NACIONALNA ALIJANSA ZA LOKALNI EKONOMSKI RAZVOJ

NALED

NATIONAL ALLIANCE FOR LOCAL ECONOMIC DEVELOPMENT

10

2008-2018

GREY BOOK

Eliminating Administrative Barriers to Doing Business in Serbia - Recommendations

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Eliminating Administrative Barriers to Doing Business in Serbia - Recommendations

NALED
Izvršni odbor
Executive Board

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WELCOME

Dejan Đokić
President of NALED
Executive Board

Dear members and partners,
On behalf of NALED Executive Board, it is my honor and pleasure to present you the tenth anniversary issue of the Grey Book, the publication consolidating 100 recommendations prepared by businesses for cutting the red tape and improving the business environment.

The Government and line ministries have adopted completely or partially 9 recommendations from the previous issue prepared by NALED. Previous year was average as regards to number of accepted recommendations from the Grey Book. The reason for this figure to remain at this level was an almost six months long backset in legislative activities, but having in mind the ongoing drafting of several regulations important for businesses we hope for even better results in the forthcoming year.

One of the most important recommendations accepted during 2017 was the passing of the Law on Electronic Document, Electronic Identification and Trust Services for Electronic Transactions as the prerequisite of progressive digitalization of business processes in Serbia, both in the private sector and public administration. Health care cards certification procedure has been automated as of October 1 resulting in 180 million dinars and 500,000 hours of savings for businesses annually, and the National Bank of Serbia has eliminated mandatory use of a seal in payment services, thus resolving another two important initiatives.

The year was concluded with the passing of the amendments to the Law on Republic Administrative Fees and the Draft Law on Fees for Use of Public Resources opening the door for reform of non-tax and parafiscal charges. Additionally, by accepting NALED's initiative to introduce incentives for business start-ups, which will generate savings of up to 250,000 dinars per employee among entrepreneurs, the Ministry of Finance has made a major step towards resolving one of Grey Book's most significant recommendations – reduction of tax burden on wages.
Owing to the reform of construction permitting system (permits are now issued within 7 working days), Serbia continued improving its ranking on the World Bank's Doing Business List third year in a row to climb from rank 47 to 43 among 190 countries ranked. The electronic system, developed with NALED's active contribution, has received more than 130,000 applications by citizens and businesses in the past two years, with nearly 95% being resolved, thus unlocking construction and investments in Serbia. If we want to preserve the positive trend of reforms for a better business environment in 2018 we believe that key activities should be continued efforts in combating shadow economy, finalization of parafiscal charges reform, cadastre entry improvements and further e-government development as the best instrument for cutting the red tape and corruption and introducing transparency in public administration.

In the Grey Book 10 we have prepared 20 new recommendations for the Serbian Government. We are grateful to members for their proposals and contributions to this year's issue – companies Farmalogist, Astra Zeneca, Rudnik, Unicredit bank, MK Group and the City of Novi Sad and special gratitude goes to my colleagues from NALED Executive Board for the financial and operational support in preparation and printing of this publication.

10 YEARS OF THE GREY BOOK

The First Steps

The Grey Book came into existence in 2008 as a result of NALED's desire to assemble all segments of society and encourage them to engage and contribute to the common goal – building better business environment by eliminating redundant and obsolete administrative procedures. No initiative before or after the Grey Book had dealt systematically with the administrative and practical problems faced by businesses on a daily basis, which led to Grey Book being accepted by institutions as a strategic document in planning policy reforms.

Late in May the public was introduced to the „Out of the Maze" campaign NALED initiated together with USAID and B92 TV station. Citizens and businesses were invited to nominate complicated procedures and propose models of improvement. During June, NALED received as much as 245 justified proposals, 55 of which earned their place in the first issue of the Grey Book. Three citizens were prized for their proposals for improving the procedures of TIN assignment, construction permitting and tax filling.

Apart from B92 as the media sponsor, the campaign was supported by other media outlets such as Politika which was publishing the Grey Book recommendations on the front page, as well as by then Ministry of Economy and Regional Development. This was very important at that time because the Grey Book came into existence eight months before the Government's Comprehensive Regulatory Reform and one part of NALED's recommendations were included in the so-called Regulatory Guillotine by line institutions. While CRR results were limited, the Grey Book has persevered a full decade and the seal of its uniqueness was the decision to perform annual monitoring of activities by line institutions in resolving recommendations and reporting to the public on the performance of state institutions.

Decade of Reforms

Citizens, businesses, NALED members and academic community have nominated more than 500 initiatives for streamlining bureaucracy, and 210 found their place in the Grey Book. Those that were not successfully resolved were transferred to the following issue and almost half (89) were adopted by line authorities – 54 procedures were reformed completely and 35 partially, thus easing the work of citizens and businesses.

2008-2018 GREY BOOK RECOMMENDATIONS OVERVIEW

GREY BOOK	TOTAL*	SOLVED	PARTIALLY SOLVED	NEW
1	55	0	0	55
2	75	2	0	20
3	75	5	2	0
4	80	14	9	12
5	76	6	8	22
6	100	7	10	29
7	100	11	3	15
8	100	3	0	15
9	100	6	3	22
10	100	/	/	20
TOTAL	>500	54	35	210

** Note: Since certain number of recommendations appears in several issues, total of individual recommendations is lower than sum of all recommendations from all issues*

10 YEARS OF THE GREY BOOK

Every year institutions adopt 9 recommendations from the Grey Book on average. Even though the recommendations acceptance dynamics is not satisfactory, it is noteworthy that institutions have accepted NALED's publication as a guideline for business environment improvements. After the Guillotine of Regulations, as much as 80% of the Grey Book recommendations found their place in 2014 in the Strategy for Supporting the Development of Small and Medium Enterprises.

Key Results

The Grey Book is responsible for elimination of some of the proverbial bureaucratic barriers. Based on NALED initiative, for the sake of example, wage tax and benefits are now paid to a single account instead of 12 different accounts, requirement that an excerpt from public records must not be older than six months was eliminated, employment booklet are not used anymore, automatic health card certification procedure was introduced and construction permitting procedures were improved. Those wanting to start their own business are assigned a tax identification number (TIN) in BRA in much more easier fashion and if they are micro or small enterprises they are exempted from the signage fee. Pregnant women and new mothers need not to collect dozens of different original documents and certified copies to realize the right to allowance during the leave, new employees are now registered electronically via online portal of the central registry and businesses do not need to provide a seal to open a bank account and conduct a payment (Annex I of the Grey Book 10 includes the list of all 89 completely or partially solved recommendations).

Pending for 10 Years

Interestingly, five administrative procedures have been waiting for solutions for a whole decade now. This is somewhat embarrassing for line institutions. As early as in the first Grey Book we have indicated that businesses should be provided with online view of the status of their tax liabilities. Additionally, as far back as in 2008 the businesses pointed out the importance of reviewing the method of VAT calculation and cost related reduction, introducing shorter deadlines for VAT refund to taxpayers exercising predominantly export activities, aligning tax control for overpaid tax refund requests and transferring status registries managed by commercial courts to the jurisdiction of Business Registers Agency. Even today, these initiatives have not been completely adopted.

The same as in the decade behind us, through the Grey Book and other projects, NALED will continue to insist on elimination of administrative barriers hindering economic development. Hopefully, the Government of Serbia and line institutions will accelerate the dynamics of reforms in the years ahead guided by the Grey Book recommendations aimed at creating efficient public administration and enabling business environment.

IMPLEMENTATION OF THE GREY BOOK 9 RECOMMENDATIONS

Summary of 2017 Reforms

Last year was characterized by significant legislative activities of the National Assembly and Serbian Government during the last quarter when a series of laws important for business environment improvement have been passed. Particularly important was the adoption of the amendments to the Law on Republic Administrative Fees that have improved transparency of fee collection policy because the large number of fees and charges set in various tariff books, rulebooks and other by-laws have been put in the subject law, charges characterized by parafiscal component have been eliminated and fees in the sphere of construction have been reformed and cut. Late in the year, the Ministry of Finance completed the Draft Law on Fees for Use of Public Resources. The stated two pieces of legislation act as an indication of readiness of executive authorities to finally approach the reform of non-tax and parafiscal charges system. By amending the Law on Personal Income Tax and Mandatory Social Contributions the Parliament has accepted the Government proposal and NALED initiative to introduce tax exemptions for business start-ups in the year of foundation of an entrepreneurial shop or firm. This is a strong incentive for entrepreneurship development in Serbia and implementation of one of the most important measures of the National Program for Countering Shadow Economy.

Amendments to the Labor Law prescribing registration of employees before entering employment relationship and new obligation for employers to keep daily records of overtime work are also important steps towards reduction of unregistered labor. Combat against shadow economy will be definitely more efficient with the adoption of the Law on Prevention of Money Laundering and Terrorism Financing where the limit for amounts to be paid via bank account was reduced from 15,000 to 10,000 Euros.

Good news related to streamlining complicated bureaucratic procedures came with the adoption of the Law on Financial Assistance to Families with Children. After five years of NALED's insisting, the law has changed the system of claiming allowance during the leave.

The Law on Electronic Document, Electronic Identification and Trust Services for Electronic Transactions further extends the list of important laws passed in 2017. The law regulated use of electronic signature, electronic seal, time stamp, electronic delivery and electronic document storage. All of this will provide for huge savings and better business environment for companies.

All aforementioned laws carry NALED's seal in terms of NALED initiating their adoption, participating in working groups or providing recommendations in the public hearing phase. We can be pleased with the readiness of line institutions, the Ministry of Finance, Ministry of Construction, Transportation and Infrastructure, Ministry of Trade, Tourism and Telecommunication, National Bank of Serbia and others to take part in the dialogue. On the other hand, even though the list of laws passed includes the amendments to the Bankruptcy Law and the Law on the National Public Administration Academy, with NALED participating in the preparation, line ministries were insufficiently open for our suggestions related to improvements.

Although the list of passed acts is good, we need to point out that the core legislative activity was missing throughout the major part of the last year. Most of the laws were passed as late as in November and December, out of which as much as 26 in December. This has affected implementation of recommendations from the Grey Book 9 and showed that our publication is the best proof of election year effects on administrative reforms.

There were 9 resolved recommendations last year - 6 completely and 3 partially - a result we cannot be entirely satisfied with.

Amendments of Tax Regulations and Fees

Ministry of Finance stood out in 2017 implementing three recommendations from the Grey Book, one completely and two partially. After many years of bad practice of double charging for the same operation in the Republic Geodetic Authority (RGA charges and republic fees), in cooperation with the Ministry of Construction, Transportation and Infrastructure, the Ministry of Finance eliminated this problem completely through amendments to the Law on Republic Administrative Fees. The RAF for Cadaster operations is no longer charged, thus entirely accepting recommendation 1.17 which held the status of "partially resolved" since 2013.

New Rulebook on VAT Form, Contents and Record Keeping was adopted in mid October and relative to previous version, the new document has included one part of recommendations given by accountants and businesses. Provisions of the Rulebook provide more systematic and articulate method of VAT records listing. Implementation will create one-time costs for businesses required for software adaptations and staff training and

IMPLEMENTATION OF THE GREY BOOK 9 RECOMMENDATIONS

SUMMARY OF IMPLEMENTED GREY BOOK 9 RECOMMENDATIONS

NO.	RECOMMENDATION	LINE INSITITUTION	STATUS
1	Eliminate republic administrative fee for applications to the cadastral office	Ministry of Finance	Solved
2	Amend the regulation on criteria of flat rate taxation	Ministry of Finance	Solved partially
3	Streamline VAT record keeping	Ministry of Finance	Solved partially
4	Abolish certification of health care cards	Ministry of Health	Solved
5	Amend the rulebook on conditions for wholesale of medicines and medical devices	Ministry of Health	Solved
6	Streamline claiming of maternity allowance	Ministry of Labor, Employment Veteran and Social Policy	Solved
7	Align technical solutions for smooth application of the qualified digital certificate	Ministry of Trade, Tourism and Telecommunications	Solved partially
8	Eliminated compulsory use of seal in payment services	National Bank of Serbia	Solved
9	Regulate business entity inspection oversight practices	Ministry of Public Administration and Local Government, other ministries	Solved

recurring costs because the records will include much more details than existing ones. Therefore, we have to conclude that recommendation to simplify VAT record keeping has been solved only partially and the good thing is that implementation of the rulebook has been delayed until July 2018.

Recommendation to align criteria for flat tax rate setting has been partially solved (recommendation 1.14). In the last two issues of the Grey Book, NALED has been pointing out to the problem of unclear criteria for flat rate tax setting and the consequences to entrepreneurship development and overall business environment in Serbia. The Government amended this Regulation on August 25, but that was not enough. Except for eliminating the criterion of business entity reputation when calculating tax rates and changes to the percentage of tax base reduction or increase with regard to other criteria, there were no other major amendments.

Automatic Certification of Health Cards

Ministry of Health accepted two recommendations. As of October 1, employers do not need to certify health care cards at the National Health Insurance Fund (NHIF) (recommendation 3.2). Certification is now automatically exercised by NHIF by means of networks and data exchange with databases of CRCSI, Tax Administration, PDI Fund and NES. This brings significant savings for 150,000 employers in Serbia and the same benefits will be experienced by 175,000 unemployed and new retirees, which is the number that gains this status every year. Procedure of going to NHIF is conducted at least twice in a year by almost three million employees and their family members, and in case of employees with definite employment health card certification was conducted even five times a year.

By adopting the amendments and addenda to the Rulebook on Conditions for Wholesale of Medicines and Medical Devices (recommendation 3.10) the Ministry has also disburdened drug wholesalers by eliminating unnecessary high costs and by giving them an opportunity to use services of professional transporters of medicines and medical devices in addition to using their own vehicles.

IMPLEMENTATION OF THE GREY BOOK 9 RECOMMENDATIONS

Claiming Maternity Leave Streamlines

After five years, the Grey Book recommendation to reduce number of documents required to claim maternity allowance (recommendation 4.1) was adopted. As the line institution, the Ministry of Labor, Employment, Veteran and Social Policy proposed this problem to be solved by adoption of the Law on Financial Assistance to Families with Children. Employers and new mothers are now disburdened from collecting as much as 86 different original documents and copies of documents necessary to provide evidence to line institutions that a new mother is entitled to claim the maternity allowance. Instead of a procedure when employers (for their staff) or entrepreneurs - new mothers (for themselves) have to take subject documentation to different counters, the complete procedure is now automatic as data will be collected by institutions through information exchange via the Central Registry of Compulsory Social Insurance. Ministry of Labor is in charge of paying monthly allowances and the budget funds will go directly to accounts of beneficiaries.

Seal is Slowly Becoming History

According to NALED's analysis indicating that in spite of intention of legislative authorities declared in 2011 within the Company Law to eliminate use of seal, this relic of the past is still „alive" in almost 70 by-laws. National Bank of Serbia decided to deal with this problem within its scope of responsibility and adopted recommendation 13.2. Upon initiative of the Work Group for elimination of seal and paper invoices in practices conducted by entrepreneurs, companies and other legal entities of private law (NALED actively participated in the work of this Work Group), four decisions of the National Bank of Serbia regulating payment services of commercial banks have been amended. As of October 1, all companies that have used the seal will not be obliged to do so and all they need to do is to deliver a written notice to the bank saying that the company will not use the seal anymore. Companies and entrepreneurs opening new accounts will not be obliged anymore to certify the account application, specimen signature card, payment order, bills and other documents unless they have agreed differently with the bank. Amendments were adopted to align bank practices and banks are not allowed anymore to refuse provision of payment services if the client does not want to use the seal.

