



REPUBLIC OF SERBIA
Ministry of Interior

LAW ON FOREIGNERS

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LAW ON FOREIGNERS

P a r t O n e

BASIC PROVISIONS

Scope of the Law

Article 1.

This Law regulates conditions of the entry, movement and stay of foreigners as well as competences and affairs of the state administration authorities of the Republic of Serbia related to the entry, movement and stay of foreigners in the territory of the Republic of Serbia.

Application of the Law

Article 2

This Law is not to be applied to foreigners who:

- 1) Applied for asylum or who were granted an asylum in the Republic of Serbia, if not otherwise regulated by the law;
- 2) Enjoy privileges and immunities pursuant to the international law in the part that was excluded by such privileges and immunities.

For persons without citizenship the provisions of the Convention on legal position of the persons without citizenship are applied, if more favourable for them.

Meaning of Expressions

Article 3

Certain expressions used in this Law shall have the following meaning:

- 1) Foreigner is each person who does not have citizenship of the Republic of Serbia;
- 2) Competent authority is a territorial unit of the Ministry of Interior (hereinafter: the Ministry), competent for foreigners' affairs;
- 3) Border police is an organized unit of the Ministry that directly carries out the affairs of border control and other affairs of state border protection;
- 4) Entry in the Republic of Serbia is an arrival of a foreigner at its territory, approved by the competent state authority, by crossing the state border, i.e. border crossing point at which control is carried out. Retaining of foreigners in the transit area of an airport or in the anchorage of the terminals or ports through which the international traffic is carried out is not considered, pursuant to this Law, an entry in the Republic of Serbia;
- 5) Transit implies passing across the territory of the Republic of Serbia;
- 6) Border control is the control of persons and passports, control of means of transportation and control of things, that is carried out in the area of border crossing point related to the intended crossing of the state border and other controls in line with the law;

7) Foreign traveling document is a personal, family, common, diplomatic or official passport, a shipping booklet and sailor's booklet with an entered visa and other document recognized by international treaties as traveling document, based on which the identity of its holder can be determined, valid and issued in compliance with the regulations of a foreign state, i.e. appropriate act of an international organization, whose validity period did not expire;

8) Traveling document for foreigners is a traveling document for refugees, traveling document for persons without citizenship and traveling paper for foreigners;

9) Identity card for foreigners is an identity document issued to a permanently residing foreigner, i.e. a foreigner temporarily residing without a valid traveling document;

10) Carrier is a natural or legal person registered for public transportation of passengers in air, road, river traffic;

11) Shelter for foreigners is a building for accommodation of foreigners who are not allowed to enter the country or who are to be expelled or deported from the country but cannot be expelled and who, in conformity with the law, are determined to stay under an enhanced police supervision.

Entry and Stay of Foreigners

Article 4

A foreigner can enter and stay in the Republic of Serbia, subject to this Law, with a valid traveling document containing a visa or residence permit, if not otherwise provided by the law or an international treaty.

Restrictions or Prohibition of Movement

Article 5

A foreigner shall be limited or prohibited to move and stay in certain areas within the Republic of Serbia if that is requested by the reasons of public order or security in the Republic of Serbia and of its citizens or pursuant to international treaties.

Compliance with Law

Article 6

A foreigner is obliged, during his movement and stay in the Republic of Serbia to comply with regulations and decisions of the state authorities.

Application of the Law in Decision Making Procedure on Rights and Obligations of Foreigners

Article 7

In the procedure of decision making on rights and obligations of foreigners, the provisions of the laws regulating general administrative procedure, in case otherwise not provided by this law.

Notice of arrival i.e. departure and change of address, residence and change of apartment address, i.e. notice of departure from domicile and change of address of a foreigner, is subject to the provisions of the law that regulates residence and domicile of the citizens of the Republic of Serbia, if not otherwise provided by this law.

P a r t T w o

**ENTRY AND EXIT OF FOREIGNERS FROM THE
REPUBLIC OF SERBIA**

Border Control

Article 8

A foreigner is obliged, when entering and exiting from the Republic of Serbia, to undergo border control.

Border control of foreigners is carried out in conformity with a special law and encompasses also disclosure and preventing of unlawful entry in the Republic of Serbia, denial of entry on conditions from Article 11 of this Law, i.e. exit from the territory of the Republic of Serbia on conditions from Article 13 para 2 of this Law.

Entry and Exit Pursuant to a Common Traveling Document

Article 9

A foreigner recorded in a traveling document of another person, can enter and exit from the Republic of Serbia, only when accompanied by the person in whose traveling document he is recorded.

Foreigners with a common traveling document can enter or exit the Republic of Serbia only together.

Foreigners recorded in a common traveling document must also possess a document containing a photo, based of which their identity can be determined.

A group leader must have his own traveling document.

Unlawful Entry in the Republic of Serbia

Article 10

An unlawful entry in the Republic of Serbia is considered:

- 1) An entry out of place and time determined for crossing of state border;
- 2) Entry by avoiding border control;
- 3) Entry by use of someone else's, unlawful, i.e. false traveling or other document;
- 4) Entry by giving false data to border police;
- 5) Entry in the course of duration of protective measure of expulsion of foreigners from the territory of the Republic of Serbia, security measure of expelling foreigners from the country or measure of residence rescinding.

Denial of entry

Article 11

An entry to the Republic of Serbia, shall be denied to a foreigner in case:

- 1) He does not possess a valid traveling document or visa if necessary;
- 2) He does not have enough resources for support during his stay in the Republic of Serbia, for return to the country of origin or transit into third country, or he is not provided maintenance during his stay in the Republic of Serbia;
- 3) He is in transit and he does not meet the conditions for entry in the third country;
- 4) A protective measure of expulsion or security measure of deportation are in force or his residence permit was cancelled, i.e. another measure was recognized in internal or international law

that includes prohibition of crossing of state border – for the duration of such measure i.e. rescinding of residence;

5) He does not have a confirmation on immunization or other evidence that he is not ill, and he is coming from the area infected with epidemic of contagious diseases;

6) which is requested by the reasons of protection of public order or security of the Republic of Serbia and its citizens;

7) He is kept in an appropriate records as an international transgressor;

8) There is a reasonable doubt that he shall not use his stay for an intended purpose.

Denial of entry is recorded in the traveling document of a foreigner.

The detailed conditions from the para 1. point 2), 5), 6) and 7) of this Article are prescribed by the Government.

Entry and Stay in the Republic of Serbia without a Visa

Article 12

By the international treaty or decision of the Government it can be decided that citizens of certain countries can enter the Republic of Serbia without a visa, if there are not other obstacles from the Article 11 of this Law.

The Government can decide that citizens of certain countries can enter the Republic of Serbia with a valid identity card, i.e. other document based on which an identity and citizenship can be ascertained, if there are no other obstacles from the Article 11 para 1 point 2) to 8) of this Law.

A foreigner who need not a visa or traveling document for an entry in the Republic of Serbia can stay up to most 90 days in Serbia during the period of six months, starting from the day of his first arrival.

Exit

Article 13

A foreigner can freely leave the Republic of Serbia.

Exceptionally from para 1 of this Article, border police shall temporarily prohibit a foreigner to leave the Republic of Serbia if:

1) He possesses somebody else's, void i.e. inaccurate traveling or other document;

2) He does not have a visa necessary for entry in another country;

3) There is a reasonable doubt that by leaving the Republic of Serbia he could avoid criminal, i.e. delictual prosecution, serving of imprisonment, enforcing of the judgment, deprivation of liberty or enforcing of a due property-legal obligation per order of a competent authority.

Upon cessation of reasons from the para 2 of this Article, a foreigner shall be allowed to leave the Republic of Serbia.

P a r t T h r e e

VISAS

Visas, Competencies for Issuing and Consular Cooperation

Article 14

A visa is a permit for the entry, stay or transit, obtained by a foreigner prior to the arrival in the territory of the Republic of Serbia.

A visa is given to a foreigner with a valid traveling document for a period shorter than the validity of the said document.

A visa is issued by a diplomatic mission or consular office of the Republic of Serbia, except otherwise provided herein.

Prior to visa issuing, the diplomatic mission or consular office of the Republic of Serbia is obliged to, when prescribed by regulations from para 5 of this Article, obtain previous consent of the Ministry.

The Minister competent for foreign affairs, with the consent of the Ministry of Interior, adopts regulation to govern in details the appearance and contents of the visa application, obtaining of the consent of the Ministry, as well as the way of issuing visa in the diplomatic mission or consular office of the Republic of Serbia .

Exceptionally, when there are serious humanitarian reasons or when of interest of the Republic of Serbia, border police, subject to the Ministry approval, can issue a transit visa (visa B) for one transit or visa for a shorter stay (visa C) for one entry valid up to 15 days, if a foreigner did not have a chance to apply for visa in a diplomatic mission or consular office of the Republic of Serbia and if he presents appropriate evidence on the emergency of traveling for which he need such visa.

The visa from the para 6. of this Article shall not be issued to a foreigner with impediments from the Article 11 of this Law.

The detailed conditions and way of issuing of visas from para 6. of this Article are prescribed by the Minister competent for internal affairs.

