

# THE LABOUR LAW

("Official Herald of the Republic of Serbia" No. 70/2001, of 13 December 2001)

## I GENERAL PROVISIONS

Subject Matter

### Article 1

The rights, obligations and responsibilities pursuant to employment shall be regulated by law and a special law, in accordance with the ratified international conventions.

The rights, obligations and responsibilities specified in para. 1 of this Article shall be regulated by a collective agreement or book of work rules (hereinafter: general act), or a contract of employment.

### Article 2

The provisions of this Law shall apply to all persons employed on the territory of the Republic of Serbia, with national or international legal entity or physical person (hereinafter: the employer) and employees who have been assigned to work abroad by their employer.

The provisions of this Law shall also apply to the employees in the state bodies and organisations, bodies and organisations of the units of territorial autonomy and local self-government and public services, unless otherwise prescribed by the law.

The provisions of this Law shall also apply to the foreign citizens employed with an employer on the territory of the Republic of Serbia, unless otherwise prescribed by the law.

### Article 3

The rights, obligations and responsibilities shall be regulated by the book of work rules or contract of employment if none of the trade unions fulfil the conditions for representation in accordance with Article 137 and 138, para. 1 of this Law, or if the trade unions failed to conclude an agreement on association in accordance with Article 140 of this Law, or if the participants in a collective bargaining fail to reach an agreement on concluding the collective agreement.

The book of work rules and the contract of employment have to be in accordance with the law, and in respect of employer specified in Article 149 of this Law, it shall also be in accordance with both general and special collective agreement.

The book of work rules shall be issued by the employer.

## Definitions of Certain Terms

### Article 4

In this Law, an employee shall mean a natural person employed with an employer.

In this Law, an employer shall mean national or foreign legal entity and natural person.

### Article 5

In this Law, a trade union shall mean an independent association of employees on voluntary basis which independently exercises and protects both group and individual rights and interests of employees.

In this Law, an association of employers shall mean an organisation of employers on voluntary basis for the purpose of protection of their interests.

### Article 6

In this Law, the term: general act shall denote all collective agreements and book of work rules.

## Relation between Law, General Act and Contract of Employment

### Article 7

A general act may not contain provisions extending lesser rights to an employee or establish less favourable terms of employment than the rights and terms provided by the law.

The general act and the contract of employment may stipulate more rights and more favourable terms than the rights and terms established by the law, as well as other rights that are not established by law, unless otherwise prescribed by the law.

### Article 8

Particular provisions of the employment contract which establish less favourable terms of employment than the terms provided by the law and general act, and/or those based on false information regarding certain rights, obligations and responsibilities by an employer to an employee, shall be considered null and void.

In the case specified in para. 1 of this Article, both the law and general act shall apply.

## Basic Rights, Obligations and Responsibilities

## Article 9

An employee shall be entitled to corresponding earnings, safety and protection of his/her health at work, health care, protection of personal integrity and other rights in case of illness, diminution or loss of ability to work and old age, to financial compensation during the time of temporary unemployment, as well as to other forms of protection in accordance with the law and general act.

An employed woman shall be entitled to special care in course of pregnancy and delivery.

An employee shall be entitled, in accordance with this Law, to special protection for the purpose of tending for the child.

An employee under 18 years of age and an employed disabled persons shall be entitled to special protection.

## Article 10

Every employee, directly or via his/her representative, shall have the right to be informed and express his/her positions regarding important issues in respect of employment and to participation in bargaining and conclusion of collective agreements.

A representative of the employees may not be held responsible for activities specified in para. 1 of this Article if acting in accordance with the law and collective agreement.

## Article 11

An employer shall be obliged to pay to the employee the earnings fore the work performed, in accordance with the law, general act or a contract of employment.

An employer shall be obliged to provide to employees the working conditions adequate for protection of their life and health, in accordance with the law and other regulations.

An employer shall be obliged to inform his/her employees, prior to commencement of the work, about the conditions of work, organisation of work, rights and obligations pursuant to the regulations regarding employment and safety and health protection at work.

## Prohibition of Discrimination

## Article 12

A person seeking employment, as well as an employed person, may not be treated less favourably than the others, regardless of sex, birth, language, race, ethnicity, religion, marital status, family obligations, political or other beliefs, social background, financial

status, membership in political organisations, trade unions or any other personal characteristic.

## **II ESTABLISHING EMPLOYMENT RELATION**

### Conditions for Establishing Employment Relation

#### Article 13

An employment relation may be established with a person who has a general health ability to work, who is at least 15 years old and meets other conditions for performing certain jobs, established by the relevant act issued by the employer.

The act specified in para. 1 of this Article shall establish the type of job, professional qualifications and other special conditions for engaging in such jobs.

A person under 18 years of age may be employed on the ground of a written approval by either a parent or a guardian, provided that such work does not endanger his/her health, moral and education, or provided that such work is not prohibited by law.

Disabled persons shall establish employment relation under the conditions and in the manner specified by this Law, unless otherwise laid down by a special law.

#### Article 14

An employee shall inform the employer, prior to entering a contract of employment, of his/her health condition and other circumstances that significantly influence his/her performance of jobs covered by the employment relation, or that may endanger life or health of other persons.

An employer shall not make the conclusion of a contract of employment dependent on the pregnancy test.

Should an employee fail to act in accordance with para. 1 of this Article, the employer may quit his/her contract of employment.

#### Article 15

A foreign national or a stateless person may establish employment relation under the conditions specified by this Law and a special law.

### Contract of Employment

#### Article 16

The employment relation is established by a contract of employment.

A contract of employment shall be concluded between an employee and an employer.

An employee shall, when establishing employment relation, submit to the employer documents proving that he/she meets the conditions for work.

#### Article 17

A contract of employment may be either for definite or indefinite period of time.

A contract of employment that does not specify the time period of duration of employment shall be considered a contract for an indefinite period of time.

#### Article 18

A contract of employment shall be made in writing prior to commencement of the work of an employee.

Should an employer fail to sign the contract of employment with the employee in accordance with para. 1 of this Article, it shall be considered that the employee has established the employment relation for an indefinite time period, as of the day of commencement of work.

#### Article 19

A contract of employment shall include the following:

- 1) name and head office of employer;
- 2) first and last name of employee, residence and/or address of the employee;
- 3) professional qualification and occupation of employee;
- 4) type and description of jobs to be performed by the employee;
- 5) place of work;
- 6) duration of the contract of employment for a definite period of time;
- 7) day of the commencement of work;
- 8) earnings, time-limits for the payment of earnings and other incomes to which the employee is entitled;
- 9) daily and weekly working hours;

A contract of employment may also stipulate other rights and obligations.

The appropriate provisions of the law and general act shall apply to the rights and obligations not established by a contract of employment.

#### Commencement of Employment

##### Article 20

Should an employee fail to begin working on the day established by contract of employment, it shall be considered that he/she failed to establish the employment relation, unless he/she was prevented from beginning to work due to justifiable reasons or unless otherwise arranged between the employer and employee.

##### Article 21

An employee shall have the rights and obligations pursuant to the employment relation as of the day of commencement of employment.

#### Probation Work

##### Article 22

A probation work may be stipulated in the contract of employment.

The probation work may last for the maximum of three months.

In course of probation, the employer and the employee may terminate the contract with the notice period.

The notice period referred to in para. 3 of this Article shall be at least five working days.

An employee, who during the probation work failed to present appropriate working and professional abilities, shall have the employment relation terminated as of the day of expiry of the time period set forth by the contract of employment.

#### Employment for a Definite Period of Time

##### Article 23

Employment relation may be established for a definite period of time for the purpose of performing specific jobs only for a period which uninterruptedly or with interruptions may last for the maximum of three years.

The interruption specified in para. 1 of this Article shall not include the interruption of work of less than thirty working days.

An employment for a definite period of time, for the purpose of replacing a temporarily absent employee, may be established for the period until the temporarily absent employee returns.

An employment established for a definite period of time shall become employment for an indefinite period of time if an employee continues to work for at least 5 working days upon the expiry of the time period specified for the particular employment relation.

#### Employment for Performing of Higher Risk Jobs

##### Article 24

An employer may make a contract of employment for the jobs where special conditions of work are prescribed, only if the employee meets the conditions for work at such job.

