

The Legal Status of Digital Nomads

H. Arbutina*, Z. Šinković** and L. Pribisalić**

* University of Zagreb, Faculty of Law/ Chair of Financial Law and Financial Science, Zagreb, Croatia

** University of Split, Faculty of Law/ Chair of Financial Law and Financial Science, Split, Croatia
zoran.sinkovic@pravst.hr

Abstract – While the pandemic of the COVID-19 virus took over and changed an increasing part of people's everyday lives, the spread of digital communication and teleworking grew. As a result, there is an increase in interest in a new way of working that is not tied to a physical workplace - digital nomadism. Nomads of the modern, digital age are people who use information and communication technology for work that they can do anywhere in the world, which gives them the luxury of freely choosing their residence. The Republic of Croatia was among the first countries in the European Union to open its doors to digital nomads, just behind Estonia. In the Republic of Croatia, the Foreigners Act regulates and defines the legal status of digital nomads as citizens of a third country (a country that is not a member state of the European Economic Area or the Swiss Confederation) who are employed or perform work through communication technology for a company or their own company that is not registered in the Republic Croatia and does not perform work or provide services to employers in the territory of the Republic of Croatia. Therefore, this paper will analyze the legal status of digital nomads from the administrative and tax aspects (*de lege lata - de lege ferenda*) in the Republic of Croatia and other member states of the European Union.

Keywords – digital nomads, residence, health insurance, health care, taxation

I. INTRODUCTION

In today's digital world, lifestyle and work without the computer and internet are unthinkable. Digital technologies have brought about huge changes and digital transformation includes more than technologies themselves and relates to changes in ways of thinking. Digital transformation impacts all sectors of the economy and changes our way of life, work, and communication. Existing and often outdated ways of doing business need to be changed, that is, adapted to the needs and challenges of the digital era. There is much room for digital transformation - it is no longer a matter of choice but rather inevitable and essential. Digital transformation is omnipresent in companies' business dealings, the economy, health, education, public administration, and society in general [1].

The concept of digital transformation relates to changes that emerge from the application of digital technologies in all social forms. Digital transformation is a fundamental and accelerated transformation in doing business, processes, capabilities, and models to entirely make use of the possibilities of digital technologies and their impact on society in a strategic and prioritized way

[2]. The development of information and communication technologies (ICT) and globalization has opened up the possibility of new flexible work arrangements. In today's world, it is common to work remotely using digital technologies [3].

The concept of "digital nomadism" appeared in popular literature some 25 years ago in a provocative and insightful book "The digital nomad" co-authored by Tsugio Makimoto and David Manners [4].

It is necessary to emphasize how digital nomadism is not the first kind of mobile worker appearing in post-agrarian societies. In medieval Europe, the concept of journeyman (ger. *Wanderjahre*) emerged which marked a period of two or three years in which young merchants set out (ger. *auf der Walz*) waltzing from town to town carrying the tools of their trade, to improve their personal and professional skills. Travelers who practiced this type of lifestyle most often were unattached that is, were not married [5]. Digital nomadism is work that is independent of location. It offers services, the creation of products and marketing, and product distribution or anything offered from a distance via online platforms [6]. Digital nomads are both a product and an example of the ubiquity of mobilities in everyday lives. As our society rapidly transforms itself into a mobile society, in which interactions are also mobilized, the "traditional segmentation of context dissolves so private life can interrupt working life and vice versa" [7]. Digital nomads are primarily young (millennials or Generation Z) individuals who are motivated to explore and combine travel with virtual work [3]. According to Hensellek and Puchala, all definitions of digital nomads have common factors: digital work, flexibility, mobility, identity, and community [8]. Demaj, Hasimja, and Rahimi argue that nomadism is related to digitalization because digital nomads can work while moving from one place to another simply by having a mobile device and an internet connection [9]. Increasing digitalization and workplace flexibility creates a market structure of work where several kinds of tasks are carried out based on casual work contracts, which have brought about the increasing emergence of digital nomads. Today there are more than 35 million digital nomads. Digital nomads work in various areas including: 1. IT: 19%, 2. Creative Services: 10%, 3. Education and Training: 9%, 4. Counseling, Teaching, and Research: 8%, 5. Sales, Marketing, and PR: 8% and 6. Finance and Accounting: 8% [10]. So, we can conclude that a digital nomad is an entrepreneur or an employee who almost exclusively uses digital

