LABOUR

1.09

With the development of flexible forms of work, which have particularly gained momentum in recent years, the need for more comprehensive changes to the Labour Law is becoming increasingly evident. After a significant step forward in the improvement of labour regulations in 2014, when over 65% of the recommendations from previous editions of the White Book were adopted, there have been no major changes to the core law. The Ministry of Labour, Employment, Veteran and Social Affairs announced the launch of the project "Support for Improving Working Conditions and Preparing the Republic of Serbia for Participation in EURES," which, among other things, is expected to include the harmonization of domestic legislation with the EU acquis, as well as the drafting of a new Labour Law and a Law on Internships.

In this edition of the White Book, the Foreign Investors Council continues to highlight the need for amendments to and further improvement of labour-related regulations. The priority in amending the Labour Law includes, among other things, regulating more flexible forms of work, such as working from home and remote work, regulating internships, digitalizing employment documentation and communication between employers and employees, simplifying the complex salary structure and calculation of salary compensation. Additionally, certain changes to legal provisions regulating the termination of employment, such as those governing statutes of limitations and notice periods, as well as a clear definition of the procedure for resolving surplus of employees, are needed. This edition of the White Book also points out a number of legal provisions whose application has led to uncertainties in business practices or different interpretations by the courts.

Foreign Investors Council welcomes the progress made regarding employment and mobility of foreign nationals in the domestic market, noting that a significant portion of the Council's recommendations given during the adoption of amendments regulating the work and residence of foreigners has been adopted. The amendments to existing regulations towards introducing a single permit and conducting the process electronically led to simplification of the procedure for granting residence and work permits to foreigners in Serbia.

The Law on Occupational Health and Safety is aimed at aligning the domestic occupational health and safety system with European standards, raising awareness and responsibility among all participants in the occupational health and safety system, which should ultimately contribute to improving the quality of implementing safe and healthy working conditions. However, the work from home and the remote work remain inadequately regulated by law, highlighting the need once again for amendments to the Labour Law which would provide for closer regulation of the mutual rights and obligations associated with this type of work. Since most of the bylaws in this area were adopted in the previous period, it is expected that the law will be fully implemented, allowing the effects of the new legal solutions to be observed in practice.

Continuing the initiated labour reforms is a crucial prerequisite for establishing a business environment that will make the Serbian market appealing to foreign investments and encourage the creation of new employment opportunities. The Human Resources Committee, leveraging its expertise and knowledge in regulatory implementation, has strived to identify the key priorities for further improvements in this field.