In the countries, in which there are no diplomatic or consular missions of the Republic of Serbia, the mutual representing in the procedure of visa issuing can be determined by an international treaty.

Visa Types

Article 15

The visa types are the following:

- 1) Airport transit visa (visa A);
- 2) Transit visa (visa B);
- 3) Visa for a shorter stay (visa C);
- 4) Visa for temporary residence (visa D).

The appearance of the form, contents and way of application for the aforesaid visas from para 1 of this Article in foreign traveling documents are prescribed by the Minister competent for foreign affairs, subject to prior approval of the Minister competent for internal affairs.

Airport Transit Visa (visa A)

Article 16

A foreigner, who, between the departures at the airport of the Republic of Serbia, does not leave the transit area of the airport or the aircraft, need not a visa.

Exception from para 1 of this Article, the Government can decide which foreigners at certain routes need airport transit visa, subject to conditions from the Article 5 of this Law.

A foreigner, at his request, can be issued a transit visa for one or a few passing through the international transit area of the airport, pursuant which a foreigner can stay in that area up to 24 hours during one passing.

Transit Visa (visa B)

Article 17

Transit visa is issued to a foreigner for one, two or more travels across the territory of the Republic of Serbia.

Transit visa is issued for validity period up to six months, and time of stay for one transit cannot be longer than five days.

Transit visa can be issued to a foreigner possessing a visa for entry into a destination country or for the country he is passing when he continues his journey, if by international treaty he is not exempt from obligation to possess such a visa.

Transit visa can also be issued to a group of passengers formed before the decision is made on traveling and who cross the territory of the Republic of Serbia together.

The visa from the para 4 of this Article, can be issued to a group of at least five and most 50 persons, while a person that leads a group is obliged to have an individual visa, if necessary.

Visa for Shorter Stay (visa C)

Article 18

Visa for shorter stay is issued for tourist, business and other journeys for one, two or more entries in the Republic of Serbia.

Continuous stay, i.e. an overall duration of consecutive stays with a visa for shorter stay cannot exceed 90 days in a span of six months, starting from the date of the first entry.

Visa for shorter stay with more entries is issued with validity up to one year, and the staff of foreign diplomatic or consular mission, subject to reciprocity, can be issued a visa even with a longer term of validity.

Visa for shorter stay, with validity up to 30 days, can also be issued to a group of passengers, of at least five and most 50 persons, which is formed before the decision has been made on traveling, if the members of such a group enter the territory of the Republic of Serbia together, stay in it and leave it in the group. However, the group leader is obliged to possess an individual visa, if necessary.

Visa for Temporary Stay (visa D)

Article 19

Visa for temporary stay is an approval for entry and temporary stay of foreigners in the Republic of Serbia.

Visa for temporary stay is issued for purposes, on conditions, and for duration prescribed by this law for approving of temporary stay.

A foreigner intending to stay in the Republic of Serbia for over 90 days, is obliged to obtain the visa from the para 1 of this Article or to obtain an approval for temporary stay, in the course of his stay in the Republic of Serbia from the competent authority.

Extension of Visa Validity

Article 20.

Visa validity cannot be extended.

Exceptionally from para 1 of this Article, visa validity can be extended if that is prescribed by humanitarian, professional or personal reasons and force majeure.

The detailed conditions, application form and way of extension of validity term of the visa in cases from the para 2 of this Article are prescribed by the Minister competent for internal affairs.

Application for extension of visa validity is to be submitted to a competent authority pursuant to the residence of the foreigner.

Rejecting of Visa Application and Canceling of Visa

Article 21.

The authority competent for visa issuing shall deny visa if:

- 1) The expiry of the traveling document is in less than nineteen days;
- 2) There is an impediment from Article 11 of this Law;

3) The foreigner does not respond in person to a call of diplomatic or consular office of the Republic of Serbia.

Exceptionally from provisions of the para 1 of this Article, a visa can be issued for humanitarian purposes, should that be in the interest of the Republic of Serbia, or the accepted international obligation imposes it.

In the case from the para 2. of this Article, the Ministry can prescribe that a foreigner is enabled to entry only at a determined border crossing point.

The authority competent for visa issuing or border police shall cancel the previously issued visa if they identify later that there are some impediments from the Article 11 of this Law.

A complaint is not allowed against the decision on rejecting the visa application.

The decision from the para 5 of this Article need not be motivated.

Obligation of the Carrier

Article 22

A carrier can transport to the border check point only if there are no impediments from the Article 11 para 1 point 1) of this Law.

A carrier is obliged to transport immediately, at his own expense the foreigner or if transportation is not possible immediately, to bear the costs of accommodation and forced expulsion of a foreigner with impediments from the Article 11 para 1 point 1) of this Law.

Provisions of the para 2 of this Article regard also the carrier which drove a foreigner to the international transit area of the airport, if another carrier denied to transport the foreigner to the destination country or if the foreigner is forbidden to enter the destination country.

An organizer of a tourist or business journey is bound to bear the expenses from the para 2. of this Article, if these expenses cannot be compensated from the foreigner, and his unlawful stay was caused by the failure of the journey organizer.

Grantor's Obligations

Article 23

Legal or natural person who provided a guarantee for a foreigner, obliging to bear his costs of stay and forced expulsion if they cannot be paid by the foreigner himself, is obliged to submit the legalized copy of the guarantee to the competent authority according to the residence of such foreigner.

P a r t F o u r

RESIDENCE OF FOREIGNERS

Types of Residence

Article 24

In line with this law, the stay of foreigners is considered:

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

Stay up to 90 Days

Article 25

A stay up to 90 days is considered a stay of a foreigner without a visa or based on visa, if not otherwise prescribed by this Law or an international treaty.

Purpose of Temporary Residence

Article 26

A temporary residence can be granted to a foreigner intending to stay in the Republic of Serbia for longer of 90 days for the purpose of:

- 1) work, employment, carrying out of economic, entrepreneurial or another professional activity;
- 2) education, studying or specialization, scientific-research work, practical training, participation in the programs of international exchange of pupils and students, i.e. other scientific-educational activities;
- 3) family reunion;
- 4) other justifiable reasons in line with the law or an international treaty.

A foreigner granted a temporary residence from reasons set out in the para 1. of this Article, is obliged to stay in the Republic of Serbia in conformity with the purpose for which he was granted the residence.

Application for Temporary residence and Competence

Article 27

A foreigner already residing in the Republic of Serbia pursuant to some other grounds, applies for temporary stay to the competent authority.

The foreigner is obliged to enclose to the application, a valid foreign passport as well as other proofs on justification of reasons for which he is requesting to be granted a temporary residence.

The applicant from the para 1 of this Article, cannot change the purpose of stay in the course of the procedure.

The application for extension of temporary stay, is to be submitted by the foreigner to the competent authority, not later than 30 days before the expiry of the temporary stay.

The application from the paragraphs 1 and 4 of this Article, is resolved by the competent authority, with a previous approval of the state authority competent for verification of assertion on justification of the application for temporary residence. That authority is obliged to decide on the application for approval granting within 15 days..

Conditions for Issuing of Permit

Article 28.

A foreigner can be approved a temporary residence permit if he encloses to the application the following evidence:

- 1) that he possesses enough resources for supporting himself;
- 2) of health insurance;
- 3) of justification of application for temporary stay in conformity with the purpose of temporary residence from the Article 26 para 1 of this Law.

Fulfillment of conditions from para 1 point 2) of this Article is governed in details by the regulations of the Minister competent for internal affairs, with a prior consent of the Minister competent for health.

A foreigner is obliged to enclose to the first application an appropriate Certificate attesting that he was not convicted.

A foreigner shall not be granted a temporary residence if there are hindrances from the Article 11 para 1 of this Law.

Exceptionally from provisions of the paragraphs 1, 3 and 4 of this Article, if that is in the interest of criminal proceedings for criminal offence of trafficking in human beings, a foreigner who is a victim of such criminal offence, shall be granted a temporary residence in the Republic of Serbia, except when there are impairments from the Article 11 para 1 point 6) and 8) of this Law.

For the duration of temporary residence in the Republic of Serbia, a foreigner from the para 5 of this Article with no resources for support, shall be provided adequate accommodation, food and basic living conditions.

Duration of Temporary Residence

Article 29

Temporary residence can be granted for a period up to one year and can be extended for the same period, if not otherwise provided by this Law and an international treaty.

The staff of foreign diplomatic or consular mission, on condition of reciprocity, can be granted a temporary residence in duration of more than one year.

A foreigner from the Article 28. para 5 of this Law shall be granted a temporary residence for the duration necessary for his participation in criminal proceedings.

The approval of temporary residence is entered in the foreigner's traveling document. The validity of the traveling document must be at least six months longer than the term of the approved permit.

Exceptionally, a foreigner without a valid traveling document can be granted a temporary residence by decision.

The appearance, contents and way of entering of temporary residence in a foreign traveling document is prescribed by the Minister competent for internal affairs.

Temporary Residence for Work, Employment or Performance of Other Activity

Article 30

Temporary residence for work, employment, performance of entrepreneurial or other professional activity can be granted to a foreigner:

- 1) who acquired a right to work, or temporary residence as a precondition for approval of such right, in conformity with the regulations covering the work of foreigners in the Republic of Serbia;
- 2) who intends to stay in the Republic of Serbia for more than 90 days, if he fulfills other conditions prescribed by this Law, and he need not a work permit pursuant to the regulations covering the work of foreigners in the Republic of Serbia.