technologies to perform his work and is at the same time independent and leads his life in several places. As a rule, digital nomads are engaged in professions that, thanks to the Internet, can perform independently of the place of work, and most often they are highly qualified IT specialists, writers, journalists, designers, and other similar professions. Using the advantages of technology and thanks to the development of technology and the spread of the Internet, a good part of the work is done outside the office and it is not rare that they decide to replace their "office" in a bigger city with another destination. Such individuals freely choose their place of work and life with a laptop computer, mobile devices, and an Internet connection [11].

As stated above, today, there are more than 35 million digital nomads, and almost half of them are citizens of the USA. Their purchasing power amounts to 800 billion dollars a year [12]. Every fifth digital nomad (21%) earns less than 25,000 dollars annually. Nevertheless, 44% earn 75,000 dollars or more. The average monthly earnings of digital nomads amount to 4,500 dollars [10].

Therefore, the legal status of digital nomads in the Republic of Croatia and certain European Union member states (the Federal Republic of Germany, the Republic of Italy, Republic of Estonia) from administrative and taxation aspects will be analyzed in this paper *de lege lata – de lege ferenda*.

II. ADMINISTRATIVE AND TAX STATUS OF DIGITAL NOMADS IN SOME MEMBER STATES OF THE EUROPEAN UNION

Experts predict that by 2035, 1 billion people will be distance working which was considerably increased during the Coronavirus pandemic, and this trend is accelerating. Amongst them will certainly be people who will become digital nomads, those who are not tied to the location of their workplace and who only need digital technology and reliable Internet and access [13] that is, a safe and attractive destination.

This chapter will briefly present the legal status of digital nomads in the member states of the European Union, namely: the Federal Republic of Germany, the Republic of Italy, and the Republic of Estonia.

The Federal Republic of Germany (hereinafter: FR Germany) does not have a visa for digital nomads. However, a person can apply for a freelancer visa (ger. *Freiberufler*), with which he can work remotely for German clients [14]. A citizen of the European Union, the European Economic Area, or Switzerland can ignore the complex bureaucracy and work in FR Germany. In addition, a citizen of the United Kingdom, USA, Australia, Canada, Israel, Japan, New Zealand, or South Korea also does not need a visa, only a residence permit. Some digital nomads who plan to work in FR Germany for less than 90 days in 180 days do not notify the authorities at all and simply enter as tourists. While it is possible to get away with impunity, it should also be noted that this is technically illegal unless the person is a freelancer, translator, tour guide, or model. In these cases, he does not have to apply for a work visa or residence permit, provided that the stay in FR Germany does not

exceed 90 days in 180 days [15]. FR Germany wants foreign freelancers to register with the tax authorities. Therefore, it is mandatory to pay several taxes as a digital nomad, namely: 1) Income tax. Income tax depends on earnings. There is a fixed ratio of tax for certain values of income. If a person earns up to EUR 9,744 per year, he is exempt from income tax. Earnings between EUR 9,744 and EUR 57,918 per year make it mandatory to pay income tax, which varies between 14%-42%. If a person earns between EUR 57,918 – EUR 274,612 makes him qualified to pay exactly 42% of the amount. Earnings greater than EUR 274,612 lead to the payment of 45% income tax. Income tax is paid four times a year in March, June, September, and December. At the end of the year, an income tax return is submitted. If the amount paid exceeds the amount stated in the statement, it will be refunded. 2) The value-added tax paid in Germany is 19% in most cases, but it can be up to 9%. This is based on the revenue that the taxpayer generates. These taxes add to the worries of the digital nomad. Health insurance for digital nomads is mandatory in FR Germany [16].