LABOUR RELATED REGULATIONS

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
The Labour Law				
Digitization of labour law documents. In order to align with the trends, solutions and opportunities brought by the digitalization process, it is necessary to amend the Labour Law in order to define an alternative way of administering employment rights and obligations using electronic documents and electronic signature (adoption of acts and concluding contracts), alternative formal communication on the employer – employee relationship electronically, primarily via e-mail or other similar channels of electronic communication and with the use of internet notice board, electronic records as well as submission of documentation electronically, etc., as ways and forms that would be completely equal to the currently valid forms. Also, we believe that it is necessary to amend the Law on Labour Records in relation to three key points: determining the maximum retention period up to five years after termination of employment, explicitly permitting electronic records and use of various IT tools for this purpose and prescribing the correct way to dispose of paper employee files.	2016			√
Flexible working conditions outside of the employer's premises. Introduction of a possibility of regulating employment when establishing it or in its course so that the employee would work one part of his working time outside the employer's premises (not just from home), as well as a possibility of changing the work regime and concluding and annex to the employment contract during employment, i.e. without the obligation to conclude the annex (in case when the transition to work regime outside employer's premises is occasional or short-term, in which case employer's provisions of general enactments would directly apply to conditions of work from home). Since legal certainty and security are required, it is necessary to precisely distinguish the difference between the work from home and remote work (by the place of work or means of work), and relativize the need to define "Place of work" as obligatory element of employment contract by introducing, for example, "primary place of work" in case of remote work, as well as introduce general principles for the compensation of costs for work performed outside Employer's premises. Within the framework of a flexible organization of work, possibility of implementing overtime should be widened so that it is not limited only to unforeseen circumstances. The Employer and employee should have the freedom to agree on the reason for and purpose of overtime, and the Employers should be able to negotiate a manager's fee that includes overtime pay for managers who work overtime.	2018			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Rational salary structure and salary compensation. We propose that work performance be viewed only as an optional component of compensation, as opposed to a mandatory one. In addition, the premise for calculating the salary compensation during the absence from work is proposed to be the base salary plus seniority pay. This would make it much simpler for all employers to manage salaries, provide greater flexibility in both the salary contracting and budgeting, and make the salary structure itself more transparent. Also, we propose that the amendments to the Labour Law clearly define the elements or conditions for determining the base salary and the general act of the employer that determines these elements, as well as to determine the conditions for offering an annex which stipulates a change the base salary.	2021			√
Flexible engagement of students in practice. We propose amendments to the section of the Labour Law in the part that regulates professional training and development. These amendments should enable high school students, students and other persons outside employment (both in the field of education and outside the field of education) to gain practical knowledge and experience in a real-world work environment, career advancement, and easier future employment through the use of flexible engagement models. Existing provisions on vocational training and development should be amended to remove additional conditions limiting the possibility of such engagement, and the same should be provided regardless of the employer's activity and whether it is the public or private sector. The competent ministry may establish all necessary mechanisms to prevent abuse of this institute, if this was the reason for the introduction of restrictions by Article 201. In this regard, in order to develop good and safe practice, it is necessary to harmonize the provisions of the Labour Law so that they form a consistent labour law regulation with the provisions of the Law on Dual Education and the Law on the Dual Model of Studies in Higher Education, which regulate working conditions of high school students and university students. Alternatively, an adequate law on work practice could be a good way to regulate the employment of students. However, the draft of this law that was on public discussion provided for flawed solutions based on which practitioners can perform work practice for a certain period after schooling, for work in a profession within the acquired level of qualifications, which leaves room for the interpretation that work practice within of the aforementioned law, students cannot work for the occupation for which higher education is provided (since at that moment they have acquired secondary education). It remains to be seen what the final solution of the future law will be and whether it will represent an adequate basis for the employment of students.	2016			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
More flexible conditions and procedures for employment termination. It is necessary to: (a) extend the statute of limitation periods for the conduct of proceedings (the subjective period of 6 months to be extended to at least one year and the objective period to 3 years), (b) in the event of the employment contract termination, extend the maximum duration of the notice period from 30 to 60 days (c) enable employers to issue decisions in the form of an electronic document determining measures (dismissal or milder measure) or releasing employees from liability, as well as delivery these decisions are executed electronically, (d) the employee's refusal to receive the decision served on the employer's premises as if the act had been delivered, (e) enable the employer to unilaterally release the employee from work during the notice period (when the notice period is prescribed/ contracted) with the salary compensation payment in the amount equal to the employee's base salary, (f) regulate the procedure of termination of employment due to technological, economic or organizational changes – redundancy in cases when program is mandatory – is the employer obliged to first amend the rulebook on the systematization of workplaces or to adopt a solution-finding program of employee redundancy first, and when program is not mandatory, clearly state the obligations of the employer or whether the employer is obliged to address a representative union within the company and the republic organization responsible for employment, whether he is obliged to apply measures for new employment and how they are being applied, especially additional qualification and retraining, etc. (g) regulate the procedure of termination of employment due to abuse of the right to sick leave, but also the termination procedure due to the use of alcohol by employees, (h) to be defined by the Labour Law that the establishment of an employment relationship with another employer who submitted the employee's application for insurance, without prior written notice to the original employer, is considered a termination of the employment contract by the employee, effective on the first day he did not report to work at the employer.	2018			√
Termination of a probationary employment contract. Amend Article 36 of the Labour Law by specifying: (a) that the report of the immediate superior is sufficient justification for the termination of the contract with probationary work, during the probationary period, and that the employer is not required to give the employee any additional period for improvement of his work; (b) that in the case referred to in Article 36, paragraph 4, it is not at all necessary for the employer to justify why the employee did not demonstrate appropriate work and professional abilities, but that he can only issue a declarative decision stating that the employee's employment ends on the day the probationary period expires.	2023			√
Introduction of guidelines for defining the minimum compensation that the employer pays to the employee in case of contracting a non-competition clause after the termination of the employment relationship. Amend Article 162 paragraph 2 of the Labour Law specifying that the agreed amount of compensation cannot be lower than, for example, 1/3 of the average net salary in the previous 3 months before the termination of the employment relationship, for each month of validity of the non-competition clause, after the termination of the employment relationship.	2023			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Specifying the procedure for returning an employee to work. Amend Article 191 of the Labour Law by specifying that if the court legally obliges the employer to return the employee to work, and the employer does not have a vacant position in his organization to which he can assign the employee, he has the right to declare the employee redundant in the sense of Article 179 paragraph 5 point 1 of the Law on work and pay him severance pay.	2023			√
Specifying the submission of employment-related documentation. Amend Article 193 of the Labour Law to specify that the provisions on delivery of the decision on dismissal from Article 185 apply to all documents from the employment relationship, including the offer and the annex to the employment contract.	2023			√
Change of employer. n Article 147, it is necessary to specify precisely what constitutes a change of employer, i.e., which situations (aside from status changes prescribed by the Companies Act) constitute a change of employer.	2023			√
Cancellation of the employment contract in terms of Article 149 of the Labour Law. Article 149 of the Labour Law must be amended by specifying the grounds on which the employer may terminate the employment contract of an employee who refuses to take over the employment contract - does he have to declare him redundant or is it possible to terminate the contract based on Article 175 paragraph 1 point 7 (in other cases determined by law).	2023			√
Law on Vocational Rehabilitation and Employment of Persons With Disabilities				
Because the regulations listed herein are considered particularly important and vital for attracting and maintaining foreign investments, and given that the very purpose of this Law is the inclusion of PwD, the FIC previously provided and is still putting forth a number of suggestions on how to improve the situation. To this end, here we underline the most important recommendations on how to improve the existing legal framework and practice:				
Classify business activities subject to a limited application of the Law, due to their specific nature (e.g. private security, manufacturing, construction, etc.), meaning that in these activities the number of PwD the employer must hire should be calculated relative to the number of employees in jobs that do not require special medical fitness pursuant to the law and/or nature of the business activity and that can be performed by employees with disabilities.	2016			√
The assessment of and the issuing of a decision on working ability should be performed by the same body to accelerate the procedure. We suggest that the procedure and decision-making should be accelerated and the list of documents required by the authorities from the employee be reasonably decreased.	2009			√
We believe that a more efficient manner for increasing the employment rate of PwD would be to incentivize employers with subsidies for their employment.	2009			√
Employment of Foreign Nationals				
The Central Registry of Mandatory Social Insurance should contain the exact job title of the employee who was declared redundant.	2015			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Technical improvements to the online forms which will enable an efficient use of all the functionalities provided by the regulations.	2024			√
Facilitating the registration of an employee to CROSO on the basis of a Visa D.	2024	√		
Secondment of Employees Abroad				
We recommend extension of the maximum period employees at managerial positions are allowed to stay abroad on the basis of referral to business trip, without application of the Secondment Act to up to 180 days in total within a calendar year, instead of the currently applicable 90 days.	2016			√
We recommend allowing secondment abroad for the purpose of vocational training and development also to the entities which are not necessarily related to the employer by equity or control.	2018			√
We recommend allowing secondment abroad of employees under the age of 18.	2016			√
Staff Leasing				
We recommend deletion of Article 14 of the Staff Leasing Act, which limits the number of employees employed at the staff leasing agency on a fixed-term basis that a beneficiary can lease.	2020			√
We recommend deletion of Article 2 paragraph 5 of the Staff Leasing Act, which regulates situations in which there is no comparative employee at the beneficiary.	2020			√
We recommend deletion of Article 17 of the Staff Leasing Act, which prescribes the staff leasing presumption.	2020			√
Human Capital				
The education system should continue to be improved. For that, it is essential to establish regular contact between the Council and the Government, the ministries responsible for education, youth and sports, as well as with universities. The Council and the business community in Serbia are ready to provide support and make available their expertise, and based on the analysis of the needs of the economy and the real sector, create and establish new educational profiles, as well as regularly correct enrollment quotas at all faculties in accordance with market needs.	2008			√
Define the legal framework for the relationship between employer and student in order to simplify the application of professional practice of students during regular schooling.	2017			√
Define the legal framework for the training of persons with higher educational profiles for independent work in the profession, regardless of the acquisition of the conditions for passing a professional exam, i.e. performing an internship.	2017			√
With the employment action plan of the National Employment Service, define, redefine and expand the range of educational profiles that will be included in the action plan and employment policy, that is, listen to the needs of the market and employers.	2017			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Create a plan for the migration of human capital within the territory of the Republic of Serbia in order to equally develop underdeveloped areas and thereby reduce the gap in the needs of the economy in different parts of the country, and in order to prevent migration outside the Republic of Serbia, citizens have already been given an incentive to within the territory of the Republic of Serbia look for a better place to live and work.	2019			√
Consider supporting employment by reducing employment costs, especially in relation to taxes and wage contributions, as well as legally define all aspects of working from home.	2020			√
Facilitate and promote supplementary work at all levels.	2024			√
Occupational Health and Safety				
Amendments and additions to the Law and/or the adoption of bylaws in relation to the conditions of working from home or remotely. The Law requires the adoption of bylaws, in order to better regulate specific aspects of workplace safety and health. In that part, the recommendation is that, to the extent feasible, bylaws whose adoption is governed by the Law be used to further regulate the conditions of work from home or for remote work:				
– the procedure for drafting the Risk Assessment Act for jobs performed from home, or remotely;	2021			√
– procedures associated with the implementation of preventive measures, mechanisms for controlling the enforcement of measures for safe and healthy work, and mechanisms for determining the causes and methods of injuries during work from home or remote work (primarily preventive measures associated with: work ergonomics, illumination of workstation, the microclimate in the workspace, adequate equipment, accessibility, stress management, maintenance of workspace, electrical installations, fire protection, prohibited activities and conduct, and the employee's actions in the event of a workplace injury);	2021			√
– employee training for safe work from home/remote work and digitization of the entire training process and work from home related administration;	2021			√
– a distinct separation of the employer's responsibilities, obligations and rights, in relation to the application of measures for safe work from home or remote work.	2021			√
If it is not possible to regulate the conditions of work from home or remote work by bylaws whose adoption is mandated by the Law, it is recommended to further supplement the Law in that section, given the trend of growth and development of work from home or remote work, which necessitates appropriate measures and procedures for safe and healthy work.	2023			√
During the adoption of bylaws, it is necessary to consult the economy as well, in order to share practical experiences and problems in the application of certain legal norms, and thus prevent the unilateral proposal of norms that are difficult or almost impossible to apply in practice. Also, it is necessary to arrange the processes in accordance with the general intention to digitize legal processes and procedures as much as possible.	2023			√

THE LABOUR LAW 1.00

CURRENT SITUATION

There have been no major amendments to the Labour Law ("Official Gazette of the Republic of Serbia," Nos. 24/2005, 61/2005, 54/2009, 32/2013, 75/2014, 13/2017, 113/2017, and 95/2018; hereinafter: the Labour Law) since 2014, when significant reforms were introduced in the field of labour law.

In the meantime, over the past ten years, practice has shown that the solutions contained in the current Labour Law do not meet the real needs of employers and employees. Moreover, a significant number of provisions of the Labour Law impose excessively complex administrative, organizational, and financial obligations on employers, which hinder business operations.

Specifically, it is necessary for the Labour Law to:

- enable the use of electronic documents and electronic signatures for the efficient and flexible administration of legal documents arising from the employment relationship;
- introduce flexible conditions for work outside the employer's premises, with the aim of ensuring efficient work organization and optimizing labour costs;
- regulate contracts for the engagement of pupils and students for internships;
- provide for more rational conditions for determining the length of annual leave;
- clarify the provisions governing amendments to agreed employment conditions (annexes), in order to ensure legal certainty;
- amend the complex salary structure, in order to simplify payroll calculation and protect employers from the high costs arising from the payment of compensation of salary;
- provide for more flexible conditions for suspension from work and a simpler procedure for termination of employment, in order to reduce the employer's administrative burden.

Furthermore, since the adoption of the 2014 amendments to the Labour Law until today:

- certain provisions of the Labour Law have remained unaligned with EU Directives;
- employers and employees continue to face numerous practical difficulties due to ambiguities in the interpretation and application of insufficiently precise provisions;
- case law, partly as a result of provisions subject to varying interpretations, remains inconsistent.

POSITIVE DEVELOPMENTS

In the past year, there have been no improvements, given that the Labour Law has not been amended, while the problems related to its application have only continued to grow in practice.

It is necessary to significantly amend the Labour Law, both by aligning it with EU Directives and by addressing the problems that employers and employees encounter in practice.