An employee may work on the jobs specified in para. 1 of this Article only on the ground of the previously established health ability to work at such jobs by a competent medical institution.

The Law on Pension and Disability Insurance shall establish the special rights for employees at such jobs.

#### Part Time Employment

##### Article 25

An employment may also be established as a part time employment for either indefinite or definite period of time.

##### Article 26

A part time employee shall have the right to mandatory social insurance and all the rights pursuant to the employment relation, proportionally to the time period spent at work, unless the law, general act or contract of employment stipulate otherwise.

##### Article 27

An employee who is working part time with one employer may for the rest of his/her working hours enter employment with another employer and therewith establish the full time employment.

#### Employment for Performing of Jobs outside Employer's Premises

## Article 28

Employment may be established for the purpose of performing jobs outside employer's premises.

The contract of employment made in terms of para. 1 of this Article shall, apart from the provisions specified in Article 19 of this Law, contain the following:

- 1) working hours in accordance with the standards of employment for a person employed for a definite period of time;
- 2) type of work and the manner of work organisation;
- 3) terms of work and manner of supervision over the work of an employee;
- 4) the amount of earnings for the work performed and the specification of pay-days;
- 5) the use and applying of means of work by the employee and the compensation for their use;
- 6) reimbursement of other expenses of work and the manner of their determination;
- 7) other rights and obligations.

## Article 29

An employee may perform the work outside employer's premises, alone or with other members of his/her immediate family, on behalf and for the account of the employer.

Members of the immediate family of an employee in terms of para. 1 of this Article shall include a spouse and children, parents, brothers and sisters of the employee or his/her spouse.

## Article 30

An employer may contract work outside his/her premises which is not dangerous or hazardous to the health of the employee or other persons, and which is environmentally friendly.

## Employing of Household Help

## Article 31

An employment may be established for performance of the household help.

A contract of employment specified in para. 1 of this Article may stipulate the payment of a portion of the earnings also in kind.

The payment of the salary in kind shall include accommodation and food and/or either the accommodation or food.

The value of the portion of earnings in kind, shall be expressed in money.

The lowest percentage of earnings that has to be calculated and paid in money, shall be established by the contract of employment.

If the contract stipulates payment of earnings partially in money and partially in kind, for the time period of absence from work, the employer shall be obliged to pay the employee the compensation in money.

#### Article 32

The contract specified in Articles 28 and 31 of this Law shall be registered with the appropriate local self-government agency.

#### Trainees

#### Article 33

An employer may employ a person, to be employed for the first time, as a trainee in the profession such person was educated for, if so stipulated as a requirement for working on certain positions by the law or the act specified in Article 13 of this Law.

The duration of traineeship shall not exceed one year, unless otherwise prescribed by law.

In course of traineeship, a trainee shall have the right to earnings and all other rights pursuant to the employment relation, in accordance with the law, general act and the contract of employment.

### **III WORKING HOURS**

#### Full-Time Employment

#### Article 34

Full-time employment shall not exceed forty hours a week, unless otherwise specified by this Law.

The full-time employment in respect of a person under 18 years of age may not be established for the duration longer than thirty-five hours a week.

## Part-Time Employment

### Article 35

Part-time employment in terms of this Law shall mean shorter than full-time working hours, in accordance with Articles 25 and 26 of this Law.

## Reduced Working Hours

### Article 36

Hours of work shall be reduced, for not more than 10 hours a week, in proportion to the harmful influence of working conditions on the health and working ability of the employee, in jobs which are particularly heavy, exhausting and hazardous to health (higher-risk jobs), as established by law or general act, where in spite of applying of safety measures at the work place, including individual protection means and equipment proves insufficient.

The reduced hours of work specified in para. 1 of this Article shall be determined on the ground of a professional analysis and in accordance with the law.

An employee working reduced hours, in terms of para. 1 of this Article, shall have all the rights otherwise provided for the full-time employment.

## Overtime Work

### Article 37

In case of force majeure, a sudden increase in the scope of work and in other cases imposing the need of finishing an unplanned work within a specific time-limit, an employee shall work, at employer's request, beyond the full time (hereinafter: overtime).

The employee may not work overtime longer than four hours a day, and at most twohundred and forty hours in a calendar year.

### Article 38

The duty hours in medical institutions, as overtime, shall be regulated by a special law.

## Work Time-Table

### Article 39

There shall be five working days in a working week.

The work time-table within a working week shall be determined by employer.

A working day, as a rule, shall last eight hours.

#### Article 40

By exception to Article 39, para. 1 of this Law, an employer, where the work is performed in shifts, by night or when the nature and the organisation of work so require, may organise working week in another manner.

The employer shall be obliged to notify the employee about the schedule and change in work time-table at least seven days prior to the commencement of the work.

#### Re-scheduling of Work Time-Table

#### Article 41

An employer may re-schedule the working hours when the nature of the activity, organisation of work, better use of the means of work, more rationalised use of the hours of work and performance of a specific job within the set time-limits so requires.

In cases specified in para. 1 of this Article, the re-scheduling of working hours shall be done in such manner that the total working hours of an employee in a calendar year does not exceed the average full time working hours.

#### Article 42

In case of re-scheduling of working hours, the hours of work in a week shall not exceed 60 hours.

The re-scheduling of the working hours as specified in Article 41 of this Law shall not be considered overtime.

#### Article 43

In respect of the jobs with the reduced working hours, in conformity with Article 36 of this Law, there may be no re-scheduling of working hours.

#### Article 44

In conformity with Article 41 of this Law, an employee working for a certain period in a calendar year longer, and for another less than the full time working hours, may have his/her daily and weekly rest breaks re-scheduled in a different way and for a different period, with the proviso that the time of both daily and weekly rests is provided in the law, for the period not exceeding 30 days.

During the work at the jobs specified in para. 1 of this Article, an employee shall be entitled to at least ten hours rest without interruption between two working days.

#### Article 45

The re-scheduling of working hours in respect of a person under 18 years of age shall be prohibited.

An employer may re-schedule the working hours in respect of a pregnant woman and a parent with a child younger than 3 years of age or with a child with a grave psychophysical disability, only after obtaining a written consent by the employee.

#### Article 46

An employee, whose employment is terminated before the rescheduled time period has expired, shall be entitled to the overtime recalculated as full working hours and recognised as a pension period or counted as overtime working hours.

#### Night-time Work

#### Article 47

The work between the hour of ten in the evening and six in the morning of the next day shall be considered night time work.

Where the work is organised in shifts, an alternation of shifts shall be provided in such a manner that the employee works nights consecutively for one week at most.

An employee may work nights for more than one week with his/her written consent.

### **IV REST PERIODS AND LEAVES**

#### Rest Periods in Course of Daily Work

#### Article 48

A full time employee shall be entitled to a rest period of a minimum 30 minutes in course of working day.

An employee who works longer than four and less than six hours a day shall be entitled to a daily rest period in course of work of a minimum 15 minutes.

The rest period in course of the daily work may not be used either at the beginning or at the end of the working hours.

The rest period specified in paras. 1 and 2 of this Article shall be counted into the working hours.

## Article 49

Should the nature of a job be incompatible with interruption of work as well as in case of direct working with clients, the daily rest period shall be organised in such a way that the work may be performed without interruption.

The decision on scheduling the daily rests shall be rendered by the employer.

## Daily Rest

## Article 50

An employee shall be entitled to a daily rest of a minimum of twelve straight hours between two consecutive working days, unless otherwise prescribed by this Law.

## Weekly Rest

## Article 51

An employee shall be entitled to a weekly rest for a minimum of twenty-four straight hours, while should it be indispensable to work on the day of his/her weekly rest, one day of rest shall be provided to such employee in course of the subsequent week.

## Annual Leave

### Acquisition of Right to Annual Leave

## Article 52

An employee who is employed for the first time or who has interrupted the work between two employments for more than five working days shall acquire the right to annual leave after completing six months of continuous work.

Continuous work shall also include a temporary inability to work, pursuant to the health insurance regulations as well as the paid absence from work.

An employee may not waive his/her right to annual leave, nor such right may be denied to him/her.