After FR Germany, the legal status of digital nomads in the Republic of Italy will be presented.

In the Republic of Italy (hereinafter: Italy), digital nomad visas are similar to a full-time work permit, insofar as they allow foreign citizens to move to the country and work legally from it with a residence permit. Although the Italian digital nomad visa is yet to be launched at the end of 2022, citizens of countries outside the European Union can still obtain residency and work remotely in Italy. It is usually possible through an Italian self-employment visa. The Italian self-employed visa is similar to the digital nomad visa – both allow "highly qualified" foreign remote workers and freelancers working outside the European Union to move to Italy and work there legally. Although the requirements for the digital nomad visa are still unclear as the program has yet to come into effect, it can be concluded that its requirements are similar to those of the self-employed visa. Eligible self-employed individuals must meet the minimum income requirement set by the Italian government, have a clean criminal record, and have a comprehensive health insurance plan. Those who qualify for a self-employed visa are issued a renewable permit with an initial validity of one year. Once activated, they may be able to renew it provided they continue to comply with the program's requirements. After five years of residence, they can obtain a permanent residence permit. In addition, individuals may include members of their immediate family in their residency applications [17]. Digital nomads who wish to apply for a self-employed visa in Italy will need to ensure that they meet the following conditions before they can obtain a residence permit: they must not be citizens of the European Union or the European Economic Area; hold a clean criminal record; have proof of adequate accommodation in Italy; have an annual gross income of at least EUR 8,500 earned in the year before the visa application or promised by contractual remuneration for services provided to Italian clients or an Italian company; have health insurance to cover hospital or medical expenses in Italy for the first 30 days after entry; attach a certificate that there are no obstacles to the provision of their freelance services and

highly qualified work activities in Italy; provide proof of sufficient financial means to maintain their stay and provide their services [17]. It is important to note that digital nomads will have to pay Italian digital nomad visa taxes or self-employment taxes when they move to the country and comply with social security provisions. While tax residents in Italy would normally have to pay a high tax rate on their annual worldwide income, foreign professionals and remote workers who move to Italy on a self-employed visa will only have to pay tax on 5 percent of their annual income. Moreover, foreign workers who acquire the new digital nomad visa will have a 70 percent tax reduction on their global income if they declare their residency in Italy. If persons were thinking about moving to Italy and working remotely as digital nomads without paying taxes twice, they didn't have to wait until the beginning of 2023. The Self-employed Visa can be used in place of the Italian Digital Nomad Visa, and its benefits are truly unparalleled – whether it's the advantage of double taxation treaties and other tax exemptions, access to better healthcare, or otherwise. By applying for a self-employed visa in Italy, digital nomads will have the right to reside and work remotely in Italy without being considered tax residents there. Also, they will be able to travel to the rest of the European Union without visas within two months from the submission and approval of the application. Moreover, immediate family members can be included in the application and enjoy the benefits of family reunification. All this makes working remotely much more practical [17].

Finally, the legal status of digital nomads in the Republic of Estonia will be presented.

The Republic of Estonia (hereinafter: Estonia) has long been known as a digital country, having first developed an online voting system in 2005. Estonia has a digital nomad visa, which allows remote work for any employer registered outside of Estonia. Estonia offers two types of digital nomad visas. The applicant can choose which one to request and receive depending on the length of stay. There are two types of Estonian digital nomad visas: 1. Estonian digital nomad visa type C. This is a short-stay visa that allows a stay of up to 90 days. 2. Digital nomad visa for Estonia type D. This is a long-term visa that allows a digital nomad to stay in Estonia for one year. To be qualified for a digital nomad visa in Estonia, a person must meet the following requirements: be over 18 years old; can work remotely using telecommunications technology; has an employment contract with a company registered outside Estonia; must prove that he is a freelancer or digital nomad; must prove that he has sufficient financial resources; must have at least EUR 3504 monthly salary [18].