REMAINING ISSUES

Some of the most significant problems in the application of the existing provisions of the Labour Law have been carried over from previous years:

1. **Legal uncertainty concerning the (im)possibility of using electronic signatures and electronic documents.**

The Electronic Document, Electronic Identification and Trust Services in Electronic Business Act stipulates that an electronic signature may not be denied validity or evidential value solely on the grounds that it is in electronic form, and that a qualified electronic signature has the same legal effect as wet signature. The said rule does not apply only where a separate statute prescribes that certain legal actions cannot be carried out in electronic form. Although the Labour Law does not stipulate that legal documents arising from employment cannot be issued in electronic form or signed electronically, certain provisions implicitly create doubt as to whether the electronic form and electronic signature are legally valid. Namely, the Labour Law provides that the employer is obliged to "hand over" one copy of the employment contract to the employee, which raises the question of whether it is possible to "hand over" an electronic document and, if so, what constitutes handover. Furthermore, the Labour Law explicitly allows for the issuance of decisions on annual leave and pay slips in electronic form, which raises the question of whether this means that other documents, for which such a possibility is not explicitly prescribed, cannot be issued in electronic form. Therefore, the current Labour Law is not harmonized with the Electronic Document, Electronic Identification and Trust Services in Electronic Business Act.

2. Flexible organization of work.

The statutory solutions that enable flexible work currently do not meet the wishes, needs, and practical possibilities of employers and employees. First, work from home and remote work, as two categories of work performed outside the employer's premises, are not defined at all in the Labour Law. It is also unclear whether the Labour Law allows for the introduction of occasional work outside the employer's premises, without the obligation to conclude an annex to the employment contract, based on conditions established in the employer's general acts and through communication between the supervisor and the employee. Although Article 50, paragraph 2 allows an employee to work part of their working hours from home, this provision is not adequate for implementing a hybrid work regime. The Labour Law also does not provide for the possibility of transitioning from work performed at the employer's premises to work performed outside those premises, and vice versa. Finally, there are no guidelines regarding the reimbursement of costs incurred in connection with work performed outside the employer's premises. Namely, it is unclear whether the obligation to agree upon "reimbursement of other work-related expenses and the manner of determining them" means that the employer must foresee such "other expenses," or whether the parties may jointly agree on the (non)existence of such "other expenses."

Regardless of the type of employee engagement, the provisions regulating overtime work are rather restrictive and should be amended to allow for a higher level of flexibility concerning the introduction of overtime and the manner of compensating overtime work (by expressly prescribing the possibility of compensation not only through extra pay, but alternatively, through hours or days of paid leave). Flexibility is particularly important in the case of employees in managerial positions.

3. Criteria for annual leave.

The Labour Law prescribes that the statutory minimum of 20 working days of annual leave is to be increased in accordance with mandatory criteria (professional qualification, work experience, working conditions, and work performance), which is impractical and administratively burdensome for employers.

4. Amendment of agreed employment conditions to change the elements for determining the base salary.

Employers face difficulties in applying Article 171, paragraph 1, item 5 of the Labour Law, which provides that the employer may offer the employee an amendment to the agreed employment conditions (annex) for the purpose of changing the elements for determining the base salary. When prescribing this reason for amending agreed employment conditions, the legislator had in mind a situation in which the base salary with the employer is determined by applying a coefficient and the minimum wage. However, such a method of determining salary is outdated and is rarely applied in the practice of the private sector. Namely, in the private sector, the base salary is most often agreed as a fixed amount, determined by taking into account the working conditions, as well as the knowledge and skills required to perform the specific job. For that reason, the cited statutory provision creates a dilemma as to whether it is possible to change an employee's base salary in situations where such a change is not the result of changes in the "elements for determining the base salary," given that, in practice, these elements are almost never specified.

Furthermore, Article 107, paragraph 1 of the Labour Law provides that the base salary is determined based on the conditions, established by the internal rulebook, necessary for performing the duties for which the employee has concluded an employment contract and the time spent at work. Therefore, it is unclear from the wording of the Labour Law whether the elements for determining the base salary are the same as the conditions for determining the base salary, and it is also unclear which general act must establish those conditions or elements, whether they are to be set out in the rulebook on employment or in the rulebook on job classification. The aforementioned ambiguities and inconsistencies in the statutory provisions lead to problems in practice when employers wish to offer employees a change in the amount of the base salary, since, in the absence of clear statutory norms, many employers have not determined or have not clearly determined the elements or conditions for determining the base salary. Accordingly, due to these unclear and inconsistent statutory provisions, the employer faces the problem of lacking a formal legal basis to offer the employee an amendment to the agreed base salary.

5. Structure and calculation of salary and salary compensation.

According to the Labour Law, salaries consist of pay for work performed and time spent at work, pay based on the employee's contribution to the employer's business success (rewards, bonuses, etc.), and other employment-related income, in accordance with the general act and the employment contract. Furthermore, the portion of the salary for work performed and time spent at work consists of

the base salary, performance-based pay, and extra pay. All the above elements are elabourated in detail by the general act and the employment contract. The above structure is extremely complex and prevents foreign companies operating in Serbia from implementing their standardized salary policies in the same manner as they do in other countries where they operate. Instead, companies are forced to apply the complicated salary structure and calculation system prescribed by domestic legislation.

Such a structure brings no real benefit to employees, as employers, when contracting the base salary, take into account other payments they are required to make (e.g., vacation allowance, meal allowance). In this way, employees ultimately receive the same total amount of salary that the employer planned, regardless of whether it is expressed through a single salary category or divided among several. Therefore, it is necessary to simplify the salary structure and the salary calculation.

Additionally, calculating salary compensation based on the average salary from the previous 12 months often results in the salary compensation being higher (usually due to bonuses paid) than the salary the employee would have received if they had been working during that same period. This prevents companies from planning their budgets and negatively affects employees, who are aware that they will receive higher pay during their absence than they would have earned had they been working.

6. Internships for high school pupils and students.

Article 201 of the Labour Law provides for the possibility of engaging persons under a contract on professional training and a contract on professional development. However, in order to conclude a contract on professional training, it is necessary that a law or rulebook prescribe the performance of an internship or the taking of a professional examination, while the conclusion of a contract on professional development requires that a special regulation prescribe professional training for work in a particular profession or specialization. As a result, the use of such contracts is, in practice, extremely limited and rare, especially in the private sector.

Internships, that is, the engagement of high school pupils and students who wish to develop and acquire certain practical knowledge and skills for personal development and easier future employment, have remained outside the scope of the Labour Law. Therefore, in practice, employers encounter difficulties in engaging young people for learning through practice in a manner that ensures legal certainty. In the absence of an appropriate form of contract through which pupils and students could be engaged, employers most often use temporary and occasional work contracts to carry out student and pupil internships, given that the flexible legal nature of such contracts allows for it, even though the legislator's intent was not for this contract to be used for that purpose.

7. Content of the offer for reassignment to another appropriate position.

Article 171, paragraph 1, item 1 of the Labour Law provides that the employer may offer the employee an amendment to the agreed employment conditions (annex) for reassignment to another appropriate position, due to the needs of the work process and work organization. Case law has taken the position that an offer to conclude an annex to the employment contract must include a detailed explanation of the specific needs of the work process and organization that have led to the necessity of transferring the employee from one (appropriate) position to another. Given that the Labour Law does not prescribe an obligation to provide a detailed explanation of the needs of the work process and organization, yet case law insists upon it, employers face uncertainty regarding the mandatory content of the offer.

8. Termination of employment due to technological, economic, or organizational changes, abuse of the right to absence due to temporary incapacity for work, use of alcohol, subjective and objective limitation periods, notice period in the case of termination by the employee, termination of employment contracts with a probationary period

Article 179, paragraph 5, item 1 of the Labour Law provides that an employer may terminate an employee's employment contract if, due to technological, economic, or organizational changes, the need for performing a specific job ceases or the volume of work decreases. While the Labour Law regulates the procedure relating to so-called mass redundancies, which entails the obligation to adopt a redundancy program, it fails to regulate the procedure for so-called individual redundancies. It is also unclear whether this ground for termination is applicable to employees with fixed-term contracts.

Even in relation to the regulated procedure for resolving collective redundancies, numerous uncertainties arise. For example, it is unclear whether the employer must first

amend the rulebook on job classification or first adopt the redundancy program. This issue is particularly relevant given that in recent years several decisions of the Supreme Court of Cassation have been published interpreting the redundancy procedure and the sequence of such actions in different ways, precisely due to the aforementioned gaps in the Labour Law, which further increases legal uncertainty in the application of this law. Additionally, various doubts arise regarding the implementation of employment measures, especially in cases of retraining and requalification.