Temporary residence from the para 1. of this Article, is granted to a foreigner until expiry of the approved work engagement in the Republic of Serbia, i.e duration from the Article 29 para 1 of this Law.

Temporary Residence for Educational and Studying Purposes

Article 31

Together with the request for issuing the temporary residence permit for educational purposes, studying or specialization, scientific-research work, practical training, participation in the programs of international exchange of pupils of students, i.e. other scientific-educational activities, a foreigner is obliged to submit evidence on fulfillment of the conditions from the Article 28. para 1 point 3) of this Law.

Fulfillment of the conditions from Article 28. para 1 point 3) of this Law related to the para 1 of this Article is regulated in details by the regulations of the Minister competent for internal affairs, with consent of the Minister competent for education and Minister of science.

Temporary residence from the para 1 of this Article, can be extended for maximum of two years upon expiry of the term prescribed for duration of education, studying, specialization or practical training.

Temporary Residence for Family Reunion

Article 32

Application for temporary residence permit for family reunion is to be submitted by a foreigner – member of immediate family of a citizen of the Republic of Serbia or a foreigner who was granted a temporary or permanent residence permit.

Immediate family, pursuant to this Law, are considered: spouses, their minor children born in or out of wedlock, minor adopted children or minor step-children.

Exceptionally, other cousins can be considered members of immediate family, if there are exceptionally important personal or humanitarian reasons for family reunion in the Republic of Serbia.

Fulfillment of the conditions from paragraphs 1 and 3 of this Article is regulated in details by the regulations of the Minister competent for internal affairs, with consent of the Minister competent for social policy.

Extension of Temporary Residence

Article 33

Temporary residence to a foreigner, member of immediate family of a citizen of the Republic of Serbia, can be extended for the period of three years or until the fulfillment of conditions for permanent residence permit.

Temporary residence to a foreigner, member of immediate family of a citizen of the Republic of Serbia, can be extended even in the case of death of that citizen of the Republic of Serbia as well as in the case of termination of marriage with the citizen of the Republic of Serbia which lasted for at least three years in the Republic of Serbia.

Temporary Residence of Minor Foreigner Born in the Territory of the Republic of Serbia

Article 34

A minor foreigner born at the territory of the Republic of Serbia, a temporary residence is extended for time determined for temporary stay of one of the parents or guardian of the child.

Rescind of Residence and Prohibition of Entry into the Republic of Serbia

Article 35

A foreigner in the Republic of Serbia, who was granted a stay up to 90 days and a foreigner who was granted a temporary residence in the Republic of Serbia, shall be denied residence by the competent authority in case of occurrence of an impediment from the Art. 11 of this Law or it has been discovered later.

When rescinding the residence the competent authority shall determine a notice period, which cannot be longer than 30 days, in which a foreigner is obliged to leave the Republic of Serbia as well as period in which a foreigner is forbidden to enter the Republic of Serbia.

Rescinding of residence and prohibition of entrance is to be entered in a foreign traveling document in the way prescribed by the Minister competent for internal affairs.

Termination of Residence

Article 36

A foreigner's residence is terminated:

- 1) upon the expiry of the period for which residence was approved;
- 2) by rescinding of residence;
- 3) if he was pronounced a protective measure of expulsion or security measure of deportation.

Permanent residence

Article 37

Permanent residence can be granted to a foreigner who:

- 1) by the date of submitting the application for permanent residence in the Republic of Serbia has stayed uninterruptedly until the date of application for permanent residence for more than five years pursuant to the temporary residence permit;
- 2) has been married to a citizen of the Republic of Serbia or to a foreigner with permanent residence for at least three years;
- 3) is minor with temporary residence in the Republic of Serbia if one of the parents is citizen of the Republic of Serbia or a foreigner with permanent residence permit, with a consent of another parent;
- 4) originates from the territory of the Republic of Serbia.

Exceptionally from provisions of the para 1 of this Article, a permanent residence permit can be granted to another foreigner who is approved temporary residence, if that is imposed by reasons of humanity or is in the interests of the Republic of Serbia.

A foreigner whose temporary residence in the Republic of Serbia was granted for the purposes from the Articles 30 and 31 of this Law, half of the time spent in the Republic of Serbia is calculated at the time necessary for approval of permanent residence from the para 1 point 1) of this Article.

Pursuant to the para 1 point 1) of this Article, an uninterrupted stay is considered also a stay with a repeated absence from the Republic of Serbia of up to ten months or a single absence of up to six months in the period of five years.

Marriage in line with the para 1 point 2) of this Article, is marital community at the territory of the Republic of Serbia.

Parent in line with para 1 point 3) of this Article is also considered each person legally equalized with a parent.

Time that a foreigner with approved temporary residence spent in imprisonment is not calculated as time necessary for permanent residence permit.

A foreigner who was approved a permanent residence is equal in rights and obligations with the citizens of the Republic of Serbia, except regarding those rights and obligations he is excluded pursuant to the Constitution and law.

The detailed conditions for approval of permanent residence are prescribed by the Minister competent for internal affairs.

Competence

Article 38

The Ministry decides about applications for permanent residence.

The Government decides about complaint against the decision on rejecting the application for permanent residence.

Permanent residence permit is entered in foreigner's traveling document, if he is in possession of one, i.e. in the identity card.

The appearance, contents and way of entering of approval of permanent residence in a foreign traveling document, i.e. identity card for a foreigner, is prescribed by the Minister competent for internal affairs.

Rejecting of Application

Article 39

Permanent residence shall be denied to a foreigner:

- 1) who does not fulfill the conditions from the Art. 37 of this Law;
- 2) who is convicted for criminal offence for which he is prosecuted ex officio or if for such a criminal offence a proceedings are instituted;
- 3) who does not have resources for support;
- 4) who does not have health insurance;
- 5) who does not have domicile;
- 6) if that is requested by reasons of protection of public order or security of the Republic of Serbia and its citizens.

A foreigner who was not granted a permanent residence for the reasons from para 1 point 3) to 6) of this Article, shall simultaneously be denied a temporary residence permit.

Cancellation of Permanent Residence

Article 40

A foreigner who was granted permanent residence in the Republic of Serbia, residence shall be rescinded if:

- 1) the circumstances from the Article 39. para 1. points 3) to 5) of this Law occur;
- 2) he is finally convicted to unconditional imprisonment lasting for more than six months for criminal offence prosecuted ex officio, upon serving the sentence;
- 3) he was pronounced a protective measure of expulsion or a security measure of deportation;
- 4) that is requested by reasons of protection of public order or security of the Republic of Serbia and its citizens;
- 5) he gave false data on his identity or concealed circumstances significant for granting of permit.

Cancellation of residence is subject to the provisions of the Article 35. para 2 and 3. of this Law.

Exceptionally, for humanitarian reasons, to a foreigner from the para 1 of this Article, the term in which he must leave the Republic of Serbia, can be extended up to six months.

Termination of Right to Permanent Residence

Article 41

Right to permanent residence is terminated to a foreigner if:

- 1) it is ascertained that he moved out of the Republic of Serbia or that he uninterruptedly stayed abroad for more than one year, without notifying the competent authority;
- 2) his residence was rescinded;
- 3) he renounced the right to permanent residence.

The form of the statement renouncing the right of permanent residence is prescribed by the Minister competent for internal affairs.

V. UNLAWFUL RESIDENCE

Obligation of a Foreigner to Leave the Territory of the Republic of Serbia Due to Unlawful residence

Article 42

A stay, at the territory of the Republic of Serbia, without a visa, approval of residence or other legal grounds is considered an unlawful residence.

A foreigner unlawfully residing in the Republic of Serbia, must leave its territory immediately or within the fixed deadline.

It is considered that a foreigner left the Republic of Serbia, by entering another state where he was approved an entrance.

A foreigner, who timely applied for extension of temporary or permanent residence or asylum, can remain in the Republic of Serbia until the absolute decree about the application has been pronounced.

Term for Leaving the Republic of Serbia

Article 43

The competent authority shall decide in a decree the term in which a foreigner, unlawfully residing in the Republic of Serbia, is obliged to leave its territory, and if necessary, he can be determined a border crossing point with an obligation of reporting to a police officer at that border check point.

A Complaint against the para 1 of this Article, does not postpone the execution of the decree.

When deciding on the term from the para 1 of this Article, the competent authority shall consider time in which a foreigner can leave the territory of the Republic of Serbia, but such term cannot be over 30 days from the day of passing of the decree.

To a foreigner, who, for justified reasons, did not leave the Republic of Serbia within the determined deadline, a competent authority can set a new deadline.

A foreigner with a pronounced protective measure of expulsion or a security measure of deportation and a foreigner who should be returned pursuant to an international treaty, shall be given an extended term for leaving the state only if there are justified reasons for that.

Execution of Protective Measure of Expulsion

Article 44

When pronouncing a protective measure of expulsion of a foreigner from the territory of the Republic of Serbia, the provisions of the Article 35 para 2 of this Law shall be applied.