### Length of Annual Leave

## Article 53

For each calendar year an employee shall have the right to no less than 18 working days of annual leave for a period to be determined by general act or contract of employment.

The length of annual leave shall be determined proportionally to the insurance coverage, conditions of work and other criteria determined by the general act or contract of employment.

#### Article 54

In determining the length of annual leave, the working week shall be counted as five working days.

State (and other) holidays, paid absence from work and temporary inability to work in accordance with the health insurance regulations shall not be counted into the annual leave days.

An employee who is temporarily unable to work, in terms of the health insurance regulations, shall be entitled to continue the annual leave at the end of the sick leave.

#### Proportional Part of Annual Leave

#### Article 55

An employee shall be entitled to one-twelfth of annual leave (proportional part) for each month of work in a calendar year:

- 1) if in the calendar year of his/her first employment there is no six month interruption of work;
- 2) if in the calendar year he/she did not acquire the right to annual leave, due to the interruption of employment in terms of Article 52, para. 1 of this Law.

#### Use of Annual Leave in Parts

#### Article 56

An employee may take annual leave in two parts.

An employee who takes annual leave in parts, shall use the first part lasting minimum of two working weeks during the calendar year, and the second part at latest by 30 June of the subsequent year.

#### Teaching Staff Annual Leave

#### Article 57

The length of annual leave for teaching staff in educational establishments shall be determined in accordance with the law.

## Annual Leave Schedule

### Article 58

An employer shall decide on the annual leave schedule by considering the needs of the organisation of work and with the prior consultation with the employee.

The employee shall be served a decision on annual leave at latest 15 days prior to the date of commencement of annual leave.

The employer may alter the annual leave schedule if so required due the nature of work.

## Compensation of Earnings

### Article 59

An employee shall be entitled to compensation of earnings in the amount he would be entitled to for the month in which he/she is on annual leave.

## Compensation of Damage

### Article 60

An employee who, due to employer's fault, fails to take his/her annual leave, shall be entitled compensation of damage commensurate to the amount of earnings he/she would have earned while on the annual leave.

## Paid Leave

### Article 61

An employee shall have the right to paid absence from work in course of a calendar year (paid leave) for a maximum of five working days, in cases of getting married, childbirth, serious illness or death of a member of immediate family, voluntary blood donation and in other cases as determined by the general act or contract of employment.

Members of the immediate family shall include the spouse, children, brothers, sisters, parents, step-fathers and step-mothers, guardians and persons who live in a joint family household.

## Unpaid Leave

### Article 62

An employer may grant to an employee a leave without compensation of earnings (unpaid leave).

During the time of leave specified in para.1 of this Article, the rights and duties related to employment shall temporarily stay, unless the law, general act or contract of employment provide otherwise in respect of specific rights and duties.

## Stay of Employment

### Article 63

An employee's rights and duties related to employment shall temporarily stay, unless for specific rights and duties the law, general act or contract of employment provide otherwise, if he/she is absent from work due to the following:

military service and/or completing such service;

assignment to work abroad on the part of the employer or on the ground of an international and technical or cultural and educational co-operation, or to diplomatic, consular and other missions;

election or appointment to a function in a state agency, political or trade union organisation or other public function the performance of which requires temporary interruption of work with the employer.

Serving a prison sentence and/or a safety measure, correctional or protective measure, up to six months.

An employee whose rights and duties specified in para. 1 of this Article, are on temporary stay, shall be entitled -- within 15 days from the day of ending or completing the military service, ending of the work abroad, ending of the function, or returning from serving the prison term, or the measure of safety, educational or protective measure - to return to the job with the employer.

The spouse of the employee who was sent to work abroad on the ground of an international technical or cultural and educational co-operation, or to a diplomatic, consular and other mission, shall also enjoy the rights specified in paras. 1 and 2 of this Article.

## **V PROTECTION OF EMPLOYEES**

### General Protection

#### Article 64

An employee shall be entitled to safety and health protection in accordance with the law.

An employer shall organise the work in a way that guarantees the protection of the life and health of employees in accordance with special law and other regulations.

#### Article 65

An employee may not work overtime or by night if according to the opinion of an institution in charge of assessing the health ability pursuant to the health insurance regulations such work might deteriorate his/her health condition.

An employee with a medical condition established by a competent medical institution in accordance with the law, may not perform the job that might deteriorate his/her health condition or imply consequences dangerous for the environment.

#### Article 66

Only an employee who, apart from the special conditions established by the act specified in Article 13 of this Law, meets the requirements for work in respect of health condition, psychophysical abilities and age, in accordance with the law, may work at the work posts that are risky in terms of increased danger of injury, professional or other illnesses.

#### Protection of Women and Minors

#### Article 67

An employee under 18 years of age and an employed woman may not work at jobs involving mostly heavy physical labour, under ground or under water, nor at other increased risk jobs which may affect their health and life, considering their psychophysical abilities.

An employed woman may perform jobs specified in para. 1 of this Article only on the ground of her consent in written.

The prohibition of the work under ground shall not include women on management jobs, the medical staff and students during practical training.

Overtime work for minors shall be prohibited.

#### Protection of Motherhood

#### Article 68

A woman at the last eight weeks of pregnancy may neither work overtime nor night shift.

One of the parents of a child under three years of age may work overtime, or by night, only with his/her written consent.

A self-supporting parent with a child not older than seven years of age or a child with serious disablement, may work overtime or night shifts only on the ground of his/her written consent.

## Maternity Leave and Leave for Nursing the Child

### Article 69

A woman employee shall be entitled to a 365 day maternity leave and leave for nursing a child.

A woman employee may begin her maternity leave on the ground of the finding issued by the competent medical institution 45 days at the earliest, and 28 days in any case, prior to the time of expected delivery.

The maternity leave shall last from the day of delivery to the time the child is three months old.

Upon expiry of the maternity leave, a woman employee shall have the right to be absent from work to nurse the child until the expiry of 365 days from the beginning date of maternity leave.

A father of a child may use the rights specified in para. 1 of this Article, if the mother has abandoned the child, in case of her death or should other justified reasons prevent her from effecting these rights (serving a prison term, serious illness).

A father of the child may realise the right specified in para. 4 of this Article.

A father of the child shall have the right specified in para. 5 of this Article even when the mother is unemployed.

In course of the maternity leave and the leave for nursing a child, a woman employee and a father shall be entitled to compensation of earnings, in accordance with the law.

### Article 70

A woman employee who gives birth to a stillborn child, or where the child dies before the expiration of the maternity leave, shall be entitled to maternity leave pursuant to Article 69, para.3 of this Law.

## Leave for Special Care of Child or Another Person

### Article 71

One of the parents of a child in need of special care due to serious psychophysical ailment, apart from the cases provided for by the health insurance regulations, shall have the right, upon completion of the maternity leave and leave for nursing the child, to be absent from work or to work half time, at most until the child becomes five years old.

The right specified in para. 1 of this Article shall be established by the competent institution in charge of assessment of the degree of psychophysical ailment of the child, in accordance with the provisions of the social child care regulations.

In course of the absence from work, in terms of para. 1 of this Article, an employee shall be entitled to compensation of earnings in accordance with the regulations on social childcare.

In course of working half time, in terms of para. 1 of this Article, an employee shall be entitled to earnings in accordance with general act or contract of employment, and for the second part of the full working hours the compensation of earnings shall be in accordance with the regulations on social child care.

#### Article 72

One of the adoptive parents, foster parents and/or a guardian of a child younger than five years of age shall be entitled, for the purpose of child care, to be absent from work for eight months consecutively, from the day the child is accommodated with the adoptive parents, foster parents or guardian's family, and at most until the child become five years old.

If the accommodation with the adoptive parents, foster parents or guardian's family as specified in para. 1 of this Article started before the child became three years old, one of the adoptive parents, foster parents or a guardian shall be entitled, for the purpose of child care, to be absent from work until the child becomes 11 months old.

In course of absence from work for the purpose of child care, adoptive parents, foster parents or a guardian shall be entitled to compensation of earnings in accordance with the regulations on the social child care.