Improvements of Inspection Practices

Recommendation 11.1 that required regulation of inspection and tax authorities' practices during control has been completely solved. Adoption of the Law on Inspection Oversight and the Law on General Administrative Procedure, proposed by the Ministry of Public Administration and Local Government, brought solution to this recommendation and credits for this also go to other ministries exercising inspection powers. Inspection authorities can no longer ask businesses to present old documents for insight, if they had been used as a basis for already issued decisions. This practice used to impose an unjustified practice of storing documents, though being entirely unnecessary because their accuracy and contents had been already controlled when new administrative act was issued.

E-Government as a Priority

Upon forming the Government office of Ana Brnabić in mid 2017, one of the proclaimed Government's regulatory priorities was e-government development and the new Law on electronic Government and the Law on Electronic Document, Electronic Identification and Trust Services for Electronic Transactions (known as e-commerce law). Together with the Law on General Administrative Procedure, aforementioned laws will create a new framework for development of modern electronic government. E-Commerce Law was adopted in October 2017 upon proposal of the Ministry of Trade, Tourism and Telecommunications and, thus, the recommendation to align technical solution for smooth application of the qualified digital certificate (6.3) was partially solved. The law has set simple and cost-effective use of qualified digital certificate, electronic document exchange and elimination of paper documents when qualified electronic storing service has been provided. This recommendation will be completely solved when this sphere is closely regulated through by-laws. 17 such regulations will be adopted (NALED will take part in drafting activities) to define cloud based e-identification, e-delivery, e-storage, e-signature and other trust services for electronic transactions, as well as creating trust service provider networks.

GREY BOOK 10 RECOMMENDATIONS

The latest issue of the Grey Book contains 100 selected recommendations of NALED members related to red tape reduction and public sector efficiency improvements. 20 of total 100 recommendations are presented in this issue for the first time and are marked as new. This year again old recommendations were further processed or modified to the extent imposed by regulatory amendments, implemented reforms and business needs that occurred following the previous issue. Six recommendations have been marked as solved and three as solved partially in 2017, while another seven partially solved recommendations have been taken from previous issues since they require more work. Few of the outdated or less significant recommendations were left out. Same as before, majority of recommendations are directed to the Ministry of Finance (33) and the Ministry of Health (13), at the same time the most active ministries in the previous year. Once more, the Ministry of Economy, Ministry of Justice and Ministry of Agriculture have not contributed to red tape reduction by adopting the Grey Book recommendations. This is particularly important in case of the Ministry of Economy because the number of recommendations directed to this ministry has doubled in the latest issue of the Grey Book.

SUMMARY OF THE GREY BOOK 10 RECOMMENDATIONS

NO.	LINE INSTITUTION	TOTAL	SOLVED	SOLVED PARTIALLY	UNRESOLVED	NEW
1.	Ministry of Finance	33	1	4	23	5
2.	Ministry of Economy	5	0	0	3	2
3.	Ministry of Health	13	2	2	6	3
4.	Ministry of Labor, Employment, Veteran and Social Policy	5	1	1	3	0
5.	Ministry of Construction, Transportation and Infrastructure	7	0	1	4	2
6.	Ministry of Trade, Tourism and Telecommunications	2	0	1	0	1
7.	Ministry of Justice	3	0	0	3	0
8.	Ministry of Agriculture	3	0	0	3	0
9.	Ministry of Environmental Protection	1	0	0	1	0
10.	Ministry of Internal Affairs	1	0	0	0	1
11.	Several ministries	18	1	1	10	6
12.	National Assembly and Secretariat for Legislation	1	0	0	1	0
13.	National Bank of Serbia	4	1	0	3	0
14.	Local Government	4	0	0	4	0
	TOTAL	100	6	10	64	20

GREY BOOK 10 RECOMMENDATIONS

10 KEY RECOMMENDATIONS FOR 2018

RECOMMENDATION NO.	DESCRIPTION	LINE MINISTRY
1.14	REDUCE WAGE TAXES AND BENEFITS	Ministry of Finance
1.16	ESTABLISH PUBLIC REGISTER OF NON-TAX CHARGES AND ENHANCE PREDICTABILITY OF FEES AND CHARGES	Ministry of Finance
2.3	REGULATE THE AREA OF CRAFTS BY LAW	Ministry of Economy
4.3	INTRODUCE A SEASONAL EMPLOYMENT ELECTRONIC REGISTRATION AND RECORD-KEEPING SYSTEM	Ministry of Labor, Employment, Veteran and Social Policy
5.4	IMPROVE THE PROCEDURE FOR REGISTRATION IN THE REAL ESTATE CADASTRE	Ministry of Construction, Transportation and Infrastructure
8.3	IMPROVE EXISTING REGISTER OF AGRICULTURAL HOLDINGS AND INTRODUCE AN ELECTRONIC SYSTEM FOR AWARD OF INCENTIVES	Ministry of Agriculture, Forestry and Water Management
11.7	PRESCRIBE AND INTRODUCE A META-REGISTER AND THE BASIC REGISTERS INTO THE E-GOVERNMENT SYSTEM	Ministry of Trade, Tourism and Telecommunications and Ministry of Public Administration and Local Government
11.11	ENABLE BUSINESS ENTITIES TO KEEP THEIR BUSINESS DOCUMENTS EXCLUSIVELY IN ELECTRONIC FORM	Ministry of Trade, Tourism and Telecommunications and Ministry of Culture and Information
11.13	ADDRESS THE PROBLEM WITH COLLECTION OF RECEIVABLES FOR THE MEDICINES DELIVERED TO HEALTH CARE FACILITIES	Ministry of Health and Ministry of Public Administration and Local Government
14.4	ELIMINATE THE DIFFERENCE IN UTILITY SERVICES PRICE FOR DIFFERENT TYPES OF CONSUMERS	Local Government

1. MINISTRY OF FINANCE

1.1 ENABLE ELECTRONIC SUBMISSION OF TAX RETURNS AND TAX RELATED DOCUMENTS, AS WELL AS ONLINE STATUS VIEW OF TAX LIABILITES

PROBLEM DESCRIPTION

Payers should be permitted to conduct electronic submission to the Tax Administration. This would imply expansion of the existing information system of the Tax Administration (e-taxes) by providing for electronic delivery of all submissions to TA.

The new Law on General Administrative Procedure, under implementation as of June 1, 2017, permits such form of operation.

Activities of taxpayers and/or entities/persons acting as proxies of taxpayers should be further facilitated by enabling electronic submission of all tax related documents.

Aforementioned amendments would further facilitate activities of taxpayers and would definitely improve Serbia's ranking on the World Bank's Doing Business List. This would provide for electronic delivery of tax submissions: requests for transfer to another account, refund requests, refraction requests, tax debt and interest write off request and similar.

SOLUTION-RECOMMENDATION

The Tax Administration has a well developed e-taxes system. Taxpayers are registered via ESR form and via electronic certificate they can submit majority of tax return. Enable electronic delivery of all submissions and reports. (for example, Transfer Prices Report, etc.)

Provide for the Tax Administration to deliver all resolutions, conclusions and minutes to the taxpayers via e-taxes portal.

The Tax Administrations is still working on the e-Taxes portal to make it fully functional. When the portal reaches its full functionality, among other, the taxpayers will deliver electronic returns via the portal, print out returns and notifications on returns submitted, search for returns and view returns submitted via the portal, view status of taxpayer accounts and electronic delivery of tax documents will be enabled.

SOLVED PARTIALLY

REGULATIONS

· Law on Tax Procedure and Tax Administration ("Official Gazette of RS", no. 80/02, 84/02, 23/02, 70/03, 55/04, 61/05, 85/05, 62/06, 63/06, 61/07, 20/09, 72/09, 53/10, 101/11, 2/12, 93/12, 47/13, 108/13,68/14, 105/14, 91/2015, 112/2015, 15/2016 and 108/2016)

1. MINISTRY OF FINANCE

1.2 ENACT THAT AN APPEAL SHALL POSTPONE ENFORCEMENT UNTIL FINALITY OF THE TAX-ADMINISTRATIVE DECISION

PROBLEM DESCRIPTION

Article 147 of the Law on Tax Procedure and Tax Administration set that an appeal shall not postpone enforcement of the tax-administrative decision. Subject provision creates problems for taxpayers in practice, especially in view of the deadline taken by line institutions to process the appeal. Even though legal deadline for processing appeals is 60 days, appeal procedures in practice take much more time. During that period, tax administration is authorized to use regular procedure to collect taxpayer's liabilities related to public revenues from the taxpayer's accounts. Even when the decision has been revoked, taxpayer's monies are refunded with substantial delay and no prescribed interest on arrears.

Undoubtedly, this legal solution creates situations where taxpayers' accounts are frozen and business dealings are difficult, and the final result may even be the receivership. In practice, this problem has not been resolved by means of the discretionary judgment of the Tax Administration from Article 147, Paragraph 2 of the Law to postpone enforcement if the taxpayer has provided documented evidence that tax payment before finality of contested decision would inflict significant economic damage to him/her.

We have received a comment from the Ministry of Finance saying that Article 147, Paragraph 2 of the Law set an option for suspensive effect of an appeal, if the taxpayer has provided documented evidence that tax or secondary duty payment before finality of contested decision would inflict significant economic damage to him/her. This is correct, but the case here is about exception completely depending on discretionary judgment of the Tax Administration, creating legal uncertainty for taxpayers as regards to the possibility and time of refund of groundless tax collection.

SOLUTION-RECOMMENDATION

Amend Article 147 of the Law on Tax Procedure and Tax Administration by enacting that an appeal shall postpone enforcement until finality of the tax-administrative decision.

If the Ministry of Finance finds that accepting such recommendation can potentially undermine the RS budget, than we would recommend protection for taxpayer rights by adding new Paragraphs 5 and 6 after Paragraph 4 of the Article 147 of the Law, to read:

„If the second instance body has not made the decision by the deadline from Paragraph 4 of present article, the first instance body shall make forthwith decision on re-enforcement and conduct refund of collected amount to the taxpayer, with interest on arrears as per Article 75 of present Law.

In case of the situation from Paragraph 5 of present article, if the tax-administrative decision has subsequently entered in force, interest on principal debt shall be charged as of the day of finality of the subject decision."

REGULATIONS

- *Article 147 of the Law on Tax Procedure and Tax Administration ("Official Gazette of RS ", no. 80/02, 84/02, 23/02, 70/03, 55/04, 61/05, 85/05, 62/06, 63/06, 61/07, 20/09, 72/09, 53/10, 101/11, 2/12, 93/12, 47/13, 108/13,68/14, 105/14, 91/2015, 112/2015, 15/2016 and 108/2016)*

1.3 ENACT INSTANCES WHEN TAXES AND BENEFITS SHALL BE ASSESSED AND PAID FOR WORKING RETIREES

PROBLEM DESCRIPTION

Various interpretations of compulsory tax and benefits payments for retirees who have re-established employment relationship may be found in practice, as well as when they register entrepreneurial business or start up a business entity.

According to some interpretations, health care insurance and unemployment insurance contributions should not be paid for retirees, while some other say that they should be paid.

Subject dilemmas should be solved though amendments to applicable regulations. Otherwise, such legal gap will create further legal uncertainty as regards to statutory conduct in this matter.

SOLUTION-RECOMMENDATION

Amend the Law on Mandatory Social Security Insurance Contribution by providing clear prescription of instances when taxes and benefits shall be assessed and paid for working retirees.

REGULATIONS

· *Law on Mandatory Social Security Insurance Contribution (:Official Gazette of RS", no. 84/04, 61/05, 62/06, 5/09, 52/11, 101/11, 47/13, 108/13, 57/14 and 112/15, 5/2016 and 7/2017)*

1.4 ENACT THAT VAT SHALL BE CHARGED ON THE DAY THE RECEIVABLE FROM THE BUYER HAS BEEN COLLECTED

PROBLEM DESCRIPTION

According to the Value Added Tax Law, the VAT onset is on the day when goods and services are sold, regardless of when the actual payment will occur. Due to the obligatory calculation of VAT on the day when goods and services are sold, taxpayers often owe VAT payment for goods for which they themselves haven't been paid yet. On the other hand, if goods were paid in advance, the Law imposes the obligation to calculate VAT on the day of payment. It is obvious that stated solutions do not consider the needs of businesses, which is how discouraging the effects of the rules about the onset of the obligation regarding the turnover of goods and services can be.

SOLUTION-RECOMMENDATION

Consider amendment to Article 16 of the Value Added Tax Law in terms of specifying the onset of the tax obligation on the day when the sales revenues are actually collected rather than on the day when the turnover of goods and services occurred.

We have received commentary from the Ministry of Finance indicating that such recommendation would prejudice the EU acquis in the sphere of sale taxation, i.e. Council Directive 2006/112/EC, but NALED will keep this recommendation considering the fact that the Directive prescribed an option, not an obligation, to collect VAT before receivables are collected.

SOLVED PARTIALLY

REGULATIONS

· *Article 16 of the Value Added Tax Law („Official Gazette of RS", no. 84/04, 86/04, 61/05, 61/07, 93/12, 108/2013, 6/2014, 68/2014, 83/15, 5/2016, 108/2016 and 7/2017)*

1. MINISTRY OF FINANCE

1.5 SIMPLIFY VALUE ADDED TAX RECORD KEEPING

PROBLEM DESCRIPTION

Rulebook on VAT Form, Contents and Record Keeping and the Form and Contents of VAT Calculation passed during 2016 (Official Gazette of RS 80/16) made VAT record keeping even more complicated by inflating the scope of required documents and reports. Principal elements of VAT report (VAT charged, previous VAT and payable amount) are identical, but new rules have made document entry much more difficult.

New tax report provides purely statistical data that are of no significance for VAT calculation, while on the other hand they make VAT report control and generation more difficult. Previously, each document would be entered only once in the incoming invoice ledger or outgoing invoice ledger, which was then used to produce tax report. After the amendments to the Rulebook, some documents are to be entered several times (for example, import invoices with sales within one period and VAT payment within another period), which has destroyed the original concept and complicated processing. Calculation is much more difficult because, now, one should process invoices with no impact on VAT that were not recorded earlier (invoices that are not covered by VAT system and alike). Special problems are various additions to the original VAT calculation, such as "internal VAT calculation" in case of secondary raw materials and software imports that now spoil original principles of VAT entry.

SOLUTION-RECOMMENDATION

Amend the Rulebook on VAT Form, Contents and Record Keeping and the Form and Contents of VAT Calculation to streamline VAT record keeping, i.e. by not making it more complicated than it was according to the previous regulations.

SOLVED PARTIALLY

New Rulebook on VAT Form, Contents and Record Keeping and the Form and Contents of VAT Calculation was adopted and entered into force as of October 14, 2017 and will be implemented as of July 1, 2018 when the Rulebook on VAT Form, Contents and Record Keeping („Official Gazette of RS", no. 120/12) and the Rulebook on VAT Form, Contents and Record Keeping and the Form and Contents of VAT Calculation („Official Gazette of RS", no. 80/16 and 109/16) shall cease to exist.

Comparing to records prescribed in 2016 rulebook, the new rulebook:

- has taken into consideration recommendations made by accountants and businesses and reduced the scope of record keeping;

- number of field in POPDV form was reduced. Regardless of some improvements, the Rulebook still unnecessarily complicates VT record keeping. This is why implementation is postponed upon appeal by business. The Rulebook should be amendment before the implementation starts and improve certain solutions in line with requests made businesses.

