the foreigner (name and surname of the foreigner, the date of birth, nationality of the foreigner, information on his/her travel document), information on the inviter (name and surname of the inviter, his/her date of birth, nationality of the inviter, telephone number of the inviter, residential address of the inviter, the reason for inviting the foreigner to the Republic of Serbia), as well as other information of relevance for the procedure of visa issuing. The invitation of a natural person must be certified with competent authority for certification of papers.

(4) Where the inviter of a foreign national to the Republic of Serbia is a legal person, the invitation letter should include the statement referred to in paragraph (2) of this Article, information about the foreigner (name and surname of the foreigner, the date of birth, nationality of the foreigner, information on his/her travel document), the name, seat, company registration number and tax identification number, signature and seal of the responsible person with the legal person inviting the foreigner to visit, the reason for inviting the foreigner to the Republic of Serbia, as well as other information of relevance for the procedure of visa issuing.

## **Travel Medical Insurance**

### **Article 28**

(1) The person submitting a visa application must enclose proof of adequate travel medical insurance during his/her stay in the Republic of Serbia which shall cover the costs that may arise relating to the emergency medical assistance, emergency hospital treatment, return to the country of origin due to medical reasons or in the case of death.

(2) The period of insurance coverage must not be shorter than the time period of the planned stay in the Republic of Serbia.

(3) By way of exception from paragraph (1) of this Article, the persons holding diplomatic travel documents and those submitting applications for airport transit visa shall not be obliged to enclose proof of travel medical insurance.

## **Verification of Conditions and Assessment of Risks**

### **Article 29**

(1) A diplomatic-consular mission shall, in cooperation with the Ministry of Interior and the state authority competent for the protection of security of the Republic of Serbia, conduct a check of data of the applicant and of the inviter by inspecting the records maintained in compliance with the law, verify authenticity of allegations in the documentation enclosed with the application for visa issuing, as well as justification of the purpose of travel. Personal data of the visa applicant and any natural and legal persons related to him shall be collected and processed in compliance with the regulation governing data records and processing in the field of home affairs.

(2) *Prior to issuing a visa, the diplomatic and consular mission shall acquire prior consent from the Ministry of Interior.\**

(3) The prior consent shall be provided by the Ministry of Interior, based on the results of the assessment of the competent authority according to the place of arrival of the foreigner,

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results of assessment conducted by the state authority in charge of protection of security of the Republic of Serbia and other operational intelligence available to them in the case in question.

(4) The authority competent according to the place of arrival of the foreigner shall conduct an interview with the inviter and determine the circumstances surrounding the arrival of the foreigner to the Republic of Serbia, perform checks in the records maintained in compliance with the law and take other actions in compliance with the law and regulations passed on the basis of the law, for the purpose of determining the necessary facts for the assessment of justification of the visa application.

(5) The time limit for the provision of consent referred to in paragraph (3) of this Article shall be ten days from the delivery of application for visa issuing for consideration.

(6) The time limit can be extended up to 25 days where there are duly justified reasons for that.

(7) On the occasion of verification of allegations and proof enclosed with the application for visa issuing, it shall be determined whether there are one or more reasons to reject visa issuing as prescribed in Article 36 of this Law.

(8) In the duly justified cases, a diplomatic-consular mission, i.e. the competent authority may invite the person submitting the application or the inviter to supplement the application and acquire additional pieces of information and documentation.

(9) Where an application for visa issuing is considered anew, the previous rejection of the visa application may not be the reason for rejection of the new application for visa issuing.

### **Time Limits for Deciding on an Application for Visa Issuing**

#### Article 30

(1) The time limit for deciding on an application for visa issuing shall be 15 days from the application submission date.

(2) The time limit referred to in paragraph (1) of this Article may be extended up to 30 days where there are duly justified reasons for that.

### **Issuing of a Visa**

#### Article 31

(1) The validity period of a visa, the period of stay and the number of entries to the Republic of Serbia shall be determined in compliance with the facts determined in compliance with Article 29 of this Law.

(2) The airport transit visa, as well as the short-stay visa for one or two entries to the Republic of Serbia shall be issued with the validity period which shall exceed the approved period of stay by 15 days, except where called for otherwise by the reasons of security of the Republic of Serbia and its citizens.

(3) In the case of a transit, a short-stay visa shall be issued with the period of stay which shall correspond to the time required for the transit.

(4) The multiple entry short-stay visa shall be issued with the validity period longer than 180 days if the applicant has provided sufficient proof or has justified the intention to regularly travel to the Republic of Serbia due to the business or private reasons or where it has been determined that he/she has lawfully used the previously issued visas.

(5) The long-stay visa shall be issued for multiple entries and with the validity period which may not be shorter than 90 or longer than 180 days.

*(6) A foreigner who has been granted a visa shall be obliged to reside in the Republic of Serbia in compliance with the purpose, i.e. in compliance with the grounds for which visa has been granted to him.\**

### **Completing the Visa Sticker and Affixing Thereof to the Travel Document**

#### Article 32

(1) A visa sticker shall be completed by using a machine, prior to affixing of the visa to the foreigner's travel document. No corrections can be made to a printed visa sticker.

(2) By way of exception, a visa sticker can be completed by hand, with the consent from the Ministry in charge of foreign affairs, in cases of technical problems, for reasons of force majeure and impossibility to print the visa sticker only. No corrections can be made to a visa sticker completed by hand. Information on a visa completed by hand shall be entered into the Visa Information System.

(3) The appearance and method of affixing of a visa sticker to a foreign travel document shall be prescribed by the Minister in charge of foreign affairs.

### **Cancellation of a Visa Sticker**

#### Article 33

(1) If a diplomatic-consular mission detects an error in a completed visa sticker, such visa sticker shall be cancelled by striking it through.

(2) Where the visa sticker referred to in paragraph (1) of this Article has been included in the travel document of a foreigner, the visa sticker shall be cancelled by striking through, and the new sticker shall be affixed to the following blank page of the travel document.

### **Visa Issuing at a Border Crossing Point**

#### Article 34

(1) By way of exception from Article 23, paragraph (1) of this Law and providing that there are no obstacles prescribed in Article 36, paragraph (1) of this Law, a foreigner who hasn't had an opportunity to apply for a visa in a diplomatic-consular mission can be issued a short-stay visa at a border crossing point for a single entry with the validity period of up to 15 days, where this is in the interest of the Republic of Serbia or where there are humanitarian or professional reasons to do that.

(2) In case of a transit, visa shall be issued with the validity period required for such transit.

(3) Prior to issuing of the visa referred to in paragraph (1) of this Article, an assessment shall be acquired from the state authority competent for the protection of security of the Republic of Serbia.

(4) The application for visa issuing shall be submitted by the foreigner in person, in the prescribed form, at the border crossing point at which he/she is located. On the occasion of visa application submission, the foreigner shall additionally enclose proof of reasons for entry to the Republic of Serbia referred to in paragraph (1) of this Article.

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(5) The decision on rejection of an application for visa issuing at a border crossing point and the reasons on which it is based shall be delivered to the foreigner in the prescribed form.

(6) An appeal can be filed against the decision on rejection of an application for visa issuing at a border crossing point.

(7) The appearance of the form for rejection of applications for visa issuing at the border crossing points shall be prescribed by the Minister in charge of home affairs.

### **Extension of Visa Validity Period**

#### Article 35

(1) The visa validity period and the period of stay indicated in the visa cannot be extended.

(2) By way of exception, validity period of a short-stay visa or the period of stay indicated in a visa can be extended at the request of the foreigner where this is called for by the humanitarian or professional reasons, i.e. in the case of force majeure.

(3) The application shall be submitted in person to the competent authority, prior to the expiry of the visa validity period or the period of stay and proof of existence of circumstances and facts referred to in paragraph (2) of this Article shall be enclosed thereto as well. Until the decision on application for visa extension is passed, the foreigner shall lawfully stay in the territory of the Republic of Serbia.

(4) A visa shall be extended by affixing a visa sticker to the passport of the foreigner, and the total length of the foreigner's period of stay in the Republic of Serbia according to the previously issued visa sticker and the period of stay according to the visa sticker that is issued based on this Article cannot exceed 90 days.

(5) The decision on rejection of an application for extension of the visa validity period inclusive of the reasons on which it is based shall be delivered in the prescribed form.

(6) An appeal can be filed against the decision on rejection of extension of a visa validity period.

(7) The appearance of the form on rejection of an application for extension of a visa validity period shall be prescribed by the Minister in charge of home affairs.

### **Rejection of Applications for Visa Issuing**

#### Article 36

(1) A diplomatic-consular mission shall reject an application for visa issuing where:

1) the enclosed to the application for visa issuing, the foreigner submits a travel document which does not comply with the conditions prescribed in Article 24, paragraph (1) of this Law;

2) the foreigner does not fulfil conditions for entry to another country or for return to the country of origin or to the country of usual place of residence;

3) the protective measure of removal or security measure of expulsion of the foreigner, i.e. of the entry ban is in force;

4) the foreigner does not have the certificate of inoculation or another proof that he/she has not fallen ill, where he/she is coming from an area affected by an epidemic;

5) the foreigner does not have the travel medical insurance for the period of his/her intended stay in the Republic of Serbia;

6) the foreigner presents an unacceptable security risk for the protection of security of the Republic of Serbia and its citizens;

7) the foreigner submits an application for visa issuing for a short-stay in the Republic of Serbia where he/she has stayed 90 days there over the past 180 days;

8) it is determined that there is a negative assessment of security risk referred to in Article 9 of this Law in relation to the entry into and stay of foreigners on the territory of the Republic of Serbia;

9) there is a reasonable doubt that the stay shall not be used for the intended purpose;

10) the foreigner encloses a fraudulent travel document;

11) there is a reasonable doubt relating to the authenticity of the supporting documentation which has been enclosed with the visa application or relating to the authenticity of his/her statement;

12) the foreigner has not enclosed any proof of amount of funds sufficient to maintain him during his/her planned stay and for his/her return to the country of origin or the state of usual place of residence;

13) there is a reasonable doubt that he/she shall not depart from the Republic of Serbia prior to the expiry of the visa validity period, i.e. that there is a potential for illegal migration upon his/her entry to the Republic of Serbia;

14) there is a reasonable doubt that he/she shall disturb the legal order of the Republic of Serbia;

15) it is obvious that the marriage has been solemnized or the common-law marriage has been established of convenience, with the aim of obtaining the visa;

16) he/she fails to respond in person to an invitation from a diplomatic-consular mission of the Republic of Serbia;

17) it is determined that he/she does not fulfil the conditions required for issuing a long-stay visa.

(2) By way of exception from paragraph (1) of this Article, a visa can be issued from the humanitarian reasons, where this is in the interest of the Republic of Serbia or where this is called for by the internationally undertaken obligations.

(3) The decision on rejection of an application for visa issuing inclusive of the reasons on which it has been based shall be delivered in the prescribed form.

(4) An appeal can be filed against the decision on rejection of an application for visa issuing.

(5) The appearance of the form on rejection of a visa application shall be prescribed by the Minister in charge of foreign affairs.

### **Cancelling and Withdrawal of Visas**

#### **Article 37**

(1) A visa shall be cancelled where it is determined that conditions for its issuing were not been fulfilled at the time when it was issued.

(2) A visa shall be withdrawn where it is subsequently determined that the conditions that existed at the time of its issuing no longer exist.

(3) A visa can be withdrawn at the request of the foreigner who has a valid visa.

(4) Visas shall be cancelled or withdrawn by a diplomatic-consular mission, border police or a competent authority.

(5) The decision on cancellation or withdrawal of a visa in which the reasons on which it is based are indicated shall be delivered in the prescribed form.

(6) An appeal can be filed against the decision on cancelling or withdrawal of a visa, except in the case where a visa has been withdrawn at the request of the foreigner to whom such visa has been issued.

(7) The appearance of the form on cancellation or withdrawal of a visa as well as the method of cancellation and withdrawal of a visa shall be prescribed by the Minister in charge of foreign affairs.

### **Right to Appeal**

#### **Article 38**

(1) A foreigner can file an appeal against the decision on rejection of visa application, application for visa issuing at a border crossing point, cancellation or withdrawal of visa, extension of visa validity period and refusal of entry to the Republic of Serbia to the authority which has passed such decision within eight days from the date of receipt of the decision. The appeal shall be filed in writing, in Serbian language, upon payment of the prescribed administrative fee.

(2) The Ministry in charge of foreign affairs shall decide on the appeal filed against the decision referred to in paragraph (1) of this Article in cases of decisions passed by the diplomatic-consular missions, and the Ministry of Interior shall decide in cases of decisions which were passed by the border police and the competent authority, within 60 days from the appeal receipt date.

(3) An appeal against the decision referred to in paragraph (1) of this Article shall not have suspensive effect on enforcement except in the cases where there are some of the reasons prescribed by Article 83 of this Law.

(4) An administrative dispute can be initiated against the decision passed in the second instance procedure.

## **IV. STAY OF FOREIGNERS**

### **Short-term Stay of Foreigners**

#### **Article 39**

(1) A foreign national may remain in the Republic of Serbia for a short stay, residence based on a long-stay visa, temporary residence and permanent settlement.

(2) A short stay of a foreign national in the Republic of Serbia shall be the stay without a visa up to 90 days over any 180 days' period counting from the date of first entry, unless where determined otherwise by an international treaty, as well as a stay on the basis of a short-stay visa.

(3) If any of the reasons prescribed by this Law for imposition of a ban occurs during such short stay of the foreigner, the competent authority may, by means of a decision, deny the short stay to the foreigner, impose the ban on entry to the Republic of Serbia over a specified period of time and determine the time limit for departure from the Republic of Serbia which may not exceed 30 days.

(4) Article 78 of this Law shall apply *mutatis mutandis* to the imposition of ban.

(5) The foreigner may file an appeal to the competent authority against the decision on revocation of the short stay and ban on entry within 15 days from the decision receipt date. The appeal shall be filed in writing, in Serbian language, upon payment of the prescribed fee.

(6) The Ministry of Interior shall decide on the appeal.

(7) The appeal shall not have suspensive effect on the enforcement of the decision.

(8) Provisions of paragraphs (3) through (7) of this Article shall additionally apply *mutatis mutandis* to the revocation of residence to the foreigner who stays in the Republic of Serbia on account of a long-stay visa.