#### Article 73

A parent or guardian, or a person who takes care of the person suffering from cerebral palsy, poliomyelitis, or of a kind of plegia or muscles dystrophy and other serious diseases, may on the ground of the finding of a competent medical institution and upon his/her request work reduced working hours, but not less than the half of the full working hours.

An employee working reduced working hours in terms of para. 1 of this Article shall be entitled to an appropriate salary, commensurate to the time spent at work, and in accordance with the law, general act or contract of employment.

#### Article 74

One of the adoptive parents, foster parents or a guardian shall also have the rights specified in Article 71 of this Law should the child, considering the degree of the psychophysical ailment, require special care.

#### Article 75

One of the parents shall have the right to be absent from work until the child becomes three years old.

In course of absence from work in terms of para. 1 of this Article, the rights and duties on the ground of work shall stay, unless otherwise provided for specific rights by the law, general act or contract of employment.

#### Prohibition of Dismissal

#### Article 76

During pregnancy or during maternity leave, leave for nursing the child, and absence from work for special care of the child, an employer may not dismiss the employee, except in the case of temporary employment or under conditions specified in Article 101, points 3 to 5 and point 7 of this Law.

#### Article 77

The adopting parents, foster parents or guardians of a child younger than three years of age shall also have the rights specified in Article 68, para. 2 and Article 75 of this Law.

#### Protection of Disabled Persons

#### Article 78

An employer shall, in accordance with the pension and disability insurance regulations, enable the employee who is a disabled worker to perform the work according to his/her reduced work ability.

An employer shall, in accordance with the pension and disability insurance regulations, provide another appropriate job for an employee who is assessed to be in danger of becoming disabled due to performance of certain jobs.

#### Article 79

An employer may terminate the contract of employment with an employee who refused to accept a job in terms of Article 78 of this Law.

## Notification on Temporary Work Impediment

### Article 80

An employee shall not later than within three days of the onset of his/her temporary being impeded from work in accordance with health insurance provisions, submit to his/her employer a certificate stating, among other things, the expected length of such impediment.

In case of serious illness, the certificate from para. 1 of this Article may be submitted by members of employee's immediate family or other members of his/her household.

If an employee lives alone, he/she shall submit the certificate specified in para. 1 of this Article within three days after the reasons for which he/she has been unable to submit it have ceased to exist.

A physician shall be obliged to issue the certificate specified in para. 1 of this Article.

If an employer doubts the reasons for absence from work in terms of para. 1 of this Article, he/she may lodge a request to the competent medical institution to assess the health ability of the employee, in accordance with the law.

## **VI EARNINGS, COMPENSATION OF EARNINGS AND OTHER INCOMES**

### Earnings

#### Article 81

An employee shall be entitled to an appropriate salary determined in accordance with the law, general act or contract of employment.

An employee shall be entitled to equal earnings for the same work or work of equal value performed with an employer.

The earnings in terms of para. 1 of this Article shall include earnings effected for work performed and time spent at work, bonus earnings, compensation of earnings and other incomes, except for reimbursement of expenses pursuant to Article 89 of this Law and other incomes pursuant to Article 90, para. 1 of this Law.

Elements for and manner of determining the earnings shall be defined in a general act or contract of employment.

### Increased salary

## Article 82

An employee shall be entitled to increased earnings pursuant to a general act or contract of employment, for an overtime work, work on public holidays, night work and work in shifts.

A general act or contract of employment may determine other cases in which an employee shall be entitled to increased earnings.

## Article 83

The earnings specified in Article 81 of this Law shall be paid out within periods determined by a general act or contract of employment, while at least once a month.

The earnings shall be paid in money exclusively, unless otherwise prescribed by this Law.

## Minimum Earnings

### Article 84

An employee shall be entitled to minimum earnings for standard performance and full working hours.

The minimum earnings shall be determined by agreement between the Government of the Republic of Serbia and a representative trade union and a representative association of employers, organised for the territory of the Republic of Serbia, and in accordance with the law.

Should the agreement specified in para. 2 of this Article be not reached within 10 days since the commencement of bargaining, the minimum earnings shall be determined by the Government of the Republic of Serbia.

In determining the minimum earnings, the following will be especially taken into account: costs of living, subsistence and social needs of an employee and his/her family, rate of unemployment, employment trends in the labour market and general level of economic development in the Republic.

The minimum earnings shall be determined per working hour and shall be valid for a period not shorter than six months, and shall be published in the "Official Herald of the Republic of Serbia".

## Compensation of Earnings

#### Article 85

An employee shall be entitled to compensation of earnings in the amount of the earnings he/she would earn if working during a public holiday, which is a non-working day, annual leave, paid leave, military exercise and response to a summon by a state agency.

Unless otherwise determined by the law, an employer shall be entitled to a refund of the compensation paid out under para. 1 of this Article, in case of an employee's absence from work due to military exercise or response to a summon by a state agency, from the agency summoning the employee.

#### Article 86

An employee shall be entitled to compensation of earnings during his/her absence from work due to temporary inability to work for a period of maximum 30 days as follows:

65% of the earnings to be earned in the month in which his/her temporary work inability occurred, and which may not be less than the minimum earnings determined in accordance with this Law, if such inability has been caused by an illness or injury sustained outside work, unless otherwise prescribed by law;

100% of the earnings to be earned in the month in which his/her temporary work inability occurred, and which may not be less than the minimum earnings determined in accordance with this law, if such inability has been caused by an injury sustained at work or by a professional illness, unless otherwise prescribed by law.

#### Article 87

An employee shall be entitled to compensation of earnings amounting to 45% of the earnings that would be effected if working during an interruption of work caused without employee's fault, but not longer than 45 workdays in a calendar year.

#### Article 88

An employee shall be entitled to compensation of earnings in the amount determined by a general act or contract of employment during the interruption of work caused by an order of a competent government agency or a competent body of the employer, for the purpose of ensuring the safety at work and protection of health as a condition for continuing the work without the risk for lives and health of employees and other persons, as well as in other cases in accordance with the law.

A general act or contract of employment may determine other cases in which an employee shall be entitled to compensation of earnings.

#### Refund of Expenses

##### Article 89

An employee shall be entitled to a refund of expenses for travelling to and from work and for a business trip in the country, in the amount determined by a general act or contract of employment.

An employee shall be entitled to the refund of expenses incurred for business trip abroad under the conditions, in the manner and in the amount determined by special regulations.

#### Other Incomes

##### Article 90

An employer may pay to an employee a retirement gratuity, solidarity aid, anniversary reward and aid in the event of death of an employee or a member of his/her immediate family, in the amount determined by a general act or contract of employment.

For the purpose of para. 1 of this Article the spouse and children of the employee shall be considered members of immediate family.

A general act or employment contract may determine a right to other incomes as well.

##### Article 91

An employer shall submit a statement of earnings to the employee with every payment of the earnings.

#### Protection of Earnings and Compensation of Earnings

##### Article 92

An employer may, only by consent of the employee or on the ground of a final court decision, collect a claim against the employee by withholding the payment of earnings.

Unless otherwise prescribed by the law, the employer may, on the ground of an effective court decision, deduct at most one-third from employee's earnings and/or compensation of earnings.

## **VII BAR TO COMPETITION**

### Article 93

The contract of employment may stipulate the jobs an employee may not perform for and on his/her own behalf, or on behalf and for the account of another legal entity or natural person, without the consent of his/her current employer (hereinafter "bar to competition").

Bar to competition may be stipulated only if conditions exist where an employee may acquire through his/her work with the employer new, specially important technological knowledge, a wide circle of business partners or acquire knowledge of important business information and secrets.

A general act or contract of employment shall determine territorial limitations of the bar to competition depending on the type of job to which the bar refers.

Should the employee violate the bar to competition, the employer shall be entitled to demand damage compensation from the employee.

### Article 94

The bar to competition in terms of Article 93 of this Law and damage compensation may be extended through agreement between an employer and an employee in the contract of employment to a period following termination of employment, where such period may not exceed two years after the termination of employment.

The provision of para. 1 of this Article shall not apply should an employer terminate an employee's contract of employment without justifiable reason in terms of Article 101 of this Law.

## **VIII TORT LIABILITY**

### Article 95

An employee shall, in accordance with law, be liable for work or work-related damage he/she causes the employer with intent or through gross negligence.