Obligation of Notification of Unlawful Residence of Foreigners

Article 45

State authorities, legal and natural persons are obliged to notify immediately the competent authority about a foreigner residing unlawfully or for whom there are conditions for rescinding of residence in the Republic of Serbia.

The authority that instituted delictual or criminal proceedings against a foreigner, is obliged to notify immediately a competent authority on the fact of unlawful stay of a foreigner.

Part Six

FORCED EXPULSION

Deadline for Forced Expulsion

Article 46.

Competent authority shall expel forcibly a foreigner unlawfully residing in the Republic of Serbia or who does not leave the Republic of Serbia within the set deadline.

A foreigner who was pronounced a protective measure of expulsion or security measure of deportation and a foreigner who should be returned pursuant to an international treaty shall immediately be forcibly expelled.

Prohibition of Forced Expelling

Article 47

A foreigner must not be expelled forcibly from the territory where he can be persecuted for his race, sex, religious or national affiliation, citizenship, belonging to certain social groups or having political opinion.

The provision of the para 1. of this Article shall not be applied to a foreigner who is reasonably considered to threaten security of the Republic of Serbia or who, by a decree absolute is convicted for felony, and therefore is considered dangerous for public order.

Irrespective of the provisions of the para 2 of this Article a foreigner must not be expelled forcibly to a territory where there is a risk that he shall be tortured, or treated in inhuman or humiliating proceedings or punishment.

Detention of Foreigners

Article 48

Exceptionally, if that is prescribed by the reasons of securing forced expulsion, a foreigner can be detained in the premises of the competent authority but not longer than 24 hours.

Detention of foreigners is subject to the provisions of the Law on Police.

Determination of Stay in the Shelter

Article 49

The competent authority shall determine, by decree of the Ministry, a stay in the Shelter for foreigners (hereinafter: Shelter) under enhanced police supervision, to a foreigner who cannot be expelled forcibly and to a foreigner without determined identity or who does not have a traveling document, as well as in other cases prescribed by the law.

Exceptionally, from the provision of the para. 1 of this Article, a foreigner with health or other special needs, shall be provided other appropriate accommodation.

Complaints against the decree determining i.e. extending the measure from the para. 1 of this Article, are to be decided by the competent district court.

The procedure of decision making about the complaint from the para. 3 of this Article is subject to the provision of the Article 53 of the Law on Police ("Official Gazette of the Republic of Serbia ", no. 101/05).

A complaint against the decree on stay in the Shelter does not postpone its execution.

Duration of Stay in the Shelter

Article 50

Stay in the Shelter lasts until the forced expulsion of the foreigner. Time of stay in the Shelter cannot be longer than 90 days.

After the expiry of the term from para. 1 of this Article, a foreigner can be prolonged a stay in the Shelter if:

- 1) his identity was not verified;
- 2) he deliberately hinders forced expulsion;
- 3) in the course of forced expulsion he applied for asylum aimed at avoiding of forced expulsion.

An overall time of stay in the Shelter cannot exceed 180 days.

A foreigner with a verified identity shall be released from the Shelter, if it is reasonably expected that he shall not be able to be expelled forcibly.

The time, that a foreigner spent outside the Shelter, serving the imprisonment or in custody, is not counted as time of stay in the Shelter except in case from the Article 48 para. 1 of this Law.

Rules of Stay in the Shelter

Article 51

A foreigner is obliged to abide to the rules of stay in the Shelter, which he must not leave without permission.

The rules of stay in the Shelter are prescribed by the Minister competent for internal affairs.

Accommodation of a Minor Foreigner in the Shelter

Article 52

A minor foreigner is put into the Shelter together with his parents, i.e. other legal representatives, except if the competent authority of guardianship estimate that another accommodation is more appropriate for him.

A minor foreigner must not return to the country of origin or the third state which is ready to accept him, until he is provided an adequate reception.

Termination of Accommodation in the Shelter

Article 53

The accommodation in the Shelter terminates:

- 1) by foreigner's leaving of the Republic of Serbia ;
- 2) by expiry of time determined for stay;
- 3) by cancellation of the decision on determination i.e. extending of the stay in the Shelter;
- 4) when a foreigner acquires the right to asylum;
- 5) by discharge from the Shelter pursuant to the Article 50 para, 4 of this Law.

Compulsory Stay in a Determined Place

Article 54

A foreigner with known identity and who has accommodation and resources for support but cannot be expelled forcibly immediately, can be determined by the decision of a competent authority, a measure of compulsory stay in certain place (hereinafter: compulsory stay).

A foreigner who was determined a compulsory stay, is obliged to stay at certain address and to report regularly to the closest competent authority.

When there are justifiable reasons, a foreigner can temporarily leave the place of compulsory stay, only with the decree of the competent authority approving that.

Compulsory stay can last maximum up to 180 days.

Against the decree from the para. 1 of this Article, as well as against the decree from the para. 3. of this Article, denying him the approval, the foreigner can lodge a complaint through the competent authority, to the Ministry within eight days from receipt of the decree. The complaint does not postpone the execution.

A compulsory stay is recorded in the traveling document of the foreigner. A foreigner without a traveling document is issued a temporary identity card.

The way of entering a compulsory stay in a traveling document and appearance of the form of temporary identity card is prescribed by the Minister competent for internal affairs.

A foreigner who, while trying to prevent or stop the forced expulsion, acts contrary to the obligations from paragraphs 2 and 3 of this Article, shall be determined a stay in the Shelter by the competent authority in line with the Art. 49. of this Law.

Termination of compulsory stay

Article 55

A compulsory stay terminates:

- 1) by foreigner's leaving of the Republic of Serbia ;
- 2) by expiry of time determined for stay;
- 3) by cancellation of the decree in complaints procedure;
- 4) by cancellation of the decree by the competent authority if the reasons for which the compulsory stay was determined, ceased to exist;
- 5) in the case from the Art.50 para. 4 of this Law.

Costs of Escort of a Foreigner

Article 56

The costs of escort to a diplomatic or consular mission or to the Shelter, i.e. state border, are to be borne by the foreigner who is escorted.

If a foreigner does not have resources for support, the employee who engaged the foreigner without an appropriate permit and the person who is obliged to bear the cost of his stay in the Republic of Serbia, are to bear the costs from the para. 1 of this Article jointly.

The costs that cannot be paid in line with the paragraphs 1 and 2. of this Article, are to be borne by the budget of the Republic of Serbia.

Temporary withdrawal of documents and traveling tickets

Article 57

In order to ensure carrying out of the protective measure of forced expulsion, a foreigner can be temporarily deprived of traveling and other documents and traveling tickets.

A confirmation is to be issued on the withdrawn documents and tickets from the para. 1 of this Article.

Procedure with persons with special needs

Article 58

In the course of the procedure of forced expulsion the competent authority shall take care of a specific situation of a foreigner belonging to the category of persons with special needs such as:

minors, persons completely or partially deprived of working capacity, children separated from parents or guardians, disabled persons, pregnant women, single parents with minor children and persons exposed to torture, rape or other serious form of psychological, natural or sexual harassment.

When undertaking official actions towards foreigners in line with the para. 1 of this Article, the competent authority is obliged to act subject to regulations governing the position of persons with special needs and to international treaties.

Part Seven

TRAVELING DOCUMENTS FOR FOREIGNERS

Types of Traveling Documents for Foreigners

Article 59

Traveling documents for foreigners, pursuant to this Law, are: traveling document for refugees, traveling document for persons without citizenship and traveling paper for a foreigner.

Traveling document for refugees is to be issued in conformity with a special law and an international treaty.

Traveling documents for persons without citizenship

Article 60

A traveling document for persons without citizenship is issued by a competent authority according to the residence, i.e. domicile of a person without citizenship, in line with an international treaty.

A traveling document for persons without citizenship is issued with validity period of two years.

Traveling paper for a foreigner

Article 61

A traveling document for a foreigner is issued to a foreigner who does not possess a valid traveling document if:

- 1) his citizenship of the Republic of Serbia ceased for going abroad;
- 2) he lost a foreign traveling document or was left without it in any other way, and the state of his citizenship neither has a diplomatic mission or consular office in the Republic of Serbia, nor his interests are represented by another state – for going abroad;
- 3) he lost abroad his foreigner's traveling document, issued by a diplomatic mission or consular office of the Republic of Serbia, by competent authority or authority competent for special law – for return to the Republic of Serbia.

Traveling paper for a foreigner can also be issued to another foreigner if there are justifiable grounds for that.

Competence for Issuing and Prescription of the Form of Traveling Paper for Foreigner

Article 62

A traveling list for a foreigner is issued:

- 1) in cases from the Article 61 para. 1 point 1) and 2) of this Law – competent authority;
- 2) in the case from Article 61 para. 1 point 3) of this Law – diplomatic mission or consular office of the Republic of Serbia with prior consent of the Ministry;

3) in cases from Art. 61 para. 2 of this Law – competent authority or diplomatic consular mission of the Republic of Serbia with prior consent of the Ministry.

Appearance of the form and contents of the traveling paper for a foreigner are prescribed by the Minister competent for internal affairs.