## Temporary Residence

### Article 40

(1) A temporary residence shall be the authorisation for stay of a foreign national in the Republic of Serbia and it may be granted to a foreigner who intends to reside in the Republic of Serbia longer than 90 days on the grounds of:

- 1) employment;
- 2) schooling or learning Serbian language;
- 3) studying;
- 4) participation in programs of international exchange of pupils or students;
- 5) professional specialized training, training and practice;
- 6) scientific and research work or some other scientific and educational activity;
- 7) family reunification;
- 8) performance of religious service;
- 9) medical treatment or care;
- 10) ownership of real property;
- 11) humanitarian stay;
- 12) status of a presumed victim of trafficking in human beings;
- 13) status of a victim of trafficking in human beings;
- 14) other duly justified reasons in compliance with the law or an international treaty.

(2) By way of exception from paragraph (1) of this Article, a temporary residence on the grounds of employment can be granted to a foreigner who intends to reside in the Republic of Serbia for a period shorter than 90 days and who needs a work permit for such work in compliance with the regulations governing employment of foreigners.

(3) A foreigner who has been granted temporary residence on any of the grounds prescribed in paragraph (1) of this Article shall be obliged to reside in the Republic of Serbia in compliance with the grounds for which such residence has been granted to him.

(4) *By way of exception from paragraph (1) of this Article, irrespective of the grounds for approval of temporary residence, the temporary residence can be approved to specific categories of foreigners.\**

(5) *The criteria for determining the categories, as well as the categories referred to in paragraph (4) of this Article shall be determined by an act of the Government.\**

## Submission of Applications for Temporary Residence and Time Limits

### Article 41

(1) A foreigner shall submit the application for authorisation, i.e. extension of a temporary residence in person *or by electronic means\**, to the competent authority, in the prescribed form.

(2) *A foreigner who has legally entered the Republic of Serbia and who does not need a visa for such entry, as well as the foreigner who entered the Republic of Serbia with a long-stay*

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*visa, and who resides legally in the Republic of Serbia, shall submit an application for temporary residence.\**

*(3) A foreigner may submit the application for temporary residence in the Republic of Serbia by electronic means from abroad as well.\**

*(4)\* By way of exception from paragraph (2) of this Article, where there are humanitarian reasons or the force majeure reasons or where it is in the interest of the Republic of Serbia, a foreigner who has lawfully entered and lawfully stayed in the Republic of Serbia with a visa for a short stay may submit an application for granting authorisation for temporary residence, upon providing proof of existence of the above listed reasons.*

*(5)\* The grounds for submission of an application for temporary residence must be the same as the grounds for issuing of the long-stay visa.*

*(6)\* The application for extension of temporary residence shall be submitted three months at the earliest and 30 days at the latest prior to the expiry of the validity period of the temporary residence.*

*(7)\* A foreigner who has submitted an application for authorisation of a temporary residence, i.e. for the extension of the temporary residence in a timely manner may remain in the Republic of Serbia until the conclusion of the first instance procedure, i.e. until the conclusion of the second instance procedure in case of filing of an appeal against the decision on rejection of the appeal.*

*(8)\* Where this is in the interest of the Republic of Serbia, if it is determined that there are humanitarian reasons or due to the existence of force majeure, the competent authority may consider an application for extension of temporary residence of a foreigner which has been submitted following the expiry of the current temporary residence, providing that the period of time in between the expiry of the previous temporary residence and the submission of application for extension of temporary residence is shorter than three months.*

*(9)\* If the competent authority grants an extension of the temporary residence referred to in paragraph (7) of this Article, the period in between the expiry of the previously granted temporary residence and submission of application for extension of temporary residence shall be considered to be lawful and uninterrupted stay.*

*(10) More detailed conditions for submission of applications for granting temporary residence by electronic means shall be prescribed by the Minister in charge of home affairs.\**

### ***Single Application for Temporary Residence and Work Permit\****

#### ***Article 41a\****

*(1) Applications for granting, i.e. extension of temporary residence for a foreigner inclusive of an application for work permit shall be submitted by the foreign nationals in person or by electronic means to the competent authority in the prescribed application form.\**

*(2) The prescribed fee shall be paid for the application referred to in paragraph (1) of this Article.\**

*(3) The appearance and the contents of the application form referred to in paragraph (1) of this Article, as well as the documentation to be submitted enclosed with the application shall be prescribed by mutual agreement by the Minister in charge of home affairs and the Minister in charge of employment.\**

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## Competence for Decision Making

### Article 42

(1) The competent authority shall decide on an application for granting, i.e. extension of temporary residence within 30 days from the application submission date.

(2) On the occasion of deciding on an application submitted for granting temporary residence, in addition to the assessment of whether the general conditions referred to in Article 43 of this Law have been fulfilled, the competent authority shall additionally acquire the assessment of the state authority in charge of protection of security of the Republic of Serbia on whether the foreigner's stay in the territory of the Republic of Serbia presents an unacceptable security risks.

(3) The time limit for delivery of the assessment shall be 25 days from the date of delivery of application for consideration.

## General Conditions for Issuing Authorisations for Temporary Residence

### Article 43

(1) Enclosed to the application for authorisation, i.e. extension of temporary residence, the foreigner shall provide:

- 1) the valid personal or official passport;
- 2) proof of means for supporting himself during the planned stay;
- 3) registration of *domicile or\** residential address in the Republic of Serbia;
- 4) proof of medical insurance during the planned stay;
- 5) proof of justification of application for granting temporary residence in compliance with the grounds prescribed in Article 40 of this Law, as well as other documents at the request of the competent authority;
- 6) proof of payment of the prescribed administrative fee.

(2) More detailed conditions for granting temporary residence, the appearance of the application for granting temporary residence, as well as the appearance and method of affixing of the temporary residence sticker to foreign travel documents shall be prescribed by the Minister in charge of home affairs.

## Duration of a Temporary Residence

### Article 44

(1) Temporary residence can be granted for a period of up to one year and it can be extended for same validity period, depending on the grounds for such residence and the existence of reasons due to which the temporary residence is being granted.

(2) Temporary residence shall be approved by stamping the sticker of the temporary residence in the foreign travel document.

(3) The travel document in which a sticker for temporary residence is affixed shall be taken over in person.

(4) Exceptionally, providing that there are some duly justified reasons for that, the travel document in which the temporary residence sticker is affixed can be taken over by an attorney-in-fact of the foreigner.

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(5) The validity period of the travel document must exceed the time period of the temporary residence granted by three months at the minimum.

(6) By way of exception, where there are humanitarian reasons, interest of the Republic of Serbia or force majeure, a foreigner who does not have a valid travel document and who fulfils the general conditions referred to in Article 43 of this Law shall be granted or extended the temporary residence by means of a decision.

### **Rejection of Applications for Temporary Residence**

#### Article 45

(1) An application for temporary residence, i.e. application for extension of temporary residence shall be rejected where:

1) the validity period of the personal or official passport is shorter than the time limit prescribed in Article 44, paragraph (5) of this Law;

2) one or more general conditions prescribed in Article 43, paragraph (1) of this Law are not fulfilled;

3) the protective measure of removal, security measure of expulsion is in force against the foreigner or the entry ban has been imposed against him;

4) this is called for by the reasons of security of the Republic of Serbia and its citizens;

5) there is a reasonable doubt that the foreigner will not use the temporary residence for its intended purpose;

6) the foreigner has enclosed a fraudulent travel document;

7) it is determined that proof enclosed with the application for temporary residence is forged or obtained unlawfully;

8) there are reasons to justifiably believe that he/she shall not act in compliance with the legal order of the Republic of Serbia.

(2) Where it is determined by inspection of the travel document or by inspection of the records maintained in compliance with the regulation on records and data processing in the field of home affairs that the foreigner during the validity period of the previously granted temporary residence in the Republic of Serbia has stayed less than one half of the time for which such temporary residence was granted to him, the competent authority may reject the application for extension of temporary residence in case where the foreigner fails to provide proof of justification of such absence from the Republic of Serbia.

(3) The foreigner may file an appeal against the decision on rejection of application for granting temporary residence, i.e. for the extension of temporary residence, through the competent authority, within 15 days from the decision receipt date.

(4) The appeal shall be filed in writing, in Serbian language, upon payment of the prescribed fee.

(5) The Ministry of Interior shall decide on the appeal against the decision on rejection of application for granting temporary residence, i.e. for the extension of temporary residence.

(6) The appeal shall have suspensive effect on the enforcement of decision.

(7) An administrative dispute can be initiated against the decision passed in the second instance procedure, and initiating of an administrative dispute shall not have a suspensive effect on enforcement of decision of the second instance authority.

## **Temporary Residence on the Grounds of Employment**

### Article 46

(1) Temporary residence on the grounds of employment can be granted to a foreigner who fulfils the general conditions referred to in Article 43 of this Law and who:

1) in compliance with the regulations governing employment of foreigners in the Republic of Serbia as the precondition for acquiring the work permit in the Republic of Serbia should have the temporary residence granted, or

2) intends to stay in the Republic of Serbia on the grounds of employment longer than 90 days, and who does not need a work permit within the meaning of regulations governing employment of foreigners in the Republic of Serbia.

(2) A foreigner who stays in the Republic of Serbia up to 90 days over a period of 180 days and who intends to exercise his/her right to work over a time period shorter than 90 days and who needs a work permit for such work in compliance with the regulations governing employment of foreigners shall be obliged to submit an application for temporary residence in compliance with the provisions of this Law.

(3) *(Deleted)\**

## **Temporary Residence on the Grounds of Schooling or Language Learning**

### Article 47

(1) Temporary residence on the grounds of schooling, i.e. acquiring education in primary or secondary schools or learning Serbian language for the purpose of continuing schooling or studying in the Republic of Serbia can be granted to a foreigner who fulfils the general conditions referred to in Article 43 of this Law and who encloses proof of enrolment into a verified educational institution in the Republic of Serbia, i.e. proof of enrolment into an organisation registered for other education or language learning.

(2) Consent of the parents, guardians, i.e. of the legal representative, as well as the guarantee that the adult who is living in the Republic of Serbia shall be responsible for the foreigner during his/her stay in the Republic of Serbia, in particular in respect of the provision of accommodation to an underage foreigner, medical care and means for support shall be required for granting temporary residence to an underage foreigner for the purpose of schooling in the Republic of Serbia.

(3) Where the adult providing guarantee for the minor who is acquiring education is a foreign national, the temporary residence shall be granted to the minor for the period of time for which the temporary residence is granted to the person providing the guarantee.

## **Temporary Residence on the Grounds of Studying**

### Article 48

(1) Temporary residence on the grounds of studying in the Republic of Serbia can be granted to a foreigner who fulfils the general conditions referred to in Article 43 of this Law and who encloses proof that he/she has been enrolled into studies at an accredited higher education institution for the purpose of acquiring higher education in the Republic of Serbia.

(2) The temporary residence referred to in paragraph (1) of this Article shall be granted for the duration of one year and can be extended for the same period of time, except in the case referred to in Article 44, paragraph (5) of this Law.

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(3) In case that the studies last for a period shorter than one year, the temporary residence shall be granted for the period of duration of the studies.

(4) In addition to the reasons prescribed in Article 45 of this Law, the extension of temporary residence of a foreigner on the grounds of studying can be additionally rejected where it is determined that the foreigner continuously fails to accomplish a satisfactory progress in his/her studies in compliance with the regulations governing the field of higher education.

### **Temporary Residence on the Grounds of Participation in Programs of International Exchange of Pupils and Students**

#### Article 49

(1) Temporary residence on the grounds of participation in the programs of international exchange of pupils and students in the Republic of Serbia can be granted to a foreigner who fulfils the general conditions referred to in Article 43 of this Law and who encloses proof of participation in the programs of international exchange of pupils and students which has been approved by the Ministry in charge of education and science.

(2) Consent of the parents, guardians, i.e. of the legal representative, as well as the guarantee that the organisation which is conducting the students' exchange program will be responsible for the underage foreigner during his/her stay in the Republic of Serbia, in particular in respect of the provision of accommodation for the foreigner, medical care and means for his/her support shall be required for granting the temporary residence to an underage foreigner on the ground of his/her participation in the programs of international exchange of students in the Republic of Serbia.

### **Temporary Residence on the Grounds of Specialized Training, Professional Training or Practice**

#### Article 50

(1) Temporary residence on the grounds of specialized training, professional training or practice can be granted to a foreigner who fulfils the general conditions referred to in Article 43 of this Law and who encloses a certificate of a relevant competent authority, institution or another legal person in the Republic of Serbia that the specialized training, professional training or practice has been approved to him, along with the program whereby the duration thereof is determined.

(2) Regulations governing employment of foreigners in the Republic of Serbia shall apply to the foreigner who has been granted temporary residence referred to in paragraph (1) of this Article, if he/she exercises his/her rights on the grounds of labour in the Republic of Serbia.

### **Temporary Residence on the Grounds of Scientific and Research Work or Other Scientific and Educational Activities**

#### Article 51

(1) Temporary residence on the grounds of scientific and research work or other scientific and educational activities can be granted to a foreigner who fulfils the general conditions referred to in Article 43 of this Law and who encloses the agreement concluded with the scientific and research organisation on conducting the scientific and research work and conducting of research activities.

(2) Temporary residence referred to in paragraph (1) of this Article shall be approved for the duration of one year and it can be extended for the same period of time, except in the case referred to in Article 44, paragraph (5) of this Law.

(3) Where the scientific and research work or another scientific and educational activity lasts shorter than one year, the temporary residence shall be granted for the period of duration of the research work or another scientific and educational activity.

(4) Regulations governing employment of foreigners in the Republic of Serbia shall apply to the foreigner who has been granted temporary residence referred to in paragraph (1) of this Article.

### **Temporary Residence on the Grounds of Conducting Religious Service**

#### Article 52

Temporary residence on the grounds of conducting religious service can be granted to a foreigner who fulfils the general conditions referred to in Article 43 of this Law and who encloses proof of hiring with a legally recognized church or religious community for conducting church activities or religious services, in compliance with the regulations governing the position of religious communities.

### **Temporary Residence on the Grounds of Medical Treatment or Care**

#### Article 53

Temporary residence on the grounds of medical treatment or care can be granted to a foreigner who fulfils the general conditions referred to in Article 43 of this Law and who encloses proof that the medical institution or the institution of social protection will provide adequate services of required treatment or care.