Should several employees cause damage, each employee shall be liable for the portion of the damage he/she has caused.

Should it be impossible to determine the particular portion of the damage caused by the employee specified in para. 2 of this Article, it shall be deemed that all employees are equally liable and shall compensate the loss in equal portions.

Should damage be caused through a premeditated criminal offence committed by several employees, they shall be jointly and severally liable.

Existence of damage, its extent, circumstances under which it has occurred, perpetrator and manner of redress shall be determined by the employer, in accordance with the general act or contract of employment.

The court of competent jurisdiction shall rule on damages should it be not settled in accordance with the provisions of para. 5 of this Article.

An employee who in performance of his/her work or in relation to work, intentionally or by gross negligence has caused damage to a third party, while such damage has been redressed by the employer, shall compensate the employer for the amount of damages paid.

#### Article 96

Should an employee sustain an injury or damage at work or in relation to work, the employer shall be bound to redress such damage in accordance with law and the general act.

### **IX TERMINATION OF EMPLOYMENT**

#### Article 97

Employment shall terminate:

- 1) at expiry of the period for which it was concluded;
- 2) when the employee reaches the age of 65 and a minimum of 15 years of pension insurance, unless otherwise agreed between the employer and the employee;
- 3) by mutual agreement between the employer and the employee;
- 4) by notice of cancellation of employment contract by the employer or the employee;
- 5) at the request of a parent or guardian of an employed minor under 18 years of age;
- 6) with death of the employee;
- 7) in other cases provided by law.

#### Article 98

Employment shall terminate independently of intent of the employee and the intend of the employer:

- 1) if it is determined in manner set out in the law that an employee has suffered loss of working ability - as of the date of delivery of the effective decision on determining loss of working ability;
- 2) if, pursuant to provisions of the law, i.e., effective court decision or decision of another agency, an employee is forbidden to perform particular jobs, while other jobs are unavailable - as of the date of delivery of the effective decision;
- 3) if due to serving a prison sentence an employee is absent from work for more than six months - as of the date of commencement of serving of the prison sentence;
- 4) if a security, correctional or protective measure exceeding a six month period has been pronounced to an employee compelling him/her to be absent from work - as of the date of administering such measure;
- 5) in case of bankruptcy, liquidation, and/or in all other cases of termination of employer's work, in accordance with law.

#### Termination of Employment by Mutual Consent

##### Article 99

An employment may terminate on the ground of an agreement in written between the employer and the employee.

#### Termination of Employment by Employee

##### Article 100

An employee shall be entitled to terminate his/her contract of employment.

The employee shall submit in writing a notice on termination of employment to the employer at least fifteen days before the date stated in the notice as the date of termination of employment.

Should termination of employment specified in para. 1 of this Article occur due to employer's violation of obligations determined by law, general act or contract of employment, an employee shall have all the rights on the ground of employment, as in case of a wrongful dismissal.

#### Termination of Employment by Employer

##### Article 101

An employer may dismiss an employee for just cause relating to working ability of the employee, his/her behaviour and needs of the employer, as follows:

- 1) if it is determined that an employee fails to fulfil his/hers work tasks;
- 2) if an employee does not have the necessary qualifications and ability to perform the jobs assigned to him/her;
- 3) if an employee through his/her own fault violates work duties and obligations as determined in the contract of employment;
- 4) if he/she fails to respect work discipline, and/or if his/her behaviour becomes such as to preclude a continued work with the employer;
- 5) if an employee commits a criminal offence at work or in relation to work;
- 6) if an employee fails to return to work with the employer within 15 days from the day of expiry of the period of unpaid leave or the employment stay in terms of this Law;
- 7) if an employee abuses sick-leave;
- 8) if due to technological, economic or organisational changes a particular job becomes redundant.

The employer shall be required to warn the employee that reasons for dismissal exist, prior to the termination of contract of employment on the grounds specified in para. 1, points 3 and 4 of this Article.

The employer may terminate a contract of employment with an employee for reasons specified in para. 1, point 8 of this Article only if unable to provide him/her other jobs, and/or to retrain him/her for performing other jobs.

The provision of para. 3 of this Article shall not refer to an employer with less than 50 employees.

An employer may not, in case of termination of a contract of employment with an employee on the grounds specified in para. 1, point 8 of this Article, employ another person on the same jobs prior to expiry of three months from the date of termination of employment.

If, prior to expiry of the time limit specified in para. 5 of this Article, a need arises for re-employment on the same jobs that an employee has been dismissed from, such employee shall have precedence in re-employment.

## Article 102

The following shall not be considered as justifiable ground for the termination of employment contract in terms of Article 101 of this Law:

- 1) temporary absence from work due to illness, accident at work or occupational disease;
- 2) maternity leave, absence from work for child care and absence from work due to special child care;
- 3) serving in the military or completing such service;
- 4) membership in a political organisation, trade union, gender, language, ethnicity, social background, religion, political or other convictions or other personal traits of the employee;
- 5) addressing by an employee the trade unions or competent bodies for protection of employment rights in accordance with law, general act or contract of employment.

#### Article 103

An employer may offer an employee to conclude a contract of employment with altered terms.

The employer may offer conclusion of the contract of employment in terms of para. 1 of this Article only for a justifiable reason.

The employer may terminate the contract of employment of an employee who refuses to conclude an employment contract in terms of para. 2 of this Article.

### **Dismissal Procedure**

#### Article 104

An employer may terminate the employment contract (dismissal) as specified in Article 101, para. 1, subparas. 1 to 4, and 6 and 7 with an employee within a three month period upon becoming aware of facts constituting the grounds for dismissal, i.e., within a period of six months following the occurrence of facts constituting the ground for dismissal.

An employer may terminate the employment contract specified in Article 101, para. 1, subpara. 5 of this Law with an employee at the latest prior to expiry of the period provided for by the statute of limitations for a criminal offence.

Before terminating the contract of employment with the employee, the employer shall be bound to request an opinion of employee's trade union organisation.

The trade union shall be bound to deliver the opinion specified in para. 3 of this Article within five days.

## Article 105

The termination of a contract of employment shall be in writing and shall contain an assignment of reasons and instruction relative to legal remedy.

The act specified in para. 1 of this Article is effective as of the date of delivery to the employee.

## Article 106

An employer shall effect payment of all due earnings and other incomes before the date of termination of employment.

## Article 107

An employee whose contract of employment has been terminated due to unsatisfactory performance of work or due to lack of required qualifications and ability shall be entitled to severance pay, as follows:

- 1) for up to two years of continuous employment with the same employer - in the amount of one month earnings;
- 2) between two and ten years of continuous employment with the same employer - in the amount of one and a half monthly earnings;
- 3) between ten and twenty years of continuous employment with the same employer - in the amount of two monthly earnings;
- 4) for over twenty years of continuous employment with the same employer - in the amount of two and one-half monthly earnings.

Earnings in terms of para. 1 of this Article shall be understood to mean earnings received by the employee in accordance with law, general act or contract of employment for the month preceding the month in which his/her contract of employment terminates.

## Unlawful Dismissal

## Article 108

If a court passes a final decision establishing that employee's employment has been unlawfully terminated, such employee shall be entitled to readmission to work if he/she so requests.

In addition to re-admission specified in para. 1 of this Article, an employer shall be obliged to pay damages to the employee in the amount of lost earnings and other income

to which he/she is entitled by law, general act or contract of employment, including the payment of mandatory social insurance dues.

The compensation of damage specified in para. 2 of this Article shall be reduced for the amount of any income acquired by the employee on any ground following the termination of the contract of employment.

#### Suspension of an Employee from Work

##### Article 109

An employee may be temporarily suspended from work where criminal proceedings have been instituted against him/her for a criminal offence committed at work or in relation to work, or due to a violation of work duty that endangers property of considerable value.

##### Article 110

An employee placed under custody shall be suspended from work as of the first day of custody and for the duration of custody.

##### Article 111

In course of temporary suspension of the employee from work in terms of Articles 109 and 110 of this Law, an employee shall be entitled to compensation of earnings amounting to one quarter, or if he/she is a family supporter, amounting to one third of the monthly earnings realised in the month preceding the suspension.