REGULATIONS

· *Rulebook on VAT Form, Contents and Record Keeping and the Form and Contents of VAT Calculation („Official Gazette of RS", no. 90/2017)*

1. MINISTRY OF FINANCE

1.6 ELIMINATE CASH REGISTER TAPES AND SIMPLIFY CASH REGISTER OPERATIONS THROUGH FISCALIZATION SYSTEM IMPROVEMENTS

PROBLEM DESCRIPTION

Certain provisions of the Law on Fiscal Cash Registers (hereinafter: Law) and associated Rulebook on the Procedure of Fiscalization, Contents of Records of Licensed Service Shops and Servicemen, and the Appearance, Contents and Method of the Fiscal Cash Register File and Service Booklet Maintenance (hereinafter: Rulebook) proved to be ineffective, thus, making business operations more difficult and expensive.

The general consensus is that provisions of the Law are obsolete and that Serbia needs new improved model of „fiscalization". Several selected problems are given here below.

Article 3, Paragraph 2 of the Law prescribed mandatory registering of each individual sale though the cash register, also when the service is provided to the natural entity, and service fee is to be paid by the legal entity, i.e. the entrepreneur, irrespective of the payment method (cash, check, credit card and cashless payments). Subject obligation is pointless since data on service payment are registered in the books (bank statement), and thus, there is no further need to register twice the payments by natural entities for services rendered (through bank statements and through cash register).

Printing of fiscal documents from Articles 12–15 of the Law are to be on a single copy, accompanied with their full contents on a fiscal cash register tape by means of copying or double printing. Data printed on fiscal documents must match data on the cash register tape. Taxpayer shall keep the tape and fiscal documents from Articles 13 and 14 of the Law at least three years, which is something that has no reasonable justification.

Requirements of cash register fiscalization, servicing and repair have been prescribed in Articles 27 and 28 of the Law. Articles 12 – 14 of the Rulebook prescribed the procedure of cash register fiscalization that is sluggish and costly for business entities.

SOLUTION-RECOMMENDATION

Fiscalization system in the Republic of Serbia should be improved to bring cost-effectiveness and simplification of procedures for doing business. Improved system should provide for collection of high quality data and information required by the tax administration and inspections aimed at countering shadow economy.

Eliminate compulsory printing of cash register tapes for fiscal receipts (fiscal documents according to Article 12 of the Law).

Delete provision from Article 3, Paragraph 2 of the Law, because there is no need to register twice the same payment.

REGULATIONS

· Law on Fiscal Cash Registers („Official Gazette of RS" no. 135/04 and 93/12)

· Rulebook on the Procedure of Fiscalization, Contents of Records of Licensed Service Shops and Servicemen, and the Appearance, Contents and Method of the Fiscal Cash Register File and Service Booklet Maintenance (Official Gazette of RS 140/04)

1. MINISTRY OF FINANCE

1.7 AMEND THE METHOD OF VAT REDUCTION FOR WRITE-OFFS (SPOILAGE, SPILLAGE, BREAKDOWNS AND BREAKAGE)

PROBLEM DESCRIPTION

The Regulation on the Amount of VAT-Free Write-Offs (spoilage, spillage, breakdowns, breakage) prescribed that the write-offs free of VAT are to be expressed as a percentage of goods that were acquired, processed, produced or sold in a particular period of time. The write-off amount is identified through inventorying, which is a relatively complex and time consuming process, especially for businesses and entrepreneurs with a wide assortment of products, produced or sold. Article 3, Paragraph 1 of the Regulation prescribed that the VAT payer shall identify the write-off immediately upon occurrence, either through regular or extraordinary inventorying in the storage, warehouse, depot, shop or any other similar facility.

SOLUTION-RECOMMENDATION

Amend Article 3, Paragraph 1 of the Regulation on the Amount of VAT-Free Write-Offs (spoilage, spillage, breakdowns, breakage) to prescribe identification of write-offs only on annual bases, according to annual inventory data.

Note that the state budget would benefit from this recommendation because taxpayers would pay their VAT liabilities throughout the year, even for unusable goods that will be written off at year end (budget crediting by taxpayers).

According to earlier FREN findings, VAT payers in Serbia currently conduct inventorying for the purpose of VAT reductions for spoilage, spillage, breakdowns and breakage 2.7 times per year on average. If they have been allowed to deduct the amount of deficit created during the entire period since the previous inventorying, cost of inventorying would be reduced by around 4.45 billion dinars (43.2 million Euros), in case of annual inventorying by VAT payers.

REGULATIONS

· *Article 3, Paragraph 1 of the Regulation on the Amount of VAT-Free Write-Offs (spoilage, spillage, breakdowns, breakage)(„Official Gazette of RS“ no. 124/04)*

1.8 REDUCE VAT RATE FOR DRUG PRODUCTION INTERMEDIATES WITH THE AIM TO IMPROVE COMPETITIVENESS OF DOMESTIC PHARMACEUTICAL INDUSTRY

PROBLEM DESCRIPTION

According to Article 23, Paragraph 2, Item 3 of the Value Added Tax Law, among other, drugs are subject to reduced VAT rate of 10%. However, the Law has not envisaged preferential treatment for drug intermediates used in production.

Subject regulation has adverse impact on domestic drug producers because materials required for drug production are subject to 20%general rate, thus, creating problems of solvency for domestic producers and reducing their competitiveness versus foreign producers and drug importers. Such treatment is also discouraging for foreign investments in domestic pharmaceutical industry.

Due to compulsory payment of higher VAT rate for material purchases and lower VAT rate payment for sold finished products, taxpayer must request overpaid tax each month - procedure imposing significant additional workload for businesses.

SOLUTION-RECOMMENDATION

Based on justified request made by domestic pharmaceutical industry, amend Article 23, Paragraph 2 of the Value Added Tax Law by adding new Item 3 a) after Item 3) to read:

„3a) drug production intermediates and/or raw materials used for drug production processes;“

REGULATIONS

· *Article 23, Paragraph 2 of the Value Added Tax Law („Official Gazette of RS”, nor. 84/04, 86/04, 61/05, 61/07, 93/12, 108/2013, 6/2014, 68/2014, 83/15, 5/2016, 108/2016 and 7/2017)*

1. MINISTRY OF FINANCE

1.9 ENACT SHORTER DEADLINE FOR OVERPAID VAT REFUND TO THE TAXPAYER PREDOMINANTLY TRADING GOODS ABROAD

PROBLEM DESCRIPTION

Article 52, Paragraph 4 of the Value Added Tax Law specifies that overpaid VAT presented in the tax form shall be returned to taxpayers who predominantly trade goods abroad, within 15 days after the tax form was submitted, but not later than within 45 days.

This time limit is unnecessarily long and it reduces the solvency of the business.

Further problems occur due to lack of adequate risk analysis. Instead of tax credit, majority of taxpayers opt for VAT refund, which is determined by field control. This creates another administrative barrier – extended refund period due to obvious problem of shortage of tax inspectors.

Component number seven on „Taxes and Mandatory Contributions“ of the World Bank's annual Doing Business report provided detailed analysis of 14.7 week period required for overpaid VAT refund to a taxpayer, something that has negative impact on Serbia's ranking in this sphere.

SOLUTION-RECOMMENDATION

Amend Article 52, Paragraph 4 of the Value Added Tax Law by prescribing shorter deadline for VAT refund to taxpayers who predominantly trade goods abroad. Recommended deadline is 5 days.

Recommended solution would improve liquidity of exporters and reduce cost they pay for loan interests. This would serve as an incentive for all exporters.

Comply with 45 day deadline for overpaid VAT refund. Subject legal deadline is reasonable considering the fact that subject period starts as of the day of expiration of the deadline for filing the tax report (for timely filled tax reports).

Analyze possibilities for automatic VAT refund to taxpayers from the lowest risk category (example of the best practice comes from the Republic of Croatia. Croatia has recently introduced automatic VAT refund to taxpayers from the lowest risk category).

REGULATIONS

· *Article 52, Paragraph 4 of the Value Added Tax Law („Official Gazette of RS”, no. 84/04, 86/04, 61/05, 61/07, 93/12, 108/2013, 6/2014, 68/2014, 83/15, 5/2016, 108/2016 and 7/2017)*

1. MINISTRY OF FINANCE

1.10 PERMIT USE OF 100% OF TAX CREDIT FOR INVESTMENTS IN FIXED ASSETS AND EXPAND THE LIST OF INVESTMENTS COVERED BY THIS INCENTIVE

PROBLEM DESCRIPTION

Before 2013 amendments, Article 48 of the Law on Corporate Profit Tax prescribed instances in which taxpayers can be granted deductions from taxes for investments in fixed assets. Subject deduction was limited in terms of quantity and deadline:

1) taxpayer who invested in fixed assets within their own registered business activity shall be granted the right to tax credit of 20% of the actual investment, provided that the sum does not exceed 50% of the calculated tax for the year of investment. Small businesses are granted the right to tax credit of 40% of the actual investment, provided that the sum does not exceed 70% of calculated tax;

2) after having calculated tax liabilities for corporate profit tax, the taxpayer shall firstly use the tax credit on the grounds of investments in fixed assets effectuated in the current year, and only thereafter tax credits aggregated from previous years.

Our previous recommendations were highlighting the benefits of elimination of such limitations, i.e. tax credit for investments in fixed assets for all legal entities and entrepreneurs should be 100% of all investments in fixed assets without any limitation as regards to tax liability. Also, taxpayer would be entitled to use this deduction without any time limit.

Amendments to the Law from December 2013 eliminated subject deduction and only already numerous incentives for new investments have been increased. Existing companies have been put in unfavorable situation as compared to previous period. Such situation is unsustainable and detrimental for majority of business because they are in bad position to endure competition from new businesses that, in contrast to existing business, enjoy numerous incentives, as well as competition from importers buying goods from foreign producers enjoying subsidies of their home countries.

SOLUTION-RECOMMENDATION

For the purpose providing incentives for new investments, amend the Law on Corporate Profit Tax to re-enact tax credit for investments in fixed assets, as follows:

1) tax credit for investments in fixed assets for all legal entities and entrepreneurs should be 100% of all investments in fixed assets without any limitation as regards to tax liability;
2) taxpayer should be entitled to use tax credit for investments in fixed assets from previous years without any time limit, i.e. at least in the subsequent five years (common deadline in comparative law). Alternatively, amend aforementioned provisions to permit use of tax credit for investments in fixed assets in order of origination of the tax credit entitlement.

Such solution would encourage taxpayers to make significant investments in fixed assets and modernization of business processes.

Amendments to the Law from December 2013 eliminated tax incentives for existing businesses in terms of tax credits for investments in fixed assets, and introduced incentives for big investments. Therefore, businesses that are not in position to make large investments and create new jobs in relatively short period have been put in unfavorable position, before all, compared to new investors. Namely, existing domestic businesses cannot compete against newly established businesses that unlike existing businesses enjoy numerous incentives. Also, they are put in unfavorable position relative to the importers buying goods from foreign producers enjoying subsidies of their home countries.

Such legal framework is in practice encouraging for already active investors to feign new business entity instead of expanding business. This is another complication for doing business and legal safety of subcontractors of such investors.

REGULATIONS

· *Delete Article 48 of the Law on Corporate Profit Tax („Official Gazette of RS" no. 25/01, 80/02, 43/03, 84/04, 18/10, 101/11, 119/12,47/13, 108/2013, 68/14 – state law, 91/15 and 112/15)*

1.11 ALIGN TAX CONTROL PRACTICES IN CASE OF THE REQUEST FOR REFUND OF OVERPAID CORPORATE PROFIT TAX

PROBLEM DESCRIPTION

When the tax balance of the corporate profit tax shows overpayment, the Tax Administration refunds the difference only after their control and verification process. Sometimes they ask to review the last five business years, although this condition imposed on the taxpayer who filed the tax return is not actually required by law. This is seen by businesses as additional pressure to forego the refund of the difference in paid taxes.

SOLUTION-RECOMMENDATION

Align the practices of Tax Administration Offices in order to allow legally permissible refund of overpaid tax to taxpayers at their request and without any additional requirements.
We think that the existing solution in the law is good, as entitlement of the taxpayer to be refunded for overpaid profit tax payment upon application filed with the Tax Administration is clearly defined. However, given that first instance agencies often do not adequately adhere to this norm in practice, we suggest passing a set of instructions by the Tax Administration, approved by the Ministry of Finance, to clearly bind all tax administration offices to the use of one and same practice and to strictly follow the abovementioned norm without imposing previous and additional requirements on taxpayers, unless the risk analysis has produced indications of inadequate conduct which makes the application for refund of overpaid tax pointless.

REGULATIONS

· *Article 66, paragraph of the Law on Corporate Profit Tax („Official Gazette of RS", no. 25/01, 80/02, 43/03, 84/04, 18/10, 101/11, 119/12,47/13, 108/2013, 68/14 – state law, 91/15 and 112/15)*

1.12 ALIGN CRITERIA FOR TAXES AND BENEFITS PAID BY FLAT RATE TAXPAYERS

PROBLEM DESCRIPTION

Prescribed tax base for income from self-employment/entrepreneurs – flat rate taxation for taxes and compulsory social insurance benefits, flat rate taxpayers – is the average gross wage per employee on the territory of the Republic of Serbia, piece of data that may be taken from the Statistics Office. However, the tax base is then subject to reduction/increase criteria that are differently interpreted and applied from one tax office to another. Consequences are huge discrepancies and illogicalities in final quantities paid by similar shops in different cities and municipalities.

Certain criteria from Article 6 of the Regulation on Detailed Requirements, Criteria and Elements of Flat Rate Taxation for Income from Self-Employment/Entrepreneurs – for example, "other circumstances exerting impact on business activities", "market conditions for doing business" or "business reputation of the entrepreneur" are unclear and subject
to broad interpretation. From comparison of tax bills from different local tax offices one may conclude that in some developed cities with better living standards tax base is often reduced, while in other cities with poor living standards, lower level of employment and poor infrastructure the tax base is not reduced.

It is a paradox to see that the tax base is increased by 10% for each new employee considering the fact that the entrepreneur incurs additional costs for each new employee (wage, taxes and benefits). It is inadmissible to have criterion, such as "business reputation of the entrepreneur", resulting in any, and definitely not a triple tax increase as set in Article 6, Paragraph 1, Item 7), Sub-Item 1 of the Regulation.

Subject practice is discouraging for entrepreneurship and job creation, something that is completely opposite to declared goals of the Government of RS.

SOLUTION-RECOMMENDATION

Amend Regulation on Detailed Requirements, Criteria and Elements of Flat Rate Taxation for Income from Self-Employment/ Entrepreneurs by enacting clear criteria of flat rate taxation based on economic strength of the taxpayer and interpreted uniformly throughout the country.

Alternatively, precise instructions of the Tax Administration could be used to overcome current problems in flat rate taxation practice, which is more than absurd.

Either way, a source of best practice that could be used to adapt domestic regulation is the Instruction of the Ministry of Finance, Tax Administration of the Republic of Croatia: „Flat Rate Taxation of Self-Employment, Crafts, Agriculture and Forestry ".

We hereby recommend examining possibility of prescribing higher level of influence of the local tax administration as regards to this type of taxation since the subject here is a shared revenue.