The following documents are required to apply for a digital nomad visa in Estonia: A valid passport. The person must submit a passport that is valid for at least three months after the date of return. It must have two blank pages; Application form. The application form must be completed online. Once filled out, you must print and sign; Two passport-size photos. The Estonian digital nomad visa photo must meet the Schengen visa photo criteria; Contract of employment. A person must prove that he has a contract with an employer registered outside

Estonia; a Letter from the employer. A letter from the employer stating that the person wishes to work remotely must be submitted; Proof of sufficient financial resources. The bank statement must be issued within the last six months. It must prove that the person has sufficient financial resources to support himself during his stay in Estonia; Proof of accommodation. A person must prove that he has found accommodation in Estonia. A rental agreement or any reservation can be submitted; Proof of health insurance. The person must have valid health insurance that is valid for the entire stay and that covers EUR 30,000 [18].

If a digital nomad stays in Estonia on a digital nomad visa for less than 183 days, the digital nomad does not need to pay taxes. However, after 183 consecutive days, the digital nomad will be taxed as he will be considered a tax resident. The tax liability in Estonia can be reduced due to the tax that the digital nomad pays in his home country. This depends on whether the country where the digital nomad is resident has a double taxation treaty with Estonia or not [18].

III. ADMINISTRATIVE AND TAX STATUS OF DIGITAL NOMADS IN THE REPUBLIC OF CROATIA

The Republic of Estonia is considered a pioneer in regulating the status of digital nomads, with its "digital nomad visa" program adopted in 2020. Among the more than 30 countries that have followed suit and adopted similar regimes specifically aimed at digital nomads is Croatia, with corresponding legislative changes in force from January 1, 2021 [4]. The Republic of Croatia, as one of the countries for which tourism is one of the most important branches of the economy, has recognized digital nomadism as a form of economy and tourism as one of the future orientations and will promote itself as an excellent destination for digital nomads by establishing a legal framework. It is a new type of tourists who travel and at the same time earn money for their trips, which has become a global trend recently. Namely, digital nomads bring significant value to the destinations where they decide to work, given that they stay there longer even outside the tourist season, and spend the money they earn. Likewise, their importance is also reflected in the sociological sense through the introduction of different values and lifestyles in local communities. The Republic of Croatia is one of the few countries in the world that has regulated the status of digital nomads and made itself a destination for a year-round stay, not just a temporary tourist visit in the summer months [11].

The flexibilization of the labor market and the legal regulation of the residence of citizens of third countries in the Republic of Croatia open up numerous opportunities for foreigners to live and work. The Foreigners Act allows and regulates temporary residence for digital nomads. The same Act introduced the term "digital nomad", which means a foreigner, a citizen of a third country, who is employed or performs tasks through telecommunications technology from the Republic of Croatia for a foreign company or his own company that is not registered in the territory of the Republic of Croatia and does not perform tasks or provide services to employers on the territory of the Republic of Croatia [19]. In Article 3, Paragraph 1,

Point 43, a digital nomad is defined as a citizen of a third country who is employed or performs tasks via communication technology for a company or own company that is not registered in the Republic of Croatia and does not perform tasks or provide services to employers on the territory of the Republic of Croatia [20]. According to Article 3, Paragraph 1, Point 4, a third country is a country that is not a member state of the European Economic Area or the Swiss Confederation, while Article 3, Paragraph 1, Point 3 stipulates that a citizen of a third country is a person who does not have the citizenship of a member state of the European Economic Area or the Swiss Confederation, and has the citizenship of a third country or is a stateless person [20]. Of course, the Foreigners Act, in Article 3, Paragraph 1, Point 2, stipulates that a citizen of a member state of the European Economic Area is a person who has the citizenship of one of the member states of the European Economic Area [20]. According to Article 57, Paragraph 1, Point 11, a digital nomad who is a citizen of a third country who resides or intends to reside is granted temporary residence. According to Article 57, Paragraph 4, a third-country citizen can submit a request for the regulation of temporary residence for other purposes or the purpose of a digital nomad's residence after the expiration of a period of six months from the expiration of the validity of the temporary residence that was approved for other purposes or the purpose of digital nomads residence [20]. Therefore, the temporary residence is approved for one year, and it is not possible to extend the permit, and after the expiration of the period of 6 months from the expiration of the validity of the digital nomad's temporary residence, a request to regulate said residence can be submitted again [11].