### **Temporary Residence on the Grounds of Ownership of Real Property**

#### Article 54

(1) Temporary residence on the grounds of property rights over real property can be granted to a foreigner who fulfils the general conditions referred to in Article 43 of this Law and who encloses proof of ownership of such real property.

(2) The real property within the meaning of this Law shall be residential buildings and apartments in the Republic of Serbia over which a foreigner can have property rights and in which the foreigner resides in the Republic of Serbia.

### **Temporary Residence on the Grounds of Family Reunification**

#### Article 55

(1) Providing that the general conditions referred to in Article 43 of this Law are fulfilled, temporary residence on the grounds of family reunification can be granted to a foreigner, to a member of the nuclear family of a national of the Republic of Serbia, to a member of the nuclear family of a foreigner who has been granted temporary residence or permanent settlement in the Republic of Serbia, as well as to a member of the nuclear family of a foreigner who has been granted asylum in the Republic of Serbia.

(2) *The nuclear family, within the meaning of this Law, shall be considered to be the spouses, common-law partners, their children born in or out of lawful matrimony, adopted children or foster children until they turn 18 years of age who are not married, as well as the*

parents, i.e. the foster parents of the children until they turn 18 years of age who are not married.\*

(3) By way of exception, a member of the nuclear family may be considered to be:

1) *another relative*\* of a national of Serbia or of a foreigner who has been granted temporary residence or permanent settlement in the Republic of Serbia or a relative in the straight line of his/her spouse or common-law partner, who depends on them and do not enjoy proper family support in the country of origin or

2) an adult child of a national of Serbia or of a foreigner who has been granted temporary residence or permanent settlement in the Republic of Serbia or an adult child of his/her spouse or common-law partner who is not married, who is unable to provide for his/her own needs on account of the state of his/her health.

(4) In case of a polygamous marriage, family reunification shall be granted to one spouse only and to their children who have not turned 18 years of age who are not married.

### **Temporary Residence for a Family Member of a Foreigner Who Has Been Granted Asylum**

#### Article 56

(1) It shall not be necessary that all the general conditions provided for in Article 43 of this Law as well as the conditions referred to in Article 41, paragraph (2) of this Law are fulfilled for granting temporary residence to a foreigner who is a member of the nuclear family of a foreigner who has been granted asylum in the Republic of Serbia, taking into account the specific and personal circumstances of the foreigner who has been granted asylum and the members of his/her nuclear family.

(2) If the foreigner who has been granted asylum in the Republic of Serbia is a minor, granting of temporary residence on the grounds of family reunification can be exercised by his/her parents under the same conditions prescribed in paragraph (1) of this Article, but with the aim of preserving the family unit.

(3) In case that a member of the nuclear family of the foreigner who has been granted asylum in the Republic of Serbia does not possess a travel document, the temporary residence shall be granted by means of a decision.

### **Validity Period of Temporary Residence on the Grounds of Family Reunification**

#### Article 57

(1) Temporary residence for the purpose of family reunification referred to in Articles 55 and 56 of this Law shall be granted with duration of one year and it shall be extended for the same period, except in the case referred to in Article 44, paragraph (5) of this Law.

(2) The foreigner who is being granted temporary residence on the grounds of family reunification with a foreigner who has been granted temporary residence in the Republic of Serbia shall be approved temporary residence until the expiry of the validity period of the temporary residence granted to the foreigner with whom the family reunification is being sought.

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## **Temporary Residence of a Minor Foreigner Born in the Territory of the Republic of Serbia**

### **Article 58**

(1) A parent, guardian or a legal representative of the child who was born in the territory of the Republic of Serbia, and whose both parents are foreign nationals, shall be obliged to, within three months from the child's birth, submit an application for granting temporary residence for the child.

(2) Temporary residence shall be granted for the period for which temporary residence of the parents, guardians or the legal representative of the child has been granted, i.e. for the period of one year if one of the parents, guardians or the legal representative of this child is a permanently settled foreigner.

## **Autonomous Residence**

### **Article 59**

(1) A foreigner who is a member of the nuclear family of a national of the Republic of Serbia, a foreigner who has been granted temporary residence, permanent settlement or asylum in the Republic of Serbia and who has remained uninterruptedly over the past four years in the Republic of Serbia on account of family reunification, and who fulfils the general conditions referred to in Article 43 of this Law, can be granted, at his/her request, autonomous residence.

(2) The foreigner referred to in paragraph (1) of this Article who over the past three years uninterruptedly remained by virtue of temporary residence on account of family reunification can be, at his/her request, granted autonomous residence in the case where the national of the Republic of Serbia or the foreigner with whom the right to family reunification has been exercised has died.

(3) By way of exception, the foreigner referred to in paragraph (1) of this Article, who has been granted temporary residence for the purpose of family reunification for a period of time which is shorter than four years, and who is a victim of domestic violence or in case of some other particularly severe circumstances may, at his/her request, be granted autonomous residence in the case where the general conditions provided for in Article 43 of this Law are not fulfilled.

(4) Autonomous temporary residence shall be granted for the duration of one year and it shall be extended for the same period of time, except in the case referred to in Article 44, paragraph (5) of this Law.

## **Marriage of Convenience**

### **Article 60**

(1) A marriage of convenience, within the meaning of this Law, shall be considered to be the marriage solemnized with the intention to enable a foreigner to enter or stay in the Republic of Serbia contrary to the conditions prescribed by this Law.

(2) The circumstances that may indicate that the marriage has been solemnized of convenience shall be based on the existence of a reasonable doubt that the spouses:

- 1) do not maintain the marital union;
- 2) did not meet prior to solemnisation of marriage;
- 3) do not provide authentic personal information;
- 4) cannot speak the language that they both can understand;

5) that material means were provided for solemnisation of marriage, except where it is the case of means provided as dowry, and the spouses come from the countries in which providing dowry is a tradition;

6) that there is proof of previous marriages of convenience at the side of any of the spouses in the Republic of Serbia or abroad.

(3) The temporary residence, i.e. extension of temporary residence for the purpose of family reunification shall not be granted to a foreigner where it can be reasonably assumed following completed checks which pertain to the circumstances under which the marriage was solemnized that the marriage was solemnized of convenience, i.e. that there is reasonable suspicion that the marriage was solemnized with the aim of temporary residence granting.

(4) Provisions of this Article shall additionally apply to the common-law marriage.

### **Temporary Residence for Humanitarian Reasons**

#### Article 61

(1) The temporary residence can be granted to a foreigner who fulfils the general conditions referred to in Article 43 of this Law and for whom there are other circumstances which call for special consideration pertaining to:

1) his/her family, cultural or social liaisons with the Republic of Serbia, the degree of the foreigner's integration in the social life of the Republic of Serbia over the past period, in particular in respect of his/her schooling, labour-related activities or language proficiency;

2) the postponement of compulsory removal of a foreigner referred to in Article 84 of this Law over a time period of one year or more;

3) the foreigner who is a victim of a serious criminal act, including the persons who were involved in the action aimed at enabling irregular migration and who is cooperating with the police and judiciary authorities, and his/her presence is necessary in the criminal proceedings or he/she takes part in investigation as a witness or the injured person;

4) the minor foreigner who has been abandoned, who is an organized crime victim or who has been left without parental care or unaccompanied due to some other reasons;

5) some serious and justified personal reasons of humanitarian nature, existence of interest of the Republic of Serbia or internationally undertaken obligations.

(2) The competent authority shall additionally grant temporary residence from humanitarian reasons where it has determined that the circumstances based on which the application was submitted are well-grounded, but that due to some justified reasons the conditions referred to in Article 41, paragraph (2) and Article 43 of this Law have not been fulfilled.

(3) Temporary residence from humanitarian reasons shall be granted for a time period of six months at the minimum and up to one year at the maximum and it can be extended, if the circumstances based on which such temporary residence has been granted still exist.

### **Temporary Residence of a Foreigner Who Is a Presumed Victim of Trafficking in Human Beings**

#### Article 62

(1) If it is presumed, in the course of the procedure of establishing foreigner's identity, based on some special indicators that the foreigner is a victim of trafficking in human beings, the competent state authority for identification and coordination of protection of victims of trafficking in human beings shall perform an assessment of the condition and needs of the



victim, as well as identification of the victim, in compliance with the legal powers in the domain of their registered activity.

(2) The competent state authority for identification and coordination of protection of victims of trafficking in human beings shall notify the Ministry of Interior of initiating of the procedure referred to in paragraph (1) of this Article and shall inform the foreigner of the conditions for granting temporary residence and his/her other rights.

(3) Temporary residence can be granted to a foreigner who is a presumed victim of trafficking in human beings where the general conditions referred to in Article 43 of this Law are not fulfilled for a time period of 90 days.

(4) In the course of the temporary residence, recovery and elimination of potential for any further influence of the perpetrator of the criminal act upon the victim shall be provided, as well as the possibility to, based on the timely and complete information about his/her status, independently, without any conditioning to give testimony, make a decision on his/her further cooperation with the competent state authority for identification and coordination of protection of victims of trafficking in human beings, the court, prosecutor's office or police.

(5) During the validity period of the temporary residence on this ground, no decision on return can be passed.

(6) During the validity period of the temporary residence on this ground, the competent state authority for identification and coordination of protection of victims of trafficking in human beings shall coordinate protection of the victim of trafficking in human beings and, in cooperation with other institutions, establishments and organisations, ensure safety and security, suitable and safe accommodation, psychological and material support, access to emergency medical assistance, access to education for the minors, counselling and information about his/her statutory rights and rights available to him, in the language that he/she can understand.

(7) Where it is necessary, the services of translation, interpretation and assistance in exercising of his/her rights and interests in case that a criminal proceedings is being conducted shall be provided.

(8) When it is determined that an underage foreigner who is a presumed victim of trafficking in human beings with unaccompanied by the parents, guardians or a legal representative, the competent authority, guardianship authority and the police, in cooperation with the competent state authority for identification and coordination of protection of victims of trafficking in human beings, shall determine whether his/her family is in the territory of the Republic of Serbia, with the aim of reuniting the family.

(9) The victim shall not be reunited with the family where the state authority competent for the protection of victims of trafficking in human beings assesses that reuniting of the minor with the family is not in his/her best interest, and in particular where there is suspicion that the victim's family is involved in human trafficking. The minor shall be reunited with the family only in situations where the competent guardianship authority in cooperation with the competent state authority for identification and coordination of protection of victims of trafficking in human beings determines that such reuniting with the family is in the best interest of the child.

(10) If the victim's family is not in the territory of the Republic of Serbia or where it is impossible to find them, a guardian shall be appointed for the minor in compliance with the law.

## **Temporary Residence for Victims of Trafficking in Human Beings**

### Article 63

(1) If it is determined in the procedure referred to in Article 62, paragraph (1) of this Law that the foreigner is a victim of trafficking in human beings and that he/she has independently made a decision on his/her further cooperation with the competent state authority for identification and coordination of protection of the victims of trafficking in human beings, the court, prosecutor's office or the police, the competent authority for the protection of victims of trafficking in human beings shall notify the Ministry of Interior of the above said in the form of an expert opinion.

(2) Temporary residence where conditions referred to in Article 41, paragraph (2) or Article 43 of this Law are not fulfilled can be granted to a victim of trafficking in human beings.

(3) Temporary residence shall be granted to the victims of trafficking in human beings, including minors who are victims, providing that the competent state authority for identification and coordination of protection of the victims of trafficking in human beings is of the opinion that their residence is necessary for their protection, recovery and ensuring their safety or if the court, prosecutor's office or the police are of the opinion that their presence is necessary due to the cooperation in the criminal proceedings.

(4) Temporary residence shall be granted to a foreigner who is a victim of trafficking in human beings for a period of one year, with the possibility for extension under the same conditions.

(5) In addition to the rights referred to in Article 62 of this Law, the foreigner who has been granted temporary residence as a victim of trafficking in human beings, without conditioning to consent to testify, shall be entitled to access to the labour market, professional training and education.

(6) A foreigner who has been granted temporary residence for the victims of trafficking in human beings, who does not have sufficient material means for the necessary medical treatment, shall be provided with access to medical and other necessary assistance by the competent state authority for identification and coordination of protection of victims of trafficking in human beings, independently or in cooperation with the health care system, the competent centre for social work and other service providers and organisations.

(7) On the occasion of granting temporary residence to an underage foreigner, the competent authority shall take into account the best interest of the minor, his/her age and maturity.

## **Termination of Humanitarian Residence and Temporary Residence for Victims in Trafficking in Human Beings**

### Article 64

(1) Temporary residence for the victims of trafficking in human beings or the temporary residence referred to in Article 61, paragraph (1), point 3) can be terminated at any given moment if the foreigner no longer fulfils the conditions and in particular:

1) if the foreigner who has been granted temporary residence has actively, voluntarily and on his/her own initiative renewed the contacts with the persons suspected of committing a criminal act in the field of trafficking in human beings and irregular migrations, and/or where it is determined that the report of these criminal acts is false or ungrounded;

2) if the foreigner who has been granted temporary residence has ceased to cooperate or uses deceit in the process of cooperation;

3) where it is called for by the reasons of protection of security of the Republic of Serbia and its citizens;

4) when the judiciary authorities decide to discontinue the proceedings.

(2) The temporary residence from humanitarian reasons referred to in Article 61, paragraph (1), points 1), 2), 4) and 5) shall cease if the circumstances due to which the foreigner has been granted the temporary residence has ceased or where it is called for by the reasons of protection of security of the Republic of Serbia and its citizens.

### **Principles in Decision Making**

#### Article 65

(1) On the occasion of decision making on an application for temporary residence, i.e. on an application for extension of temporary residence, the competent authority shall, in addition to determining fulfilment of the general conditions for granting temporary residence, particularly assess the circumstances of each individual case and take into account the personal, family, economic and social circumstances, as well as the duration of the foreigner's previous stays.

(2) If it is determined on the occasion of decision making on an application for temporary residence, i.e. on an application for extension of temporary residence that the application should be rejected due to the reasons of protection of security of the Republic of Serbia and its citizens, the competent authority shall assess the threat that the applicant presents for the security of the Republic of Serbia and its citizens with due care.

(3) On the occasion of decision making on an application for temporary residence, i.e. on an application for extension of temporary residence of a minor, the competent authority shall be guided by the solution which is in his/her best interest.