SOLVED PARTIALLY

The Government of the Republic of Serbia has adopted the Regulation on Amendments and Addenda to the Regulation on Detailed Requirements, Criteria and Elements of Flat Rate Taxation for Income from Self-Employment/Entrepreneurs on its session held on August 25, 2017. The regulation has been published in the „Official Gazette of RS, no. 80/17". Considering the scope of amendments and the fact that not all recommendations were adopted, this recommendation will be categorized as only partially solved.

REGULATIONS

· *Regulation on Detailed Requirements, Criteria and Elements of Flat Rate Taxation for Income from Self-Employment/Entrepreneurs („Official Gazette of RS", no. 65/2001, 45/2002, 47/2002, 91/2002, 23/2003, 16/2004, 76/2004, 31/2005, 25/2013, 119/2013, 135/2014, 80/2017 and 98/2017)*

1. MINISTRY OF FINANCE

1.13 STANDARDIZE PENAL POLICY OF THE ACCOUNTING LAW

PROBLEM DESCRIPTION

Fines prescribed in Article 46 of the Accounting and Auditing Law were very strict for legal entities failing to comply to the provisions of the subject law, irrespective of the size of legal entity, i.e. small, medium or large legal entity.

On the other hand, Article 47 of the Accounting Law prescribed lower fines for entrepreneurs keeping books as per provisions of aforementioned law.

Considering that operations of small legal entities are relatively similar in scope and complexity to those of entrepreneurs, efforts should be made to equalize fines for failure to comply with provisions of the Accounting Law.

Even though the new Accounting Law was adopted in July 2013, subject law applied the same method to regulate penal policy as the one from Articles 68 and 69 of the Accounting and Auditing Law (Official Gazette of RS 46/06, 111/09 and 99/11) Instead of accepting recommendations and reducing minimum fines for small legal entities, they were inflated 20 times both for small legal entities and entrepreneurs. Therefore, subject recommendation was not implemented, even though completely new law in the field of accounting was adopted.

SOLUTION-RECOMMENDATION

Amend Article 46 of the Accounting Law by prescribing lower fines for small legal entities and entrepreneurs, as well as Article 47 where minimum fines should be reduced.

Penal policy of the Accounting Law should be adapted to real economic strength of small legal entities and entrepreneurs. To that extent, we would like to highlight high maximum penalties prescribed for infringement procedures and economic offences.

We hereby recommend a safeguard for small legal entities – reduction of minimum statutory fine (100,000.00 RSD) and equalization of fines for small legal entities and entrepreneurs during the first five years as of the day of foundation of small legal entity.

REGULATIONS

· *Articles 46 and 47 of the Accounting Law („Official Gazette of RS“, no. 62 from July 16, 2013)*

1. MINISTRY OF FINANCE

1.14 REDUCE WAGE TAXES AND BENEFITS

PROBLEM DESCRIPTION

Article 44 of the Law on Mandatory Social Security Insurance Contribution prescribed high rates of wage benefits (26% for mandatory retirement and disability insurance, 10.3% for mandatory health insurance and 1.5% for unemployment insurance), while Article 16 of the Law on Personal Income Tax prescribed 10% tax rate for wages. Tax base is the gross wage, including taxes and benefits paid from wages (as defined in Article 105, Paragraph 2 of the Labor Law). All subject dues relative to net wage paid to an employee amount around 63%.

Such high costs are additional burden for employers, which is something that is directly correlated with shadow economy and poor competitiveness of employers that have decided to report full taxes and benefits for wages they actually pay to their staff members. Another observable trend is that employers pay smaller part of money to their workers, particularly management staff, through wages, while the other bigger part is paid in the form of dividend that are subject to 15% tax rate according to the Law on Personal Income Tax.

Wage taxes and benefits should be reduced to eliminate shadow economy and create competitive business environment for those employers paying full wage taxes and benefits. Otherwise, collection from subject sources will continuously drop as one group of businesses will move from legal to shadow economy sphere, while other businesses paying full wage taxes and benefits will either reduce their scope of work or shut down all operations due to inability to compete.

SOLUTION-RECOMMENDATION

Amend Article 44 of the Law on Mandatory Social Security Insurance Contribution and Article 16 of the Law on Personal Income Tax by reducing rates used for calculations of wage taxes and benefits by at least 30% for rates currently applicable to lowest wages with indications of progressive wage taxation through amendments to the Law on Personal Income Tax.

We hereby recommend reduction of minimum tax base for calculation of benefits related to part-time employees.

Subject recommendation would help the alignment of labor costs in Serbia with those from comparative European practice, thus, advancing employer competitiveness on EU market.

REGULATIONS

· *Law on Mandatory Social Security Insurance Contribution ("Official Gazette of RS", no. 84/04, 61/05, 62/06, 5/09, 52/11, 101/11, 47/13, 108/13, 57/14, 5/2015 , 112/2015, 5/2016 and 7/2017)*

· *Law on Personal Income Tax („Official Gazette of RS", no. 24/01, 80/02, 135/04, 62/06, 65/06, 31/09, 44/09, 18/10, 50/11, 91/11, 93/12, 114/12, 47/13, 48/13, 108/2013, 57/2014, 5/2015, 112/2015, 5/2016 and 7/2017)*

1. MINISTRY OF FINANCE

1.15 STREAMLINE EXPROPRIATION PROCEDURE

PROBLEM DESCRIPTION

Complex land expropriation procedure complicates (frequently it may even block) large construction projects – construction of transportation infrastructure, energy structure and large industrial facilities. Expropriation is comprised of three procedures conducted simultaneously, which may take years:

– Procedure of identification of public interest (Article 20 of the Expropriation Law), conducted by the Government of RS, which may be the subject of administrative lawsuit;

– Expropriation procedure (Articles 25–36 of the Law), conducted by the municipal administration, which may be the subject of an appeal to the ministry in charge of finance and subsequently administrative lawsuit;

– Procedure of determination of compensation (Articles 56–62 of the Law), conducted by the municipal administration, or the court if the level of compensation cannot be determined in agreement.

Article 34 of the Law is the one that particularly complicates and obstructs expropriation. The article prescribed that the expropriation beneficiary will be entitled to enter into possession of expropriated property on the day the decision on compensation has entered into effect. In practice this means until the court ruling on compensation for expropriation subject to lawsuit (that may prove to be very lengthy and, thus, block the entire investment, due to unrealistic request by owner of just one land lot) has entered into force. This is unjustified, especially considering the responsibility of the expropriation beneficiary from Article 28 of the Law to provide bank guarantee for RSD amount required to collateralize the compensation for expropriated property. Obsolete concept of the Law prescribing that expropriation is allowed only for the benefits of the national government, local government, public companies, business entities with majority government share and similar is a barrier to major investments in infrastructure and energy, something that the Government is allegedly striving to. In many cases, such concept imposes unconstitutional solution to use lex specialis for certain investors so as to classify subject investors as expropriation beneficiaries, as well as to use the same legislation to grant other unusual benefits.

SOLUTION-RECOMMENDATION

Amend Article 8 of the Expropriation Law by expanding the sphere of potential expropriation beneficiaries, i.e. prescribe expropriation for benefits of all legal entities because all legal entities, irrespective of ownership structure, can act in public interest. Subject solution is well known in EU and Croatia has even prescribed this entitlement for natural entities.

Amend Articles 34 and 35 of the Expropriation Law to permit expropriation beneficiary to enter into possession of expropriated property immediately upon finality of expropriation decision. Prescribe also servitude for the benefits of legal entities instead of only government, local government, their companies and natural entities.

REGULATIONS

- *Expropriation Law ("Official Gazette of RS ", no. 53/95, 23/01, 20/09, 55/2013 and 106/2016)*

1. MINISTRY OF FINANCE

1.16 ESTABLISH PUBLIC REGISTER OF NON-TAX CHARGES AND REGULATE THE AMOUNT OF FEES FOR PUBLIC SERVICES AND FEES FOR USE OF PUBLIC GOODS

PROBLEM DESCRIPTION

For a long time already, the Ministry of Finance has been supporting the need for finalization of the Draft Law on Fees for Use of Public Goods. Proclaimed goal of the subject law is neutralization of uncontrolled introduction of parafiscal charges. Subject goal would be achieved through a standard integrated in the law regulating that all financial liabilities charged to businesses by holders of public authority, that are not taxes, fees and charges, will be prescribed solely by means of the subject law.

The Rulebook on Methodology and Procedure of Public Service Cost Setting, adopted in February 2013, did not create any impact on cost cutting related to those costs paid by business and citizens before republic bodies.

Subject methodology is incomplete because it did not provide parameters that are precise enough for cost setting as regards to public service price setting, nor it did provide clear methodology of cost distribution by individual services considering their type and complexity. The Rulebook did not consider differences in work organization in various public service providers and their legal status (state bodies, local government bodies, public enterprises, entrepreneurs...), and, thus, it is inapplicable in practice.

For all reasons stated above, subject methodology does not allow adequacy control related to fees and charges setting. Here we would like to repeat that Article 17 of the Budget System Law prescribed that the amount of fee must be adequate in terms of cost of public service provision and that it must not be set as a percentage of variable base, something that cannot be achieved with the applicable Rulebook.

SOLUTION-RECOMMENDATION

Adopt solution at system level within the Ministry of Finance to create conditions for establishment of electronic Register of Charges available to the public by amending the Budget Law or enacting the Law on Fees for Use of Public Goods to prescribe that a prerequisite for charging a specific nominal fee and/or public service charge, both on national and local level, is registration of subject fee and/or charge in the Register. Subject mechanism would provide for legal compliance control in case of „registration“ of specific new fee and/or fee for use of public good as well as in case of any amendment.

Intensify activities related to adoption of the Law on Fees for Use of Public Goods. Set clear definitions of charges, fees, lease, licenses, permits and other to create safeguards for consistent implementation of the Budget System Law and provide full coverage of all charges within the future Law on Charges.

The Rulebook on Methodology and Procedure of Public Service Cost Setting should be supplemented to prescribe precise methodology for fees and charges setting by public service providers. Subject methodology should be applicable for all public service providers and it should precisely prescribe what costs may be included in public service price setting, as well as clear methodology of cost distribution by individual services considering their type and complexity. Prescribe the Rulebook compliance control mechanism for fees and charges paid to public service providers.

REGULATIONS

· Rulebook on Methodology and Procedure of Public Service Cost Setting („Official Gazette of RS" no. 14 from February 13, 2013, 25/13, 99/13)
· All legislation regulating charges for use of public goods

1. MINISTRY OF FINANCE

1.17 ELIMINATE REPUBLIC ADMINISTRATIVE FEE FOR APPLICATIONS TO THE CADASTRAL OFFICE

PROBLEM DESCRIPTION

In addition to data and service charges, the Cadastral Office of the Republic Geodetic Authority of the Republic of Serbia insists on charging republic administrative fee for their procedures.

Article 30, Paragraph 1 of the Law on Amendments and Addenda to the Law on State Survey and Cadastre (Official Gazette of RS 65/13) prescribed that provisions on tariff number 216, 217 and 218 of the Tariff of the Republic Administrative Fees from the Law on Republic Administrative Fees shall cease to exist (reduction of costs borne by service users).

Rulebook on Service Fees of the Republic Geodetic Authority (Official Gazette of RS 116/13), harmonized the terminology of RGA service charges with the Budget System Law by changing the term from charges to fees.

However, in addition to fees set in the Rulebook adopted by the General Manager of RGA, all procedures conducted by RGA still include payment of 290.00 RSD worth republic administrative fee in line with tariff number 1 of the Tariff of the Republic Administrative Fees from the Law on Republic Administrative Fees.

Hence, service users pay a charge for the same service both to RGA and the budget of the Republic of Serbia. This is inadmissible in view of the provisions of Article 17, Paragraph 8 of the Budget System Law that has explicitly prescribed that only one fee shall be charged for a single public service.

SOLUTION-RECOMMENDATION

Amend the Tariff of the Law on Republic Administrative Fee aimed at harmonization with the Budget System Law by prescribing that the tariff number 1 shall not be charged for procedure conducted by RGA.

Legal act of the entity in charge should order harmonization of the Republic Geodetic Authority's proceedings with Article 17, Paragraph 8 of the Budget System Law and eliminate the practice of double charges for the same public service.

Since RGA is entitled to charge fees as per Article 174 the Law on State Survey and Cadastre, it shall be deprived of the entitlement to charge subject fee as per the Law on Republic Administrative Fees.

This recommendation was identified in the previous issue of the Grey Book as solved partially. The Ministry of Finance corrected this error in June 2013 by deleting the entire chapter XXVII on Tariff from the Law on Republic Administrative Fees regulating administrative fees for Cadastre entries. However, procedures conducted by RGA are still subject to 290.00 RSD worth republic administrative fee as per tariff number 1 of the Tariff. The latest Amendments and Addenda to the Law on Republic Administrative Fees have solved this problem completely.

REGULATIONS

· *Law on Republic Administrative Fees ("Official Gazette of RS" no. 43/03, 51/03, 61/09, 54/09, 50/11, 70/11, 55/12, 93/12, 47/13, 65/13, 57/14,83/15, 112/15, 50/16, 61/2017 and 113/2017)*

1.18 STREAMLINE TEMPORARY ADMISSION

PROBLEM DESCRIPTION

Companies involved in software development or product promotion use samples (hardware) imported from abroad. Such goods are to be imported on temporary basis and temporary admission is limited time wise. In case of extension of the temporary admission, subject goods must be subjected to custom and import procedures. RSO certificate is required for customs procedure. Main problem here is that obtaining subject certificate is lengthy and costly. This is the reason why businesses often decide to return samples back abroad and repeat the temporary admission procedure, which is subject to additional expenses.

SOLUTION-RECOMMENDATION

Amend customs regulations to permit more flexibility for temporary admission. Import procedure should make distinction between import products that will be subject of further sale in Serbia and those that will not be subject of further sale.

Permit import without subject certificate if the import product is not subject of further sale.

REGULATIONS

· Customs Law ("Official Gazette of RS" no. 18/10, 111/12, 29/15 and 108/16)
· Law on Technical Requirements for Products and Conformity Assessment ("Official Gazette of RS" no. 36/09)
· Technical legislation regulating standards

1.19 ENACT PROCEDURE OF BUSINESS ENTITY DELETION FROM BRA REGISTERS

PROBLEM DESCRIPTION

Paragraph 7 of Article 29 of the Law on Tax Procedure and Tax Administration has made business entity and entrepreneur deletion from the Business Entity Register, kept by the Business Registers Agency (BRA), more difficult. Evidence of cessation of tax liabilities – tax clearance, issued by the Tax Administration, maximum five days old, must be previously obtained and submitted simultaneously with the application for business entity deletion. Considering the fact that tax clearances are issued both by local and republic tax administrations, frequently the first tax clearance expires before the second has even arrived (tax administration is due to issue subject clearance within 15 days) all due to short period of validity (5 days).

The latest amendments to Article 29 of the Law, new Paragraphs 9 and 10, have prescribed that BRA cannot delete business entity from the Register, nor to register status changes or conduct data changes related to the founder and/or member, name, seat, share and form of organization, from the time of notification by the Tax Administration that the subject business entity will be subject of tax control until the time of notification that the tax control has been completed, irrespective of the subject control duration. Aforementioned provisions are in direct conflict with Article 58, 83 and 84 of the Constitution of RS, as they jeopardize rights to freedom of enterprise and free use of property. Subject provisions cannot produce results in struggle against so-called „phantom companies“, and they only create negative impacts on investment inflows.

