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INFO-LETAK br. 04/2016

Test tržišta rada pri zapošljavanju stranaca

Zakon o zapošljavanju stranaca („Sl. glasnik RS“ br. 128/2014; „Zakon“) koji je stupio na snagu 04. decembra 2014. godine propisuje uslove i postupak zapošljavanja stranaca u Republici Srbiji („Srbija“).

Zakon kao neophodan uslov za rad stranaca u Srbiji predviđa obavezno posedovanje (1) lične radne dozvole ili (2) jedne od tri vrsta radne dozvole (radne dozvole za zapošljavanje, radne dozvole za posebne slučajeve zapošljavanja ili radne dozvole za samozapošljavanje). Pritom, radnu dozvolu za zapošljavanje („RD za zapošljavanje“) izdaje Nacionalna službe za zapošljavanje („NSZ“) na zahtev poslodavca u slučaju kada stranac ima odobrenje za privremeni boravak na teritoriji Srbije.

Radi dalje primene Zakona ministarstvo nadležno za poslove rada usvojilo je 17. novembra 2015. godine novi Pravilnik o dozvolama za rad („Sl. glasnik RS“ br. 94/2015; „Pravilnik“) čijim stupanjem na snagu je prestao da važi pravilnik iz 2014. godine.

Pravilnik pored liste neophodnih dokumenata za izdavanje svih dozvola za rad propisuje i jednu specifičnu obavezu za poslodavca pri izdavanju RD za zapošljavanje. Naime, pre podnošenja zahteva za izdavanje RD za zapošljavanje poslodavac je obavezan da pokrene postupak „test tržišta rada, odnosno posredovanje u zapošljavanju“ („test tržišta rada“) za konkretno radno mesto. Ovaj postupak poslodavac pokreće na osnovu zahteva NSZ-u najranije 60, a najkasnije 30 dana pre izdavanja RD za zapošljavanje.

Nakon podnošenja zahteva NSZ-u za posredovanje u zapošljavanju, NSZ sprovodi test tržišta rada tako što utvrđuje da li se na evidenciji nezaposlenih nalaze nezaposlena lica koja odgovaraju zahtevu poslodavca za konkretno radno mesto i ista upućuje poslodavcu. O radnjama koje preduzme NSZ sačinjava izveštaj o realizaciji potrebe za zapošljavanjem („izveštaj“) koji dostavlja poslodavcu koji je dužan da u roku od 15 dana obavesti NSZ o postupanju po istom.

NEWSLETTER no. 04/2016

Labour market test in employment of foreigners

Law on Employment of Foreigners (“Official Gazette RS“ no. 128/2014; “Law”) that entered into force on 04 December 2014 prescribes the conditions and procedure for employment of the foreigners in Republic of Serbia (“Serbia”).

As a necessary condition for work of foreigners in Serbia the Law prescribes mandatory possession of (1) personal work permit or (2) one of the three types of work permits (employment permit, work permit for special cases of employment or work permit for self-employment). Employment permit (“Employment Permit”) is issued by the National Employment Service (“NES”) upon the request of the employer in case when the foreigner has a temporary residence permit in the territory of Serbia.

For the purpose of further implementation of the Law the Ministry responsible for labour matters adopted on 17 November 2015 new Rulebook on Work Permits (“Official Gazette of RS” no. 94/2015; “Rulebook”) that abolished respective rulebook from 2014.

In addition to the list of necessary documents for issuance of all work permits, the Rulebook prescribes one specific condition for issuance of the Employment Permit. Namely, an employer is obliged, prior to submitting of the request for issuance of the Employment Permit, to initiate the procedure of “labor market test, i.e. employment intermediation” (“Labor Market Test”) for particular work place. Employer initiates this procedure before the NES at the earliest 60 days, but no later than 30 days before the issuance of the Employment Permit.

Following the submission of the request to the NES for employment intermediation, the NES conducts Labor Market Test by determining whether there are unemployed persons who are registered in unemployment register, who correspond to the employer’s request for the specific work place and then refers such employees to the employer. NES drafts a report on implementation of employment needs (“Report”) about the undertaken actions and that Report delivers to the employer who is obliged to notify NES on undertaken actions within

Pritom, ukoliko NSZ utvrdi da se na evidenciji nezaposlenih lica nalaze nezaposlena lica koja odgovaraju zahtevima poslodavca za konkretno radno mesto, poslodavac je dužan da uzme u razmatranje i njih (npr. da obavi intervju sa njima). Međutim, ukoliko poslodavac u toku postupka zapošljavanja nađe da strani državljanin više odgovora njegovim potrebama slobodan je da odluči da radno angažuje stranog državljanina, s tim da je u tom slučaju dužan da u odgovoru na izveštaj obrazloži takvu svoju odluku. Nakon dobijanja odgovora na izveštaj od strane poslodavca NSZ izdaje potvrdu kojom odobrava, odnosno ne odobrava radno angažovanje stranog državljanina za konkretno radno mesto.

Pritom, Pravilnik ne propisuje ni jedan izuzetak kada se test tržišta rada ne mora sprovesti, pa čak i u situacijama kada poslodavac želi da radno angažuje stranca koji poseduje određena specifična znanja ili veštine (npr. menadžment društva). Međutim, radno angažovanje menadžmenta društva je moguće i bez sprovođenja testa tržišta rada u slučaju kada stranac podnosi zahtev za dobijanje radne dozvole za upućena lica (tj. lica zaposlena kod stranog poslodavca koja se upućuju u Srbiju radi obavljanja poslova ili vršenja usluga na teritoriji tSrbije) ili radne dozvole za kretanje u okviru privrednog društva - u slučaju upućivanja, odnosno premeštanja lica u ogranak društva ili zavisno odnosno povezano privredno društvo u Srbiji.

15 days after receiving of such Report.

Thereby, if NES finds that there are unemployed persons in unemployment register who correspond to the employer's request for specific work place, employer is obliged to take into consideration these persons (for example, to interview them). However, if employer during employment process finds that foreigner is more suitable to its needs, employer is free to decide to engage foreigner. In that case employer is obliged to explain this decision in answer to the Report. After receiving the response to the Report by the employer the NES issues a certificate by which it approves or rejects the employment of foreigner for specific work place.

The Rulebook does not prescribe any exception when the Labor Market Test is not mandatory, even in situations where employer wants to engage a foreigner who has certain specific knowledge or skills (i.e. company management). However, engagement of the company's management is possible without conducting the Labor Market Test in case where foreigner applies for a work permit for assigned persons (i.e. employees employed by a foreign employer who are assigned to Serbia to perform jobs or render services in the territory of Serbia) or work permit for moving within a company – in case of assignment or relocation of persons in a branch of the company or in an affiliated company in Serbia.

Za više informacija o ovome kontaktirati



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