The Labour Law insufficiently specifically regulates the termination of employment due to abuse of the right to absence arising from temporary incapacity for work, as well as in cases of reporting to work under the influence of alcohol or other intoxicating substances, or in cases of their use during working hours, which creates dilemmas in practice.

The subjective and objective limitation periods (six months from the date of becoming aware of the facts/one year from the occurrence of the facts) are too short, which is particularly evident for employers with a large number of employees, complex structures, and processes, as well as for those employers who can only initiate the termination procedure once internal controls have established the complete factual situation. For these reasons, in complex cases, statutory deadlines are often exceeded, leading to situations where employees who have seriously violated work duties or failed to observe work discipline remain employed.

A major problem is the inability to agree upon a notice period longer than 30 days in the event of termination by the employee, particularly when hiring a director or another member of management, who is very difficult to replace within such a short time frame.

In addition, it often happens that an employee simply stops coming to work because they have entered into an employment relationship with another employer. In such a case, the previous employer is required to carry out the entire procedure for terminating the employment contract due to a breach of work duties and work discipline, which demands a serious investment of time and resources, even when, based on data from the social insurance system (i.e., based on the deregistration by the previous employer due to the employee's registration under an employment relationship with a new employer), it is clear that the employee has implicitly terminated their employment contract. Furthermore, the previous employer is obliged to file a request for determining the employee's insurance status in order to align the deregistration date from social insurance with the date of termination of the employment relationship with the employer.

In practice, in cases of termination of employment during a probationary period, pursuant to Article 36, paragraphs 3 and 4 of the Labour Law, courts have taken the position that the reasoning of the termination decision must state that the employer has applied the procedure applicable to termination of employment due to underperformance and incompetence, as provided in Article 171, paragraph 1, item 1 of the Labour Law, which entails the obligation to provide detailed instructions for improving the employee's work performance and to allow an additional period for improvement before terminating the employment contract. Such a requirement, resulting from the insufficiently clear wording of Article 36 of the Labour Law, completely undermines the purpose of probationary period.

9. Absence of guidelines for determining the minimum compensation payable by the employer to the employee in cases where a non-compete clause is agreed for the period upon termination of employment.

Article 162, paragraph 2 of the Labour Law provides that a non-compete clause applicable after termination of employment may be agreed upon if the employer undertakes via the employment contract to pay a compensation to the employee. Given that the Labour Law fails to provide guidance on determining the amount of such compensation, there is a risk that courts may find that the employer and employee have agreed upon a disproportionately low amount and therefore declare the provision establishing the restriction null and void.

10. Reinstatement of an employee following annulment of a termination decision.

There is uncertainty as to how an employer should act when an employee succeeds with a claim seeking annulment of a termination decision, and the employer is obliged to reinstate the employee, yet within its organizational structure there is not an appropriate vacant position to which the employee may be assigned. Namely, employers are uncertain whether they have the option to declare such an employee redundant and pay severance, which should be clarified by law.

11. Delivery of employment-related documents.

The current statutory solution concerning the delivery of

employment-related documents is excessively complex, particularly given that it requires physical delivery of documentation for nearly all employment-related acts, which, in the context of modern communication tools, represents an archaic and impractical solution.

12. Change of employer.

The current statutory solution is insufficient, as the Labour Law does not specify what constitutes a change of employer, which creates dilemmas and legal uncertainty in practice.

In addition to the problems identified in the Labour Law, the Employment Records Act is outdated, and modern solutions must be implemented.

FIC RECOMMENDATIONS

- **Digitalization of legal documents arising from employment.** It is necessary to amend the Labour Law to allow for: (a) the use of electronic documents and electronic signatures (issuance of acts and entering into contracts) in employment matters, (b) the electronic delivery of such documents, (c) the conduct of formal communication between employer and employee by electronic means (via email or another channel of electronic communication), and (d) the use of an electronic notice board, electronic records, and similar tools.

  Also, we think it is necessary to amend the Employment Records Act by regulating the obligation to preserve employment-related documents (instead of maintaining records), determining a maximum retention period of up to five years after termination of employment, providing for the possibility of storage in electronic form, and prescribing the proper method of archiving employee files created in paper form.

- **Flexible conditions for work outside the employer's premises.** It is necessary to clarify the distinction between work from home and remote work.

  It is necessary to enable the employee and the employer to agree that the employee may perform part of their working hours outside the employer's premises, not only from home. It is also necessary to provide for a simple transition from work performed at the employer's premises to work performed outside those premises, through entering into an annex to the employment contract. In cases where the change of work regime is temporary or occasional, it should be permitted to implement such change without the obligation to conclude an annex (in which case the provisions of the employer's general acts would directly apply to the conditions of work performed outside the employer's premises).

  We propose a relative approach to the "place of work" as a mandatory element of the employment contract, by introducing, for example, a "primary place of work."

  It is necessary to introduce general principles governing the reimbursement of expenses for work performed outside the employer's premises, in order to clarify whether such expenses are to be determined by the employer or are subject to negotiation between the employee and the employer.

  The grounds for introducing overtime work should be expanded beyond cases caused by sudden and unexpected circumstances. The employer and the employee should be free to agree on the reason and purpose of overtime work, as well as the manner of compensating the employee for overtime (through extra pay or through hours or days of paid leave). When negotiating salary levels with managers who, as a rule, earn significantly higher salaries than other employees because they assume a higher level of responsibility, the employers should be allowed to agree with such managers that the salary includes compensation for any potential overtime work.

- **Abolition of mandatory criteria for extra days of annual leave.** Instead of prescribing mandatory criteria for extra days of annual leave in advance, it would be much simpler if the Labour Law left to the employer the option to independently determine, through a general act, the criteria for increasing annual leave that aligns with the specific employer's organization, or if the Labour Law simply increased the statutory minimum, while abolishing the obligation to apply the criteria for extra days.

- **Rational structure of salary and salary compensation.** Work performance portion of the salary should be prescribed only as a possibility, not as a mandatory component of salary. The base for calculating salary compensation during absence from work should be equal to the base salary increased by extra pay on account of years of service. It should be stipulated that the employer may offer an amendment to the agreed employment conditions in order to change the agreed base salary, and not only to change the elements of the base salary.

- **Flexible engagement of pupils and students for internships.** It is necessary to provide appropriate flexible modalities for engaging high school pupils, students, and other persons outside employment for the purpose of acquiring practical knowledge and experience in a real working environment, advancing their careers, and facilitating future employment. This can be achieved by amending Article 201 of the Labour Law, which regulates contracts on professional training and professional development. The competent ministry may establish all necessary mechanisms for preventing abuse of this legal instrument, if such abuse was the reason for introducing the restrictions in Article 201 of the Labour Law, which currently prevent the use of these types of contracts for internship purposes. When implementing amendments to the Labour Law, it is necessary to take into account the existing provisions of the Dual Education Act and the Dual Study Model in Higher Education Act, which regulate the conditions for internships of high school pupils and students.

  Alternatively, student internships may be regulated by a separate statute on internships. The draft of that law, which was subject to public consultation, contained inadequate provisions under which interns could undertake internships within a certain period after completing their studies, for work in a profession corresponding to the level of qualifications acquired. Such wording leaves room for interpretation that students, during their studies, would not be able to undertake internships in professions requiring higher education (since, at that moment, they have only completed secondary education). Such a solution defeats the purpose of internships. It remains to be seen what the final version of the future law will be and whether it will constitute an adequate legal basis for the work engagement of students.

- **More flexible conditions and procedures for termination of employment.** It is necessary to: (a) extend the limitation periods, setting the subjective period at one year and the objective period at three years, (b) extend the maximum duration of the notice period in the case of termination by the employee to 60 days, (c) enable employers to issue, in the form of an electronic document, decisions on employees' rights, obligations, and responsibilities, including those imposing sanctions (termination or a less severe disciplinary measure) or releasing the employee from responsibility, as well as to deliver all such decisions electronically, (d) stipulate that if an employee refuses to receive a decision on the employer's premises, the decision shall be deemed delivered, (e) allow the employer unilaterally to release the employee from the obligation to attend work during the notice period (when such a notice period is prescribed or agreed), while paying salary compensation equal to the employee's base salary proportionate to the number of working days from which the employee is released, (f) regulate the procedure for termination of employment due to technological, economic, or organizational changes – redundancy – when there is an obligation to adopt a redundancy program (for example, whether the employer must first amend the rulebook on job classification or first adopt the redundancy program), and when there is no obligation to adopt such a program, clearly specify the employer's obligations (whether there is an obligation to adopt any document prior to the termination decision, whether there is an obligation to apply employment measures and how such measures should be applied, etc.), and explicitly clarify whether this ground for termination may also apply to employees with fixed-term contracts, (g) specify the conditions for termination of the employment contract due to abuse of the right to absence arising from temporary incapacity for work and the use of alcohol and other intoxicating substances, (h) define that entering into employment with another employer who has registered the employee for insurance, without previously submitting a written resignation to the prior employer, shall be considered termination of the employment contract with the previous employer by the employee, effective as of the first day the employee fails to

report to work for the employer. It is necessary expressly to permit the inclusion of a contractual penalty clause for failure to comply with the notice period, given the frequent dilemmas in practice concerning this issue.