SOLUTION-RECOMMENDATION

Amend Article 29 of the Law on Tax Procedure and Tax Administration as follows:

- Extend 5 day tax clearance validity period from Paragraph 7 to 15 days;
- Paragraphs 9 and 10 should be declared null and void because their implementation is groundless complication of business shut down procedure and because they are unconstitutional.

REGULATIONS

· *Law on Tax Procedure and Tax Administration („Official Gazette of RS“ no. 80/02, 84/02, 23/02, 70/03, 55/04, 61/05, 85/05, 62/06, 61/07, 20/09, 53/10, 101/11, 2/12, 93/12, 47/13, 108/13,68/14, 105/14, 91/15, 112/15, 15/16 and 108/16)*

1.20 ALTER INSPECTION OVERSIGHT PRACTICES APPLIED IN HOSPITALITY AND OTHER FACILITIES

PROBLEM DESCRIPTION

In certain instances, inspection oversight in hospitality and other facilities is characterized by unacceptable practices in terms of legal compliance and taxpayers' rights.
Articles 131 and 132 of the Law on Tax Procedure and Tax Administration are about ban on performing activity. The first article - during the tax control procedure when the body in charge „can" set such measure - and, the second article - prescribing setting such measure if the taxpayer has not acted upon order to eliminate deficiencies.
As a reminder, in addition to the Law on Tax Procedure and Tax Administration, tax control is subject of implementation of the Law on Inspection Oversight, Law on General Administrative Procedure and Law on Public Administration. Provisions of aforementioned laws should be actually implemented in practice. Among other things, subject laws prescribe: principle of adequacy in inspection and/or administrative authority procedures; adequacy of risk, illegality and damage; application of milder sanction aimed at achieving the purpose and goal of the law. The goal is not to close down business entities in all cases and for all irregularities, especially in case of very small amounts (insignificant risk, low importance), but to restore legal business operations. Sanctions are to be applied gradually – mild sanctions first and if they do not produce desired results than strict sanctions are in order. Ban on performing activities is the final step, except in case of illegality of major scope and damage, i.e. in case of unregistered and other equally treated entities.

SOLUTION-RECOMMENDATION

Inspection oversight practice should provide for continuous operation of the business entity, so as to prevent any damage to the taxpayer.
Inspection control must not imply automatic sanction, least of all the first inspection control which must be advisory with identification of deficiencies and deadlines for their elimination.

Closing hospitality and other facilities as a sanction for a period of 7 and/or 14 days and longer is counterproductive in its nature, both for the government and entrepreneur, as well as employees and all suppliers in VAT chain.
Prescribe that closing hospitality business as a sanction will be applied only in exceptional cases – health danger or recurrent tax violation, for example, in case of significant danger for public interest.

REGULATIONS

· *Law on Tax Procedure and Tax Administration („Official Gazette of RS" no. 80/02, 84/02, 23/02, 70/03, 55/04, 61/05, 85/05, 62/06, 61/07, 20/09, 53/10, 101/11, 2/12, 93/12, 47/13, 108/13,68/14, 105/14, 91/15, 112/15, 15/16 and 108/16)*

1. MINISTRY OF FINANCE

1.21 ESTABLISH VAT REFUND RECIPROCITY BETWEEN SERBIA AND OTHER COUNTRIES

PROBLEM DESCRIPTION

Legal entities from Serbia cannot refund foreign VAT from Italy, Hungary, Czech Republic, Poland, Greece, Romania, Spain and Portugal because Serbia did not sign an agreement with aforementioned countries on VAT refund reciprocity. Subject agreements are effectuated by exchange of letters between the two ministries of finance and no parliamentary procedure is required. Lack of foreign VAT refund possibility has direct negative impact on competitiveness of Serbian businesses and indirect negative impact on budget revenues.

Current reciprocity agreement signed with Turkey does not permit Turkish truck drivers to refund VAT they pay with toll fees in Serbia, which exerts a significant negative impact in terms of Corridor 10 competitiveness versus Corridor 4 running through Romania and Bulgaria and indirect negative impact on budget revenues.

Legal entities from France, Bulgaria, Ireland, Sweden, Finland, Norway, Luxembourg and Netherlands may not refund VAT paid in Serbia even though Serbian legal entities are entitled to VAT refund paid in aforementioned countries. This has significant direct negative impact on views of foreign investors and their potential investments in Serbia.

The Rulebook on the Procedure for Exercising the Right to VAT Refund and the Method and Procedure of VAT Reimbursement and Refund is obsolete and it has direct adverse effects on Serbian budget, as well as Serbian audit, accounting and tax consulting businesses

SOLUTION-RECOMMENDATION

Initiate procedure of establishing reciprocity with Italy, Hungary, Czech Republic, Poland, Greece, Romania, Spain and Portugal by sending letters to the ministries of finance to aforementioned countries which includes proposal to establish VAT refund reciprocity with Serbia.

The Ministry of Finance should extend current reciprocity agreement signed with Turkey to permit ”Turkish truck drivers to refund VAT paid with toll fees paid in Serbia”.

The Ministry of Finance should declare unilateral reciprocity with France, Bulgaria, Ireland, Sweden, Finland, Norway, Luxembourg and Netherlands.

The Ministry of Finance should amend the Rulebook on the Procedure for Exercising the Right to VAT Refund and the Method and Procedure of VAT Reimbursement and Refund, to read:

- refunded VAT money shall be paid only in RSD to the non-resident account of foreign legal entity as an applicant and/or RSD account of the foreign legal entity representative;
- foreign legal entity representative shall be only legal entity registered in Serbia.

REGULATIONS

· *Statements of the Ministry of Finance in accordance with Article 53 of the Value Added Tax Law („Official Gazette of RS“ no. 84/04, 86/04, 61/05, 93/12, 108/13, 6/14, 68/14, 142/14, 5/15, 83/15, 5/16, 108/2016 and 7/2017)*

· *The Rulebook on the Procedure for Exercising the Right to VAT Refund and the Method and Procedure of VAT Reimbursement and Refund („Official Gazette of RS“ no. 107/04, 65/05, 63/07, 107/12, 120/12 and 74/13)*

1.22 ELIMINATE EXCISE CLEARANCE CERTIFICATE FOR INTERNATIONAL AGREEMENTS

PROBLEM DESCRIPTION

Article 9 of the Rulebook on detailed requirements, method and procedure for exercising excise clearance entitlement for products sold by the producer and/or importer to diplomatic and consular missions and international organizations, as well as oil derivatives, bio-fuel and bio-liquids sold as per international agreement prescribed the quarterly obligation of the excise payer to submit the excise clearance certificates for international agreements to the line Tax Administration.
Subject obligation is a redundant administrative work and double documentation because, according to Article 7 of the Rulebook, subject certificates are issued by the Tax Administration – Head Office and, thus, re-submitting them to the same authority is unnecessary.

SOLUTION-RECOMMENDATION

Amend Article 9 of the Rulebook – eliminate obligation of the excise payer to submit the excise clearance certificates for international agreements to the line Tax Administration.

REGULATIONS

· Article 9 of the Rulebook on detailed requirements, method and procedure for exercising excise clearance entitlement for products sold by the producer and/or importer to diplomatic and consular missions and international organizations, as well as oil derivatives, bio-fuel and bio-liquids sold as per international agreement („Official Gazette of RS" no. 41/09 and 56/13)

1. MINISTRY OF FINANCE

1.23 SIMPLIFY THE MINISTRY OF FINANCE'S REPORTING PROCEDURES FOR COMPULSORY STOCKS OF CRUDE OIL AND PETROLEUM PRODUCTS

PROBLEM DESCRIPTION

Article 11, Paragraph 2 of the Regulation on the amount, accounting, payment and disposition of the charge for building compulsory stocks of crude oil and petroleum products prescribed compulsory N-2 and N-3 (forms) filings with the Ministry of Mining and Energy in electronic or written form. Both forms of compulsory fillings are redundant administrative work each month that has not contributed to better efficiency of data processing by the Ministry.

Article 12 of the aforementioned Regulation prescribed that the payer of the compulsory stock charge is obliged to submit monthly N4 form – Report on payment of the charge for building compulsory stocks of crude oil and petroleum products - to the Ministry of Mining and Energy. Subject obligation is redundant, because it is not clear why the Ministry has found that the information of what bank was used to make this payment is significant, and also, this piece of data, with payment date, can be obtained from the Ministry of Finance's Treasury Department (subject charge is paid to the account of the Treasury Department).

SOLUTION-RECOMMENDATION

Prescribe only one form of N-2 and N-3 (forms) filings, either in writing or electronically.

Delete Article 12 of the Regulation.

REGULATIONS

· *Article 11, Paragraph 2 and Article 12 of the Regulation on the amount, accounting, payment and disposition of the charge for building compulsory stocks of crude oil and petroleum products („Official Gazette of RS" no. 108/14 and 53/15)*

1.24 ADAPT COMPULSORY ANNUAL ASSET AND LIABILITY INVENTORIES TO THE NEEDS OF BUSINESS ENTITIES

PROBLEM DESCRIPTION

According to Article 16 of the Accounting Law, legal entities and entrepreneurs are obliged to produce asset and liability inventories and reconcile the balance in the books with the balance from inventories at the end of each fiscal year irrespective of materiality, company risk and significance of subject balance lines for company operations. In addition to the asset and liability inventories, legal entities and entrepreneurs shall also take an inventory and reconcile the balances if the supervising accountant office is handed over to a successor, prices of products and goods are changed in a retail store, in case of status changes, proceedings of normal liquidation and bankruptcy proceedings instituted and/or completed in respect of the legal entity, and in other cases provided by the law.

Aforementioned annual inventories require stupendous resources (human and monetary) from large and medium business entities. Subject business entities own many asset items which is an additional burden of inventorying that does not generate any additional value or better transparency.

SOLUTION-RECOMMENDATION

Amend the Accounting Law - Eliminate obligation for all legal entities and entrepreneurs to produce asset and liability inventories at the end of each fiscal year, except for inventories themselves, and prescribe an option for business entities to use own internal acts to set the time of asset and liability inventories, i.e. move the subject deadline from the current one year to five years as a dependency of significance, materiality and risk pertaining to all asset and liability balance items.

Note that Paragraph 4 of Article 16 of the Accounting Law has recognized the possibility for less frequent inventories of up to five years, but this applies only to inventories of books, films, archives and similar.

REGULATIONS

· *Article 16 of the Accounting Law („Official Gazette of RS“ no. 62/13)*

1.25 SIMPLIFY COLLECTION OF THE WITHHOLDING TAX

PROBLEM DESCRIPTION

Amendments to the Law on Corporate Profit Tax introduced the withholding tax used or to be used on the territory of Serbia. In addition to applicable 25% withholding tax for services provided by the residents of countries with preferential tax system, subject amendments have expanded the coverage of the withholding tax.

However, this possibility has created another burdensome obligation for the taxpayer to file tax report together with residency certificate for all payments subject to the withholding tax. In case of daily payments, filling tax report together with residency certificate for each payment is cumbersome in administrative sense, especially in case of a single revenue recipient with many payments throughout a year.

Such practice is incompliant with Articles 9 and 103 of the new Law on General Administrative Procedure prohibiting all holders of public authority to request from clients data required for their identification and documents confirming the facts that are kept in official records.

SOLUTION-RECOMMENDATION

Line authority should produce instructions ordering that in taxation procedures the tax residency certificate shall be obtained ex officio in accordance with Articles 9 and 103 of the new Law on General Administrative Procedure.

REGULATIONS

· *Law on Corporate Profit Tax („Official Gazette of RS" no. 25/01, 80/02, 43/03, 84/04, 18/10, 101/11, 119/12, 47/13, 108/13, 68/14, 142/14, 91/15 and 112/15)*

1. MINISTRY OF FINANCE

1.26 FACILITATE FOREIGN TRADE OPERATIONS BY COMPANIES WITH STATE-OWNED CAPITAL

PROBLEM DESCRIPTION

Public companies and legal entities with state-owned capital must obtain approval from the Government of the Republic of Serbia for foreign trade related transfers of receivables and payables.

Also, resident legal entities may grant financial loans to non-residents or issue warranties and other means of collateral under credit operations between two non-residents abroad provided that the resident is the majority owner of the non-resident borrower under credit operation. However, a resident public enterprise and a legal entity with state-owned capital or a legal entity in the process of restructuring or privatization may perform aforementioned operations only based on approval of the Government of the Republic of Serbia. Government approval for foreign trade operations is time consuming and is slowing done the whole process. This is putting the residents of the Republic of Serbia in unfavorable position compared with EU residents.

SOLUTION-RECOMMENDATION

Delete Paragraph 3 of Article 23 of the Law on Foreign Exchange Operations („Official Gazette of RS“ no. 62/06, 31/11, 119/12 and 139/14) to eliminate Government approval for foreign trade related transfers of receivables and payables, as well as for granting financial loans and issuing warranties and other means of collateral under credit operations between two non-residents abroad, provided that the resident is the majority owner of the non-resident borrower for companies with state-owned capital, or prescribe option “with Government approval for legal entities with majority state-owned capital share. If this obligation remains, prescribe the deadline for issuing subject approval to support efficiency of legal entities with majority state-owned capital. If no action has been taken by prescribed deadline, the rule of silence implies consent shall be applied.

REGULATIONS

· *Article 23, Paragraph 3 of the Law on Foreign Exchange Operations (”Official Gazette of RS” no. 62/06, 31/11, 119/12 and 139/14)*

1. MINISTRY OF FINANCE

1.27 ENACT AN OBLIGATION OF THE TAX ADMINISTRATION TO ENSURE TIMELY DELIVERY OF ADVANCE AND FINAL TAX BILLS FOR FLAT RATE TAXPAYERS

PROBLEM DESCRIPTION

The Tax Administration is late with delivery of bills for taxes and benefits paid by flat rate taxpayers. The Tax Administration delivered final bills for 2015 and 2016, as well as advance bills for 2017, in late 2017.

In practice, entrepreneurs pay their dues according to old tax bills and when they receive final bills they must pay the difference within 15 days as of the day the bill has been received. Such practice by the Tax Administration creates uncertainty for entrepreneurs in terms of the level of dues to be paid in the end. This is an unacceptable level of legal uncertainty in doing business.

Problems are particularly difficult in case of entrepreneurs that have changed their status during the previous year from flat rate taxpayers to book keeping taxpayers and vice verse. Due to difference in taxpayer status, payments of tax liabilities are registered under new status, while tax debt are registered under old status: overpaid amount is constantly growing for the new taxpayer status, while the tax debt is constantly growing for the previous taxpayer status, something that is subject to interest on arrears and threat of enforcement.

Problems are particularly difficult in case of entrepreneurs that have opened their shops during the previous year. Such entrepreneurs have not received tax bills and there is no debt, but when they apply for tax certificate for their revenues they receive certificate stating 0.00 dinars of revenues.

SOLUTION-RECOMMENDATION

Amend Article 109 of the Law on Personal Income Tax to prescribe the deadline for the Tax Administration to deliver tax bills for flat rate taxpayers, and that after the deadline has expired the tax payer will be taxed as per tax bill from previous business year, unless that is less favorable for the taxpayer.

In Article 58, Paragraph 1 of the Law on Mandatory Social Security Insurance Contribution, after „shall be set in the tax bill issued by the Tax Administration“ add: „by the deadline set for delivery of tax bills for flat rate taxpayers“.