### **Lapse of Temporary Residence**

#### Article 66

(1) Where it is subsequently learnt that there are one or more reasons prescribed for rejection of an application for temporary residence applicable to the foreigner who has been granted temporary residence, the competent authority shall pass a decision on the lapse of the right to temporary residence and determine the time limit within which he/she shall be obliged to depart from the Republic of Serbia, which may not be longer than 30 days. The ban on entry may additionally be imposed by the decision on the lapse of the right to temporary residence.

(2) Article 78 of this Law shall apply *mutatis mutandis* to the imposition of the ban.

(3) On the occasion of passing of a decision on the lapse of the right to temporary residence, particular circumstances of each individual case shall be assessed, and in particular the duration of the foreigner's previous temporary stays and his/her personal, family, cultural, economic and other liaisons with the Republic of Serbia.

(4) The foreigner may, through the competent authority, file an appeal against the decision on the lapse of the right to temporary residence within 15 days from the decision receipt date.

(5) The appeal shall be filed in writing, in Serbian language, upon payment of the prescribed fee.

(6) The Ministry of Interior shall decide on the appeal against the decision on the lapse of the right to temporary residence.

(7) The appeal shall have suspensive effect on the enforcement of the decision.

(8) An administrative dispute can be initiated against the decision passed in the second instance procedure. Initiating of an administrative dispute shall not have suspensive effect on the enforcement of decision of the second instance authority.

### **Permanent Settlement**

#### Article 67

(1) Permanent settlement shall be an authorisation for a long-term stay of foreign national in the Republic of Serbia.

(2) Permanent settlement shall be granted to a foreigner who fulfils the conditions referred to in Article 70 of this Law and who until the date of submission of an application for permanent settlement has uninterruptedly stayed in the Republic of Serbia longer than five years based on the approvals of the temporary residence.

(3) A foreigner who has been granted temporary residence in the Republic of Serbia on the basis of studying or schooling may not submit an application for permanent settlement in the Republic of Serbia.

(4) A foreigner who has temporarily resided for a certain period of time in the past period on the grounds of studying or schooling in the Republic of Serbia, and who has later on changed the grounds of his/her stay in the Republic of Serbia, may submit an application for permanent settlement. Only one half of the time that the foreigner spent in the Republic of Serbia on the grounds of studying or schooling can be calculated in the time required for granting permanent settlement.

(5) The uninterrupted stay, within the meaning of paragraph (2) of this Article shall be considered to be the effective stay of a foreigner in the territory of the Republic of Serbia, inclusive of the possibility of multiple absence from the Republic of Serbia in duration of up to ten months or a single absence of up to six months, over the period of five years.

(6) At the moment of submitting an application for granting permanent settlement, the foreigner must be granted temporary residence.

(7) The time that the foreigner who has been granted temporary residence has spent serving the prison sentence shall not be calculated as time required for granting permanent settlement.

(8) A foreigner who has been granted permanent settlement shall be equal in respect of his/her rights and obligations with the nationals of the Republic of Serbia, except in respect of the rights and obligations from which he/she is exempt based on the Constitution and the law.

(9) More detailed conditions for granting permanent settlement, the appearance of the application for granting permanent settlement as well as the appearance and method of affixing the sticker of permanent settlement granted to a foreign travel document shall be prescribed by the Minister in charge of home affairs.

### **Permanent Settlement in Special Cases**

#### Article 68

(1) Permanent settlement shall additionally be granted to a foreigner who fulfils the conditions referred to in Article 70 of this Law and:

1) who is in the territory of the Republic of Serbia and who has spent a minimum of three years in granted temporary residence in a marital or common-law marital union with a national of the Republic of Serbia or a foreigner who has been granted permanent settlement on the grounds of family reunification;

2) to a minor who is temporarily residing in the Republic of Serbia, if one of the parents is a national of the Republic of Serbia or a foreigner who has been granted permanent settlement;

3) who is by his/her origin from the Republic of Serbia;

4) to another foreigner who has been granted temporary residence, where this is called for by the reasons of humaneness or where this is in the interest of the Republic of Serbia.

(2) Provisions of Article 67, paragraphs (5) through (8) shall additionally apply in cases of permanent settlement in special cases.

### **Competence for Decision Making**

#### Article 69

(1) A foreigner shall submit the application for permanent settlement in the Republic of Serbia in the prescribed form in person to the competent authority in the place where he/she has been granted temporary residence in the Republic of Serbia.

(2) The Ministry of Interior shall decide on the application for permanent settlement of a foreigner in the Republic of Serbia within 60 days from the application submission date.

(3) On the occasion of deciding on an application submitted for granting permanent settlement, in addition to the assessment of fulfilment of the conditions referred to in Articles 67, 68 and 70 of this Law, the Ministry of Interior shall acquire the assessment of the state authority in charge of protection of security of the Republic of Serbia on whether the foreigner's permanent settlement in the territory of the Republic of Serbia presents unacceptable security risk.

(4) The time limit for delivering of assessment shall be 55 days from the delivery of application for consideration.

### **Conditions for Granting Permanent Settlement**

#### Article 70

(1) Enclosed with the application for granting permanent settlement, the following shall be provided:

- 1) the valid foreign personal passport;
- 2) proof of possessing means of support;
- 3) proof of medical insurance;
- 4) registration of residential address in the Republic of Serbia;
- 5) proof of justification of the application for granting permanent settlement;
- 6) proof of payment of the prescribed administrative fee.

(2) The authorisation for permanent settlement shall be affixed to the foreign travel document in the form of a sticker.

(3) The foreigner shall personally take over the travel document in which the sticker of authorisation of permanent settlement is imprinted.

(4) Exceptionally, where there are duly justified reasons for that, the travel document in which the permanent settlement sticker is affixed can be taken over by an attorney-in-fact of the foreigner.

## Rejection of Applications for Permanent Settlement

### Article 71

(1) An application for permanent settlement shall be rejected to a foreigner:

- 1) who does not fulfil the conditions referred to in Articles 67, 68 and 70 of this Law;
- 2) who has been finally convicted to a sentence of imprisonment exceeding six months for a criminal offense which is prosecutable *ex officio* or if the proceedings is initiated for such a criminal offense;
- 3) where that is called for by the reasons of protection of security of the Republic of Serbia and its citizens;
- 4) ban on entry to the Republic of Serbia is in force against the foreigner;
- 5) security measure or the measure of expulsion is imposed against the foreigner.

(2) On the occasion of passing of the decision on a submitted application for permanent settlement, in the case where the reasons referred to in paragraph (1), points 2) and 3) of this Article exist, particular circumstances of each individual case shall be assessed, and in particular the seriousness of the perpetrated criminal act which is prosecutable *ex officio*, the threat that the person submitting the application presents to the security of the Republic of Serbia and its citizens in case of his/her further stay in the territory of the state, bearing in mind the duration of his/her previous temporary stays and his/her personal, family, cultural, economic and other liaisons with the Republic of Serbia.

(3) The rejection of an application for permanent settlement in the Republic of Serbia shall be without prejudice to the possibility of the foreigner's further stay in the Republic of Serbia on the grounds of the temporary residence granted, providing that he/she fulfils the conditions provided for in the provisions of this Law regulating temporary residence.

(4) The foreigner can file an appeal against the decision on rejection of the application for permanent settlement with the authority which has passed the decision within 15 days from the decision receipt date.

(5) The appeal shall be filed in writing, in Serbian language, upon payment of the prescribed fee.

(6) The Government shall decide on the appeal against the decision on rejection of the application for permanent settlement.

(7) The appeal shall have the suspensive effect on the enforcement of the decision.

(8) An administrative dispute can be initiated against the decision passed in the second instance procedure. Initiating of an administrative dispute shall not have suspensive effect on the enforcement of the decision of the second instance authority.

## Lapse of the Right to Permanent Settlement

### Article 72

(1) The foreigner's right to permanent settlement in the Republic of Serbia shall lapse if:

- 1) he/she presents an actual and serious threat to the public policy or if his/her further stay in the territory of the state presents an unacceptable risk for the security of the Republic of Serbia and its citizens;
- 2) the protective measure of removal or the security measure of expulsion of the foreigner is imposed against him;
- 3) he/she has provided false information on his/her identity or has concealed the circumstances that were of significance for decision making on the rights in a previous procedure;

4) it is determined that he/she has moved out of the Republic of Serbia or that he/she has uninterruptedly stayed abroad longer than one year;

5) he/she has renounced the right to permanent settlement.

(2) A foreigner shall present an actual and serious threat to public policy in cases where he/she is finally convicted of a criminal offense with a sentence of imprisonment which exceeds one year, if he/she has been finally sentenced, over a period of five years, to the imprisonment sentence in the total duration of three years or if he/she is finally sentenced to imprisonment for a criminal offense against humanity and other resources protected by the international law.

(3) On the occasion of passing of a decision on the lapse of the right to permanent settlement, the circumstances of each individual case shall be particularly assessed by primarily taking into account the duration of the previous foreigner's stay in the Republic of Serbia, the personal, family circumstances of the foreigner, as well as the liaisons of the foreigner with the Republic of Serbia, by comparison with the threat that he/she presents for the public policy and in particular the seriousness of the criminal offense committed.

(4) Where the decision on the lapse of the right to permanent settlement is passed due to the reasons referred to in paragraph (1), points 1), 2) and 3) of this Article, the Ministry of Interior shall determine the time limit within which he/she shall be obliged to depart from the Republic of Serbia which may not exceed 30 days. The ban on entry over a specified period of time may additionally be imposed by the decision on the lapse of permanent settlement.

(5) Article 78 of this Law shall apply *mutatis mutandis* to the imposition of the ban.

(6) The Ministry of Interior shall decide on the lapse of the right to permanent settlement.

(7) The foreigner may file an appeal against the decision on the lapse of the right to permanent settlement with the authority which has passed the decision within 15 days from the decision receipt date.

(8) The appeal shall be filed in writing, in Serbian language, upon payment of the prescribed fee.

(9) The appeal shall have suspensive effect on the enforcement of the decision.

(10) The Government shall decide on the appeal against the decision on the lapse of the right to permanent settlement.

(11) An administrative dispute can be initiated against the decision passed in the second instance procedure. Initiating of an administrative dispute shall not have suspensive effect on the enforcement of the decision of the second instance authority.

### **Re-acquiring of the Right to Permanent Settlement**

#### Article 73

(1) The foreigner whose right to permanent settlement has lapsed because he/she has moved out of the Republic of Serbia or has uninterruptedly stayed abroad longer than one year may submit an application for renewed acquisition of the right to permanent settlement, providing that until the moment of the submission of application he/she has had approved temporary residence in the Republic of Serbia with uninterrupted duration of three years.

(2) In the procedure upon the application referred to in paragraph (1) of this Article, provisions of Articles 69 through 71 of this Law shall apply *mutatis mutandis*.

## V. ILLEGAL STAY AND THE RETURN PROCEDURE

### Illegal Stay

#### Article 74

(1) A foreigner's stay in the Republic of Serbia shall be considered to be illegal if:

- 1) the foreigner has illegally entered to the Republic of Serbia;
- 2) the foreigner remained in the Republic of Serbia longer than 90 days over a period of 180 days;
- 3) the foreigner remained in the Republic of Serbia longer than the period of stay which has been approved to him in the visa issued, or his/her visa has been cancelled or withdrawn;
- 4) the foreigner's temporary residence has expired or lapsed, except in the case referred to in Article 41, paragraph (7) of this Law;
- 5) the foreigner's right to permanent settlement has lapsed;
- 6) the foreigner has no other lawful grounds for remaining in the territory of the Republic of Serbia;
- 7) the foreigner has expressed his/her intention to submit an application for asylum, but has failed to, within 72 hours, report to the facility for accommodation of asylum seekers, has not notified the Asylum Office of the change of residential address or has arbitrarily left the facility for accommodation of asylum seekers prior to the submission of an application for asylum;
- 8) the foreigner whose application for asylum has been rejected or refused by a final decision, procedure upon a submitted asylum application suspended or whose right to provisional protection or asylum has lapsed due to the reasons provided for by the law, and who has not complied with the order to leave the territory of the Republic of Serbia imposed in a final decision of the authority which has decided on his/her asylum application;
- 9) the protective measure of removal or the security measure of expulsion has been imposed against the foreigner.

(2) In case that the conditions referred to in paragraph (1), points 1) through 8) of this Article are fulfilled, the competent authority shall pass a decision on return following the completion of the procedure.

### Principles in the Return Procedure

#### Article 75

(1) During the return procedure, the competent authority shall bear in mind the specific situation of the particularly vulnerable persons, the family and medical condition of the person who is being returned, as well as the best interest of the minor.

(2) When taking police measures and actions towards the foreigners referred to in paragraph (1) of this Article, the competent authority shall be obliged to act in compliance with the regulations governing the position of persons with disabilities and the international treaties.

(3) During the return procedure, actions shall be taken in compliance with the principle of family unity, within the meaning of integrity of all the family members present in the territory of Republic of Serbia.

(4) Prior to passing a decision on the return of an unaccompanied minor, he/she must be provided with adequate assistance from the service for social protection of children and youth.



(5) Where this is necessary, during the return procedure presence of an interpreter shall be ensured for the language that the foreigner understands or that may be reasonably presumed that the foreigner can understand.

(6) The competent authority, at the request of the foreigner, must provide a written translation of the operative part of the decision on return, translation of the entry ban where it is imposed and the translation of the advice on legal remedy into the language that the foreigner understands or may be reasonably presumed to understand.

### **Exception from Application of the Provisions**

#### Article 76

Provisions on the return of foreigners shall not be applied in the case of refusal of entry to a foreigner in compliance with Article 15 of this Law.

### **Decision on Return and Time Limit for Voluntary Return**

#### Article 77

(1) To a foreigner who is illegally staying in the territory of the Republic of Serbia, the competent authority shall pass a decision on return and specify the time limit for voluntary return within which he/she shall be obliged to depart from the Republic of Serbia.

(2) The foreigner shall be obliged to, in compliance with the decision on return, depart from the Republic of Serbia. The foreigner shall voluntarily depart from the Republic of Serbia if he/she has complied with the obligation to return within the time limit specified for him in the decision on return.

(3) If a foreigner fails to depart from the Republic of Serbia in accordance with the decision on return, he/she shall be forcefully removed from the Republic of Serbia.