- **Termination of an employment contract with a probationary period.** Article 36 of the Labour Law should be amended to clarify: (a) that the employer is not obliged to grant the employee on probation any additional period to improve their performance; (b) that, in the case referred to in Article 36 paragraph 4, it is not necessary for the employer to provide any explanation as to why the employee failed to demonstrate appropriate work and professional abilities, but that the employer may issue only a declaratory decision stating that the employee's employment shall terminate on the date of expiration of the probationary period.

- **Introduction of guidelines for defining the minimum compensation payable by the employer to the employee for post-termination non-compete.** Article 162 paragraph 2 of the Labour Law should be amended by introducing guidelines for determining the minimum amount of compensation for a post-termination non-compete obligation (for example, the amount of compensation may not be lower than, for instance, 1/3 of the agreed base salary in effect on the date of termination of employment, for each month during which the post-termination non-compete period).

- **Clarification of the procedure for reinstating an employee.** Article 191 of the Labour Law should be supplemented to clarify that, if a court issues a final and binding decision ordering the employer to reinstate the employee, and the employer has no vacant position within its organization to which the employee may be assigned, the employer may declare the employee redundant within the meaning of Article 179 paragraph 5 item 1 of the Labour Law, with severance pay.

- **Clarification of the delivery of employment-related documents.** Article 193 of the Labour Law should be supplemented to clarify that the provisions governing the delivery of a termination decision under Article 185 of the Labour Law apply to all employment-related acts, including the offer and annex to the employment contract. It should also provide for the possibility of electronic delivery of employment-related documents where employees use electronic communication tools in their work or in communication with the employer.

- **Change of employer.** Article 147 of the Labour Law should be clarified to specify what constitutes a change of employer, that is, which situations (in addition to status changes prescribed by the Companies Act) represent a change of employer.

LAW ON VOCATIONAL REHABILITATION AND EMPLOYMENT OF PERSONS WITH DISABILITIES 1.00

CURRENT SITATION

Since the adoption of the Law in 2009, the goal of the legislature has been to raise awareness and increase employment of persons with disabilities (PwD) in all industries, by applying the same rules to all industries, regardless of their key differences. In that respect, the legislature's disregard of the fact that some industries require full working ability caused significant challenges for employers, which will be difficult to overcome.

POSITIVE DEVELOPMENTS

There were no significant changes in the field of PwD employment and inclusion in relation to the previous period regarding legislation activities. The impression is that neither the legislature, nor the implementing institutions have made this legislative area a focus of their attention. Positive progress can be seen in forming of various organizations and platforms

with focus on this topic. It is a significant effort of such organizations to make this group of candidates visible on the market, as well as to bring their needs closer to Employers. These efforts could give good results in the future.

REMAINING ISSUES

Problems remain the same and are reflected in the following:

- The problem for employers is the lack of staff that would apply for jobs appropriate for PwD.
- Working in some industry sectors (such as construction, private security, manufacturing, etc.) requires specific medical fitness and it is therefore practically impossible to employ PwD.
- Failure to carry out the classification of business activities of employers that, due to their nature, cannot be subject to the application of the Law in the same way as business activities not requiring special medical fitness or special mental or physical abilities of employees for certain jobs. Furthermore, companies selling services rather than products, where employees with special mental and physical characteristics are a key factor in performing core business activities, are unable to meet the requirements set by this Law.
- The Law on Vocational Rehabilitation and Employment of Persons with Disabilities is in conflict with the Law on Private Security. The latter stipulates that, starting from 1 January 2017, private security activities can only be carried out by persons with an appropriate license the acquisition and maintenance of which requires appropriate mental and physical abilities. This especially applies to employees handling weapons, who are required to undergo annual health check-ups. Thus, companies from the private security industry are additionally prevented from complying with provisions of the Law on Vocational Rehabilitation and Employment of Persons with Disabilities.
- Although there is a possibility for current employees to undergo an assessment of their working ability to be recognized as PWD, in practice such a procedure is very complex and administratively cumbersome, as it includes the submission of numerous documents by the employee and the involvement of different state authorities with somewhat overlapping powers within just one procedure (the National Employment Service [NES] and the National Pension and Disability Insurance Fund [NPDIF].

FIC RECOMMENDATIONS

Because the regulations listed herein are considered particularly important and vital for attracting and maintaining foreign investments, and given that the very purpose of this Law is the inclusion of PwD, the FIC previously provided and is still putting forth a number of suggestions on how to improve the situation. To this end, here we underline the most important recommendations on how to improve the existing legal framework and practice:

- Classify business activities subject to a limited application of the Law, due to their specific nature (e.g. private security, manufacturing, construction, etc.), meaning that in these activities the number of PwD the employer must hire should be calculated relative to the number of employees in jobs that do not require special medical fitness pursuant to the law and/or nature of the business activity and that can be performed by employees with disabilities.
- The assessment of and the issuing of a decision on working ability should be performed by the same body to accelerate the procedure. We suggest that the procedure and decision-making should be accelerated and the list of documents required by the authorities from the employee be reasonably decreased.
- We believe that a more efficient manner for increasing the employment rate of PwD would be to incentivize employers with subsidies for their employment.

EMPLOYMENT OF FOREIGN NATIONALS 1.67

CURRENT SITUATION

The employment of foreigners is regulated by the Employment of Foreigners Act from 2014 and the Foreigners Act from 2018. The last amendments to these acts entered into force in August 2023, whereas the implementation of the most significant changes was postponed until 1 February 2024. In the meantime, bylaws were adopted in January 2024.

Following the amendments to the relevant legislation in 2023, foreigners who require a visa for a longer stay in Serbia (the co-called visa D) are now allowed, on the basis of that visa, not only to stay, but also to work in Serbia. Visa D is issued upon the foreigner's request, and the decision must be made within 15 days, with the possibility of extension to up to 30 days from the date of submission of complete documentation, if there are justified reasons for it.

Also, the procedure for obtaining temporary residence and a work permit in Serbia has been simplified through the introduction of the so-called integrated permit, i.e. permit for temporary residence and work of a foreigner in the Republic of Serbia. An integrated permit is issued upon the request of either the employer or the foreigner, decided by the competent authority within 15 days from the date of receipt of a complete application. The application must be submitted exclusively online, via the Welcome to Serbia website. The process is handled jointly by the Foreigners Office and the National Employment Service ("NES").

A foreigner holding a visa D may be registered for mandatory social security insurance starting from the date of obtaining the visa, while a foreigner who does not require a visa may be registered only after the approval of the integrated permit request, based on a certificate confirming the initiation of the permit issuance process.

There is a relatively broad set of exceptions under which approved temporary residence allows a foreigner to work without obtaining an integrated permit. These include, for example, family reunification with an immediate family member who is a citizen of Serbia or a foreigner with permanent residence, an integrated permit, or temporary residence; volunteering; ownership of real estate; etc.

POSITIVE DEVELOPMENTS

As of March 2025, in accordance with the Rulebook on Visas and the Rulebook on Submission of Applications for Issuing Visas Electronically and Approval of Visas, it is possible to register a foreigner with a visa D for social security insurance using a temporary registration number, whereas in practice it was possible to register foreigners in the previous period.

REMAINING ISSUES

- In the previous year, by far the biggest challenge in practice has been the significant delay in issuing integrated permits. Namely, although the Foreigners Act prescribes a 15-day deadline from the date of submission of the request for the issuance of an integrated permit, the authorities issued the permits only after an average of three to four months from the date of submission of the complete request, while in some cases it took more than five months. This delay has serious consequences for foreigners who do not need a visa D, because, during this period, they are not able to establish employment relationship, to generate income in Serbia or open a bank account. There are also consequences for the organization of the work of employers, who cannot plan their business.