A digital nomad must meet the general conditions for approval of temporary residence as a citizen of a third country, and proof that a person performs work via communication technology (statement of the employer or citizen of a third country) is recognized as proof of the purpose of residence as a digital nomad. Thus, it is necessary to attach, for example, a contract on work or performance of work for a foreign employer, or a copy of the registration of one's own company and proof that it carries out the aforementioned tasks through one's own company [11]. Based on the Regulation on the method of calculation and the amount of funds for the maintenance of third-country citizens in the Republic of Croatia, a citizen of a third country who submits a request for temporary residence approval to stay as a digital nomad must have monthly funds for maintenance in the amount of at least 2.5 of the average monthly net paid salary in the last year, and for each additional family member or life partner or informal life partner, the amount is increased by an additional 10% of the average monthly net paid salary in the last year [21]. The following documentation is required as evidence to determine the purpose of the digital nomad's stay in the Republic of Croatia: statements from the employer or a citizen of a third country (as evidence that the work is performed via communication technology): a contract on work or performing work for a foreign employer or a copy of the registration of one's own company and proof that it performs these jobs through one's own company, proof of means of support

during one's stay in the Republic of Croatia, a copy of a valid travel document whose validity period must be three months longer than the period validity of the intended stay, proof of health insurance (travel or private health insurance must cover the territory of the Republic of Croatia), proof that he has not been legally convicted of criminal offenses from the home country or the country in which he resided for more than a year immediately before arriving in the Republic of Croatia, address in the Republic of Croatia, with the provision that a temporary address can also be specified (hostel/hotel if accommodation is booked/confirmed) [11]. As the Foreigners Act allows citizens of third countries to stay longer in Croatia, up to one year, the issue of taxation of their receipts during their stay in the Republic of Croatia is raised [11].

This chapter will also discuss the tax status of digital nomads in the Republic of Croatia.

Given that the new Foreigners Act introduced the concept of digital nomads, according to which a digital nomad is a citizen of a third country who is employed or performs tasks via communication technology for a company or own company that is not registered in the Republic of Croatia and does not perform tasks or provide services to employers in the territory of the Republic of Croatia, it was also necessary to define the tax treatment of the receipts that they will realize [11]. In the basic provisions of the Income Tax Act, the scope of receipts that are not considered income has been expanded, among others, for the receipts of natural persons realized on the basis of the acquired status of digital nomads under a special regulation (the Foreigners Act) [22]. At the end of 2020, a new Point 26 was added to Article 9, Paragraph 1, which stipulates that income tax is not payable on the receipts of natural persons realized based on self-employed work or activities for an employer who is not registered in the Republic of Croatia based on the acquired digital nomad status under a special regulation [23]. Therefore, it is for receipts that will be realized by the same thus acquired digital nomad status is prescribed a tax exemption, and there would be no reporting obligation for the receipts thus achieved, and the tax exemption is prescribed to facilitate their decision to choose the Republic of Croatia as their place of residence and work, given that these are highly qualified experts [11]. As a digital nomad is employed or performs tasks for a company or his own company that is not registered in the Republic of Croatia and does not perform tasks or provide services to employers in the territory of the Republic of Croatia, he does not acquire insurance status with the competent institutes (Croatian Pension Insurance Institute and Croatian Health Insurance Fund) based on employment or self-employment and, there is no obligation to pay mandatory contributions [11]. The insurance status of foreigners is regulated under the Compulsory Health Insurance and Health Protection of Foreigners in the Republic of Croatia Act. Article 4 of the Act on Amendments to the Compulsory Health Insurance and Health Care for Foreigners in the Republic of Croatia Act, which entered into force on March 20, 2021, regulates the way to exercise the right to health insurance and health care of digital nomads. This amendment to