(4) On the occasion of specifying the time limit referred to in paragraph (1) of this Article, the competent authority shall take into account the time within which the foreigner can leave the territory of the Republic of Serbia, as well as the circumstances referred to in Article 75 of this Law, but such time limit cannot be shorter than seven days or longer than 30 days from the date of passing of the decision on return. The place of crossing of the state border can additionally be determined for the foreigner along with the obligation to report to the police officer on the border crossing point.

(5) The competent authority may extend the period for voluntary return to a foreigner who, due to some duly justified reasons, has not departed from the Republic of Serbia within the time limit specified for him.

(6) During the time limit for voluntary return, the foreigner shall exercise the right to emergency medical assistance in compliance with the provisions of the law regulating medical insurance, in case of a minor the right to primary education, as well as the right to get included in the program for support to voluntary return which is conducted by the authority competent for managing migrations according to the program which is adopted by the Government at the proposal of such authority. Upon inclusion in the program for voluntary return referred to in this paragraph, the foreigner shall exercise the rights in compliance with the provisions of the law regulating the field of asylum, whereby voluntary return is prescribed.

(7) The competent authority may, by means of a decision on return, order the foreigner to leave the territory of the Republic of Serbia immediately or within a time limit shorter than seven days, where there is a risk that the foreigner may not be available to the competent authority for the purpose of enforcing the coerced removal or if the foreigner presents a threat to security of the Republic of Serbia and its citizens.

(8) It shall be considered that the foreigner has left the Republic of Serbia when he/she enters another state in which entry has been approved to him.

(9) In the cases where the decision on return has been issued, and the foreigner is subsequently approved temporary residence in compliance with Article 61 of this Law, the decision on return shall be considered to be null and void.

## **Entry Ban**

### Article 78

(1) On the occasion of passing a decision on return, the competent authority may additionally impose the ban on entry to the Republic of Serbia within a specified period of time against a foreigner if:

1) the foreigner has not been approved the period for voluntary return in compliance with Article 77, paragraph (7) of this Law;

2) the foreigner has not complied with the obligation to depart from the Republic of Serbia in compliance with the time limit for voluntary return specified in the previous decision on return.

(2) The foreigner may additionally be imposed the ban on entry to the Republic of Serbia within a specified period of time in the cases where:

1) there is a reasonable doubt that the stay has not been used for the intended purpose;

2) the foreigner infringes regulations on employment and work of foreigners, on the prevention of disorder in athletic competitions, on public order and peace, arms, abuse of narcotic drugs or tax liabilities;

3) the foreigner is finally sentenced for a criminal offense which is prosecutable *ex officio* or if the proceedings has been initiated for such a criminal offense;

4) the foreigner has repeated misdemeanours committed;

5) the foreigner is responsible for a misdemeanour or sentenced for a criminal offense with elements of violence or if the proceedings has been initiated for such a misdemeanour or criminal offense;

6) the foreigner is sentenced to imprisonment longer than one year;

7) the foreigner has been repeatedly finally sentenced over a period of five years to imprisonment in the total duration of three years at the minimum;

8) the foreigner is sentenced to imprisonment for a criminal offense against the internationally protected rights;

9) where this is called for by the reasons of protection of security of the Republic of Serbia and its citizens;

10) the foreigner has solemnized marriage of convenience.

(3) The duration of the ban on entry shall be determined by taking into account all the circumstances of the individual case and it shall not be imposed for a period longer than five years, except in the case that the foreigner presents a serious threat to security of the Republic of Serbia and its citizens.

(4) The stamp of the entry ban can be affixed in the travel document of the foreigner.

(5) The competent authority may refrain from imposition of the measure of entry ban in some individual cases from humanitarian reasons, and in particular where there are circumstances referred to in Article 75, paragraphs (1) and (3) of this Law.

(6) The appearance of the stamp of entry ban and the method of affixing of the entry ban to a foreign travel document shall be prescribed by the Minister in charge for home affairs.

## **Reduction and Withdrawal of Entry Ban**

### Article 79

(1) The foreigner who has voluntarily left the Republic of Serbia in compliance with the decision on return, and for whom one half of the time period of the imposed ban on entry into the Republic of Serbia has elapsed, may submit an application to the competent authority for withdrawal, i.e. reduction of the entry ban from personal or humanitarian reasons i.e. if he/she believes that the reasons due to which the ban has been imposed against him no longer exist.

(2) No appeal can be filed against the decision on rejection of an application for withdrawal, i.e. rejection of the entry ban, but an administrative dispute can be initiated against it.

(3) The competent authority may, *ex officio*, at any moment revoke the ban on entry of the foreigner into the Republic of Serbia in individual cases, providing that there are circumstances referred to in Articles 62 and 63 of this Law.

## **Right to Appeal**

### Article 80

(1) A foreigner may file an appeal against the decision on return through the competent authority within 15 days from the delivery date of the decision. The appeal shall be filed in writing, in Serbian language, upon payment of the prescribed fee.

(2) The Ministry of Interior shall decide on the appeal against the decision on return.

(3) The appeal against the decision on return shall not have suspensive effect on the enforcement of the decision, except in cases where there is an actual danger from the infringement of rights provided for in Article 83 of this Law or where there are serious humanitarian reasons for that.

(4) An administrative dispute can be initiated against the decision passed in the second instance procedure.

## **VI. DETENTION AND COMPULSORY REMOVAL**

### **Compulsory Removal**

#### Article 81

(1) A foreigner can be compulsorily removed from the Republic of Serbia if:

1) he/she does not leave the Republic of Serbia within the time limit determined to him for voluntary return;

2) the period for voluntary return has not been imposed;

3) the security measure of expulsion or protective measure of removal of the foreigner from the country is imposed by the court decision.

(2) Where the compulsory removal is enforced from the reasons provided for in paragraph (1), point 3) of this Article, the competent authority shall pass a decision on revocation of residence and ban on entry to the foreigner into the Republic of Serbia for the duration period of imposed security measure of expulsion or protective measure of removal of the foreigner from the country, and determine the time limit for leaving the territory of the Republic of Serbia which may not be longer than 30 days. No appeal can be filed against the decision referred to in this paragraph, but an administrative dispute can be initiated against it.

(3) Compulsory removal shall be conducted by the police officers of the competent authority or of the shelter for foreigners in compliance with their respective powers.

(4) With a view to ensuring the enforcement of the compulsory removal, the travel and other documents, travel tickets, as well as any property of value can be temporarily confiscated from the foreigner in compliance with the provisions of the Law on Police.

(5) The Minister in charge of home affairs shall pass the regulation whereby conditions for and method of conducting of compulsory removal of foreigners from the Republic of Serbia will be regulated in more detail.

### **Supervision over the Procedure of Compulsory Removal**

#### Article 82

Protector of citizens, in compliance with the competencies from the Law on the Protector of Citizens and Law on Ratification of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, shall perform supervision over the procedure of compulsory removal of the foreigners.

### **Prohibition of Compulsory Removal**

#### Article 83

(1) A foreigner must not be compulsorily removed to a territory where there is a threat from prosecution because of his/her race, sex, sexual orientation or gender identity, religion, national affiliation, nationality, affiliation to a certain social group or political opinion.

(2) The provision of paragraph (1) of this Article shall not apply to a foreigner for whom it can reasonably be considered to jeopardize the security of the Republic of Serbia or to a foreigner who has been sentenced by a final judgement for a serious criminal offense, due to which he/she presents a threat to public order.

(3) Independently of the paragraph (2) of this Article, a foreigner must not be compulsorily removed to a territory in which there is a risk that he/she will be subjected to enforcement of death penalty, torture, inhuman or degrading treatment or punishment, and/or where there is threat to a severe infringement of the rights guaranteed by the Constitution.

(4) An unaccompanied minor must not be compulsorily removed, except in the case that the competent authority is satisfied that the minor will be returned to a member of his/her family, guardian or an adequate institution for reception of children.

### **Postponement of Compulsory Removal**

#### Article 84

(1) A decision on postponement of compulsory removal shall be passed by the competent authority where there are reasons prescribed in Article 83 of this Law or if:

1) the identity of the foreigner has not been established, through no fault of his/her own;

2) it is not possible to transport the foreigner from the Republic of Serbia;

3) the serious difficulties relating to the mental, physical state or health condition of the foreigner occur.

(2) Where the compulsory removal is postponed for one member of the family, the competent authority shall, on the occasion of passing of the decision on postponement of compulsory removal of other family members, take into account the principle of family unity.

(3) When passing a decision on postponement of compulsory removal, the competent authority may determine the residence in compliance with Article 93 of this Law.

(4) The foreigner whose compulsory removal has been postponed shall be entitled to emergency medical assistance in compliance with the provisions of law regulating medical insurance, and in the case of a minor to the primary education as well.

(5) The obligation of a foreigner whose compulsory removal is postponed to leave the Republic of Serbia shall not lapse.

(6) A provisional identity card for foreigners shall be issued to the foreigner whose compulsory removal is postponed.

#### Article 85

(1) Postponement of compulsory removal shall be approved for a period up to one year and can be extended by the competent authority.

(2) Postponement of compulsory removal shall be revoked if the grounds for such postponement cease to exist or if the foreigner does not comply with the obligations arising from the mandatory residence.

(3) In case of expiry, i.e. cancelling of the postponement of compulsory removal in compliance with paragraph (2) of this Article, the foreigner must return to the competent authority the document referred to in Article 84, paragraph (6) of this Law.

(4) Appeals against decisions on postponements of compulsory removals and against decisions revoking postponements of compulsory removals shall be filed with the competent authority within eight days from the decision delivery date.

(5) The appeal shall be filed in writing, in Serbian language, upon payment of the prescribed fee.

(6) The appeal shall have suspensive effect on the enforcement of the decision.

(7) The Ministry of Interior shall decide on the appeals.

(8) An administrative dispute can be initiated against the decision assed in the second instance procedure.

### **Identity Check and Detention of Foreigners**

#### Article 86

(1) A foreigner can be detained in the premises of the competent authority, in compliance with the law and other regulations, for the purpose of establishing his/her identity or lawfulness of his/her stay in the territory of the Republic of Serbia.

(2) Where this is called for by the reasons of ensuring compulsory removal, the foreigner for whom the decision on return is passed can be detained in the premises of the competent authority for the purpose of his/her escorting to the border crossing point.

### **Ordering Stay in a Shelter**

#### Article 87

(1) A foreigner who is subject to the return procedure shall be ordered to stay in the shelter based on the decision of a competent authority or decision of the border police on accommodation of a foreigner in the shelter, for the purpose of preparing the return or carrying out the compulsory removal.

(2) The accommodation of a foreigner in the shelter referred to in paragraph (1) of this Article shall be ordered by the competent authority or by the border police if in the concrete

case provisions relating to the mandatory stay of a foreigner referred to in Article 93 of this Law cannot be efficiently applied, and in particular where:

1) there is a risk that the foreigner will not remain available to the competent authority for the purpose of enforcement of compulsory removal,

2) the foreigner avoids or hampers the preparation for return or compulsory removal.

(3) The risk that the foreigner will not remain available to the competent authority for the purpose of enforcement of compulsory removal shall be the existence of reasonable suspicion that the foreign national will not voluntarily leave the Republic of Serbia and will not comply with the decision on return. The reasonable suspicion referred to in this paragraph exists if the foreigner:

1) does not possess documents for establishing identity;

2) does not cooperate in the return procedure or obstructs his/her removal;

3) has not voluntarily left the Republic of Serbia;

4) does not cooperate in the procedure of establishing identity or nationality or has provided false or contradictory information about himself;

5) uses or has used fraudulent or forged documents;

6) has attempted or has already entered into the Republic of Serbia in an unlawful manner;

7) has not complied with the obligations referred to in the decision on mandatory stay in a specified place;

8) has no relatives or social liaisons in the Republic of Serbia;

9) has no means for the provision of accommodation, and/or support.

(4) It shall be considered that the foreigner avoids or obstructs preparations for return or compulsory removal where his/her identity cannot be established, and/or if the foreigner does not possess the travel document.

(5) By way of exception from paragraph (1) of this Article, the foreigner who has medical or other special needs, other adequate accommodation shall be provided.

(6) The foreigner who has been ordered to stay in a shelter shall be notified, within the shortest time possible, in writing, in the language that he/she understands or may be reasonably presumed to understand, of the reasons for ordering such stay.

### **Duration of Stay in the Shelter**

#### Article 88

(1) The stay of a foreigner in the shelter shall be as short as possible, and during the foreigner's stay in the shelter there must be a reasonable prospect of the foreigner's compulsory removal. The duration of the stay in a shelter must not exceed 90 days.

(2) Following the expiry of the time period referred to in paragraph (1) of this Article, the stay of the foreigner in the shelter can be extended by another 90 days at the maximum if:

1) the foreigner's identity has still not been established;

2) the foreigner obstructs compulsory removal on purpose.

(3) The decision on extension of foreigner's accommodation in the shelter shall be passed by the Ministry of Interior 15 days prior to the expiry of the time period for which his/her stay in the shelter is ordered at the latest.

(4) The total duration of the stay in a shelter must not exceed 180 days.

(5) The time that the foreigner has spent serving the prison sentence or in detention shall not be counted in the time of his/her stay in the shelter.

### **Release from the Shelter**

#### Article 89

The foreigner shall be released from the shelter if:

- 1) the conditions referred to in Article 87, paragraphs (1), (2) and (3) no longer exist;
- 2) in compliance with Article 90 of this Law, the court has decided that the foreigner should be released from the shelter;
- 3) the time limit referred to in Article 88 of this Law has expired;
- 4) the foreigner seeks asylum in the Republic of Serbia, except where there are reasons for restriction of movement of the asylum seeker in compliance with provisions of the law regulating the field of asylum.

### **Legal Remedies in the Procedure of Accommodation of Foreigners in Shelters**

#### Article 90

(1) No appeals shall be permitted against the decisions of the competent authority or border police on the accommodation of persons in shelters or against the decisions on the extension of accommodation.

(2) An administrative dispute can be initiated against the decision, within 8 days from the date of delivery of the decision.

(3) The action shall not have suspensive effect on enforcement of decision.

(4) The court shall be obliged to decide on the action within 15 days from the date of filing of the action.

### **House Rules and Rules for Staying in a Shelter**

#### Article 91

(1) A foreigner shall be obliged to observe the house rules and the rules for staying in the shelter, which he/she may not leave without permission.