- Through the Welcome to Serbia website, the Foreigners Office often issues to applicants vague and unclear requests for the supplementation of documentation or requests the resubmission of documents that were already submitted with the initial application. Additionally, there have been instances where the NES has directed foreigners and employers to other authorities regarding requests for additional documentation, citing lack of access to data from the submitted application, instead of the NES and Foreigners Office achieving full mutual cooperation and obtain the necessary information and documentation ex officio, as prescribed by law.

- Submitting a request for a labour market test, which is a necessary step in the process of obtaining an integrated permit based on employment in Serbia, is complicated due to the unreliability of the eUprava system. The request is submitted electronically, via the eUprava website, and can be submitted only by a director using his electronic certificate, or by another person authorised by the director using the same website and his electron-

ic certificate. The director, as a rule, does not want to submit a request for each foreigner individually, however, the eUprava system is unreliable, making it unnecessarily difficult to grant authorisation to another person.

FIC RECOMMENDATIONS

- Strict compliance with the statutory deadline for issuing an integrated permit.
- Improving the operation of the eUprava and Welcome to Serbia websites, and better cooperation and coordination of the authorities that participate in obtaining of the documentation required for issuing an integrated permit.

SECONDMENT OF EMPLOYEES ABROAD 1.00

CURRENT SITUATION

The Act on Conditions for Secondment of Employees to Temporary Work Abroad and their Protection ("Secondment Act") has been in effect since 13 January 2016, regulating secondment of employees abroad by a Serbian employer for the purpose of temporary work or vocational training and development abroad. The Secondment Act defines the following types of secondment: (i) performance of investment and other works and provision of services, pursuant to a business cooperation agreement or another adequate basis; (ii) work or professional training and development at the employer's business units established abroad, pursuant to a secondment enactment or another appropriate basis; and (iii) work or professional training and development in the context of intra-company movement pursuant to an invitation letter, intra-company movement policy or another appropriate basis (which includes secondment to a foreign employer that has a significant equity in the Serbian employer or exerts controlling influence over the Serbian employer, or to such foreign company which is, together with the Serbian employer, under the control of a third foreign company).

The Secondment Act does not apply to business trips abroad which last for up to 30 days continuously or up to 90 days with interruptions within a calendar year. In 2016, the Ministry of Labour issued an opinion which states that the employer can refer its employees to business trips abroad irrespective of the said limitations, if such business trips do not fall under one of the cases (i) – (iii) from the previous paragraph (e.g. business trip abroad for the purpose of negotiations with a potential business partner and concluding a business cooperation agreement).

An employer can second abroad only its employees, and not persons engaged outside employment. The employer and the employee must conclude the amendments to employment agreement regulating the terms of secondment abroad (the mandatory elements are prescribed by the Secondment Act). The employee must be employed at the employer which is seconding the employee for at least three months prior to secondment (except in case secondment assumes work which falls within the employer's core business activity, and if the number of employees to be seconded does not exceed 20% of the total number of employees at the employer; furthermore, the exception also applies in certain cases of secondment to Germany).

An employee may be seconded abroad only with his 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 abroad for justified reasons prescribed by the Secondment Act (e.g. during pregnancy). The initial duration of secondment is limited to 12 months, with the possibility

of extension. In case of secondment of fixed-term employees, the duration of secondment may not exceed the term of their employment, and the time spent on secondment does not count toward the maximum statutory duration of fixed-term employment.

The employer must register the change of the seconded employee's social security insurance ground in the Central Registry of Mandatory Social Security Insurance, and state the host country, as well as any subsequent change of the host country.

POSITIVE DEVELOPMENTS

There were no positive developments in this area in the past period, compared to the previous edition of the White Book.

REMAINING ISSUES

Although the Secondment Act provisions do not apply to business trips abroad the duration of which does not exceed 30 days continuously or 90 days in total within a calendar year, in practice of a large number of employers, this limitation is inadequate when it comes to managerial positions which require frequent business trips for the purpose of performing work for the employer abroad, since the employees who work at managerial positions are often required to be on business trip abroad for more than 90 days in total within a calendar year.

Limiting secondment abroad for the purpose of vocational training and development only to the employer's business units abroad, and only to a group of entities affiliated with the employer based on equity or control, has been disputed in practice. By not allowing secondment for the purpose of vocational training and development at the companies abroad that are not related to the domestic employer based on equity or control, but on some other basis (e.g. contractual relationship), the movement of employees seeking training and development abroad is an unnecessary constraint.

The Secondment Act prohibits secondment abroad of employees under the age of 18 (unless another statute regulates otherwise). This limitation is unnecessary, having in mind that secondment for the purpose of vocational training and development can be useful for employees between the age of 15 (the statutory condition for establishing employment) and 18.

FIC RECOMMENDATIONS

- We recommend extension of the maximum period employees at managerial positions are allowed to stay abroad on the basis of referral to business trip, without application of the Secondment Act to up to 180 days in total within a calendar year, instead of the currently applicable 90 days.
- We recommend allowing secondment abroad for the purpose of vocational training and development also to the entities which are not necessarily related to the employer by equity or control.
- We recommend allowing secondment abroad of employees under the age of 18.

STAFF LEASING 1.00

CURRENT SITUATION

The Staff Leasing Act ("Official Gazette of the Republic of Serbia", no. 86/2019) ("Staff Leasing Act") entered into force on 1 January 2020 and became applicable on 1 March 2020. This is the first time that staff leasing and staff leasing agencies' work are regulated in Serbia. The Staff Leasing Act regulates the rights and obligations of leased employees employed at a staff leasing agency, equal treatment of leased employees regarding certain employment rights and rights arising from work, the conditions for temporary employment, the operation of the agencies, the conditions for staff leasing, the relationship between an agency and a beneficiary and the obligations of an agency and a beneficiary towards leased employees. However, the Staff Leasing Act created certain problems, such as those connected with the notion of comparative employee, the limitation of the number of leased employees who are employed for a fixed term with an agency that a beneficiary can lease, and the presumption of staff leasing.

POSITIVE DEVELOPMENTS

Although there have been no amendments to the Staff Leasing Act, the amendments to the Employment of Foreigners Act ("Official Gazette of the RS", nos. 128/2014, 113/2017, 50/2018, 31/2019, and 62/2023), which came into force on August 4 2023, and became applicable on February 1 2024, introduced a novelty in the field of staff leasing. Namely, the Employment of Foreigners Act now allows for so-called "temporary employment" of a foreigner, i.e. leasing of a foreigner to a beneficiary for temporary performance of work for that beneficiary.

REMAINING ISSUES

The Staff Leasing Act prescribes that a beneficiary can engage leased employees who are on a fixed-term employment contact with the staff leasing agency only if the number of such leased employees does not exceed 10% of the beneficiary's total workforce. This provision has many negative effects. Prior to the adoption of the Staff Leasing Act, one of the reasons for staff leasing was that there are industries in which the volume of workload is uncertain, i.e. there are sudden decreases and sudden increases of workload. In such industries, the beneficiary needs to engage leased employees for a fixed-term, during the increase of the workload, and during such times the number of the leased employees the beneficiary needs can easily exceed 10% of the beneficiary's total workforce. With the adoption of the Staff Leasing Act, this can no longer be done because it is not realistic that staff leasing agencies will employ people for indefinite-term in order to lease them to the beneficiaries for a fixed-term. This leads to an increase in the number of persons engaged on the basis of the agreement on temporary and periodical work (directly or through a youth cooperative). Workers engaged on this basis are less protected than leased employees under the Staff Leasing Act (persons engaged based on the agreement on temporary and periodical work are not guaranteed the same work conditions as comparative employees at the beneficiary). Reduced flexibility in engaging staff in Serbia certainly discourages potential and existing investors. Limiting the number of fixed-term employees that a beneficiary can lease from a staff leasing agency practically obviates the need for staff leasing agencies on the Serbian labour market.

The concept of a comparative employee from the Staff Leasing Act introduces legal uncertainty and potentially leads to the violation of the basic principles of the labour legislation. Namely, the Staff Leasing Act defines a comparative employee by developing the basic idea of the Directive 2008/104/EC (harmonization with the Directive 2008/104/EC was one of the goals when adopting the Staff Leasing Act). However, the Staff Leasing Act prescribes that, when there is no comparative employee at the beneficiary, the leased employee's base salary cannot be less than the base salary of the beneficiary's employees who have the same degree of professional qualification or same qualification level as the leased employee. This solution is not in the spirit of the Directive 2008/104/EC. In addition, a potential consequence of this solution is that leased employees and the beneficiary's employees, who have the same degree of professional qualification, would be entitled to the same base salary even if their jobs are different (the complexity of the job, and responsibility are not taken into account). This is contrary to the equal pay for equal work principle.

