

# Serbia: New Act on Secondment of Employees Abroad

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In November 2015, the Serbian Parliament passed a new legislation regulating secondment of employees abroad (Act on Conditions for Secondment of Employees to Temporary Work Abroad and their Protection, "Official Gazette of RS" no. 91/2015) ("**Secondment Act**"). The new legislation will be applicable from 13 January 2016.

The Secondment Act does not bring drastic changes to the procedure for secondment of Serbian employees abroad. Serbian employers will continue to be obliged to notify the Ministry of Labour of each such secondment. Compared to the earlier legislation enacted in 1998, the new legislation expands the employer's obligations in relation to foreign secondment and increases fines in case of breach.

## **Types of Secondment**

The Secondment Act regulates secondment of employees from Serbia to a foreign country for the purpose of performing temporary work or vocational training. The legislation distinguishes between the following types of secondment:

- provision of services pursuant to a business cooperation agreement with a foreign partner;
- work or professional training in the employer's foreign subsidiary, branch or representative office;
- work or professional training in the employer's parent or sister company.

Business trip to abroad is not considered secondment if it does not last for more than 30 days in continuity, or for more than 90 days in total within a calendar year.

## **Conditions for Secondment**

An employee may be seconded abroad only with his/her written consent. When the possibility of secondment abroad is stipulated in the employment agreement, no additional consent is required, but the employee may refuse secondment for justified reasons (specifically: during pregnancy; part-time work during special childcare leave; until the employee's child reaches the age of three; if the

employee is a single parent - until the child reaches the age of 15; if less than three months have passed since the employee's return from working abroad, provided such work lasted at least 11 months; in other cases specified in the employer's general enactment, if any).

The initial duration of secondment is limited to 12 months, with the possibility of extension. Secondment of employees hired on fixed-term contracts may not exceed the term of their employment. The time spent on secondment does not count toward the maximum statutory duration of definite-term employment.

### **Obligations of the Employer**

The employer sending its employee on a foreign secondment is obliged to:

- provide the employee with information about the conditions of life in the relevant country (the Secondment Act does not elaborate on this rather broad notion) and the contact person in the destination country (where employee's consent for secondment is required, this information should be provided before the employee is invited to give his/her consent);
- arrange for a health check of the employee, transportation to the destination and back to Serbia and residence and work permits for the employee;
- conclude an annex to the employment agreement with the employee, containing elements prescribed by the Secondment Act;
- ensure that the salary of the secondee is not lower than the statutory minimum in Serbia or the country of destination;
- continue to pay mandatory social insurance contributions for the employee while he/she is on the secondment (subject to the relevant provisions of social security treaty between Serbia and the country of destination, if any);
- ensure that health and safety measures at work are not below the standards prescribed by Serbian regulations or the regulations of the country of destination, whichever are more favourable to the employee;
- provide the secondee with accommodation and meals at the destination, in accordance with the standards of the country of destination or those under the employer's own general enactment, whichever are more favourable to the employee;
- compensate the secondee for the costs of commuting to and from work.

### **Secondment procedure**

The employer is obliged to notify the Ministry of Labour of the secondment no later than one day before the secondment commences, on a pre-printed form published by the Ministry of Labour. Within seven days following the commencement of secondment, the employer is obliged to submit to the

Ministry of Labour evidence that it has registered with the Central Registry of Mandatory Social Insurance its obligation to pay mandatory social contribution for the secondee.

### **Penalties for non-compliance**

Non-compliance with mandatory requirements related to secondment of employees abroad is a misdemeanour subject to monetary fines ranging from RSD 600,000 (approx. EUR 5,000) to RSD 1,500,000 (approx. EUR 12,500).

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