(2) The house rules and the rules for staying in the shelter shall be prescribed by the Minister in charge for home affairs. The house rules shall in particular regulate:

- 1) the obligation of the foreigner not to leave the shelter without permission;
- 2) the obligation of the foreigner to cooperate in the procedure of return and to observe the house rules and rules for staying in the shelter;
- 3) the right of the foreigner to establish contact with the lawyer, family members and competent consular services;
- 4) the right of the foreigner to emergency medical assistance;
- 5) the right of the foreigner to spend a certain period of time during the day in the open and to have the opportunity for recreation;
- 6) the right of the foreigner to express discontent with the conditions of accommodation in the shelter within the duly envisaged procedure;
- 7) the obligations of the relevant authority to take into account the needs of the particularly vulnerable persons;

8) the right of the relevant and competent national, international and non-governmental organisations to visit the shelter;

9) the obligation of the shelter to provide information on the house rules and on the rules for staying in the shelter to the foreigner in the language that he/she understands or may be presumed to understand;

10) the rules of procedure for the police officers in the shelter in case that the foreigner violates the house rules and the rules for staying in the shelter.

### **Accommodation of Underage Foreigners in Shelters**

#### **Article 92**

(1) A foreigner under the age of majority shall be accommodated in shelters together with his/her parent, guardian or legal representative, only as a measure of last resort and for the shortest possible period of time.

(2) Families accommodated in a shelter pending removal shall be provided with separate accommodation whereby adequate need for privacy shall be guaranteed.

(3) Minors staying in a shelter shall have the possibility to engage in activities that include play and recreational activities appropriate to the minors' age, and shall have, depending on the length of their stay in the shelter, access to primary education as well.

(4) During the stay of the minor in the shelter, his/her best interest shall be taken into consideration.

(5) The competent centre for social work shall, following completion of the legal procedure, order accommodation for the underage foreigner who is unaccompanied by his/her parents, guardian or a legal representative in an institution for social protection or in the specialized shelters intended for accommodation of unaccompanied foreigners under the legal age of majority.

(6) The means for accommodation of an underage foreigner referred to in paragraph (5) of this Article in the institutions for social protection or in specialized shelters intended for accommodation of unaccompanied foreigners under the legal age of majority shall be at the expense of the budget of the Republic of Serbia.

### **Mandatory Stay in a Specified Place**

#### **Article 93**

(1) The competent authority shall, by means of a decision, order a foreigner to stay in a specified place (hereinafter: mandatory stay) where, in compliance with Article 87 of this Law, there is a risk that the foreigner will not remain available to the competent authority for the purpose of enforcing the compulsory removal, and the accommodation of the person in a shelter would not be a proportionate measure, and/or in case that the decision on postponement of compulsory removal referred to in Article 84 of this Law has been passed for the foreigner.

(2) The mandatory stay can be approved for duration of up to one year, and it can be extended for the same period, depending on the existence of reasons due to which the mandatory stay is approved.

(3) The foreigner who is ordered mandatory stay shall be obliged to stay at a specified address and to report to the competent authority in compliance with the orders in the decision referred to in paragraph (1) of this Article.

(4) Where there are duly justified reasons for that, the competent authority may permit the foreigner to temporarily leave the place of mandatory stay by means of a decision.



(5) A provisional identity card shall be issued to the foreigner who does not have a travel document.

(6) The competent authority shall order stay in a shelter in compliance with Article 87 of this Law to a foreigner who, with the intention to prevent or obstruct compulsory removal, acts contrary to the obligations referred to in paragraphs (2) and (3) of this Article.

(7) The foreigner may file an appeal against the decision referred to in paragraph (1) of this Article, as well as against the decision referred to in paragraph (4) of this Article, through the competent authority, within eight days from the receipt of the decision.

(8) The appeal shall be filed in writing, in Serbian language, upon payment of the prescribe fee. The Ministry of Interior shall decide on the appeal.

(9) The appeal shall not have suspensive effect on the enforcement of the decision.

(10) An administrative dispute can be initiated against the decision passed in the second instance procedure.

(11) The mandatory stay shall be affixed to the travel document of the foreigner by impressing the mandatory stay sticker, the appearance and method of affixing of which shall be prescribed by the Minister in charge of home affairs.

### **Costs of Return of Foreigners**

#### Article 94

(1) The costs of stay in the shelter, costs of escorting to the diplomatic or consular mission, to the shelter, i.e. to the state border and other costs relating to the return of the foreigner shall be at his/her own expense.

(2) If the foreigner does not have the means for support, the costs referred to in paragraph (1) of this Article shall be borne by the person who undertook to bear the costs of his/her stay in the Republic of Serbia.

(3) The costs that cannot be collected in the manner referred to in paragraphs (1) and (2) of this Article shall be at the expense of the budget of the Republic of Serbia.

## **VII. TRAVEL DOCUMENTS FOR FOREIGNERS**

### **Types of Travel Documents for Foreigners**

#### Article 95

The travel documents for foreigners within the meaning of this Law shall be the travel document for stateless persons and the travel certificates for foreigners.

### **Travel Document for Stateless Persons**

#### Article 96

(1) The travel documents for stateless persons shall be issued by the competent authority, in compliance with the international treaty.

(2) The travel documents for stateless persons shall be issued with the validity period of up to two years.

## **Travel Certificate for Foreigners**

### Article 97

(1) The travel certificate for a foreigner shall be issued to a foreigner who does not have a valid travel document if:

- 1) his/her citizenship of the Republic of Serbia has lapsed – for departure abroad;
- 2) he/she has lost the foreign travel document or has in some other manner remained without it, and the state whose national he/she is does not have its diplomatic or consular mission in the Republic of Serbia, or have its interests represented by another state – for departure abroad;
- 3) he/she is being compulsorily removed – for departure abroad.

(2) The travel certificate for foreigners can additionally be issued to other foreigners providing that there are duly justified reasons for that.

## **Competence for Issuing of Travel Certificates for Foreigners**

### Article 98

(1) The travel certificates for foreigners shall be issued by:

- 1) in the case referred to in Article 97, paragraph (1) of this Law – the competent authority;
- 2) in the cases referred to in Article 97, paragraph (2) of this Law – the competent authority or the diplomatic-consular mission upon prior consent from the Ministry of Interior.

(2) The travel certificate for a foreigner shall be issued with the validity period of up to 30 days.

(3) The appearance of the form and the procedure for issuing of a travel documents for foreigners shall be prescribed by the Minister in charge of home affairs.

## **Rejection of Application for Issuing Travel Document for Foreigner**

### Article 99

(1) A travel document for foreigners shall not be issued to a foreigner:

- 1) if a criminal, i.e. misdemeanour proceedings is pending against him, except where consent is obtained from the authority that conducts the proceedings;
- 2) if he/she has been sentenced for a prison sentence or a fine, until he/she has served the sentence and/or until he/she has paid the fine;
- 3) if he/she has not settled the due property-related liability for which there is a final decision, at the request of the court of relevant jurisdiction;
- 4) where this is called for by the reasons relating to protection of public policy or security of the Republic of Serbia;
- 5) if that is called for by the international obligations of the Republic of Serbia.

(2) The travel certificate for a foreigner referred to in Article 97, paragraph (1), point 3) can be issued even where there are obstacles referred to in paragraph (1), points 1) through 4) of this Article.

(3) The foreigner can file an appeal against the decision on rejection of an appeal for issuing of a travel document for foreigner referred to in Articles 96 and 97 of this Law with the authority which has passed the decision, within eight days from the decision receipt date.

(4) The appeal shall be filed in writing, in Serbian language, upon payment of the prescribed administrative fee.

(5) The Ministry of Interior or the Ministry in charge of foreign affairs shall decide on the appeal against the decision on rejection of an application for issuing of a travel document referred to in Articles 96 and 97, depending on the authority which has passed the decision referred to in paragraph (1) of this Article.

(6) The appeal shall not have suspensive effect on the enforcement of the decision.

(7) An administrative dispute can be initiated against the decision passed in the second instance procedure.

(8) The travel document can be temporarily confiscated from the foreigner to whom a travel document for foreigners has already been issued due to the reasons provided for in paragraph (1) of this Article, of which a certificate shall be issued.

(9) The competent authority shall return the temporarily confiscated travel document for a foreigner to the foreigner upon cessation of the reasons referred to in paragraph (1) of this Article.

## VIII. DOCUMENTS FOR PROVING IDENTITY

### **Types of Documents for Proving Identity**

#### Article 100

A foreigner in the Republic of Serbia shall prove his/her identity by means of the foreign valid travel document, valid identity card which was issued by the competent authority of another state, identity card for foreigners, provisional identity card for foreigners and by means of the special identity card.

### **The Use of Document for Proving Identity**

#### Article 101

(1) A foreigner shall be obliged to, at the request of a police officer, present the identity document referred to in Article 100 of this Law.

(2) The foreigner must not provide the document for establishing his/her identity to be used by another person, nor may he/she use an invalid or anyone else's document as his/her own.

### **The Right to Identity Card for Foreigners and to Special Identity Cards**

#### Article 102

(1) The identity card for foreigners shall be issued to a foreigner who has been granted permanent settlement, as well as to a foreigner who does not have a valid travel document, and who has been granted temporary residence by means of a decision.

(2) The provisional identity card for foreigners shall be issued to a foreigner to whom the compulsory removal is postponed in compliance with Article 84 of this Law or who has been ordered mandatory stay in compliance with Article 93 of this Law.

(3) A foreigner who is a member of a diplomatic or consular mission of a foreign state or a member of another mission which has the diplomatic status *as well as the members of his/her family with whom he/she lives in a shared household\** shall be issued a special identity card.

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*(4) A special identity card shall be issued as a diplomatic, official, consular or service identity card.\**

*(5) The diplomatic identity card shall be issued to a diplomatic agent and to the member of his/her family, an official identity card shall be issued to the members of administrative technical staff of a diplomatic or consular or another mission and to the members of their families, a consular identity card shall be issued to a consular official, a service identity card shall be issued to a foreigner who is enjoying a certain level of privileges in compliance with the international treaties.\**

### **Contents of the Form of Identity Card for Foreigners, Provisional Identity Card for Foreigners and Special Identity Card**

#### Article 103

(1) The form of identity card for foreigners and of provisional identity card for foreigners shall comprise the following information about the foreigner: surname, name, date, month and year of birth, sex, foreigner's records number, country of birth, citizenship.

(2) In the form of identity card for foreigners, images of biometric data (a photograph and signature) of the foreigner to whom the identity card is issued, the registration and serial number of the identity card for foreigners and the date of issue, validity term and issuing authority shall be entered as well.

(3) The form of identity card for foreigners and of provisional identity card for foreigners shall comprise the microcontroller (chip) and space for machine readable zone for the needs of automated data reading in which visible information on the document shall be entered, as well as information on the domicile or residential address of the foreigner, the foreigner's status in the Republic of Serbia and the foreigner's biometric fingerprint.

(4) At the request of the foreigner to whom the identity card for foreigners is issued or has been issued in compliance with separate regulations, the qualified electronic certificate of the holder and the relevant information for forming of the qualified electronic signature shall be inscribed in the microcontroller (chip) so that the identity card for the foreigner becomes the means for forming of a qualified electronic signature.

(5) The form of the identity card for foreigners and of the provisional identity card for foreigners shall be printed in Serbian language, in Cyrillic alphabet, in Latin alphabet and in English language, and information about the surname and name of the foreigner shall be entered as they are inscribed in the foreigner's travel document in the transcription in English language, and information on the country of birth and nationality of the foreigner shall be inscribed in Latin alphabet, in the manner in which the state whose national the foreigner is, is called in Serbian language.

*(6) The form of the special identity card shall include the following information on the foreigner, and specifically: surname, name, date, month and year of birth, sex, place and country of birth and the position of the card holder in the diplomatic mission.\**

*(7) Images of biometric data of the foreigner (a photograph and the signature), type of the special identity card, name and address of the diplomatic mission, registration and serial number of the special identity card, date of issue, validity term, authority that issued it and contact information, as well as the clause on court immunity in compliance with the binding international treaties for the Republic of Serbia shall also be entered in the form of the special identity card.\**

*(8) The form of the special identity card shall be printed in Serbian language, in Cyrillic alphabet and in English language, and information about the surname and name of the foreigner, as well as of the place of birth shall be entered as they are inscribed in the*

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*foreigner's travel document in the transcription in English language; information on the country of birth shall be inscribed by means of the three letter international designation of the country.\**

*(9) The special identity card shall be issued based on the application for issuing of a special identity card.\**

*(10) The form of the application for issuing of a special identity card shall include: surname and name, date, place and country of birth, a photograph, sex, citizenship, the type, number and validity term of the travel document, date of crossing of the state border, title of the holder of the special identity card within a foreign diplomatic mission, name of the diplomatic mission, residential address in the Republic of Serbia, signature of the applicant, date of application submission, stamp of the mission and name and signature of the chief of mission.\**

## **Submission of Applications for Issuing Identity Cards for Foreigners**

### **Article 104**

(1) The foreigner referred to in Article 102, paragraph (1) of this Law shall be obliged to, within 30 days from the date of exercising the right based on which the identity card for foreigners is issued, submit an application for issuing of an identity card for foreigners in person to the competent authority.

(2) The foreigner to whom an identity card for foreigners or a provisional identity card for foreigners is issued and who due to his/her religious or national customs wears a piece of headwear or scarf as a part of his/her costume and/or dress can be photographed with such headwear or scarf.

(3) On the occasion of submitting the application for issuing of an identity card for foreigners or a provisional identity card for foreigners, a certificate shall be issued to the foreigner, which shall serve as proof of a submitted application.

(4) An identity card for foreigners shall be issued to a foreigner who has turned 16 and who is eligible for the identity card for foreigners referred to in Article 102, paragraph (1) of this Law. One of the parents, guardians and/or the legal representative of the foreigner referred to in this paragraph shall be obliged to, 30 days upon his/her sixteen birthday, submit an application for issuing of an identity card for foreigners.

(5) At the request of a parent, guardian and/or the legal representative, the identity card for foreigners can be issued to an underage foreigner referred to in Article 102, paragraph (1) of this Law, who has turned ten.

(6) On the occasion of submitting the application referred to in paragraphs (4) and (5) of this Article, the presence of one of the parents, guardians and/or the legal representative shall be required.