REGULATIONS

· Article 109, Paragraph 1 of the Law on Personal Income Tax (“Official Gazette of RS” no. 24/01, 80/02, 135/04, 62/06, 65/06,31/09, 44/09, 18/10, 50/11, 91/11, 7/12, 93/12, 114/12, 8/13, 47/13, 108/13, 6/14, 57/14, 68/14, 5/15, 112/15, 5/16 and 7/17)

· Article 58 of the Law on Mandatory Social Security Insurance Contribution (“Official Gazette of RS” no. 84 24/04, 61/05, 62/06, 5/09, 52/11, 101/11, 47/13, 108/13, 6/14, 57/14, 68/14, 5/15, 112/15, 5/16, 7/17)

1.28 PROVIDE ENOUGH TIME FOR IMPLEMENTATION OF AMENDMENTS TO TAX REGULATIONS IF THEY IMPOSE SIGNIFICANT OPERATIONAL CHANGES FOR BUSINESS ENTITIES

PROBLEM DESCRIPTION

Tax laws have been put in place with no long-term strategy, frequently without previous public discussion and no involvement of practitioners whatsoever. Amendments are passed every year with no consistent approach and, thus, clear trend of Serbian tax authorities cannot be perceived.

All this does not leave enough options for taxpayers to prepare adequately for regulatory amendments, while the lack of business experiences results in no budget revenue growth expected from amendments to tax regulations. Such practice creates only more administrative expenses for taxpayers (software procurement, more workload related to tax accounting and reporting), undesirable regulatory incompliance and even moving operations to illegal flows. Small businesses are especially sensitive to frequent and complex regulatory changes. They are in no possession of required knowledge or administrative capacity to implement regulatory amendments in short-term and adapt their business operations accordingly.

SOLUTION-RECOMMENDATION

The Government of RS, before all, the ministry in charge of finance should ensure that laws and by-laws regulating taxation should be adopted in such a manner that:

1) implementation deadlines leave enough time for taxpayers to get better understanding and prepare for their implementation;
2) implementation will carry the lowest possible expenses paid by businesses and taxpayers;
3) drafting procedure must be subject to consultations involving representatives from practice;
4) provisions on public discussion set in Article 41 of the Rules of Procedure of the Government must be fully complied with in tax law preparations, since this sphere is of vital importance for economy and all taxpayers, and by-laws must be developed in line with the results of public hearings held during drafting of new laws or amendments to old laws subject by-laws refer to.

Amend the Rules of Procedure of the Government and the Rules of Procedure of the National Assembly and prescribe that tax laws must not be passed according to the urgent procedure.

REGULATIONS

· *Rules of Procedure of the Government („Official Gazette of RS" no.61/06, 69/08, 88/09, 33/10, 69/10, 20/11, 37/11, 30/13 and 76/14)*
· *Rules of Procedure of the National Assembly („Official Gazette of RS" no. 20/12)*

1. 29 ELIMINATE MANDATORY APPLICATION FOR ENTRY INTO THE EMPLOYERS REGISTER

PROBLEM DESCRIPTION

Article 108b of the Law on Personal Income Tax set an obligation for new employers to apply before the Tax Administration for entry into the employers register. The Rulebook on Contents of Application for Entry into the Employers Register set the following forms:

- ERP form – Employer registry application
- PERP form – Registration certificate

Certain tax offices do not accept ERP form anymore. They also stopped issuing PERP form.

Besides the fact that the point of keeping this register is unclear since status registers of legal entities contain all data on all employers in the Republic of Serbia, we would like to point out that this procedure is incompliant with Articles 9 and 103 of the new Law on General Administrative Procedure prohibiting all holders of public authority to request from clients data required for their identification and documents confirming the facts that are kept in official records.

Considering that Article 2015 of the new Law on General Administrative Procedure has declared null and void provisions of all other laws and other regulations setting obligations incompliant with provisions of Articles 9 and 103 of the subject law, this procedure is unlawful.

SOLUTION-RECOMMENDATION

The Minister of Finance should undertake the following activities:

1) issue opinion and/or instruction indicating that upon application of Article 215 of the Law on General Administrative Procedure, obligation of employer to apply for entry into the Employers Register, set in Article 108b of the Law on Personal Income Tax, shall cease to exist, and that the Tax Administration shall keep subject register by taking data from the Business Registers kept by the Serbian Business Registers Agency and other line status registers;
2) declare null and void the Rulebook on Contents of Application for Entry into the Employers Register (Official Gazette of RS 102/06)
3) ensure that the first following amendments to the Law on Personal Income Tax will declare null and void Paragraphs 2 and 3 of Article 108b of the subject law.

REGULATIONS

· Article 108b, Paragraphs 2 and 3 of the Law on Personal Income Tax ("Official Gazette of RS" no. 24/01, 80/02, 135/04, 62/06, 65/06, 31/09, 44/09, 18/10, 50/11, 91/11, 93/12, 114/12, 47/13, 48/13, 108/13, 57/14, 68/15, 5/15, 112/15 and 5/16)

· Rulebook on Contents of Application for Entry into the Employers Register (Official Gazette of RS 102/06)

1. MINISTRY OF FINANCE

1.30 ELIMINATE MANDATORY CERTIFICATION OF BUSINESS RECORDS SET IN ARTICLE 3, PARAGRAPHS 1 AND 3 OF THE RULEBOOK ON BUSINESS RECORDS AND PRESENTATION OF FINANCIAL RESULTS ACCORDING TO THE SIMPLE ACCOUNTING METHOD

PROBLEM DESCRIPTION

Article 4, Paragraph 3 of the Rulebook on Business Records and Presentation of Financial Results According to the Simple Accounting Method set that business records of the entrepreneur (PK – 1 – business records of revenues and expenditures; PK – 2 – Fixed assets and small inventory records KPO – Business records of turnover for flat rate taxpayers) shall be certified before the line tax authority before entry.
Many tax offices do not apply this provision in practice anymore and do not want to certify KPO records.

SOLUTION-RECOMMENDATION

The Ministry of Finance should adopt the rulebook that would declare null and void Paragraph 3 of Article 4 of the Rulebook on Business Records and Presentation of Financial Results According to the Simple Accounting Method to streamline business practices and align Tax Administration practice with applicable regulations.

NEW

REGULATIONS

· *Article 4, Paragraph 3 of the Rulebook on Business Records and Presentation of Financial Results According to the Simple Accounting Method (Official Gazette of RS 140/04)*

1. MINISTRY OF FINANCE

1.31 LIMIT DONATIONS TO PUBLIC AUTHORITIES AND OTHER PUBLIC OFFICE HOLDERS

PROBLEM DESCRIPTION

Present Law on Donations and Humanitarian Aid is obsolete providing opportunities for private and natural entities to use donations to public authorities to exercise influence on their operations.

Public has heard about several examples in the last several years when a private firm donated certain goods to official services in charge of their control. Practically, this a pathway for corruption. Assumed objective of corruption practices may be selective application of regulations with the consequence of jeopardizing interests of competition.

Article 1 of the Law on Donations and Humanitarian Aid set that "government bodies, local government units, public enterprises, public institutions, other non-profit organizations and communities, as well as domestic and foreign humanitarian organizations (hereinafter: receiver of donation and aid) can receive donations and humanitarian aid ".

The Law on Donations and Humanitarian Aid, however, does not mention conditions of donations by private and natural entities to public authorities and, thus, this recommendation is actually directly referred to preventing conflict of interest. Conflict of interest enabled by this law is about private and natural entities using donations to public authorities to exercise influence on legality, objectivity and impartiality of work conducted by public authorities.

SOLUTION-RECOMMENDATION

Amend the Law on Donations and Humanitarian Aid to precisely define key institutes regulated by the law, which are donations, humanitarian and development aid, as well as conditions of granting to public authorities and other public office holders.

Note that donations should be explicitly prohibited to public authorities directly in charge of inspection, tax and customs control, as well as of any other operational control, supervision or conducting procedures involving decision making about other rights, liabilities, i.e. interests of a donor.

REGULATIONS

· *Law on Donations and Humanitarian Aid ("Official Gazette of FRY" no. 53/01, 61/01 – correction and 36/02 and "Official Gazette of RS" no. 101/05 – state law)*

1.32 INTRODUCE THE CATEGORY OF MICRO ENTERPRISES IN THE REGULATION ON RULES OF STATE AID GRANTING

PROBLEM DESCRIPTION

Small and medium enterprises (SME) have different definitions in the Accounting Law and the Regulation on Rules of State Aid Granting. Lack of aligned definition leads to varying application of regulations in practice and distortion of market competition.

Two definitions are nonconcurrent since the Regulation on Rules of State Aid Granting does not include micro enterprises as a special SME category (Article 2a of the Regulation covers only small, medium and large enterprises), while Article 6 of the Accounting Law recognized the category of micro legal entities. Micro legal entities are business entities with up to 10 employees and an annual revenue of up to 700,000.00 Euros (RSD value). Also, two definitions from regulations applicable in the Republic of Serbia consider two different values of upper turnover limit of the business entity. Definition of SME from the Regulation on Rules of State Aid Granting is partially harmonized with the Recommendation 2003/361/EC of the European Commission from May 6, 2003, defining micro enterprises in Article 2 as enterprises with less than 10 persons and annual turnover limit of up to 2 million Euros.

SOLUTION-RECOMMENDATION

Amend the Regulation on Rules of State Aid Granting by amending Article 2a, i.e. introduce the category of micro business entities for the purpose of harmonization with EU regulations and the Accounting Law, as well as achieving full uniformity of the legal system.

Harmonization with EU regulations from this sphere would facilitate identification of enterprises as acceptable in regard to applications for competitions before EU funds or the budget of the Republic of Serbia. For the sake of example, micro enterprises undergoing negative business operation for three consecutive years would be identified (unlike small and medium enterprises) much easier as possible beneficiaries of funds falling within the category of permitted state aid.

Purpose of defining micro, small and medium enterprises is to determine clear difference between SMEs that can qualify for certain type of state aid as opposed to those that cannot qualify. One of the main goals of the Recommendation of the European Commission is to ensure that budget funds, i.e. state aid is granted only to enterprises that really need it.

REGULATIONS

· Accounting Law ("Official Gazette of RS" no. 62/2013)

· Regulation on State Aid Control ("Official Gazette of RS" no. 13/2010, 100/2011, 91/2012, 37/2013 and 97/2013)

1.33 ENSURE THAT FINANCIAL AND MID-TERM PLANS OF DIRECT AND INDIRECT BUDGET BENEFICIARIES DISPLAY BOTH MEASURES AND ACTIVITIES FOR WHICH NO BUDGET ALLOCATIONS HAVE BEEN PROVIDED AT THE TIME OF ADOPTION

PROBLEM DESCRIPTION

Cultural institutions, as well as all other indirect budget beneficiaries, apply throughout the year to competitions for projects financed from various sources. All of these institutions receive significant financial resources through subject competitions during the year.

The problem here is that there is no possibility to insert subject funds in the financial plan until the contract related to subject funds has been signed. After the contract has been signed, subject indirect budget beneficiary (in a concrete case, initiator is the City Administration for Culture) must amend the entire financial plan to display subject funds.

Considering the number of institutions and number of contracts, local government units, and especially cities, are forced to change their financial plans frequently. This is another complication of the planning procedure.

SOLUTION-RECOMMENDATION

Amend Articles 37 to 41 of the Budget System Law to permit insertion of conditional measures and activities in the local government financial plans, i.e. expenditures of subject local government units and indirect budget beneficiaries based on inflows that would be potentially realized through participation in project financing competitions, as well as other source, with clear determination of expected source of subject financing.

Principal recommendation is to prescribe mid-term planning of direct and indirect budget beneficiaries to enable planning of activities for which no budget allocations have been provided at the time of plan adoption, but with clear indication that planned measures and activities in that part are conditional and that no budget allocations have been provided for.

REGULATIONS

· *Amend Articles 37 to 41 of the Budget System Law ("Official Gazette of RS" no. 54/09, 73/10, 101/10, 101/11, 93/12, 62/13, 63/13, 108/13, 142/14, 68/15, 103/15 and 99/16)*

2. MINISTRY OF ECONOMY

2.1. ENABLE EX OFFICIO DELETION FROM THE REGISTER AFTER THE EXPIRY OF THE TIME LIMIT OF 6 MONTHS

PROBLEM DESCRIPTION

Article 33 of the Law on the Procedure of Registration with the Serbian Business Registers Agency provides for the possibility of annulment but only of registration of a business entity, while annulment of other changes that were registered, such as transferred share, changed representative, and the like have not been provided for. It is clear that this procedural law could not prescribe nullity outside of the reasons specified by the Company Law.

However, such rules do not provide quick and efficient protection to a person whose identity has been abused in registration, change of a member, change of a share, or a legal representative.

Article 30 of this law made the problem even more complicated by specifying that ex officio deletion of registered data or a document may be carried out within the time limit of six month at the latest that starts running the next day after the announcement thereof.

SOLUTION-RECOMMENDATION

Amend Article 30, Paragraph 1 of the Law on the Procedure of Registration with the Serbian Business Registers Agency by prescribing the possibility to ex officio delete registered data even after the expiry of the time limit of 6 months (e.g. a period of two years) as of the date of registration.

REGULATIONS

· *Article 30, Paragraph 1 of the Law on the Procedure of Registration with the Business Registers Agency ("Official Gazette of RS" No. 99/01 and 83/2014)*

2. MINISTRY OF ECONOMY

2.2. ABOLISH THE COMPULSORY MEMBERSHIP OF THE CHAMBER OF COMMERCE

PROBLEM DESCRIPTION

The Law on Chambers of Commerce has introduced compulsory membership in the Serbian Chamber of Commerce and Industry of business entities and payment of the membership fee as of 2017 at the level specified by the Assembly of the SCCI. The statutory obligation to pay the membership fee represents para-fiscal charge and the fact that the method of its assessment has not been specified makes it even more unpredictable.

Introduction of compulsory membership fee by law is contrary to the principle of voluntariness and free choice of companies to pursue their interests through an association they deem adequate.

SOLUTION-RECOMMENDATION

Amend Article 10 of the Law on Chambers of Commerce and prescribe voluntary membership.

Additionally, amend Article 33 of the Law to specify the amount of a uniform membership fee, the base and the rate for assessment and time limits for payment of the membership fee.

REGULATIONS

· *Law on Chambers of Commerce ("Official Gazette of RS" No. 112/15)*

2. MINISTRY OF ECONOMY

2.3. REGULATE THE AREA OF CRAFTS BY LAW

PROBLEM DESCRIPTION

Absence of regulation that concern crafts causes numerous and significant problems in business.
Problems manifest themselves on a macro level through low conjucture, the shadow economy and high unemployment rate along with shortage of profiles of crafts in demand in business and the labor market (best illustrated by the situation in construction area).
On a micro level, the shadow economy and unfair competition affect business entities, entrepreneurs and craftsmen engaged in a wide range of craft activities in a completely unregulated and unstable business environment.
Finally, Serbia is the only country in the region without a law that regulates the area of crafts.

SOLUTION-RECOMMENDATION

Adopt the Law on Crafts and establish the Serbian Chamber of Crafts.

REGULATIONS

· *Legal vacuum*

2.4. MOVE STATUS-RELATED REGISTERS, WHICH ARE UNDER THE JURISDICTION OF COMMERCIAL COURTS, TO THE BUSINESS REGISTERS AGENCY

PROBLEM DESCRIPTION

The Law on the Business Registers Agency, under its Article 4, provides that the Agency maintains the registers specified under the law as unique centralized databases and provides the list of registers under the Agency's jurisdiction.