The Staff Leasing Act introduces the presumption of staff leasing, according to which a person who does the work for the beneficiary or at the beneficiary's prem-

ises but has an employment agreement or other type of engagement agreement with another employer, is considered a leased employee unless proven otherwise. The Staff Leasing Act, therefore, does not recognize situations in which a beneficiary and another employer have a business cooperation agreement, service agreement, construction agreement etc., on the basis of which the employees of another employer work for the beneficiary or at the beneficiary's premises. The possibility to rebut the presumption ("unless proven otherwise") does not offer sufficient legal certainty, i.e. it unnecessarily shifts the burden of proof to the beneficiary. Having in mind that the Staff Leasing Act defines staff leasing in detail, and determines who can be considered a leased employee, the staff leasing presumption is unnecessary, and can result in practice in unwarranted misdemeanour proceedings and expose the beneficiaries to unnecessary costs of overturning the statutory presumption.

FIC RECOMMENDATIONS

- We recommend deletion of Article 14 of the Staff Leasing Act, which limits the number of employees employed at the staff leasing agency on a fixed-term basis that a beneficiary can lease.
- We recommend deletion of Article 2 paragraph 5 of the Staff Leasing Act, which regulates situations in which there is no comparative employee at the beneficiary.
- We recommend deletion of Article 17 of the Staff Leasing Act, which prescribes the staff leasing presumption.

HUMAN CAPITAL 1.00

CURRENT SITUATION

Human capital in Serbia is one of the most important resources for the economic growth and development of our country. In the past period, a certain improvement of the educational system was visible, which contributed to the increase of better qualifications of the workforce. The country's universities and colleges offer a wide range of programs and occupations, and there is a visible increase in the number of young people completing higher education. However, Serbia is facing serious challenges such as brain drain, where highly skilled labour goes abroad in search of better business opportunities and life. This directly affects the reduction of labour availability within the country.

Highly skilled people, as well as people with a lower level of education for basic jobs, are very challenging to hire and retain because they leave the country trying to find better paying work abroad. On the other hand, there is a constant need for additional investments in training, development and improvement of the workforce to respond to the changes and demands of the modern labour market. All activities aimed at encouraging entrepreneurship, developing the IT sector, promoting education and greater involvement of young people in innovative projects can significantly improve the state of human capital in Serbia and contribute to long-term economic growth.

In the first quarter of 2025, the employment rate increased to 51.4% (Republican Bureau of Statistics - Labour Force Survey, Q1 2025) while the unemployment rate was 9.1%.

The participation of the active population in the labour market also increased to 56.6%, which indicates a slight increase in economic activity.

A drop in informal employment was also recorded to 11.5% in total, i.e. 6.0% in non-agricultural activities.

In addition to all of the above, the situation on the labour market is becoming more and more challenging. In the previous period, the biggest challenge for companies was

finding and attracting candidates, as well as retaining existing employees. Such a trend is visible for a longer period of time. He points out that companies have big challenges on how to keep existing employees on the one hand, and on the other hand how to attract better candidates from the labour market. The educational structure and the labour market point to the fact that it is challenging to find candidates who can meet the challenges in high, professional and strategic positions, while there are more and more challenges in finding candidates for lower executive positions as well. Retaining highly skilled workers and developing own resources are still very popular trends, given the market conditions.

Also, despite a slight drop in the brain drain index from 6.0 (2023) to 5.9 (2024), the departure of young, educated people is still a serious challenge (TheGlobalEconomy.com – Human Flight & Brain Drain Index).

The lack of employees is felt in all industries. This deficiency is evident both in the number of necessary executors and in their professional structure. There is a noticeable lack of competence, knowledge and skills for various positions in all activities. These problems become major organizational challenges for companies.

A special challenge is the increase in total labour costs due to the growth of average wages by about 13% compared to the same period last year (Trading Economics - Serbia Wages Growth).

Another visible segment that we accepted from the previous period was working from home as an important benefit that employees often use. This type of work ceases to be dominant, and its representation is rapidly decreasing. The reasons for this are different, and from the IT industry that used it the most, it becomes just one benefit and the possibility to allow employees to work from home 1-2 times a week.

This trend further strengthened in 2025 - working from home is still present, but as a selective convenience, not a standard way of working (sources: business portals, FIC HR Committee).

The unemployment rate varies in the territory of the Republic of Serbia, which, in many ways, reflects the state of the economy in different parts of the country, and unemployment is still the lowest in the territory of Vojvodina, which is why employers in the territory of this autonomous province face a great challenge in the recruitment and selection of suitable personnel.

Also, some municipalities in eastern and southern Serbia are experiencing an increasing challenge, which are experiencing an increase in young people who are not involved in education or work - the so-called The NEET population (15–29) is 15.7% in Q1 2025 (Republican Bureau of Statistics).

The unemployment rate in the entire country in the first quarter of 2024 was around 10.1%, while employers have increasing challenges to find, attract and retain the workforce, especially quality candidates, especially in the field of IT where major changes and movements are visible that have led to employers becoming more cautious when investing in new technologies and hiring more people.

This prudence continued in 2025, and in addition to selective hiring, there is also a greater investment in upskilling and reskilling of existing employees (FIC and HR company reports).

Finally, despite the economic crisis that has affected the whole world, the minimum wage in Serbia has been increased in 2025 as well - from 230 to 271 dinars per hour, that is, from 40,020 to 47,154 dinars per month (Government of the Republic of Serbia, decision on the minimum wage in 2025).

POSITIVE DEVELOPMENTS

Certain changes related to the state's efforts to support employment in all industries are visible.

In 2025, the Government of the Republic of Serbia continued the implementation of active employment measures in cooperation with the National Employment Service (NES), which include subsidies for self-employment, vocational training programs, public works, as well as programs aimed at groups that are more difficult to employ (NES programs for 2025).

The budget for active employment measures in 2025 amounts to 7.5 billion dinars, which is an increase compared to the previous year, and enables the inclusion of more than 20,000 unemployed persons in various forms of support (NES, 2025).

The focus of the program is increasingly moving towards dual education and connecting the education system with the labour market, through projects in partnership with the economy, especially in the manufacturing, craft and IT sectors.

From 2025, it is mandatory to include the economy in the development of high school curricula in technical profiles, in accordance with the new Law on Dual Education (Ministry of Education of the RS, 2025).

Special attention is paid to the development of digital skills and retraining in the IT sector through the continuation of the "My First Salary" and "IT Retraining" programs in cooperation with EIB and private partners, whereby trainings are oriented to the specific needs of employers - Digital Agenda 2025.

In 2025, measures to support returnees from the diaspora were intensified - including tax breaks for companies that employ them, as well as grants for self-employment for returnees from abroad, in cooperation with UNDP and IOM (International Organization for Migration) (IOM Serbia, 2025).

The digitization of the labour market and the competence base, as well as the improvement of the online platform of the NES, contributed to greater availability of information on vacancies and the matching of supply and demand, thus increasing the efficiency of employment.

In addition, employment programs for young people under 30 now include more specialized training and certification – including green skills, energy management and sustainable development, in line with Serbia's climate goals and green agenda (GIZ and Ministry of Environmental Protection, 2025).

A particularly encouraging trend is the increase in the number of female entrepreneurs, thanks to programs supporting female entrepreneurship, which include credit lines with subsidized interest and mentoring support (sources: Development Fund, EIB and Development Agency of Serbia).

REMAINING ISSUES

Despite the numerous efforts of the Government and the legislation to stand in the way of the negative appearance of the problem of the grey economy and illegal work, it is still very current.

According to data for the first quarter of 2025, about 11.5% of employees work in the grey zone, and in non-agricultural sectors that share is 6% (RZS - Labour Force Survey, Q1 2025).

This phenomenon is particularly pronounced in small and medium-sized enterprises in the hospitality, construction and agriculture sectors.

The number, age structure and qualifications of labour inspectors are one of the key challenges that the state must face.

At the level of the whole of Serbia, inspection services do not have sufficient capacity to effectively cover the growing number of economic entities, especially in rural areas and unregistered zones.

Unfair competition, unfair market competition in various, especially low-profit industries and a large number of economic entities that do not fulfil basic legal and fiscal obligations towards employees and the state, as well as unpredictable labour costs, represent a major obstacle to the development of the market as well as human capital.

The education system still needs to be improved and better connected with the business community.

Despite the advances through dual education and the introduction of more flexible profiles, there is still a significant gap between the needs of the economy and the offer of educational institutions.