*(7) The appearance of the form and the procedure for issuing of identity cards for foreigners and provisional identity cards shall be prescribed by the Minister in charge of home affairs, and the appearance of the form for issuing of a special identity card, appearance of the form of the special identity card, as well as the procedure for issuing of special identity cards shall be prescribed by the Minister in charge of foreign affairs.\**

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\* Published in the *Službeni glasnik RS*, No. 31/19 of 29 April 2019.

## **Competence**

### Article 105

(1) The identity cards for foreigners and the provisional identity cards for foreigners shall be issued by the competent authority.

(2) The special identity cards for foreigners shall be issued by the Ministry in charge of foreign affairs.

## **Validity Period**

### Article 106

(1) The identity card for a foreigner who has been granted permanent settlement shall be issued with the validity period of five years.

(2) The identity card for a foreigner who has been granted temporary residence shall be issued with the validity period for which the temporary residence is granted to him by means of the decision.

(3) The provisional identity card shall be issued with the validity period equalling the period of the mandatory residence ordered and/or with the validity period which is in accordance with the decision on postponement of forced removal.

(4) The identity card for foreigners shall be issued to an underage foreigner to whom permanent settlement is granted with the validity period of two years.

(5) The special identity card shall be issued with the validity period of up to four years.

## **Issuing of a New Identity Card for Foreigners**

### Article 107

(1) A new identity card for foreigners shall be issued to a foreigner if the previously issued identity card for foreigners has expired, is damaged or if the photograph no longer corresponds to his/her appearance or when due to some other reasons it cannot serve for its intended purpose.

(2) The foreigner shall be obliged to, within 15 days from the date of occurrence of the reasons referred to in paragraph (1) of this Article, submit to the competent authority an application for issuing of a new identity card for foreigners.

## **Return of Identity Card for Foreigners and Declaring an Identity Card for Foreigners Invalid**

### Article 108

(1) The foreigner shall be obliged to return the identity card for foreigners to the competent authority if:

1) he/she has acquired the citizenship of the Republic of Serbia;

2) he/she is moving out of the Republic of Serbia;

3) his/her right to permanent settlement or to temporary residence has lapsed and/or if his/her temporary residence has expired.

(2) The foreigner shall be obliged to notify the competent authority without delay of the disappearance of the identity card for foreigners or of the provisional identity card for foreigners, which shall declare the identity card for foreigners or the provisional identity card

for foreigners invalid by means of a decision and announce the same in the Službeni glasnik Republike Srbije at the expense of the foreigner.

(3) No appeal shall be permitted against the decision on declaration of invalidity of an identity card for foreigners or a provisional identity card for foreigners, but an administrative dispute can be initiated against it.

### **Obligations of a Foreigner in Case of Disappearance of Document for Proving Identity**

#### Article 109

(1) A foreigner who is in the territory of the Republic of Serbia shall notify the competent authority about the disappearance of the foreign travel document in which a valid visa sticker, a valid sticker of temporary residence or permanent settlement in the Republic of Serbia is affixed without delay.

(2) The foreigner may notify the competent authority of the disappearance of the travel document which does not include the stickers referred to in paragraph (1) of this Article, with the aim of acquiring a travel document for departing from the territory of the Republic of Serbia.

(3) The competent authority shall issue a certificate of disappearance of the foreign travel document in the territory of the Republic of Serbia.

## **IX. PLACE OF RESIDENCE AND DOMICILE OF A FOREIGNER**

### **The Term of Place of Residence, Residential Address and Domicile**

#### Article 110

(1) The place of residence, within the meaning of this Law, shall be the place and address at which the foreigner stays longer than 24 hours.

(2) The residential address shall be the reported address at which the foreigner intends to stay during the authorized temporary residence in the Republic of Serbia.

(3) In the course of a temporary residence, the foreigner shall be obliged to, within three days from the change of residential address, notify the competent authority thereof.

(4) It shall be considered that a foreigner has not changed the residential address if the place of residence is reported at another address due to private, business or other reasons, and where residing in such place does not exceed 15 days.

(5) The foreigner to whom permanent settlement in the Republic of Serbia is granted shall have a reported domicile.

(6) The domicile, within the meaning of this Law, shall be the place in which the permanently settled foreigner has settled with the intention to live permanently in it and/or the place in which the centre of his/her life activities, professional, economic, social and other liaisons is located which can serve as proof of his/her permanent connection with the place in which he/she has settled.

(7) The permanently settled foreigner shall be obliged to, within eight days from the date of change of domicile, notify the competent authority thereof.

## **Reporting of the Place of Residence, Domicile and Change of Residential Address and De-Registration of Domicile**

### Article 111

(1) The legal persons, entrepreneurs and natural persons which provide the accommodation services to foreigners in return for payment shall be obliged to perform registration of the place of residence of a foreigner within 24 hours from the provision of accommodation service with the police directorate according to the foreigner's place of accommodation.

(2) The legal persons, entrepreneurs and natural persons which the foreigners come to visit shall be obliged to perform registration of the place of residence of the foreigner with the police directorate according to the place of foreigner's accommodation within 24 hours from the arrival of the foreigner to such visit.

(3) The foreigner who does not use the accommodation referred to in paragraph (1) of this Article or does not stay at the private address with the natural or legal person shall be obliged to report with the police directorate according to the place of accommodation his/her place of residence on his/her own within 24 hours from the arrival to the Republic of Serbia and/or from the date of change of the place of residence.

(4) The natural person referred to in paragraph (2) of this Article shall be the person whom the foreigner comes to visit. The natural person whom the foreigner comes to visit may authorise another person or the foreigner who has come to visit him to perform the registration of the place of residence referred to in paragraph (2) of this Article on his/her own.

(5) Where there are adequate technical conditions for that, the registration of a foreigner's place of residence can be performed in electronic form, by applying the scheme of electronic identification of the middle level of reliability at the minimum in compliance with the law regulating electronic document, electronic identification and trust services in electronic business.

(6) The appearance of the form for registration of the place of residence and the method of registration of a foreigner's place of residence, residential address, change of residential address, registration and de-registration of a foreigner's domicile shall be prescribed by the Minister in charge of home affairs.

## **X. SPECIAL PROVISIONS ON THE MOVEMENT OF A FOREIGNER IN A UNIFORM**

### **Conditions for Wearing a Foreign Military, Police or Customs Uniform**

#### Article 112

In the territory of the Republic of Serbia, movement shall be allowed for the foreigners wearing a foreign military, police or customs uniform in compliance with an international treaty.



## XI. DATA PROCESSING

### Processing of Personal Data

#### Article 113

(1) Personal data of the foreigners and the nationals of the Republic of Serbia which can be related to a foreign national shall be processed when that is:

- 1) necessary for conducting procedures and tasks provided for by this Law;
- 2) necessary for protection of public policy or security of the Republic of Serbia;
- 3) provided for by the law or an international treaty.

(2) Processing of personal data of the foreigners and nationals of the Republic of Serbia which can be related to a foreign national shall be performed in compliance with the provisions of the law regulating records and data processing in the field of home affairs.

(3) The provisions of this Law shall be the basis for processing of personal data.

### Purpose of Personal Data Processing

#### Article 114

Processing of personal data shall be carried out for the purpose of visa issuing, granting temporary residence, permanent settlement, imposing decisions on return, ordering bans on entry into the Republic of Serbia, ordering residence in the shelters for foreigners, issuing of travel documents for foreigners and identity cards for foreigners, registration of the place of residence and domicile of foreigners and other tasks related to entry, stay, removal and status of foreigners in the Republic of Serbia.

### Records

#### Article 115

(1) For the purpose of carrying out of tasks laid down by this Law, the Ministry of Interior shall maintain the records on:

- 1) the foreigners whose place of residence has been registered;
- 2) the foreigners which have been granted permanent settlement;
- 3) the foreigners which have been granted temporary residence;
- 4) the foreigners for which decisions on return have been passed, to which bans on entry have been imposed, foreigners vis-à-vis which the competent authorities have acted, as well as on the foreigners against which the protective measure of removal or the security measure of expulsion have been imposed;
- 5) the foreigners against which the bans on entry have been imposed at the proposal of the state authority in charge of protection of security of the Republic of Serbia, as well as the surveillance and control of foreigners on the occasion of crossing of the state border or movement across the territory of the Republic of Serbia;
- 6) the foreigners which have been ordered to reside in a shelter;
- 7) the foreigners against which mandatory residence is ordered;
- 8) the issued identity cards for foreigners, provisional identity cards for foreigners and foreigners for which travel documents for foreigners have been issued;
- 9) the registration of missing and found documents for proving identity in compliance with this Law;

10) registration of missing and found national travel and other documents of the foreigners;

11) the visas refused and issued at the border crossing points, on the cancelled, revoked and extended visas.

(2) Regulations on records and processing of data in the field of home affairs as well shall apply to the issues pertaining to the records and processing of data maintained in compliance with paragraph (1) of this Article, as well as to the contents of such records, updating and deletion, time limits for storage and protective measures for data.

(3) The Ministry in charge of foreign affairs, for the purpose of carrying out the tasks laid down by this Law, and in compliance with the law regulating personal data protection, may collect and process personal data of the foreigner and any natural and legal persons related to him and maintain records of that, which shall include the following data:

1) records on visas (name and surname of the foreigner; surname at birth; date of birth; place and country of birth; foreigner's sex; photograph of the foreigner; citizenship; name and surname of a parent; foreigner's address abroad; telephone number; foreigner's electronic mail address; type, number and validity period of the foreign travel document; profession, name and address of the employer in the foreign country; name and address of the educational institution in the foreign country attended by the foreigner; whether in case of a transit the foreigner possesses the authorisation for entry to the third country; whether he/she has in his/her travel document an authorisation for return to the country of residence where it is not the same as his/her country of origin; previous stay in the Republic of Serbia; date of arrival to and departure from the Republic of Serbia; means of transport by which the foreigner arrives to the Republic of Serbia; name and surname, date, place, country of birth and citizenship of the foreigner's spouse, common-law partner and children; name, surname, address, citizenship, telephone number, registration or record number of the inviter and the reason for inviting the foreigner to the Republic of Serbia; name, seat, company registration number, tax identification number, name, surname and registration number of the responsible person with the legal person which is inviting the foreigner to visit and the reason for inviting the foreigner to the Republic of Serbia; number and name of the authority which performs certification of the letter of guarantee, date of certification of the letter of guarantee; serial numbers of other visas issued over the past three years and the validity of these visas; place and date of submission of visa application; type of visa requested; number of entries requested; serial number of the visa; validity period of the visa; number of days of the stay; purpose of the trip; date and reason for the refusal of visa; date, reason and name of the authority which cancelled or revoked the visa);

2) on the issued travel certificates for foreigners (name and surname of the foreigner; surname at birth; date of birth; place and country of birth; foreigner's sex, citizenship, name and surname of the foreigner's spouse or common-law partner; name and surname of the parent; foreigner's address in the foreign country, foreigner's address in the Republic of Serbia, telephone number, foreigner's electronic address, photograph of the foreigner, serial number, date of issue and validity period of the travel certificate for foreigners and the authority which has issued it);

3) *on the issued special identity cards for foreigners (surname and name of the foreigner; date of birth, place and country of birth, photograph, sex, citizenship, the type, number and validity date of the travel document, date of crossing of the state border, title of the holder of the special identity card within the foreign diplomatic mission, name of the diplomatic mission, address at which they stay in the Republic of Serbia, the type, registration number, serial number, date of issue and the validity period of the special identity card for foreigners).* \*

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(4) Information from the records on visas referred to in paragraph (3), point 1) of this Article shall be processed and maintained electronically, in the national Visa Information System.

(5) The period of keeping of information from the records referred to in paragraph (3) of this Article shall be five years.

(6) The authority in charge of migration management in the Republic of Serbia, for the purpose of implementing the program of voluntary return of a foreigner, and in compliance with the law regulating protection of personal data, may collect and process the personal data of the foreigner and of the natural and legal persons related to him and may maintain records on that which shall include the following pieces of information: name and surname of the foreigner; surname at birth; date of birth; place and country of birth; foreigner's sex; photograph of the foreigner; citizenship; name and surname of the parent; type, number and validity period of the foreign travel document; place of residence of the foreigner in the Republic of Serbia; name and surname, telephone and electronic address of the guardian of the foreigner where a guardian has been appointed for him; date and record number of the application for voluntary return; name and surname, date of birth of the foreigner's spouse or common-law partner and children who are participating in the program of voluntary return with him; date and place of the foreigner's voluntary departure; foreigner's address in the country of his/her voluntary return.

(7) A foreigner's applications for exercising of any of the rights provided for by this Law and the documents that the foreigner is to submit in such a procedure shall be kept for the current and two previous years, after which they shall be destroyed, except for the application for permanent settlement of a foreigner, which shall be kept permanently.

(8) The Ministry of Interior, the Ministry in charge of foreign affairs and the authority in charge of migration management shall be the handlers of data which they process in their records.

(9) The state authority in charge of the tasks relating to security of the Republic of Serbia and its citizens shall be the user of data from the records that are maintained in compliance with this Law.

## **Cooperation of State Authorities**

### **Article 116**

The state authorities and the organisations related to them which perform the tasks relating to the realisation of various rights of the foreigners shall directly and continuously cooperate and exchange information required for conducting of procedures and carrying out of tasks envisaged by this Law.

## **Exchange of Personal Data**

### **Article 117**

(1) Exchange of personal data of a foreigner and of the natural and legal persons related to him, which is necessary for conducting of procedures and carrying out of tasks envisaged by this Law shall be carried out with the state authorities and organisations related to them in compliance with the provisions of the law on data processing and records in the field of home affairs and it shall be conducted between the Ministry of Interior and:

- 1) the Ministry in charge of foreign affairs, for the purpose of issuing of visas;
- 2) the state authority in charge of protection of security of the Republic of Serbia, for the purpose of protection of security of the Republic of Serbia and its citizens;

3) organisation competent for employment, for the purpose of implementation of regulations on employment of foreigners;

4) the authority in charge of migration management, for the purpose of inclusion of the foreigner in the program of support to voluntary return.