The Law on the Organization of Courts, under its Article 25, provides that commercial courts, as first instance authorities, amongst other things, carry out registration into the court register of legal and other entities, unless some other authority is made responsible for it (e.g. institutes, academies, funds, primary, secondary schools and universities, healthcare institutions, etc.).

The Business Registers Agency maintains the unique databases under its jurisdiction in the form of public centralized databases. Such maintenance of the centralized registers in a single institution, with jurisdiction covering the entire territory of the Republic of Serbia, secures uniform registration practice.

On the other hand, the commercial courts do not maintain registers of data as adatabase, instead the data are entered into the register and excerpts with the registered data are issued on paper, when so requested by an interested person; and as a rule, this is a procedure that takes some time and impacts the efficiency of doing business and legal security of both institutions and companies; and in that sense this represents an administrative obstacle to doing business.

Given the advantages of maintaining registers within the Business Registers Agency, moving the registers, which are under the jurisdiction of the commercial courts, to the Business Registers Agency would significantly contribute to efficiency, legal security and cutting costs of doing business.

SOLUTION-RECOMMENDATION

In Article 4, Paragraph 1 of the Law on the Business Registers Agency, expand the jurisdiction of the Agency to include the maintenance of remaining registers of legal and other entities, which are still under the jurisdiction of the commerical courts.

Introduce amendments and addenda to other laws that provide for the jurisdiction of the courts over the maintenance of a specific register, if need be.

In the process of movement of registers, legal and other entities need to be relieved of payment of fees and costs of proceedings of government authorities.

REGULATIONS

· Article 4, Paragraph 1 of the Law on the Business Registers Agency ("Official Gazette of RS" No. 55/04, 111/09 and 99/11)

· Law on the Organization of Courts ("Official Gazette of RS" No. 116/08, 104/09, 101/10, 31/11, 78/11, 101/11, 101/13, 106/15, 40/15, 13/16 and 108/16)

2. MINISTRY OF ECONOMY

2.5 INTRODUCE SUPERVISION IN THE MARKET FOR CERTIFICATES

PROBLEM DESCRIPTION

Due to the situation in the market for management system certificates there is not much trust in them. Firstly, there is a series of unaccredited certification authorities issuing management system certificates (ISO 9001, 14000, 22000 ....) at prices that are sometimes lower than the cost of transport of one evaluator from the certification authority to the company to which the certificate is issued.

Such certificates are issued on the basis of a phone call, without any visits and evaluation. One of the most frequent sources of such a problem are public procurement procedures in which the bidders who offer goods and services are asked to provide such certificates; while they often need to prove compliance with several certified standards it is not required that the certificates are issued by authorities accredited by the Accreditation Body of Serbia or authorities registered with the European Accreditation bodies (EA) in accordance with cross-border cooperation rules of the European Co-Operation Accreditation, the organization that includes Serbia as a member.

This phenomenon is damaging to such an extent that large private buyers of services and goods do not trust certification authorities not even when they have been accredited, as these certificates have been considered to be fictituous in Serbia. The buyers inspect quality through third parties or, increasingly, through company standards. This undermines local companies' competitiveness and increases costs and delays the process of finding suppliers in Serbia.

On the other hand, the accredited authorities are trying to lower the costs of their evaluation and certificates, in order to be more competitive, and often do not engage experts with adequate expertise in specific areas but one and the same experts irrespective of the area of business subject to evaluation (e.g. a bakery is evaluated by a mechanical engineer).

SOLUTION-RECOMMENDATION

1. Amend Article 77 of the Public Procurement Law (mandatory accreditation of certification bodies)
2. By all means include in the Public Procurement Law the contracting authority's obligation to verify whether the certificate is still valid, i.e., the expiry date (the certificate's validity needs to coincides with the duration of the warranty period of goods and services procured) and whether the certificates had been issued by the bodies registered within the register published on the Ministry of Economy's webpage.
3. Require the certification bodies in the RS to register with the Business Registers Agency (which can provide information about the number thereof)
4. The Ministry of Economy or an organization authorized by the Ministry (e.g., the Business Registers Agency) should establish and maintain a register of all certification bodies operating in the territory of the Republic of Serbia
5. The Ministry or an authorized organization should establish and maintain a register of evaluators and experts for management systems and their NACE codes (by registered certification body).
6. Publish a document explaining (clear explanation) the use of ABS' cross-border cooperation rules that represent the Accreditation Body of Serbia's policy for accreditation of conformity assessment accreditation bodies seated outside of the Republic of Serbia and the policy of cooperation with other accreditation authorities in cases of cross-border cooperation.
7. Apply the supervision methodology on the market for certificates (contained in the IAF document)

(IAF ID4:2012 Market Surveillance Visits to Certified Organizations) by authorizing an independent organization to do this work (such supervision enables gaining an insight into the quality of certificates issued by certification bodies accredited by different accreditation bodies, including the ABS and actions of the Ministry on the basis of the findings).

REGULATIONS

· *Public Procurement Law ("Official Gazette of RS" No. 124/12, 14/15 and 68/15)*

3. MINISTRY OF HEALTH

3.1 ABOLISH HEALTH CARE CARDS

PROBLEM DESCRIPTION

Article 112 of the Health Insurance Act specifies that insured persons prove their status by holding in possession a health care card.

Article 8, Paragraph 1 of the Rulebook on the Health Insurance Document and a Separate Health Care Document specifies that a health care card is periodically certified. It is also specified that health care cards are certified in the Republic Health Insurance Fund's head office, based on the available data entered in the records. Certification will not be carried out when due contributions have not been paid.

Article 16e of the Rulebook specifies that any changes that occurred during the validity of health insurance and termination of health insurance are electronically entered in the card by the head office based on the filed report on changes to and termination of health insurance.

The obligation to possess a health care card makes health care unnecessarily complicated and implies an obsolete, redundant, expensive and often complicated procedure of its certification. As the republic authorities have a database on paid contributions and that insured persons own modern ID chip-based cards it is not clear what is the purpose of a healthcare card.

Additionally, it does not make much sense that insured persons must switch the branch offices of one and the same Fund only because of the change of their employer's seat.

SOLUTION-RECOMMENDATION

We believe that abolishing health cards by amendments to the Health Insurance Act and the repeal of the Rulebook on Health Insurance Document and a Separate Health Care Document is most appropriate. Our suggestion is to use chip-based ID cards to double-check the right to health care through a direct connection with the Central Register of Compulsory Social Insurance.

If, however, chip-based health insurance card must be used then they need to be fully implemented in practice as soon as possible.

As a reminder, the Central Register of Compulsory Social Insurancehas been established by adoption of the Law on the Central Register of Compulsory Social Insurance, back in 2010 and was supposed to become up to date on 01/01/2013, which never happened. According to the effective Law, the RFZO was required to substitute the health insurance document and a separate health care document by 31/12/2016 at the latest, with a new health insurance card. Until health insurance and health care documents are fully replaced with a new health insurance card the insured persons exercise their rights concerning compulsory social insurance on the basis of health insurance and health care documents issued in accordance with regulations that were in effect before the Law came into force.

REGULATIONS

· Article 112 of the Health Insurance Act ("Official Gazette of RS" No. b107/05, 109/05, 57/11, 119/12, 55/13, 99/14, 123/2014,126/14, 106/15 and 10/16)

· Rulebook on the Health Insurance Document and a Separate Health Care Document ("Official Gazette of RS" No. 68/06, 49/07, 50/07, 95/07, 127/07, 37/08, 54/08, 61/08, 1/09, 25/09, 42/10, 45/10, 103/10, 89/11, 91/11, 34/12, 78/12, 81/12, 96/12, 98/12, 114/2012, 110/2013, 71/14, 17/15 and 91/15)

3. MINISTRY OF HEALTH

3.2 ABOLISH CERTIFICATION OF HEALTH CARE CARDS

PROBLEM DESCRIPTION

Article 142, Paragraph 1 of the Health Insurance Act and Article 17, Paragraph 3 of the Rulebook on the Manner and Procedure of Exercising the Rights to Compulsory Social Insurance specify that the rights concerning compulsory social insurance are exercised on the basis of a certified health insurance document (health insurance card).

Article 142, Paragraph 2 of the Law specifies that certification of health insurance cards is done based on evidence that the due contributions have been paid in accordance with the law.

Article 8, Paragraph 1 and Article 9 of the Rulebook on the Health Insurance Document and a Separate Health Care Document specify that a health care card is periodically certified, i.e., every six months.

Therefore, employed person and their family members may exercise their health insurance rights on condition that their employers regularly pay relevant contributions, and additionally they have no influence on their employers' compliance. Thanks to this provision the employed are worse off than the unemployed.

On the other hand, if the employers are late with paying their dues, interest is added and the insured persons are denied their health insurance rights even though the dues are collected for the given period with interest charged.

SOLUTION-RECOMMENDATION

Even though our basic recommendation is to abolish health care cards as redundant, as there is a centralized database on insured persons it is necessary to abolish certification of health care cards in the period in which they remain in use before their abolishment.

Implement certification of health insurance cards without asking for evidence that contributions have been paid by making sure that data on payments are timely exchanged.

SOLVED

As of October 1, 2017, thanks to the introduction of digital public administration businesses no longer have to certify health care cards of their employees, instead it is sufficient for them to regularly pay their health care insurance. Automatic certification of cards has been made possible by connecting five government institutions into a single database. The RFZO database (as a database of card owners) is connected with the databases of the Tax Administration, Central Register of Compulsory Social Insurance, Pension and Disability Fund and National Employment Service. However, given that the mere existence of health care cards is more than contentious, the recommendation to abolish certification of health care cards is still considered to be unresolved.

REGULATIONS

· Health Insurance Act("Official Gazette of RS" No. 107/05, 109/05, 57/11, 119/12, 55/13, 99/2014, 123/2014, 106/2015 and 10/16)

· Rulebook on the Manner and Procedure for Claiming Rights to Compulsory Health Insurance ("Official Gazette of RS" No. 10/10, 18/10, 46/10, 52/10, 80/10 and 1/13)

· Rulebook on the Health Insurance Document and a Separate Health Care Document ("Official Gazette of RS" No. 68/06, 49/07, 50/07, 95/07, 127/07, 37/08, 54/08, 61/08, 1/09, 25/09, 42/10, 45/10, 103/10, 89/11, 91/11, 34/12, 78/12, 81/12, 96/12, 98/12114/2012, 110/2013 and 71/2014)

3. MINISTRY OF HEALTH

3.3 MAKE THE TERMS AND CONDITIONS FOR PAID SICK LEAVE DUE TO INJURY AT WORK AND OCCUPATIONAL REHABILITATION CORRESPOND TO THAT DUE TO OTHER REASONS

PROBLEM DESCRIPTION

Article 102, Paragraph 1 of the Health Insurance Act specifies that paid sick leave that exceeds 30 days is covered by the Republic Health Insurance Fund. Paragraph 3 provides for an exception where the employer covers the entire sick leave if it has been caused by injury at work or occupational disease.

This statutory provision makes exercising rights pertinent to health insurance complicated and in practice often leads to discrimination in hiring. Namely, it is not in the employer's interest to hire employees prone to occupational diseases due to their previous service or predisposition for those diseases. On the other hand, to a large extent injuries at work have not been caused by the employer's fault or intent and that is the case the employer is responsible for compensation of material or immaterial damage to the employee.

SOLUTION-RECOMMENDATION

Amend the Health Insurance Act by deleting Paragraphs 3 and 4 from Article 102 of the Law. In this way the terms and conditions pertinent to the right to paid sick leave will be made equal in all circumstances.

Alternatively, it is possible to specify that the employer is required to compensate damage to the Republic Health Insurance Fund up to the salary amount paid to a specific employee, as long as he is employed by that employer, if it is discovered in court proceedings that the injury at work or the occupational disease had been a direct consequence of that employer's carelessness.

REGULATIONS

· *Art. 102, Para. 3 and 4 of the Health Insurance Act ("Official Gazette of RS" No. 107/05, 109/05, 57/11, 119/12, 55/13, 99/2014, 123/2014, 126/2014 – CC Decision 106/2015 and 10/2016 – new law)*

3. MINISTRY OF HEALTH

3.4 SIMPLIFY THE PROCEDURE FOR CLAIMING SICK LEAVE

PROBLEM DESCRIPTION

The procedure for claiming sick leave is unnecessarily complicated and inhumane, given that an ill person must go through it. Article 81 of the Rulebook on the Manner and Procedure for Claiming Rights to Compulsory Health Insurance specifies the obligation to file as many as 9 documents to claim sick leave.

However, the practice is much more complicated, and additional problem is that extension of sick leave requires re-filing a large number of identical documents.

Thus, for the first month on sick leave one should file 11 documents (medical commission's report, A OZ6 form – doctor's certificate of illness, A OZ7 form – certificate on a salary earned, A OZ10 form – a list of calculated salaries to be compensated for, agreement with the bank on earmarked account for sick leave, a photocopy of a specimen signature card, evidence that the employer paid salaries to other employees – certified OD form, evidence of the completed disbursement of salaries for other employees – certified OPJ form, an employer's statement that contributions have been paid for all employees, a copy of the registration of the employee going on maternity leave, a copy of the employment contract between the employer and the employee going on maternity leave). For the second and eighth month eight documents need to be filed and for each subsequent month nine documents need to be filed of which many are unnecessarily repeatedly filed.

SOLUTION-RECOMMENDATION

Amend the Rulebook on the Manner and Procedure for Claiming Rights to Compulsory Health Insurance to simplify these procedures without letting the rights of employees depend on whether the employer has fulfilled his liabilities to thirds persons because such rights are not connected with the rights of the insured person.

Our suggestion is to establish e-service for filing documents needed to claim a paid sick leave because it is inhumane to expect ill people and future mothers to stand for hours queuing in front of counters to claim this right.

The Rulebook has not been amended but, upon NALED's suggestion the RFZO instructed all its branch offices to change its practice when itcomes to expecting women.

SOLVED PARTIALLY

REGULATIONS

· *Health Insurance Act ("Official Gazette of RS" No. 107/05, 109/05, 57/11, 119/12, 55/13, 99/2014, 126/2014 – CC decision, 106/2015 and 10/2016 – new law)*

· *Rulebook on the Manner and Procedure for Claiming Rights to Compulsory Health Insurance (Published in "Official Gazette of RS" No. 10/10, 18/10, 46/10, 52/10, 80/10 and 1/13)*

3. MINISTRY OF HEALTH

3.5 MAKE PRIVATE AND PUBLIC HEALTH CARE PROVIDERS EQUALLY ACCESSIBLE

PROBLEM DESCRIPTION

Persons covered by compulsory health insurance cannot be served by private health care providers. Such a solution discriminates against private healthcare providers while insured persons cannot access healthcare of their choice.
In line with that, in order for a private healthcare institution to be able to establish temporary incapacity for work (to advise sick leave), it must have concluded an appropriate agreement with the Republic Health Insurance Fund. As the Republic Health Insurance Fund, for reasons unknown, does not enter into such agreements with private healthcare institutions they have been thus discriminated against

SOLUTION-RECOMMENDATION

Amend regulations to enable persons covered by compulsory health insurance to use services provided by private healthcare institutions, and the eligible amount of such costs will be compensated by the Republic Health Insurance Fund.
Secure consistent implementation of regulations and begin concluding agreements with private healthcare providers.