The compensation of earnings in course of the temporary suspension from work in terms of Article 110 of this Law shall be paid at the account of the body ordering custody.

##### Article 112

The suspension specified in Article 109 of this Law may not exceed three months and the employer shall, within this period, either return the employee to work or terminate his/her employment contract if justifiable grounds for doing so exist as specified in Article 101, para. 1, subparas. 3 to 5 of this Law.

##### Article 113

An employee on temporary suspension from work shall be entitled to the difference between the amount of compensation of earnings received pursuant to Article 111 of this Law and the full amount of earnings realised in the month preceding suspension, increased for the average raise in employees' earnings with subject employer, over the period for which he/she is entitled to compensation, as follows:

1) if criminal proceedings against him/her are discontinued by a final court decision, or in case of acquittal by a final decision, or if charges against him/her are rejected for reasons other than lack of jurisdiction;

2) if employment of the employee is not terminated in terms of Article 101, para., 1, subparas. 3 to 5 of this Law.

## Redundancy of Employees

### Article 114

An employer having more than 50 employees with employment contracts for an indefinite period and who proposes to terminate contracts of employment for more than 10% of the total number of employees during one calendar year due to technological, economic or organisational changes, shall be bound to provide a redundancy settlement program.

The program specified in para. 1 of this Article shall contain information on redundant employees, their job descriptions, qualification, age, measures establishing conditions for their employment and the time limit for notice to be given; the program shall be made in co-operation with the relevant employment organisation.

### Article 115

An employer shall be bound to obtain an opinion of the relevant trade union on the proposal of the program specified in Article 114 of this Law.

The employer shall consider the opinion and proposals of the trade union and shall inform the trade union on his/her position within a period not exceeding three months.

### Article 116

The redundancy settlement program contains a proposal of measures, including but not limited to: transfer to other work assignments, employment with another employer, retraining or additional training, part-time work and other rights in accordance with law, general act or contract of employment.

### Article 117

In the case of termination of employment contract in terms of Article 101, para 1, subpara. 8 of this Law, the employer shall be obliged to make severance pay to an employee in the amount determined by the general act or contract of employment, as follows:

1) for service of up to 10 years - in the minimum amount of double earnings;

- 2) for service of 10 to 20 years - in the minimum amount of three earnings;
- 3) for service of 20 to 30 years - in the minimum amount of four earnings;
- 4) for more than 30 years of service - in the minimum amount of five earnings.

Earnings in terms of para. 1 of this Article shall be understood to mean the earnings an employee has realised in accordance with law, general act or contract of employment for the month preceding the month in which the contract of employment terminates.

#### Article 118

Should an employer lack the funds of his/her own, or lacks sufficient funds to provide for exercising of rights of redundant employees as determined by law, the funds provided for such purpose in accordance with law or other act shall be used.

#### Article 119

An employee whose contract of employment is terminated by the employer subsequent to payment of severance pay on grounds that the need for his/her work has ceased, shall realise the right to pecuniary compensation and the right in respect of pension and disablement insurance and medical coverage in accordance with the regulations governing employment.

### **X EXERCISE AND PROTECTION OF EMPLOYEE RIGHTS**

#### Article 120

Decision-making on rights, duties and responsibilities deriving from employment shall be exercised in the following manner:

- 1) in a legal entity - by director or employee authorised by him;
- 2) with an employer having no legal entity status - by the employer or person authorised by him.

Authorisation from para. 1 of this Article shall be given in written form.

Any decision in respect of exercising rights, duties and responsibilities shall be delivered to an employee in written form and shall include an assignment of reasons and instruction relative to legal remedy.

## Protection of Individual Rights

### Article 121

A general act or contract of employment may provide for a procedure of consensual settlement of disputed issues between an employer and an employee.

The employee and the employer may present issues under dispute before an arbitration board.

An arbitration board shall have an uneven number of members. Arbitration shall include an equal number of representatives of the parties in dispute and one arbitrator to be nominated by agreement of both parties in the dispute, from among experts in the field under dispute.

The composition of the arbitration board and the arbitration procedure shall be regulated by a general act.

A decision of the arbitration board shall be final and binding for the employee and employer.

### Article 122

An employee or trade union authorised by the employee may institute legal proceedings before a competent court against a decision violating the employee's right or upon becoming aware of violation of such right.

Legal proceedings may be instituted within 15 days following service of decision or following the date of becoming aware of violation of a right.

The dispute referred to in para. 1 of this Article shall be effectively terminated before the competent court within six months from the date of instituting the proceedings.

### Time Limits for Unenforceability of Claims Deriving from Employment due to Statute of Limitations

### Article 123

All pecuniary claims deriving from employment shall be considered term (installment) claims and shall be barred by lapse of time after three years from the date the obligation has been created.

## **XI SPECIAL PROVISIONS**

### Temporary and Periodical Work

#### Article 124

An employer may conclude a contract with a particular person for performance of a temporary and periodical work relating to his line of business for the kind of work that does not exceed 180 days during a calendar year.

A person with whom the contract specified in para. 1 of this Article has been concluded shall be entitled to pension and disability insurance and medical insurance, in accordance with law.

The employer shall be the person under obligation for payment of mandatory contributions specified in para. 2 of this Article.

#### Article 125

The employer may conclude a contract with a member of youth or student cooperative for performance of temporary and periodical work specified in Article 124 of this Law.

A person with whom a contract in terms of para. 1 of this Article is concluded shall be entitled to work-related accident and occupational disease insurance, in accordance with law.

### Contract for Special Services

#### Article 126

An employer may conclude with a particular person a special service contract to perform jobs outside the line of business of the employer, and with the aim of independent manufacture or repair of a specific item, or independent carrying out of particular physical labour or intellectual work.

The contract specified in para. 1 of this Article may also be concluded for cultural and artistic jobs with a person engaged in cultural and artistic activities.

### Self-Employment

#### Article 127

A natural person may engage in independent activity by virtue of his own work.

A natural person may also engage in independent activity by virtue of his own work in the field (salesperson, trading activities and the like).

Activity specified in paras. 1 and 2 of this Article shall be performed in the way and under the conditions set out in a separate law.

Work-Booklet

Article 128

An employee shall have a work-booklet, which shall be handed over to the employer upon employment.

The work-booklet is a public document.

The work-booklet is issued by the competent municipal administration agency.

The employer shall return a properly filled-out work-booklet to the employee on the day of termination of the contract of employment.

No data detrimental to the employee may be entered into the work-booklet.

## **XII EMPLOYEES' COUNCIL AND TRADE UNION**

Article 129

Employees of an employer who has more than 50 employees may form an employees' council, in accordance with the collective agreement.

Article 130

Freedom to organise in trade unions and trade union activity shall be guaranteed to employees.

Trade unions shall be established to protect the rights and promote professional and economic interests of their members.

A trade union shall be established by making a relevant entry into the trade union register kept by the ministry in charge of labour affairs and shall require no approval.

A trade unions shall be entered into the register in accordance with law and other regulations.

## **XIII COLLECTIVE AGREEMENTS**

### Subject and Form of Collective Agreement

#### Article 131

A collective agreement shall regulate, in accordance with law and other regulations, employment-related rights, duties and responsibilities, the procedure for concluding a collective agreement, mutual relations between parties to the collective agreement and other matters of importance to the employee and employer.

A collective agreement shall be concluded in writing.

### Types of Collective Agreements

#### Article 132

A collective agreement may be concluded as a general or special or single agreement.

#### Article 133

A general collective agreement and special collective agreement for a particular branch, group, sub-group or activity may be concluded for the territory of the Republic of Serbia.

#### Article 134

A special collective agreement may be concluded for the territory of a unit of territorial autonomy or local self-government.

#### Article 135

A single collective agreement shall be concluded with an employer.

### Parties to Collective Agreement

#### Article 136

A collective agreement shall be concluded between an employer or a representative employers' association and a representative trade union.

Parties to the collective agreement shall be required to bargain.

If during bargaining specified in para. 2 of this Article no agreement is reached on conclusion of a collective agreement, the parties shall form an arbitration to resolve the disputed issues.