Rejecting of Application for Issuing and Withdrawal of the Traveling Document for Foreigners

Article 63

A foreigner shall be denied a traveling document for foreigners, i.e. shall be temporarily deprived of already issued document in the following cases:

- 1) if he is prosecuted in criminal or delictual proceedings, except when there is a consent of the authority which prosecutes the case;
- 2) if he is convicted to an imprisonment or fine, until the imprisonment has been served, i.e. the fine has been paid;
- 3) at the request of the competent court if he did not settle his due property-legal obligation pursuant an absolute decree;
- 4) if that is requested by the reasons of protection of public order and security of the Republic of Serbia;
- 5) if that is imposed by the international liabilities of the Republic of Serbia.

A confirmation is to be issued about the withdrawn temporary traveling document for foreigners.

A competent authority shall return to a foreigner, a temporarily withdrawn traveling document for a foreigner, once the reasons from the para. 1 of this Article are terminated.

Part Eight

IDENTITY PROVING DOCUMENTS

Types of Identity Proving Documents

Article 64

A foreigner in the Republic of Serbia proves his identity by a foreign traveling document, identity card for foreigners, special identity card or other public document with his photograph on it.

Using of the Identity Proving Document

Article 65

A foreigner is obliged, at the request of a police officer, to show his identity document.

A foreigner must not lend his identity document to another person, or use invalid or someone else's document as his own.

Issuing of Identity Cards for Foreigners

Article 66

Identity card for a foreigner is issued to a foreigner with a granted permanent residence permit, i.e. to a foreigner with granted temporary residence permit with no valid traveling document.

Identity card for foreigner shall also be issued to a foreigner with granted temporary residence with a valid traveling document, at his request or at the request of the diplomatic mission or consular office of the state whose citizen he is.

A foreigner who is a member of diplomatic mission or consular office of the foreign state or member of another mission with diplomatic status, is issued a special identity card.

Appearance and Contents of the Identity Card for Foreigners and of Special Identity Card

Article 67

Identity card for foreigners and special identity card contain the following data on the foreigner: photography, personal signature, name and surname, day, month and year of birth, citizenship, residence, address of his flat and the capacity in which he is staying in the Republic of Serbia.

The Minister competent for internal affairs enacts the regulation governing in details the appearance of the form, contents and way of issuing of the identity card for foreigners from the Art. 66, para. 1 and 2 of this Law, and the Minister competent for foreign affairs enacts the regulation governing in details the appearance of the form, contents and way of issuing of the special identity card for foreigners from the Art. 66 para. 3 of this Law.

Application for Identification Card

Article 68

A foreigner, pursuant to the Art. 66. para. 1. of this Law, who is 16 years old, is obliged to apply, within 30 days from the date of arrival in the residence i.e. domicile place, or within 15 days when he is over 16 , for identification card for a foreigners.

At the request of a parent, an identification card for foreigners can be issued to a minor foreigner pursuant to the Art. 66 para. 1 and 2 of this Law, who is over ten years old.

Competence

Article 69

An identity card for foreigners pursuant to the Art. 66 para. 1 and 2 of this Law, is issued by the competent authority.

A special identity card for foreigners pursuant to the Art. 66 para. 3 of this Law, is issued by the Ministry competent for foreign affairs.

Validity Term

Article 70

An identity card for foreigners who have permanent residence permit, is issued with validity period of five years.

An identity card for foreigners who have temporary residence permit, is issued with validity period equal to the validity of temporary residence.

A minor foreigner who has permanent residence permit is issued an identity card for foreigners with validity period of two years.

Exchange of Identity Cards for Foreigners

Article 71

An identity card for foreigners, if damaged, worn out, if the photo does not resemble any more to the foreigner's look or when for other reasons cannot serve its purpose, shall be exchanged.

A foreigner is obliged, within eight days from the date of occurrence of the reasons pursuant to the para. 1 of this Article, to apply to the competent authority for exchange of the identity card for foreigners.

Obligation of Return of the Identity Card for Foreigners

Article 72

A foreigner is obliged to return the identity card for foreigners if:

- 1) he acquired citizenship of the Republic of Serbia ;
- 2) he immigrates from the Republic of Serbia ;
- 3) If his stay or permanent residence is cancelled.

Disappearance or Loss of the Identity Proving Document

Article 73

A foreigner is obliged to notify immediately the competent authority of closest diplomatic mission or consular office of the Republic of Serbia about disappearance or lost identity proving document, which was issued by an authority in the Republic of Serbia.

Authorities pursuant to the para. 1 of this Article are obliged to issue a confirmation to a foreigner about disappearance or lost of an identity proving document.

Disappearance or lost of an identity proving document is to be published in the „Official Gazette of the Republic of Serbia ”, at foreigner’s expense.

The competent authority is obliged to issue to a foreigner, instead of the disappeared or lost document from the para. 1 of this Article, a new document.

Part Nine

DOMICILE AND RESIDENCE OF FOREIGNERS AND COLLECTING OF PERSONAL DATA

Notion of Residence and Domicile

Article 74

Domicile, pursuant to this Law, is a place in which a foreigner who has residence permit in the Republic of Serbia, intends to stay for more than 24 hours.

Residence pursuant to this Law, is a place in which a foreigner who has residence permit intends to live permanently at certain address.

Registration of Domicile, Residence and Change of Flat Address and Notice of Domicile, Residence and Change of Flat Address and Notice of Departure

Article 75

Legal and natural persons who offer service of accommodation to foreigners with compensation, as well as persons who host foreign visitors, are obliged to report to the competent authority the stay of foreigners, within 12 hours from the hour of settlement of a foreigner, i.e. arrival of a foreigner for a visit.

A foreigner who does not use accommodation from the para. 1 of this Article is obliged to report to the competent authority stay and change of apartment address within 24 hours from the arrival in the place of domicile, i.e. from the date of change of domicile address.

A foreigner who is granted a permanent settlement is obliged to report residence and change of apartment address in the residence within 8 days from the day of arrival at the place of residence, i.e. from the day of change of apartment address.

The Minister competent for foreign affairs can, together with the Minister competent for internal affairs, prescribe that certain foreigners are not obliged to notify their stay in the Republic of Serbia.

Notifying of foreigner's stay can be done by E-mail as well.

A foreigner is obliged to notify departure two days prior to leaving of the residence.

Way of notifying of domicile, residence and change of apartment address and notifying of foreigner's departure, is regulated in details, by the regulation of the Minister competent for internal affairs.

Collecting of Personal Data

Article 76

A competent authority can collect personal data on foreigners from the state authorities, economic entities, entrepreneurs and citizens of the Republic of Serbia, as well as from the foreigner himself when that:

- 1) Is predicted by law or by international treaty;
- 2) Is in the interest of a foreigners and he does not object to it;
- 3) Is necessary for the purpose of protection of public order or security of the Republic of Serbia .

Authorities, organizations and other persons from para. 1 of this Article, are obliged to provide to the competent authority, at its request, the claimed data.

Collection, elaboration and use of personal data on foreigners is done in line with special law governing the personal data protection.

P a r t T e n

SPECIAL PROVISIONS ON MOVEMENT OF FOREIGNERS IN UNIFORM

Conditions for Wearing Foreign Military, Police or Custom Officer's Uniform

Article 77

At the territory of the Republic of Serbia foreigners can move in foreign military, police or custom officer's uniform:

- 1) As members of a diplomatic mission, i.e. consular representative office of the state or of another mission with diplomatic status in the Republic of Serbia in capacity of military, police i.e. customs representatives in the course of mission duration;
- 2) As members of foreign military missions or foreign military, police i.e. customs delegations during their official visit to the Republic of Serbia;
- 3) During education in military, police i.e. schools for customs officers, if that is allowed by the rules of the school;
- 4) As participants in military practice or at military, police i.e. customs officers' training;
- 5) As members of foreign military missions or foreign military, police i.e. customs delegations, with diplomatic or official passport during the transit across the territory of the Republic of Serbia;
- 6) In other cases predicted by an international treaty.

Part Eleven
RECORDS AND CENTRAL DATA BASE

Types of Records and Competence for Their Keeping

Article 78

The Ministry keeps records of:

- 1) foreigners with permanent settlement permit;
- 2) international offenders with prohibited entry to the Republic of Serbia;
- 3) foreigners with temporary residence permit;
- 4) foreigners with rescinded residence;
- 5) prohibition of entry and exit of foreigners;
- 6) foreigners serving protective measure of expulsion or security measure of deportation;
- 7) issued traveling documents and identity cards for foreigners;
- 8) notified, disappeared and found traveling and other documents for foreigners, in line with this Law;
- 9) temporarily detained traveling documents;
- 10) notification of residence of foreigners;
- 11) Notification of residence and departure of foreigners and change of apartment address;
- 12) Carriers and tourist operators serving protecting measure of prohibition of the activity pursuant to the Art. 81 para. 4 of this Law;
- 13) Legal persons and entrepreneurs serving protective measure of prohibition of activity pursuant to the Art. 82 para. 3 of this Law;
- 14) Foreign traveling documents used for entry and exit form the Republic of Serbia;
- 15) Foreigners in transit across the territory of the Republic of Serbia ;
- 16) Visas issued at border check points and rejected visa applications at border check points;

The Ministry competent for foreign affairs keeps records of:

- 1) Special identity cards issued;
- 2) Issued visas;
- 3) Rejected visa applications;
- 4) Issued traveling lists for foreigners;
- 5) Notified, disappearance and found traveling documents for foreigners, in line with this Law.