Article 6, Paragraph 12 of the integral text of the Compulsory Health Insurance and Health Care of Foreigners in the Republic of Croatia Act stipulates that an application for compulsory health insurance is not required to be submitted by a citizen of a third country on a temporary stay in the Republic of Croatia, who resides in the Republic of Croatia in the purpose of the digital nomad's residence, and, he is obliged to bear the costs of using health care in a health institution, that is, with a health worker in private practice or another provider of health care in the Republic of Croatia [24][25]. With the introduction of the new concept of digital nomads in the Foreigners Act, the conditions of entry, movement, residence, and work of foreigners who are citizens of third countries in the Republic of Croatia, and who carry out work through telecommunications technology from the Republic of Croatia, but not for employers in the territory of the Republic of Croatia, but abroad. Likewise, by defining the tax treatment, i.e. by exempting from taxation the income they will receive based on the acquired digital nomad status, their status was legally regulated to facilitate their decision to choose the Republic of Croatia as their place of residence and work. Therefore, we can conclude that the Republic of Croatia is among the countries that recognized the importance of digital nomads in time and arranged the legislative framework for them, which will influence the attraction of digital nomads in the Republic of Croatia, and consequently have a positive impact on tourism, i.e. on all branches of service activities related to tourism [11].

The Republic of Croatia by regulating the status of digital nomads has become a whole-year destination and not only a temporary tourist summer month jaunt. Research into the NomadList.com portal, a platform that gathers digital nomads from around the world and records their experiences bears witness to the fact that the Republic of Croatia has become the top destination for distance working, and states that monthly between three to five thousand digital nomads come to the Republic of Croatia. A great number of them come from third countries and want to stay and work in the Republic of Croatia longer than 90 days [12].

From the above description, we can conclude that the rules of the Republic of Croatia (both status-legal and tax-legal) are the most suitable for digital nomads of all the analyzed countries.

IV. CONCLUSION

Digital nomads are a new type of tourists who travel and earn money for their travels at the same time. Additionally, they spend their money where they are living, pay value-added tax (VAT), pay for hotels, accommodation, and food, and if they have a family, they pay for kindergartens and schooling, they promote tourism which means that the financial benefits digital nomads bring are great not only for the economy of the Republic of Croatia but also of other states.

The Republic of Croatia has recognized the importance and role of digital nomads in contemporary society, in particular as it is known that the Republic of Croatia is

one of the states where tourism is one of the most significant branches of the economy.

Therefore, the Republic of Croatia has brought in regulations that on the one hand simplify or remove the administrative barriers for digital nomads, and on the other, digital nomads' earnings are not classified as income and hence are not taxed. Digital nomads' money earned in FR Germany and the Republic of Italy is taxable. In the Republic of Estonia, digital nomads are exempt from paying tax on income earned provided that have a digital nomad visa for less than 183 days. However, after 183 consecutive days, they will be taxed because they are then considered to be a tax resident of the Republic of Estonia.

The Republic of Croatia, other European Union member states and third countries wanting to attract more and more digital nomads have already regulated the legal status of digital nomads from administrative and taxation aspects, in particular concerning visas, stays, taxation benefits, and tax exemption. On the other hand, digital nomads can live and work in countries that are not European Union member states and are ideal for digital nomads living or working because they can register their company or offshore business, move their property, and so on, which could lead to legal misuse. In such cases, the Republic of Croatia and other European Union member states must always check whether an avoiding double taxation agreement has been formed with those countries so that abuse of laws can be eliminated.

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