The arbitration specified in para. 3 of this Article shall be formed no later than 30 days following commencement of bargaining for the conclusion of the collective agreement.

The parties to the collective agreement shall nominate by agreement the members of the arbitration board, determine the method of work and the effect of the decision specified in para. 3 of this Article.

#### Article 137

Trade union's representativeness, for the purpose of this Law, shall be determined by:

- 1) entry into the register, in accordance with law and other regulations;
- 2) in respect to the number of members verified through membership application forms.

#### Article 138

A union having as members a minimum of 15% of employees of an employer shall be deemed a representative trade union for concluding of a collective agreement.

A representative trade union for concluding of a collective agreement at the republic level, and/or unit of territorial autonomy or local self-government, shall be considered a trade union having as members a minimum of 10% of employees in the branch or line of business for which the collective agreement is made, and/or of the total number of employees for concluding of a collective agreement covering all the employees on the territory of a given territorial unit.

#### Article 139

For the purpose of this Law an association of employers with the membership of minimum 10% of employers in the branch or line of business for which the collective agreement is concluded, and/or of the total number of employers on the territory of a given territorial unit, shall be considered as representative association of employers.

#### **Article 140**

If the conditions of representativeness in terms of Articles 137 and 138 of this Law are not met by any of the trade unions, and/or by an association of employers specified in Article 139 of this Law, the trade unions and/or employers may conclude an agreement on association in order to participate in concluding a collective agreement.

#### Article 141

A dispute over the issue of representativeness of a trade union and/or association of employers, in terms of Articles 137 through 139 of this Law, shall be decided by court within eight days in accordance with law.

#### Article 142

A general collective agreement shall be concluded between a representative association of employers and a representative trade union for the territory of the Republic.

#### Article 143

A special collective agreement for a branch, group and/ or line of business is concluded between a representative trade union and a representative association of employers.

The special collective agreement for the territory of a unit of territorial autonomy and a local self-government is concluded between a representative trade union and a representative association of employers.

#### Article 144

A special collective agreement concerning public enterprises and public services is concluded between a founder or agency authorised by the founder and a representative trade union.

A special collective agreement for persons performing free lance activity in the field of arts or culture (independent artists) is concluded between a representative trade union and a representative association of employers.

#### Article 145

A single collective agreement is concluded between a representative trade union with an employer and a director.

Should several representative trade unions participate in concluding a collective agreement specified in para. 1 of this Article, a board for bargaining shall be formed.

Members of the board specified in para. 2 of this Article shall be appointed by the representative trade unions.

In the bargaining procedure for concluding of a collective agreement specified in para. 1 of this Article, the representative trade union shall be obliged to establish co-operation with a trade union having as members a minimum 10% of the employees of an employer, in order to express the interests of the employees who are members of that trade union.

#### Article 146

A single collective agreements in respect of public enterprises and public services is concluded between the founder or agency authorised by the founder, a representative trade union at the employer and the director.

## Authorisation for Bargaining and Concluding of Collective Agreements

### Article 147

A bargaining board shall be established if several representative trade unions and/or associations of employers, participate in concluding of a collective agreement for the territory of the Republic or unit of territorial autonomy or local self-government.

Members of the board specified in para. 1 of this Article shall be appointed by the representative trade unions and/or representative associations of employers.

### Article 148

Representatives of trade unions and employers' associations participating in bargaining for concluding a collective agreement and who conclude the collective agreement have to be authorised by their respective bodies.

## Implementation of Collective Agreements

### Article 149

Collective agreements shall be directly implemented and shall be binding on all employers who at the time of concluding of the collective agreement were members of the employers' association - party to the collective agreement.

A collective agreement shall be binding also on the employers who subsequently became members of the association of employers - party to the collective agreement, as of the time of joining of the association of employers.

The minister in charge of labour-related matters may, for justified reasons, decide that the collective agreement or some provisions thereof shall also apply to employers who did not participate in concluding of the collective agreement or have not become party thereof subsequently, in order to implement economic and social policy in the Republic.

In making the decision specified in para. 3 of this Article, the minister shall request the opinion from signatories of the collective agreement whose application is being extended.

The decision specified in para. 3 of this Article shall be published in the "Official Herald of the Republic of Serbia".

### Article 150

An individual collective agreement shall also be binding on the employees of an employer who are not members of a trade union - signatory to the collective agreement.

## Validity and Cancellation of Collective Agreement

## Article 151

A collective agreement may be concluded for an indefinite or definite period of time.

## Article 152

A collective agreement shall cease to be valid upon expiration of the time for which it was concluded.

Validity of a collective agreement may be extended by an agreement of participating parties that has to be concluded at latest 30 days prior to expiry of the collective agreement.

Validity of a collective agreement concluded for an indefinite period may cease by agreement of all parties or by cancellation, in the manner determined in such collective agreement.

In the case of cancellation, the collective agreement may continue to be applied for a maximum of six months following the notice of cancellation, unless otherwise specified by law, with the proviso that the participants shall be required to commence bargaining at latest within 15 days from the date of delivery of cancellation notice.

Upon expiry of the time limit specified in para. 4 of this Law, the collective agreement shall cease to be valid unless parties to the collective agreement agree otherwise.

## Settling of Disputes

### Article 153

Any dispute arising during the process of concluding or amending a collective agreement, shall be settled through amicably.

Disputed issues regarding the implementation of a collective agreement shall be settled by arbitration board established by the parties to the collective agreement within 15 days of the date on which the dispute occurred.

The arbitration decision on the disputed issue shall be binding on the parties.

The composition and manner of work of the arbitration board shall be determined in the collective agreement.

### Article 154

Participants to concluding a collective agreement may exercise protection of their rights determined in the collective agreement before a competent court.

## Registration of Collective Agreements

### Article 155

A general collective agreement and a special collective agreement, as well as their amendments shall be registered with the ministry in charge of labour-related issues.

## Making Public of Collective Agreements

### Article 156

A collective agreement signed for the territory of the Republic of Serbia, units of territorial autonomy and local self-government shall be published in the "Official Herald of the Republic of Serbia".

The manner of publication of other collective agreements shall be determined in the agreements themselves.

## **XIV SUPERVISION**

### Article 157

Supervision over the implementation of this Law, other labour regulations, general acts and contracts of employment regulating the rights, obligations and duties of employees shall be the responsibility of the labour inspection.

### Article 158

In performing his/her duties, the labour inspector shall be authorised to order by a ruling an employer to eliminate, within a specific time-limit, the established violations of the law, a general act or contract of employment.

The employer shall be obliged to notify the labour inspection on the implementation of the ruling, not later than 15 days of the receipt of the ruling specified in para. 1 of this Article.

### Article 159

A labour inspector shall prohibit an employer to perform his/her activities in the following cases:

- 1) if he/she fails to sign a contract of employment or another contract with an employee in compliance with this Law (Article 16 and Articles 124 - 126);
- 2) if he/she fails to submit a registration form for mandatory social insurance;

3) if he/she fails to pay earnings and/or minimum earnings, despite sufficient funds in his/her account (Articles 81 and 84);

4) if he/she fails to pay the earnings in cash, except in cases specified in Article 31 of this Law.

The measure prohibiting the employer from performing business activities pursuant to para. 1 of this Article shall remain in force until such irregularities have been eliminated.

#### Article 160

The organisation in charge of payment operations shall, not later than the end of the current month, notify the competent labour inspector about the employers who failed to pay out earnings or minimum earnings for the previous month.

The notification in terms of para. 1 of this Article shall be submitted to the labour inspector having the jurisdiction on the territory of employer's head office.

#### Article 161

The labour inspector shall lodge a request for instituting misdemeanour proceedings after finding that an employer or director has violated the law or other labour-related regulations.

#### Article 162

Should the labour inspector find that an employee's right has been clearly violated by a decision of the employer, he/she shall, at a request of the employee and if the employee has instituted a labour dispute, pass a ruling postponing the implementation of the employer's decision until rendering of a final court decision.

There shall be no administrative proceedings against a final ruling of the labour inspection specified in para. 1 of this Article.

#### Article 163

A complaint against the ruling specified in Articles 159 and 162 of this Law shall not postpone the enforcement of the decision.