Way of keeping and the contents of the records pursuant to the para. 1 of this Article are prescribed by the Ministry competent for internal affairs with prior consent of the Ministry competent for foreign affairs, while the records pursuant to the para. 2 of this Article are prescribed by the Minister competent for foreign affairs with prior consent of the Minister competent for internal affairs.

Central Data Base

Article 79

Data from the records pursuant to the Art. 78 of this Law, are entered in the central data base kept by the Ministry.

Central data base from the para. 1 of this Article can be used by the authorized police officers in the Ministry and competent authority as well as authorized civil servants of the Ministry of foreign affairs and diplomatic and consular missions of the Republic of Serbia, for the purpose of performing jobs in line with the competencies determined by this law.

Upon approval of the Minister competent for internal affairs, data from the central data base can also be used by other state authorities, when that is necessary for performance of activities within their competence.

The way of collection, entering and use of the data from the central data base are determined in details by regulations of the Minister competent for internal affairs with prior consent of the Minister competent for foreign affairs.

P a r t T w e l v e

SUPERVISION

Article 80.

Supervision of the implementation of this Law and of the regulations enacted pursuant to this Law is carried by the Ministry competent for internal affairs and the Ministry competent for foreign affairs, each one in the respective part of its competency.

P a r t T h i r t e e n

PENALTY PROVISIONS

Article 81

A fine amounting to RSD 100.000 to 500.000 shall be imposed for offence to a legal person i.e. entrepreneur:

- 1) Who brings a foreigner to the territory of the Republic of Serbia or refuses to take him away contrary to the provision of the Article 22 para. 1 and 2 of this Law;
- 2) Who, by negligence in organization of tourist or business journey, caused an unlawful stay of a foreigner at the territory of the Republic of Serbia (Art. 22 para. 4 of this Law);
- 3) Who contrary to the provisions of the Art. 23 of this Law does not present the legalized copy of the guarantee letter to the competent authority according to the expected domicile of the foreigner.

For offence from the para. 1 of this Article, a fine amounting to RSD 10.000 to 50.000 shall be imposed to the responsible person of the legal person.

For offence from the para. 1 point 3) of this Article a fine amounting to RSD 10.000 to 50.000 shall be imposed to a natural person, who provided guarantee.

Together with the fine for repeated offence from the para. 1 point 1) of this Article, the perpetrator shall be imposed a protective measure of prohibition of carrying out activities of international transportation of passengers in air, road, river or railroad traffic and for the offence from para. 1 point 2) of this Article, a protective measure of prohibition of organization of international tourist or business journeys.

Article 82

A fine amounting to RSD 20.000 to 100.000 shall be imposed to a legal person, i.e. entrepreneur who does not report to the competent authority the stay of a foreigner within 12 hours from the moment of rendering of the accommodation service to a foreigner (Art. 75 para. 1 of this Law).

For offence from the para. 1 of this Article, a fine amounting to RSD 5.000 to 25.000, shall be imposed to a responsible person of the legal person.

Together with the fine for a repeated offence from the para. 1 of this Article, a perpetrator shall be imposed a protective measure of prohibition of rendering services to foreigners.

Article 83

A fine amounting to RSD 5.000 to 25.000 shall be imposed to a natural person who does not notify the competent authority about a stay of a foreigner within 12 hours from the arrival of the foreigner to a visit (Art. 75 para. 1 of this Law).

Article 84

A fine amounting to RSD 10.000 to 50.000 shall be imposed for an offence to a foreigner who:

- 1) Unlawfully entered the territory of the Republic of Serbia (Art. 10 of this Law);
- 2) Does not leave the Republic of Serbia within the set deadline (Art. 35 para. 2 and Art. 42 para. 2 of this Law);
- 3) Leaves the Shelter without approval or does not abide by the rules of stay in the Shelter (Art. 51 of this Law);
- 4) Leaves the place of residence determined to him by the competent authority or does not report regularly to the competent authority (Art. 54 para. 2 of this Law).

Together with the fine from the para. 1 of this Article, a foreigner can be imposed a protective measure of expulsion from the territory of the Republic of Serbia .

Article 85

A fine amounting to RSD 6.000 to 30.000 shall be imposed for offence to a foreigner who:

- 1) Moves or stays in certain areas contrary to limitations or prohibition from the Art. 5 of this Law;
- 2) Resides in the Republic of Serbia contrary to reasons for which he was issued a visa or granted residence permit (Art. 18 para. 1 and Art. 26 para. 2 of this Law);
- 3) Stays unlawfully in the Republic of Serbia (Art. 42. para. 1 of this Law);
- 4) Refuses to show to the police officer of the competent identity document (Art. 65 para. 1 of this Law);
- 5) Lends his own identity document i.e. uses an unlawful document or someone else's document as his own (Art. 65 para. 2 of this Law).

Together with the fine from para. 1 of this Article a foreigner can be imposed a protective measure of expulsion of the foreigner from the territory of the Republic of Serbia .

Article 86

A fine amounting to RSD 3.000 to 15.000 shall be imposed for offence to a foreigner who:

- 1) Does not apply for extension of temporary residence within a prescribed term (Art. 27 para. 4 of this Law);
- 2) Does not apply to the competent authority for issuing of an identity card for foreigners within a prescribed term (Art. 68. para. 1 of this Law);
- 3) Does not apply to the competent authority for replacement of the identity card for foreigners within a prescribed term (Art. 71. para. 2. of this Law);
- 4) Does not return the identity card to the competent authority, in cases set by the Art. 72. of this Law;
- 5) Does not report to the competent authority the disappearance or losing of documents from the Art. 73 para. 1 of this Law;
- 6) During the stay in the Republic of Serbia wears a foreign military, police or customs officer's uniform contrary to the provisions of the Art. 77 of this Law.

Part Fourteen
TRANSITORY AND FINAL PROVISIONS

Authorizations for Enacting of Regulations

Article 87

The Government shall, within six months from the date of entering into force of this Law enact a decree on detailed conditions for rejecting of entry to foreigners in the Republic of Serbia pursuant to the Article 11 of this Law.

The Minister competent for internal affairs shall, within six months from the date of entering into force of this Law, enact the regulations on:

- 1) Detailed conditions and way of visa issuing at border check points from the Art. 14 para. 6 of this Law;
- 2) Detailed conditions, application form and way of extending validity term of the visa in cases from the Art. 20 para. 3 of this Law;
- 3) Fulfillment of conditions for approval of temporary residence to foreigners from the Art. 28 para. 1 point 2) of this Law;
- 4) Appearance, contents and way of registering of approval of temporary residence in foreign traveling document from the Art. 29 para. 6 of this Law;
- 5) Fulfillment of conditions from the Art. 28 para. 1 point 3) of this Law related to the Art. 31 para. 1 of this Law;
- 6) Fulfillment of conditions from the Art. 32 para. 1 and 3 of this Law;
- 7) Way of recording of cancellation of residence and prohibition of entry in a foreign traveling document from the Art. 35 of this Law;
- 8) Appearance, contents and way of registering of approval of permanent residence in foreign traveling document and identity card for foreigners from the Art. 38 para. 4 of this Law;
- 9) Form of statement on renouncing the right to permanent settlement from the Art. 41 para. 2 of this Law;
- 10) The rules of stay in the Shelter from the Art. 51 para. 2 of this Law;
- 11) Way of entering of compulsory stay in a traveling document and way of the form of temporary identity card from the Art. 54 para. 7 of this Law;
- 12) Appearance of the form and contents of the traveling paper for foreigners from the Art. 62 para. 2 of this Law;
- 13) appearance of the form, contents and way of issuing of the identity card for a foreigner from the Art. 66 para. 1 and 2. of this Law;
- 14) way of reporting of the residence and change of apartment address and notification of departure of a foreigner from the Art. 75 of this Law;
- 15) way of keeping and contents of the records from the Art. 78 para. 1 of this Law;
- 16) way of collecting, entering and use of the data from central data base from the Art. 79 of this Law.

The Minister competent for foreign affairs shall within a six month period from the date of entry in force of this Law enact the regulations on:

- 1) Appearance, contents of the visa application, obtaining of the consent of the Ministry and the way of issuing of the visa in diplomatic and consular missions of the Republic of Serbia from the Art. 14 para. 5 of this Law;
- 2) Appearance of the form, contents and way of registering in foreign traveling document of the visa from the Art. 15. para. 2. of this Law;
- 3) Appearance of the form, contents and way of issuing the special identity card from the Art. 66 para. 3 of this Law;
- 4) Way of keeping and contents of the records from the Art. 78. para. 2. of this Law.

Resolving of the Initiated Procedures and Validity of Documents

Article 88

The procedures initiated prior to entry into force of this Law shall be terminated in line with the provisions of the Law on movement and residence of foreigners („Official Gazette of the Socialist Federal Republic of Yugoslavia”, no. 56/80, 53/85, 30/89, 26/90, 53/91 and „Official Gazette of the Federal Republic of Yugoslavia”, no. 24/94 and 28/96), except if it is more favourable to complete the procedure in compliance with the provisions of this Law.