(2) In compliance with paragraph (1), point 1) of this Article, the Ministry of Interior shall take over information on the visa applications submitted in diplomatic-consular missions and, in compliance with Article 29 of this Law, perform checks relating to individual applications submitted and provide the prior consent, and the Ministry in charge of foreign affairs, in compliance with Article 29, paragraph (1) of this Law, perform checks in the records prescribed by Article 115, paragraph (1), points 1), 2), 3), 4) and 5) of this Law.

(3) In compliance with paragraph (1), point 2) of this Article, the authority in charge of the protection of security of the Republic of Serbia and its citizens shall take over information from the records maintained on the basis of this Law.

(4) In compliance with paragraph (1), point 3) of this Article, the organisation competent for employment shall take over from the Ministry of Interior information on approved temporary or permanent settlement of a foreigner, and the Ministry of Interior shall take over information on issued work permits for foreigners in compliance with the regulations governing employment of foreigner.

(5) In compliance with paragraph (2), point 4) of this Article, the authority in charge of migration management shall take over from the Ministry of Interior information on foreigners for whom decisions on return have been passed, and the Ministry of Interior shall take over information about the foreigners who are included in the program of support to voluntary return.

(6) The authorities referred to in paragraph (1) of this Article shall be obliged to ensure protection of personal data of the foreigner and any natural and legal persons related to him from the records from any accidental or unauthorized access, use, processing and forwarding, in compliance with the law.

(7) Information from the records can be used for statistical, scientific and research purposes, without indications of identity of the person to which information pertains, in compliance with the law.

## XII. SUPERVISION

### Article 118

The Ministry of Interior and the Ministry in charge of foreign affairs shall supervise the implementation of this Law and of the regulations passed on the basis of this Law, each one in the part pertaining to the respective competence of that Ministry.

## XIII. PENAL PROVISIONS

### **Carriers, Organizers of Tourist Trips and Inviters**

### Article 119

(1) A fine ranging from 50,000 to 2,000,000 dinars shall be imposed for a misdemeanour against a legal person:

1) that transports a foreigner to the territory of the Republic of Serbia or refuses to take him away from the border crossing point or from the Republic of Serbia, contrary to the provision of Article 13, paragraphs (1) and (2) of this Law;

2) that due to an omission in organisation of a tourist or business trip causes the illegal stay of a foreigner in the territory of the Republic of Serbia (Article 13, paragraph (4) of this Law).

(2) A fine ranging from 5,000 to 150,000 dinars shall be additionally imposed for the misdemeanour referred to in paragraph (1) of this Article against the responsible person with the legal person.

(3) A fine ranging from 10,000 to 500,000 dinars shall be imposed for a misdemeanour referred to in paragraph (1) of this Article against an entrepreneur.

(4) In addition to the fine for a misdemeanour referred to in paragraph (1), point 1) of this Article, a protective measure of ban on carrying out the activity of international transport of passengers in air, road, waterborne or railway traffic can be imposed against the perpetrator, and for the misdemeanour referred to in paragraph (1), point 2) of this Article, the protective measure of ban on organisation of international tourist or business trips.

### **Providers of Accommodation Services**

#### Article 120

(1) A fine shall be imposed against a legal person, entrepreneur or a natural person which fails to register the place of residence of a foreigner to the competent authority within 24 hours from the time of provision of accommodation service to the foreigner and/or from the time of foreigner's arrival to a visit (Article 111, paragraphs (1) and (2) of this Law) which shall be in the range:

- 1) from 5,000 to 150,000 dinars for a natural person;
- 2) from 50,000 to 2,000,000 dinars for a legal person;
- 3) from 10,000 to 500,000 dinars for an entrepreneur.

(2) For a misdemeanour referred to in paragraph (1) of this Article, a fine ranging from 5,000 to 150,000 dinars shall be additionally imposed against the responsible person with the legal person.

(3) In addition to the fine for a misdemeanour referred to in paragraph (1) of this Article, a protective measure of the ban on carrying out of the activity of provision of accommodation services to foreigners can be imposed against the perpetrator.

(4) A fine ranging from 5,000 to 150,000 dinars shall be imposed against a foreigner who fails to register the place of residence with the competent authority within 24 hours from the entry into the Republic of Serbia and/or from the date of change of the place of residence (Article 111, paragraph (3) of this Law).

### **Infringements of Regulations Pertaining to Entry and Staying**

#### Article 121

(1) A fine ranging from 5,000 to 150,000 dinars shall be imposed for a misdemeanour against a foreigner who:

- 1) illegally enters into the Republic of Serbia (Article 14 of this Law);
- 2) does not depart from the Republic of Serbia within the time limit determined for his/her voluntary return (Article 77 of this Law);

3) enters or stays in the Republic of Serbia, where an entry ban has been imposed against him (Articles 39, 66, 72 and 78 of this Law);

4) leaves the shelter without a permission or does not comply with the house rules and the rules for stay in the shelter (Article 91, paragraph (1) of this Law);

5) leaves the place of mandatory residence determined for him by the competent authority or fails to regularly report to the competent authority (Article 93 of this Law).

(2) In addition to the fine for a misdemeanour referred to in paragraph (1) of this Article, a protective measure of the removal of foreigner from the territory of the Republic of Serbia can be imposed as well.

(3) A prison sentence of up to 60 days of imprisonment and a fine ranging from 50,000 to 150,000 dinars shall be imposed for a misdemeanour against the natural person which has assisted or attempted to assist a foreign national in illegally entering into the Republic of Serbia, transiting over the territory of the Republic of Serbia or illegally staying in the territory of the Republic of Serbia (Article 14, paragraph (2) of this Law).

(4) In addition to the sanction for the misdemeanour referred to in paragraph (3) of this Article, a protective measure of confiscation of object can be imposed against the perpetrator.

### **Illegal Stay and Identity Verification**

#### Article 122

(1) A fine ranging from 5,000 to 150,000 dinars shall be imposed for a misdemeanour against a foreigner who:

1) stays in the Republic of Serbia contrary to the reasons for which he/she has been authorized to stay (Article 40, paragraph (3) of this Law);

*1a) stays in the Republic of Serbia contrary to the purpose, i.e. grounds for which the visa has been granted to him (Article 31, paragraph (6) of this Law);\**

2) illegally stays in the Republic of Serbia (Article 74, paragraph (1) of this Law);

3) refuses to present the document on his/her identity to a police officer of the competent authority (Article 101, paragraph (1) of this Law);

4) let another person use his/her personal document or uses an invalid personal document or uses another person's personal document as his/her own (Article 101, paragraph (2) of this Law).

(2) In addition to the sanction for a misdemeanour referred to in paragraph (1) \* of this Article, a protective measure of foreigner's removal from the territory of the Republic of Serbia can be imposed against the foreigner as well.

### **Infringements of Regulations Pertaining to the Authorized Stay**

#### Article 123

(1) A fine ranging from 5,000 to 150,000 dinars shall be imposed for a misdemeanour against a foreigner who:

1) has failed to submit an application for granting a temporary residence in the Republic of Serbia and who needs a work permit for his/her work in compliance with the regulations governing employment of foreigners (Article 46, paragraph (2) of this Law);

2) *(Deleted)\**

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3) fails to submit an application for extension of temporary residence within the prescribed time limit (Article 41, paragraph (5) of this Law);

4) fails to submit an application within the prescribed time limit for granting temporary residence for a child, a foreign national born in the territory of the Republic of Serbia (Article 58, paragraph (1) of this Law);

5) fails to submit an application within the prescribed time limit to the competent authority for issuing of an identity card for foreigners (Article 104, paragraphs (1) and (4) of this Law);

6) fails to submit an application within the prescribed time limit an application for issuing of a new identity card for foreigners (Article 107, paragraph (2) of this Law);

7) does not return the identity card to the competent authority in the cases laid down in Article 108, paragraph (1) of this Law;

8) does not report to the competent authority the disappearance of the documents referred to in Article 108, paragraph (2) and Article 109, paragraph (1) of this Law;

9) fails to register with the competent authority the change of residential address or the change of domicile referred to in Article 110, paragraphs (3) and (7) of this Law;

10) during his/her stay in the Republic of Serbia wears a foreign military, police or customs uniform contrary to the provisions of Article 112 of this Law.

#### XIV. TRANSITIONAL AND FINAL PROVISIONS

##### **Authorisations for Passing of Regulations**

###### Article 124

(1) The Government shall, within six months from the date of entry into force of this Law, pass a regulation governing more detailed conditions for refusal of entry into the Republic of Serbia for foreigners referred to in Article 15, paragraph (7) of this Law \*.

(2) The Government shall, at the proposal of the Minister of Interior, in case that the special circumstances are established pertaining to illegal presence of a large number of foreign nationals in the territory of the Republic of Serbia, who cannot be returned to the country of origin due to the application of the principle relating to the prohibition of return or who cannot depart from the Republic of Serbia due to the circumstances which are beyond their control, pass a regulations whereby their tolerated presence in the territory of the Republic of Serbia will be governed, with a limited time period of application thereof.

(3) *(Deleted)*\*

(3)\* The Minister in charge of home affairs shall, within six months from the date of entry into force of this Law, pass the regulations on:

1) appearance of the form on refusal of entry into the Republic of Serbia, appearance of the form of granting entry into the Republic of Serbia and method of entering of information on refusal of entry in the travel document of a foreigner referred to in Article 15, paragraph (5) of this Law;

2) appearance of the form on rejection of a visa application on the border crossing point referred to in Article 34, paragraph (7) of this Law;

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3) appearance of the form on refusal of an application for extension of validity term of a visa referred to in Article 35, paragraph (7) of this Law;

4) more detailed conditions for granting temporary residence, appearance of application for granting temporary residence, appearance and method of affixing of the temporary residence stamp to the foreign travel document referred to in Article 43, paragraph (2) of this Law;

5) more detailed conditions for granting permanent settlement, appearance of the application for granting permanent settlement, appearance and method of affixing of the permanent settlement stamp to a foreign travel document referred to in Article 67, paragraph (9) of this Law;

6) appearance of the stamp of the entry ban and method of affixing of the entry ban to the foreign travel document referred to in Article 78, paragraph (6) of this Law;

7) more detailed conditions and method of enforcement of the forced removal of foreigners referred to in Article 81, paragraph (5) of this Law;

8) house rules and rules for stay in the shelter, referred to in Article 91, paragraph (2) of this Law;

9) appearance and method of affixing of the mandatory residence to the travel document of a foreigner referred to in Article 93, paragraph (11) of this Law;

10) appearance of the form and method of issuing of a travel certificate for foreigners referred to in Article 98, paragraph (3) of this Law;

11) appearance of the form and method of issuing of an identity card for foreigners and of a provisional identity card for foreigners referred to in Article 104, paragraph (7) of this Law;

12) appearance of the form for registration of place of residence for a foreigner, method of registration of a foreigner's place of residence, residential address, change of residential address, registration and de-registration of domicile for a foreigner referred to in Article 111, paragraph (6) of this Law.

(4)\* The Minister in charge of foreign affairs shall, within six months from the date of entry into force of this Law, pass the regulation on:

1) the appearance of the form for affixing of a visa and method of affixing the visa in the form referred to in Article 24, paragraph (4) of this Law;

2) the appearance of the visa application form and appearance of the seal whereby the receipt of a visa application referred to in Article 25, paragraph (9) of this Law is confirmed;

3) the appearance and method of affixing of the visa sticker in a foreign travel document referred to in Article 32, paragraph (3) of this Law;

4) the appearance of the form on rejection of a visa application referred to in Article 36, paragraph (5) of this Law;

5) the appearance of the form on revoking or cancelling of a visa, as well as on the method of cancelling and revoking of a visa referred to in Article 37, paragraph (7) of this Law;

6) the appearance of the form and procedure for issuing of a special identity card referred to in Article 104, paragraph (7) of this Law.

(5)\* The Minister in charge of home affairs shall, upon the consent from the manager of the state authority in charge of the protection of security of the Republic of Serbia and its citizens, within six months from the date of entry into force of this Law, pass a regulation whereby more detailed conditions and method of implementation of proposals for imposing the entry bans against foreigners and surveillance and control of foreigners on the occasion of entry

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into and movement across the territory of the Republic of Serbia referred to in Article 115, paragraph (1), point 5) of this Law shall be regulated.

#### Article 125

Procedures initiated prior to the entry into force of this Law shall be completed in accordance with the provisions of the Law on Foreigners (Službeni glasnik RS, No. 97/08), except where it is more favourable for the foreigner to complete the procedure in accordance with the provisions of this Law.

### **Validity of Regulations until the Adoption of New Ones on the Basis of This Law**

#### Article 126

Regulations passed on the basis of the Law on Foreigners (Službeni glasnik RS, No. 97/08) shall remain in force until the adoption of regulations whereby they shall be repealed, unless where they are contrary to the provisions of this Law.

### **Termination of Validity of Certain Laws**

#### Article 127

The Law on Foreigners (Službeni glasnik RS, No. 97/08) shall cease to be in force on the initial date of application of this Law.

### **Entry in Force of This Law**

#### Article 128

This Law shall enter into force on the eighth day from the day of its publication in the Službeni glasnik Republike Srbije and it shall begin to apply six months from the entry into force.

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### **ARTICLES NOT INCLUDED IN THE FINAL TEXT OF THE LAW ON AMENDMENTS AND ADDITIONS TO THE LAW ON FOREIGNERS (Službeni glasnik RS, No. 31/19)**

#### Article 17

*The Government shall adopt a regulation within six months from the date of entry into force of this Law whereby criteria for determining categories of foreigners, as well as for the categories of foreigners referred to in Article 4 of this Law shall be determined.*

*The Minister in charge of home affairs shall, within six months from the date of entry into force of this Law, pass a regulation on more detailed conditions for submission of applications for approval of temporary residence by electronic means referred to in Article 5, paragraph (5) of this Law.*

*The Minister in charge of home affairs shall, within six months from the date of entry into force of this Law, pass a regulation on the appearance of the application form for issuing of special identity cards referred to in Article 12 of this Law.*

*The Minister in charge of home affairs and the Minister in charge of employment shall, within six months from the date of entry into force of this Law pass a regulation by mutual agreement whereby the appearance and the contents of the form referred to in Article 6 of this Law shall be regulated.*

#### *Article 18*

*This Law shall enter into force on the eighth day from the date of its publication in the Službeni glasnik Republike Srbije, with the exception of the provisions of Articles 1 and 5 which shall be applied as of 1 January 2020 and the provisions of Article 6 which shall be applied as of 1 December 2020.*