### **XV PENAL PROVISIONS**

#### Article 164

A fine ranging from 100,000 to 200,000 dinars shall be imposed against an employer in capacity of a legal entity for the following misdemeanours:

- 1) If he/she fails to organise work in a manner ensuring the protection of employees' lives and health (Article 64, para. 2);
- 2) If he/she fails to provide special protection to an employee under the age of 18, and to a woman employee the protection of maternity, as well as rights related to child care in compliance with the provisions of this Law (Articles 67 - 75);
- 3) If he/she fails to pay out compensation of earnings or expense reimbursement to an employee (Articles 85 - 89);
- 4) If he/she terminates a contract of employment contrary to the provisions of this Law (Article 101);
- 5) If he/she fails to pay out to an employee all earnings and other incomes due as at the date of termination of employment (Article 106);
- 6) If he/she issues a decision on suspension from work of an employee contrary to the provisions of this Law (Articles 109 and 110);
- 7) If he/she fails to act upon a labour inspector's ruling in accordance with the provisions of this Law (Articles 158, 159 and 162);
- 8) If he/she prevents a labour inspector from performing his/her supervision activities, or otherwise renders impossible the inspector's supervision.

A fine ranging from 50,000 to 100,000 dinars shall be imposed against an employer who is a private entrepreneur for a violation specified in para. 1 of this Article.

A fine ranging from 7,000 to 10,000 dinars shall be imposed against a director, or other person authorised by the employer for a violation specified in para. 1 of this Article.

#### Article 165

A fine ranging from 50,000 to 100,000 dinars shall be imposed against an employer in capacity of legal entity if:

- 1) he/she calls to account a representative of the employees who acts in compliance with law and the collective agreement (Article 10);
- 2) he/she orders an employee to work overtime contrary to the provisions of this Law (Article 37);
- 3) he/she denies an employee his/her entitlement to annual leave (Articles 53 and 55);
- 4) he/she denies an employee to return to work after the period of suspension of his/her employment has expired (Article 63);

5) he/she fails to enable an employee to perform such duties as appropriate to his/her reduced working ability, or to provide him/her another appropriate job (Article 78);

A fine ranging from 10,000 to 50,000 dinars shall be imposed against an employer who is a private entrepreneur for a violation specified in para. 1 of this Article.

A fine ranging from 5,000 to 7,000 dinars shall be imposed against a director, or other person authorised by the employer, for a violation specified in para. 1 of this Article.

#### Article 166

A fine in the amount of 10,000 dinars and payable at once shall be imposed against an employer in capacity of legal entity or a private entrepreneur if:

1) he/she fails to allow a rest period during a working day, daily rest and weekly rest (Articles 48 - 51);

2) he/she fails to submit a pay abstract of account to an employee (Article 91);

3) he/she fails to pay out a compensation, or pays out a compensation contrary to Article 107 of this Law;

4) he/she denies an employee his/her entitlement to severance pay (Article 117);

5) he/she fails to return to an employee his/her appropriately completed work-booklet (Article 128).

A fine in the amount of 1,000 dinars shall be imposed against a director, or other person authorised by the employer, for a violation specified in para. 1 of this Article.

Fines specified in paras. 1 and 2 of this Article shall be summarily collected by the labour inspector.

## **XVI TRANSITIONAL AND CONCLUDING PROVISIONS**

#### **Article 167**

An employee who concluded a contract of employment in compliance with the regulations that were applicable before this Law came into force shall not be obliged to conclude a new contract of employment.

#### Article 168

An employee who on the effective date of this Law has not used his/her entire 2001 annual leave shall be entitled to use the annual leave for the relevant year in compliance with the regulations which were in force before this Law came into effect.

#### Article 169

An employee who on the effective date of this Law is on paid or unpaid leave, as well as an employee exercising the right to the stay of employment, shall be entitled to absence from work in compliance with the regulations that were applicable before this Law came into effect.

An employee exercising his/her right to unpaid leave pursuant to para. 1 of this Article, shall exercise the right to health insurance in conformity with health insurance regulations.

#### Article 170

A woman employee, father, foster parent or guardian, who on the effective date of this Law is on a maternity leave in conformity with the regulations that were in force before this Law came into effect, shall be entitled to continue this leave in accordance with regulations that were applicable before the effective date of this Law.

Persons specified in para. 1 of this Article, who are on the effective date of this Law absent from work or working part-time pursuant to Article 81 of the Labour Law (The Official Herald of the RS, Nos. 55/96 and 28/2001), shall be entitled to absence from work or part-time work until the expiry of the period for which such right has been granted by the relevant medical institution.

A foster parent of a child under 5 years of age, who is exercising his/her right to absence from work pursuant to Article 84 of the Labour Law, shall be entitled to absence from work until the expiry of the period for which such right has been granted.

#### Article 171

An employee who is on the effective date of this Law temporarily unable to work due to illness, shall be entitled to salary compensation for the period and in the amount determined by the regulations that were in force before this Law came into effect.

#### Article 172

Disciplinary proceedings that were not finally completed by the date on which this Law came into force, shall be completed in conformity with the regulations that were applicable before this Law came into force.

#### Article 173

An employee who, by a competent body's final decision on discontinued need for his/her employment has been granted a right in conformity with the regulations in force before this Law came into effect, shall continue to exercise such right in accordance with the regulations applied.

#### Article 174

An employee who is using his/her right to notice period with the entry into force of this Law shall be entitled to continue the employment until the expiry of the notice period prescribed by the regulations that were in force before this Law came into effect.

#### Article 175

The provisions of Articles 137 - 141 of this Law shall be applied until special regulations are adopted.

#### Article 176

Provisions of a collective agreement that is in force at the time this Law has come into effect, and which were not contrary to this Law, shall remain in force until a new collective agreement has been concluded in compliance with this Law.

#### Article 177

The minister in charge of labour-related issues shall be authorised to issue by-laws that shall determine the following:

- 1) the manner and procedure of registration of contracts of employment for performing jobs outside employer's premises and activities of household help staff (Article 32) ;
- 2) contents of the work-booklet, the mode of data filing in the work-booklet, and the mode of keeping a registry of work-booklets issued (Article 128);
- 3) the mode of registration of trade unions (Article 130, para.
- 4) the mode and procedure of registration of collective agreements (Article 155).

#### Article 178

The minister in charge of social childcare affairs is hereby authorised to enact a by-law specifying the requirements, procedure and mode of exercising the right to absence from work for the purpose of special childcare (Article 71).

The minister in charge of labour-related matters and the minister in charge of matters of health are hereby authorised to jointly enact a by-law to determine the mode of issuance and the contents of a certificate of temporary work inability pursuant to health insurance regulations (Article 80).

#### Article 179

Until the enactment of the by-laws specified in Article 177 of this Law, the following shall remain in force:

- 1) The Rules on Registration of Trade Union Organisations ("The Official Herald of the RS", Nos. 6/97, 33/97, 49/2000 and 18/2001).
- 2) The Rules on Work-Booklet ("The Official Herald of the RS", No. 17/97);
- 3) The Rules on Registration of Collective Agreements ("The Official Herald of the RS", No. 22/97).

#### Article 180

On the date this Law comes into force, the following shall cease to be valid:

- 1) The Labour Law ("The Official Herald of the RS", Nos. 55/96 and 28/2001);
- 2) The Rules Specific Details of Contract of Employment ("The Official Herald of the RS", No. 10/97);
- 3) The Rules on Arbitration of Labour Disputes ("The Official Herald of the RS", No. 2/97);
- 4) The Rules on Criteria for Determining the Need for Increased Mother Care of a Child under 3 Years of Age ("The Official Herald of the RS", Nos. 23/92 and 1/93);
- 5) The Decree on Determining Rural Settlements in the Territory of the City of Belgrade ("The Official Herald of the RS", No. 3/97);
- 6) The Rules on the Contents of Calculating Minimum Earnings ("The Official Herald of the RS", No. 31/2001);
- 7) The Rules on the Form for Calculation and Payment of Earnings and Other Incomes of Employees ("The Official Herald of the RS", No. 31/2001).

#### Article 181

This Law shall come into effect on the eighth day following its publication in the "Official Herald of the Republic of Serbia".