The documents issued till entry into force of this Law are valid for one year from the date of entry into force of this Law.

Maintaining of the Status of Foreigners Determined Pursuant to the Provisions of the Previously Valid Law

Article 89

Foreigners who were granted a permanent residence permit and temporary residence till entry into force of this Law, shall keep that status if they fulfill the conditions prescribed by this Law.

Termination of Validity of the Law on Movement and Residence of Foreigners

Article 90

The Law on movement and residence of foreigners („Official Gazette of the Socialist Federal Republic of Yugoslavia”, no. 56/80, 53/85, 30/89, 26/90, 53/91 and „Official Gazette of the Federal Republic of Yugoslavia”, no. 24/94, 28/96 and 68/02 and „Official Gazette of Serbia and Montenegro”, no. 12/05 and „Official Gazette of the Republic of Serbia”, no. 101/05 and 109/07), ceases to be valid on the date of beginning of application of this Law, except for the provisions from the Art. 67-75. that cease to be valid on the day of beginning of application of the Law regulating association of citizens.

Validity of Regulations until Enactment of New Ones Pursuant to This Law

Article 91

The Regulations enacted pursuant to the Law on movement and residence of foreigners („Official Gazette of the Socialist Federal Republic of Yugoslavia”, no. 56/80, 53/85, 30/89, 26/90, 53/91 and „Official Gazette of the Federal Republic of Yugoslavia”, no. 24/94, 28/96 and 68/02), and „Official Gazette of Serbia and Montenegro”, no. 12/05 and „Official Gazette of the Republic of Serbia”, no. 101/05 and 109/07), remain valid until the day of entry into force of the Regulations to be enacted pursuant to this Law by the Government, Minister competent for internal affairs and the Minister competent for foreign affairs, if not contrary to the provisions of this Law.

Entry into Force of This Law

Article 92

This law enters into force on the eight day from the date of publishing in the „Official Gazette of the Republic of Serbia”, and shall be applied from July 1st, 2008.

JUSTIFICATION

I. CONSTITUTIONAL FOUNDATION FOR PASSING OF THE LAW

The constitutional foundation for passing of this Law is contained in the Art. 39 para. 3 of the Constitution of the Republic of Serbia which, among other things, determines that entry of foreigners in the Republic of Serbia and stay in it is governed by the law and in the Art. 97 point 5 of the Constitution of the Republic of Serbia, which sets that the Republic of Serbia determines and secures the position of foreigners.

II. REASONS FOR PASSING THE LAW

The valid Law on Law on movement and residence of foreigners was enacted in 1980 and published in the „Official Gazette of the Socialist Federal Republic of Yugoslavia”, no. 56/80. Up to now, this Law was innovated on several occasions but its amendments and modifications did not change essentially the concept of the Law.

That Law was enacted pursuant to the Constitution of the Socialist Federal Republic of Yugoslavia, whose solutions became outdated long ago. Among others, the solutions contained in that law are neither compatible with the standards regulating the problems of foreigners in the European Union, nor with the latest tendencies in this field that are accepted and brought into life in developed democratic system. Additionally, a need arouse, that the Republic of Serbia, as an independent country, for the first time, in line with the new Constitution of the Republic of Serbia, should regulate the issue of entry, movement and stay of foreigners in its territory.

Moreover, besides the constitutional reasons, the enacting of new legislation is one of the presumptions that our country should fulfill in order to be included in European integrations. Therefore, while preparing this Law, the Schengen treaty and the Convention on application of the treaty, were fully respected, creating thus a legal foundation for cooperation of the internal affairs.

III. CLARIFICATION OF BASIC LEGAL INSTITUTES AND INDIVIDUAL SOLUTIONS

Part one of General provisions (Art. 1 to 7) determines the subject of the Law, i.e. that the Law governs the conditions of the entry of foreigners in the Republic of Serbia, their movement and stay in it.

In that sense, the Art. 2 determines the scope of application of the Law, i.e. that the provisions of this Law are not applied to foreigners who applied for granting of asylum or who were granted asylum in the Republic of Serbia, if not provided otherwise by the law, as well as to foreigners who enjoy privileges and immunities pursuant to international law.

The Article 3 explains the meaning of certain expressions used herein.

A foreigner with a valid traveling document having a recorded visa of residence permit can enter the Republic of Serbia and stay in its territory, if not otherwise determined by the law or by an international treaty (Art. 4).

The reasons for which a limitation of prohibition of movement in certain areas of the Republic of Serbia can be implied to a foreigner are defined by the Art. 5.

The Art. 6 determines the obligation of foreigners, to abide by the regulations and decisions of the state authorities while moving and staying in the territory of the Republic of Serbia, while the Art. 7 regulates the application of the Law in the procedure of decision making about the rights and obligations of foreigners.

The Part Two: Entry and departure of foreigners form the Republic of Serbia (Art. 8 to 13.) determines the obligation of foreigners to subject to border control when entering or leaving the Republic of Serbia.

Entry and leaving pursuant to a common traveling document is regulated by the Art. 9.

The Art. 10 determines what is considered an unlawful crossing of the state border, while the conditions for a foreigner in order to be granted an entry in the Republic of Serbia are defined in the Art. 11.

The conditions to enter and stay in the Republic of Serbia without a visa, as well as the length of stay are defined by the Art.12.

The Art.13. prescribes freedom of departure from the Republic of Serbia, as well as the exceptional cases in which departure shall temporarily be prohibited to a foreigner.

The Part Three: Visas (Articles 14 to 23) started primarily from the definition of the notion visa, from the authority competent for issuing of visas, obligations of diplomatic missions or consular offices, to obtain, prior to issuing of a visa, consent of the Ministry, from the competencies of the Minister of foreign affairs to enact regulations, defining in details the appearance and contents of the application for visa issuing, as well as the manner of visa issuing by diplomatic mission or consular office. The Art. 14 regulates the cases and conditions on which the border police can exceptionally issue certain types of visas, as well as the so called consular cooperation in the procedure of issuing of visas.

The novelty of the proposed Law are the following visa types: an airport transit visa (visa A), a transit visa (visa B), a visa for short stay (visa C) and a visa for permanent residence (visa D). Moreover, the Art. 15 determines that the Minister competent for foreign affairs, with a consent of the Minister competent for internal affairs, can prescribe an appearance, contents and way of recording of visas in a foreign traveling document.

The Art. 16 determines the cases when one may need an airport transit visa (visa A). A foreigner needs not a visa, if in between the arrivals at the airport, he does not leave the international transit area of the airport or the aircraft. The Government can exceptionally precise the foreigners who at certain traveling directions need airport transit visa. However, a foreigner can request issuing of an airport transit visa for one or more passing through the international transit area of an airport, based on which he can stay in the Republic of Serbia for a maximum of 24 hours.

A transit visa is issued to a foreigner for one, two or more journeys across the territory of the Republic of Serbia. The Art. 17, besides the terms for issuing of such a visa, determines that it can be issued with validity period of up to six months, and that overall period of duration for one transit cannot exceed five days.

For tourist, business and other journeys, for one or more entries in the Republic of Serbia, a visa for short stay is issued (visa C). An uninterrupted stay, pursuant to this visa, cannot be longer than 90 days in the period of six months, counting from the date of first entry in the country. Pursuant to this Article, a multiple visa for short stay is issued with a validity period up to one year and to the personnel of a foreign diplomatic mission or consular office even with longer validity term on condition of reciprocity.

The Art. 19 prescribes the purpose and way of issuing of a temporary residence visa (visa D).

Pursuant to the Art. 20 the validity term of a visa cannot be extended. However, this Article defines an exceptional reasons for which it can be extended, by applying to the competent authority according to the place of residence of the foreigner, and the Minister competent for internal affairs prescribes the detailed conditions, application form and manner of prolonging the validity term of the visa.

The Art. 21 determines the reasons for which a competent authority shall not issue a visa or shall cancel the existing one. For humanitarian reasons, and if in the interest of the Republic of Serbia, or if it is implied by the internationally accepted liabilities, a visa can be issued and the Ministry can determine that a foreigner is enabled to enter only at fixed border check point. The paragraphs 4 and 5 of the same Article prescribe that the authority competent for issuing of visas or border police can cancel the already issued visa if they subsequently find out that there is an obstacle defined in the Art. 11 of this Law.

Carrier's obligations as well as liabilities of a grantor are determined by the Art. 22 and 23.

The Part Four: Residence of foreigners (Articles 24 to 41) regulates the stay of foreigners up to 90 days, temporary and permanent residence as well as the type of residence in compliance with the proposed Law.

In the Art. 25 a stay up to 90 days is considered a stay of a foreigner without a visa or based on a visa, if not otherwise defined by the proposed law or by an international treaty.

The reasons for which a foreigner can be granted a temporary residence are prescribed by the Art. 26.