In this way, the gap between education and the needs of employers would be reduced, and the image of the Republic of Serbia as a desirable investment location would be improved.

Digital and green skills have not yet been systematically introduced into secondary education, and higher education is slow to react to changes.

It is necessary to promote more the importance of education at all levels, because it is a generator of the development of society, economy and the whole country.

Dropout rates and NEET rates (15-29 years - 15.7%) further indicate insufficient motivation and the connection between schooling and employment prospects (RZS, 2025).

It is necessary to encourage the trend of rejuvenating the population as well as stimulate the migration of human capital within the Republic of Serbia in order to equally develop underdeveloped areas and thereby reduce the gap in the needs of the economy in different parts of the country.

Internal migration is still more motivated by migration to larger urban centres, while rural and underdeveloped areas record a decline in the working age population.

The decision of foreign investors to enter the market of a certain country is conditioned by the quality and structure of the labour force in the market as well as clear labour costs.

With the current situation and the planned amendments to the Labour Law, there is a great need for amendments to the Law in various areas.

In particular, the need to regulate remote work, flexible forms of work, additional work, as well as mechanisms for the protection of workers engaged through contracts outside of employment is highlighted.

FIC RECOMMENDATIONS

- The education system should continue to be improved. For that, it is essential to establish regular contact between the Council and the Government, the ministries responsible for education, youth and sports, as well as with universities. The Council and the business community in Serbia are ready to provide support and make available their expertise and based on the analysis of the needs of the economy and the real sector, create and establish new educational profiles, as well as regularly correct enrolment quotas at all faculties in accordance with the needs of the market.
- Define the legal framework for the employer-student relationship with the aim of simplifying the application of students' professional practice during regular schooling, including the creation of a contract model and tax relief for employers.
- Define the legal framework for the training of highly educated persons for independent work in the profession, regardless of the acquisition of the requirements for taking a professional exam or doing an internship, which would enable their faster inclusion in the labour market.
- The employment action plan of the National Employment Service will define, redefine and expand the range of educational profiles that will be covered by the employment policy, especially in the field of digital skills, green economy and health care.
- Create a plan for the internal migration of human capital within the territory of the Republic of Serbia, with support through subsidies for resettlement, housing and employment in less developed parts of the country.
- Reduce the burden on labour through tax reforms - especially wage contributions, in order to stimulate legal employment and reduce the shadow economy.
- Legally define and standardize all aspects of working from home, including working conditions, safety and health, as well as reimbursement of expenses and working time.
- Facilitate and promote supplementary work, including the possibility of additional engagement of employees in accordance with the needs of the economy and the legal protection of workers' rights.

OCCUPATIONAL HEALTH AND SAFETY 1.00

CURRENT SITUATION

The Law on Occupational Health and Safety (the Law) was adopted on 28 April 2023 and entered into force on 7 May 2023, providing employers with a two-year transitional period for compliance. By-law adoption was set for 18 months from the effective date. To date, four rulebooks have been enacted: on risk assessment at the workplace, inspection and testing of work equipment and electrical installations, recordkeeping, and preventive measures for working at height. Their application has been postponed to 1 January 2026 to ensure efficient implementation, with the support of the Chamber of Commerce of Serbia and the Employers' Union of Serbia, both of which have called for timely compliance.

However, during expert panels and conferences held on the application of the Law and related by-laws, employers have expressed significant uncertainty, particularly regarding strict classification of high-risk workplaces (e.g., operation of internal transport equipment, vehicle driving, etc.), issuance of work permits, and frequency of medical examinations for employees operating vehicles.

POSITIVE DEVELOPMENTS

Key improvements include clear definitions of work from home and remote work, increased awareness through training, introduction of work permits for high-risk activities, strengthened competence of occupational health and safety advisors through mandatory continuous training, recognition of electronic records, mandatory employee insurance for work-related injuries and occupational diseases, and an enhanced role of the Labour Inspectorate. However, the effects of the Law are not yet visible and will largely depend on employers' ability to align their operations by the extended deadline for implementing subordinate regulations, as well as on inspection oversight and the willingness to consistently enforce the Law's provisions across all sectors.

The introduction of electronic records and registers of workplace injuries represents a step toward reducing the administrative burden on specialists and increasing the efficiency of government bodies. Clear delineation of the roles of safety and health advisors and associates, definition of their competencies, setting minimum numbers relative to the activity and number of employees, as well as the introduction of licensing, establishing the foundation for improving expertise through mandatory and continuous professional development.

The Law replaces the term "competency-based training" with "training", raising occupational safety standards. Emphasis is placed on periodic instruction — annually for high-risk roles and every three years for other positions. Additional instruction is mandatory in cases of process changes, serious/imminent risk, serious or fatal injuries, and for employee representatives, managers, and users of personal protective equipment. The Law also introduces an obligation for employers to ensure that only employees with appropriate instructions and work permits have access to hazardous zones. Furthermore, the regulation on medical examinations has been expanded—alongside initial, periodic, and control exams, targeted medical examinations have been introduced. Employers are required to refer employees for a medical check-up at their request at least once every five years, in accordance with the assessed risks.

The Law also requires employers to adopt a workplace safety and health rulebook that, in line with the specific nature of their business, clearly regulates the rights, obligations, and responsibilities related to occupational health and safety, as well as the monitoring and enforcement of safety measures, to ensure effective implementation of safe and healthy working conditions.

REMAINING ISSUES

Legal uncertainty and regulatory gaps persist regarding work from home and remote work. The Law currently only defines these work models and sets out a few general rules, without regulating mutual rights and obligations between employees and employers. It remains unclear whether further regulation will be provided through by-laws. The current regulatory framework allows employers greater flexibility and competitiveness in the labour market, but clearer guidelines are needed. Since these work models are performed in environments not directly controlled by the employer, it is necessary to adopt by-laws that define the minimum obligations of both employers and employees, with the involvement of business community representatives in their drafting. It is particularly important to regulate the distinctions from employer's premises, especially regarding working conditions, risk assessments, and preventive measures.

Risks related to enforcing occupational safety in work

from home/remote work require further legislative attention. The constitutional right to the inviolability of the home limits employers' ability to directly inspect such workspaces. However, this must not obstruct clear regulation of safety obligations, such as proper electrical installations, lighting, accessibility, and ergonomics. This calls for greater employee involvement and clearly defined responsibilities adapted to work outside employer's premises. Additional challenges arise with frequently changing work locations, especially cross-border remote work, which is generally not covered by current legislation and complicates the application of standard safety measures.

Workplace injuries occurring during work from home or remote work introduce a range of legal and practical ambiguities. Due to the constitutional protection of home's inviolability, employers lack the ability to verify injury sites, relying solely on employee statements, which complicates determining cause and context. It is also necessary to prescribe specific codes for reporting such injuries, along with a clear procedure for their reporting and verification. Additionally, it should be clarified whether the term "workplace" refers exclusively to the part of the home where contracted work is performed, or also includes other areas of the residence.

FIC RECOMMENDATIONS

It is necessary to harmonize the regulations concerning the frequency of medical examinations for employees who operate vehicles. The Law classifies vehicle operation as a high-risk position, requiring annual medical check-ups. However, the Road Traffic Safety Law mandates such examinations for drivers every three years. This inconsistency results in employees such as sales representatives being subject to stricter health monitoring than professional heavy vehicle drivers. Amendments to the laws and/or the adoption of by-laws are needed to resolve these discrepancies.

Amendments to the Law and/or adoption of by-laws concerning working from home and remote work. The Law provides for the adoption of by-laws to further regulate specific aspects of occupational health and safety. In this context, it is recommended that, to the extent possible, the by-laws also cover the specific conditions of home-based and remote work, particularly:

- The process for drafting a risk assessment act for work performed from home or remotely;
- Procedures for implementing preventive measures and mechanisms for monitoring their application, including identifying the causes of work-related injuries (especially regarding workplace ergonomics, lighting, microclimate, adequate equipment, accessibility, stress management, maintenance, electrical installations, fire protection, prohibited activities and behaviours, and employee actions in case of injury);
- Training of employees for safe work from home/remote locations and the digitalization of training and related administrative procedures;
- A clear division of rights, obligations, and responsibilities between employer and employee concerning the implementation of occupational health and safety measures for work from home and remote work;
- If these issues cannot be fully regulated by by-laws, it is recommended to amend the Law, given the increasing prevalence of these work models and the need to ensure safe and healthy working conditions;
- When drafting such regulations, it is essential to involve representatives of the business community to reflect practical experience and avoid overly rigid or impractical rules. All processes should also align with the broader objective of legal digitalization.