An application for a temporary residence is to be submitted to a diplomatic mission or consular office of the Republic of Serbia, i.e. to a competent authority if the foreigner is already residing in the Republic of Serbia based on other grounds. Together with the application one should present a valid foreign traveling document, as well as other evidence on justifiability of the grounds for requesting a temporary residence permit. An application for extension of the temporary residence permit is to be submitted not later than 30 days prior to expiry date of the temporary residence permit, and it is to be decided by the competent authority, with prior consent of the state administration authority, whose competence includes the verification of the statements on justifiability of the application for temporary residence and which is bound to remark within 15 days, in line with the Art. 27.

The Art. 28 sets out the evidence that a foreigner need enclose to the application for temporary residence and the Art. 29 determines the longest duration of a temporary residence.

A temporary stay for work, employment or for the purpose of another activity, for educational and studying, as well as for the reasons of family reunion are regulated by the Articles 30, 31 and 32.

Extension of temporary residence permit is subject to the Art. 33.

A minor foreigner born at the territory of the Republic of Serbia, a temporary residence permit can be prolonged for the time that has been determined for a temporary residence of one of the parents or guardians of the child, in line with the Art. 34.

The reasons for canceling of the residence of a foreigner who was granted a stay up to 90 days and of a foreigner who was granted a temporary residence in the Republic of Serbia, are defined by the Art. 35.

A residence permit to a foreigner ceases by expiry of the term for which the residence permit was granted, if he was pronounced a protective measure of expulsion or security measure of deportation.

The conditions on which a foreigner can be granted a permanent residence permit are defined in the Art. 37.

The application for permanent residence permit is decided by the Ministry, whereas the complaint against the decree refusing a permanent residence permit is decided by the Government in line with the Art. 38.

The Art. 39 identifies the reasons for which a permanent residence shall not be denied and the Art. 40 the ones for which it shall be cancelled.

The Art. 41. prescribes the reasons for which existence, the right to permanent residence terminates.

The Part Five: Unlawful residence (Articles 42 to 45) defines the obligation of a foreigner to leave the Republic of Serbia for unlawful residence.

The Art. 43 prescribes that a competent authority shall pronounce a decree determining a term in which a foreigner, unlawfully residing in the Republic of Serbia, is obliged to leave its territory, and which cannot exceed 30 days from the date of pronouncing of the decree. Such term can be extended only if there are justifiable reasons for that.

Carrying out of the protective measure of expulsion is prescribed by the Art. 44.

The duty of state authorities, legal and natural persons, is to notify immediately the competent authority on a foreigner unlawfully residing or on a foreigner for whom there are justifiable grounds for cancellation of the residence permit in the Republic of Serbia, determined by the Art. 45.

The Part Six: Forced expulsion (Articles 46 to 58) in the Art. 46 prescribes that a competent authority shall forcibly expel a foreigner unlawfully residing in the Republic of Serbia or a foreigner who fails to leave the Republic of Serbia within the set deadline. A foreigner who was pronounced a security measure of expulsion or a security measure of deportation and a foreigner who should be returned pursuant to an international treaty shall be immediately expelled.

The Art. 47 defines a prohibition of forced expulsion of a foreigner to a territory where he is threatened by prosecuted for his race, sex, religious or political affiliation, citizenship or belonging to certain social group or for having political opinion. This provision shall not be applied to a foreigner

who is reasonably suspected to imperil the security of the Republic of Serbia or who was convicted by an effective judgment for a felony, and therefore is dangerous for public order.

A foreigner can be detained, if that is implied by the reasons of providing forced expulsion, in the premises of the competent authority, but not longer than 24 hours in line with the Art. 48.

Determination and duration of stay in the Shelter is regulated by the Articles 49 and 50.

The competent district court decides on the complaint against the decree, determining i.e. extending a stay in the Shelter under enhanced police supervision.

A foreigner is obliged to abide by the rules of stay in the Shelter, which he must not leave without a permit. The rules of stay in the Shelter are prescribed by the Minister competent for internal affairs.

Accommodation of a minor foreigner in the Shelter is governed by the Art. 52.

Accommodation in the Shelter is terminated when: a foreigner has left the Republic of Serbia, by expiry of the period for which his accommodation is set, by canceling of the decision on accommodation, i.e. extension of the stay in the Shelter, when a foreigner has acquired right to asylum and by discharge from the Shelter.

A foreigner who cannot be forcibly expelled right away, and his identity is known, and has a secured accommodation and resources for support, can be determined a measure of compulsory stay in a determined place by the decree of a competent authority. However, such stay cannot last for more than 180 days in line with the Art. 54.

The Art. 55 determines the reasons that lead to a termination of compulsory stay.

The Art. 56 determines the costs of escorting to a diplomatic mission or consular office, or to the Shelter, i.e. to the state border crossing.

In order to secure carrying out of a protective measure of forced expulsion, a foreigner can be temporarily deprived of his traveling and other documents and traveling tickets.

Treating of persons with special needs is regulated by the Art. 58.

The Part Seven: Traveling documents for foreigners (Articles 59 to 63) identifies the types of traveling documents for foreigners in line with this Law as: a traveling document for refugees, a traveling document for a person without citizenship and traveling paper for a foreigner.

A traveling document for persons without citizenship is issued by the competent authority according to the place of residence, i.e. domicile of the person without citizenship, in line with an international treaty, pursuant to the Art. 60.

The Art. 61 determines the reasons for which a foreigner shall be issued a traveling paper for a foreigner.

Competence for issuing and prescribing of the appearance and contents of a traveling paper for a foreigner is prescribed by the Art. 62.

The Art. 63 determines the reasons for which a foreigner shall not be issued a traveling document for foreigners, i.e. a temporarily withdrawn traveling document previously issued.

The Part Eight: Identity proving documents (Articles 64 to 73) defines that a foreigner in the Republic of Serbia proves his identity by a foreign traveling document, by special identity card or by another public document with his photograph on it.

A foreigner is obliged, at the request of a police officer, to show his identity document, as well as usage of the identity document as defined in the Art. 65.

Time of issuing of identity card to a foreigner, as well as appearance and the contents of an identity card for a foreigner and of a special identity card are defined in the Articles 66 and 67.

In line with the Art. 68 the application for an identity card for foreigners, can be presented by a foreigner who completed 16 years of age. If a foreigner does not possess a valid traveling document, and he was granted a temporary or permanent residence permit, he is obliged to apply for identity card for foreigners, within 30 days from the date of arrival to the place of residence i.e. stay.

The Art. 69 regulates competency for issuing of identity card for foreigners and of special identity card for foreigners.

A foreigner who is granted permanent residence, is issued an identity card for foreigners with validity period of five years, and if he is granted a temporary residence, for a period for which he was granted a temporary residence.

The cases of changing of identity card for foreigners, the obligation to return the same, as well as the duties of a foreigner in case of disappearance or lost documents proving identity, are subject to Articles 71, 72 and 73.

The Part Nine: Domicile and residence of a foreigner and collection of personal data (Articles 74 and 76.), by the Art. 74 define the notion of residence and domicile in line with this Law.

The Art. 75 specifies a duty of reporting of the residence, domicile, change of address and notice of departure. A novelty in the proposed Law is also a possibility to notify residence of a foreigner by E-mail.

When a competent body can collect personal data on foreigners, the duties of the authorities, organizations and other persons to offer the requested data are defined by the Art. 76.

The Part Ten: Special provision on movement of foreigners in uniform provides the condition for wearing a foreign military, police or customs officer's uniforms (Art. 77).

The Part Eleven: Records and Central Data Base (Articles 78 to 79) prescribes types and competencies for record keeping as well as of keeping of a central data base.

Pursuant to the provisions of the Part Twelve, supervision, implementation of this Law and regulations enacted pursuant to this Law are carried out by the Ministry competent for internal affairs and the Ministry competent for foreign affairs, each in the part related to the respective competencies (Art. 80).

The Part Thirteen: Penalty provisions (Art. 81 to 86) predict the offences for procedures contrary to the provisions of this Law. The amounts of fines and protective measures are predicted in compliance with the Law on torts.

The Part Fourteen: Transitional and final provisions (Articles 87 to 93) with the Art. 87 prescribes the authorization for enacting of the regulations.

The procedures initiated before entering into force of this Law, pursuant to the Art. 88, shall be completed in line with the provisions of the Law on movement and residence of foreigners, except if it is not more favourable for the foreigner to finish the procedure pursuant to the provisions of this Law.

The Art. 89 determines that foreigners who are granted a permanent settlement and a temporary residence prior to entering into force of this Law, shall keep that status if they meet the requirements prescribed by this Law.

The provisions of the Articles 90 and 91 prescribe the termination of validity of the Law on movement and residence of foreigners and validity of by-laws until the enacting of new ones in line with this Law.

The Art. 92 predicts that the Law enters into force on the eighth day from the day of publishing in the „Official Gazette of the Republic of Serbia“, and since for the implementation of this law it is necessary to carry out detailed and complex preparations (enacting and preparation of a large number of by-laws, establishment of a central data base etc.), its implementation was postponed for July 1st, 2008.

IV ASSESSMENT OF FINANCIAL RESOURCES REQUIRED FOR IMPLEMENTATION OF THE LAW

It is not necessary to provide additional resources for implementation of this Law within the budget of the Republic of Serbia.