The amendments to the Health Care Law of 2012, created the initial conditions forfinancing private healthcare services, i.e., to enable insured persons to use services of private health care institutions. However, implementation of this solution should be improved in orderfor the law to take roots in practice.

SOLVED PARTIALLY

REGULATIONS

· Health Care Law ("Official Gazette of RS" No. 107/05, 72/09, 88/10, 99/10, 57/11, 119/12, 45/13 and 93/14)
· Health Insurance Act ("Official Gazette of RS" No. 107/05, 109/05, 57/11, 119/12, 55/13, 99/2014 and 123/2014)

3.6 SPECIFY CLASSES AND CATEGORIES OF MEDICAL DEVICES

PROBLEM DESCRIPTION

Bylaws that regulate trading in medicines and medical devices are mostly imprecise when it comes to classes and categories of medical devices.

The Rulebook on Classification of General Medical Aids, as all international documents, has defined classes according to their invasiveness to the patient as I, IIa, IIb and III. As it turns out there are also classes Is and Im, but it has not been specified whether they fall under I class (which is most probably the case) or they are additional independent classes. Also, there are 12 categories of medical devices that have not been acknowledged by any regulation.

The Rulebook on Conditions for Wholesale of Medicines and Medical Devices, Data Entered into the Register of Issued Wholesale Licenses for Trading in Medicines and Medical Devices and the Manner of Recording (Off. Gazette of the RoS 10/12), and other bylaws that regulate this area, mention classes of medicines and medical devices and categories within them (they specify that e.g. class and category are entered into a request for license for trading or entry into the register of medicines and medical devices).

However, it is not specified in any of them which categories may fall under which class (e.g. a medical device may be III class and O1 category but that can only be concluded by logic).

The cited legal vacuum creates legal uncertainty in wholesale of medicines and medical devices.

SOLUTION-RECOMMENDATION

Amend the Rulebook on Classification of General Medical Devices by clearly specifying and defining classes and categories or regulate that matter by another regulation.

REGULATIONS

· *Rulebook on Classification of General Medical Devices ("Official Gazette of RS" No. 46/11)*

3. MINISTRY OF HEALTH

3.7 SPECIFY THE STATUTORY OBLIGATION OF WHOLESALE DRUG SUPPLIERS

PROBLEM DESCRIPTION

The Law on Medicines and Medical Devices and bylaws that regulate wholesale of medicines and medicinal devices has specified inadequate obligations of wholesale drug suppliers. Currently, they require them to anticipate the type of medicinal devices that will be traded in the future and to file an annex to the decision for any change in business and to pay a fee along with that.

Article 132 of the Law on Medicines and Medical Devices rigidly specifies that a wholesale drug supplier that acquired a wholesale license for particular medicines must secure continuous supply of those medicines, as if those are the only medicines of that kind: wholesale drug supplier is required to supply medicines and medical devices of specific type, or group of medicines and certain classes and categories of medical devices in Serbia, for which it has been licenses and to keep in store all of them so as to be able at to provide continuous supply of medicines or medical devices in the market. Identical obligations have been specified by Article 8 of the Rulebook on Conditions for Wholesale of Medicines and Medical Devices.

Such obligations are not in line with realistic possibilities of the "holders of the license for trading in medicines: as the Law refers to them in Article 2, Paragraph 1, Item 37); because in terms of procurement they are completely dependent on businesses which are under Item 2) of the same Paragraph named as "holders of the license for medicines" (producers and representatives of foreign producers), as is the case with the public procurement agreements used to supply healthcare institutions.

In addition to problems of unreasonable supplies, the problem of excessive indebtedness of healthcare institutions and their frozen accounts should be urgently addressed because of their inability to pay for the created commitments stemming from contracts with wholesale drug suppliers.

SOLUTION-RECOMMENDATION

To delete Article 132 of the Law on Medicines and Medical Devices and Article 8 of the Rulebook on Conditions for Wholesale of Medicines and Medical Devices that require wholesale drug suppliers to continuously supply the market. There are no good reasons for such a provision as medicines and medical devices are obtained through public procurement. By signing a public procurement agreement a wholesale drug supplier commits to delivering medicines and medical devices while supplies are created based on that particular agreement. To require companies to keep in store all medical devices that they have ever sold is unrealistic and negatively impacts the business of most of them.

Add Paragraph 5 to Article 132 of the Law on Medicines and Medical Devices to read: "The line ministry, with the goal of continuous supply of medicines in the market, must secure financial collateral for the case when healthcare institutions founded by the Republic, an autonomous province, a municipality or city, fail to cover their commitments to a legal entity trading medicines in bulk, for the medicines delivered based on the awarded public procurement contracts."

Add to Article 139, Paragraph 1, Item 3), of the Law on Medicines and Medical Devices: „3) about every problem concerning continuous supply of medicines in the market referred to in Article 132, including failure of healthcare institutions founded by the Republic, an autonomous province, a municipality or a city to pay financial commitments stemming from contracts with holders of license for wholesale trade in medicines, for the medicines delivered based on the contracts awarded in the public procurement procedure "

Add to Article 139 of the Law on Medicines and Medical Devices a new provision 2) that reads: "2) In cases referred to in Paragraph1, Item 3) of this Article, the line ministry must take appropriate measures, including providing financial collateral for failure of healthcare institutions founded by the Republic, an autonomous province, a municipality or city to pay their commitments stemming from contracts with holders of license for trading in medicines in bulk for medicines delivered based on the contracts awarded in the public procurement procedure.

REGULATIONS

· Article 132 of the Law on Medicines and Medical Devices ("Official Gazette of RS" No. 30/10 and 107/12)

· Article 8 of the Rulebook on Conditions for Wholesale of Medicines and Medical Devices, data entered into the Register of Issued WholesaleLicenses for Trading in Medicines and Medical Devices and the Manner of Recording ("Official Gazette of RS" No. 10/12 and 17/17)

3. MINISTRY OF HEALTH

3.8 SPECIFY QUALIFICATIONS REQUIRED FOR EMPLOYEES IN PHARMACEUTICAL WHOLESALERS

PROBLEM DESCRIPTION

The Rulebook on Conditions for Wholesale of Medicines and Medical Devices (hereinafter: the Rulebook) does not specify the qualifications the employees need to meet in order for a business entity to be licensed as a wholesaler of medical devices.

Article 24, Paragraph 4, of the Rulebook specifies that a responsible person is „a person engaged in wholesale must have a medical degree, a dentistry degree, pharmaceutical, veterinarian, machining, technologies, electrical engineering and degrees in other appropriate areas depending on the class and category of a medical device."

Article 25 of the Rulebook lists classes of medical devices but it does not specify the qualifications of the employees required for wholesale of a particular class. There is no mention of any categories of medical devices either.

Lack of connection between the specified qualifications of the employees and the type of pharmaceutical products that they may trade is a source of wide discretion of inspectors in assessing the qualifications that an employee should have to be allowed to engage in wholesale of particular medical devices. Additionally, it is specified that a responsible person should have at least three years of relevant working experience and that he/she has passed the state license exam. It is unclear why does a person who will control movement of goods in and out of a warehouse needs experience in medicine or pharmaceutical area. Working experience is completely irrelevant for a responsible person because one cannot know which medical devices will the person handle while working for different employers. Also, it is very difficult to find a physician or a pharmacist with three years of experience who would want to work in a warehouse checking whether the goods arrived undamaged and whether the expiration date is appropriate.

SOLUTION-RECOMMENDATION

The Rulebook must specify which profession and degree the employees should have in order for their company can engage in wholesale of particular classes and categories of medical devices.

Delete from Article 22, Paragraphs 2 and 5 and Article 24, Paragraph 4 of the Rulebook the required three years of experience and state license exam as they have no real basis in real business.

The activities of receipt, storing, safekeeping and delivery of medical devices should be separated from quality control, because it cannot be expected that a physician or a pharmacist will do the job of a warehouse clerk (receipt, storing, safekeeping and delivery) and their offices should not be placed in a warehouse. A responsible person should be in charge of control: whether the medical devices have been properly stored, whether the shelf date is appropriate, whether the temperature in the warehouse is in line with the specified requirements, etc.

As this kind of work does not require one's full time it is not appropriate to provide that these kinds of employees be contracted, in particular by small companies, for indefinite period of time, rather it is necessary to specify that a responsible person may be employed by a business entity engaged in such an activity as a part-time employee or be engaged based on a service contract or a contract with another agency that employs that employee.

REGULATIONS

· *Art. 22 and 24 of the Rulebook on Conditions for Wholesale of Medicines and Medical Devices, Data Entered in the Register of Issued Wholesale Licenses for Trading in Medicines and Medical Devices and the Manner of Recording ("Official Gazette of RS" No. 10/12 and 17/17)*

3.9 SPECIFY MINIMUM SPACE STANDARDS FOR BUSINESS PREMISES OF WHOLESALE DRUG SUPPLIERS

PROBLEM DESCRIPTION

The Rulebook on Conditions for Wholesale of Medicines and Medical Devices (hereinafter: the Rulebook) is broad and imprecise and leaves inspectors overly wide discretion to determine the conditions that a business entity needs to be compliant of in order to engage in wholesale of medical devices, which can make a difference in terms of facilities and equipment available to business entities that carry out similar activities.

In terms of minimum space requirements, Article 10 of the Rulebook specifies what kind of premises must a business entity operate in to be licensed as wholesaler of medicines and medical devices, without precisely specifying the size of the space of the wholesaler or how does the size depends on the class and category of the medical devices, volume of trade, and territory covered by distribution. Articles 11 and 12 of the Rulebook specify minimum size of such space.

However, Article 14 of the Rulebook specifies that: "in the procedure for assessing compliance with the licensing requirements for a wholesale license to be issued for trading in medicines and medical devices, the line ministry may conclude that wholesale of medicines and medical devices require larger area than the specified minimum (...), based on the type, or group of medicines and class and category of medical devices, as well as based on trade volume, depending on the territory that the wholesaler will cover", which abolishes the minimum standards set in Articles 11 and 12.

SOLUTION-RECOMMENDATION

Delete the entire Article 14 of the Rulebook to eliminate the basis for overly wide discretion of inspectors, who can decide that a company needs larger warehouse or larger receipt and dispatch area on the basis of only one visit.

Article 15 is sufficient to supervise doing business in one area, which specifies that warehouse premises must: "in terms of space and arrangement of equipment and devices enable smooth business operations, without any risks and possibility to switch or mix up different products". The Rulebook may not specify the exact size and it must be up to the company to determine the size of its space in accordance with its business circumstances, which is particularly significant for start-ups because the given space will be, in time, adjusted to meet the requirements specified in the Rulebook.

REGULATIONS

· *Art. 14 of the Rulebook on Conditions for Wholesale of Medicines and Medical Devices, Data Entered into the Register of Issued Wholesale Licenses for Trading in Medicines and Medical Devices and the Manner of Recording ("Official Gazette of RS" No. 10/12 and 17/17)*

3.10 STREAMLINE REQUIREMENTS FOR VEHICLES TRANSPORTING MEDICINES AND MEDICAL DEVICES

PROBLEM DESCRIPTION

The Rulebook on Conditions for Wholesale of Medicines and Medical Devices (hereinafter: the Rulebook) is insufficiently precise and anticipates overly wide discretion of inspectors when it comes to the requirements for vehicles transporting medicines and medical devices.

Article 30, Paragraph 1 of the Rulebook specifies that a wholesale drug supplier must have transport vehicles of appropriate type and number registered on that supplier, which provides overly wide discretion in assessing the compliance in terms of vehicles. Additionally, wholesale drug suppliers, based on this provision, are burdened by unnecessary large costs because they cannot use services of professional transporters of medicines and medical devices or purchase vehicles by means of financial leasing or rent vehicles.

This limitation is the consequence of the ministry's interpretation of the Law on Medicines and Medical Devices, namely Article 122, Paragraph 2, Item 6 of the Law specifies that along with the request for wholesale license for trading in medicines the "evidence of disposal of freight vehicles made for transport of medicines" must be filed with the line ministry – this does not mean the obligation to own vehicles but the ministry applies such interpretation.

SOLUTION-RECOMMENDATION

In order to provide legal security and harmonize the conditions for doing business and improve them the Rulebook and the Law need to be amended as follows:

- Amend Article 122, Paragraph 2, Item 6 of the Law on Medicines and Medical Devices in the following manner: "6) evidence that freight vehicles for transport of medicines have been secured (evidence of ownership, lease, contract on financial leasing, contract on transport services with a transport company specialized in this types of cargo, etc.)";
- Delete Articles 30 and 31 of the Rulebook that specify the obligation to own transport vehicles as one of the conditions that a wholesaler of medicines and medical devices needs to be in compliance with;
- Re-examine the reasons for the obligation to own vehicles custom made for transporting hazardous substances for wholesalers that trade in radiopharmaceuticals, specified by Article 32 of the Rulebook, while there were several reasons for this obligation to have been introduced, due to specificities of the goods, there is no reason not to allow the use of services of transport companies specialized in this type of goods.

SOLVED

The amendments to the Rulebook on the Conditions for Wholesale of Medicines and Medical Devices published in the Offiicial Gazette No. 17/2017 addressed this problem. In article 30, Paragraph 1 after the words: „registered under the name of that wholesaler" the following words are added:" or other wholesaler with whome, with the prior approval of the line ministry, the wholesaler concluded an agreement delegating the distribution of medicines or medical devices across the whole or part of its distribution territory".

REGULATIONS

· Article 122, Paragraph 2, Item 6, of the Law on Medicines and Medical Devices ("Official Gazette of RS" No. 30/2010 and 107/2012)

· Art. 30–32 of the Rulebook on Conditions for Wholesale of Medicines and Medical Devices, Data entered into the Register of Issued Wholesale Licenses for Trading in Medicines and Medicinal Devices, and the Manner of Recording ("Official Gazette of RS" No. 10/2012)

3. MINISTRY OF HEALTH

3.11 HARMONIZE THE HEALTH FACILITIES NETWORK PLAN WITH THE STATUS ON THE GROUND

PROBLEM DESCRIPTION

The Decree on the Health Facilities Network Plan has introduced the Health Facilites Network Plan – the number, the composition, capacity and spacial distribution of state-owned health care facilities and their organizational units by levels of health care protection, organization of emergency departments and other issues important for the organization of medical care in the Republic of Serbia.

The analysis of the status of health care facilities included in the Plan leads to a conclusion that at this point over 20% of facilities included in the Network Plan either no longer exist (a significant portion of the accommodation facilities have been rented out, the number of employees have been reduced to a level that does not enable proper functioning, etc.) or have had their accounts frozen or are doing business generating significant debt and the number of such facilities is on the rise.

When centralized public procurement procedures are announced such discrepancy between the situation on paper and on the ground is not taken into consideration and the budget allocations are overestimated and based on unrealistic amounts and estimated values.

Because of this, bidders bear the costs of bank guarantees based on the unrealistically estimated values of the public procurement procedures. Also, it needs to be noted that bidders issue bank guarantees both to contracting authorities and suppliers.

During the delivery after the completion of the public procurement procedures bidders are additionally exposed to the risk of bearing penalties anticipated by framework agreements due to failed delivery, even though there are objective reasons that caused it, such as insolvency of health care facilities.

Additionally, it has been found that ditribution of medicines around Kosovo and Metohija is characterized by extremely high logistics costs which in some cases exceed the value of the distributed medicines, as there have been many delivery locations in the territory of Kosovo and Metohija.

The stated discrepancy between the Network Plan and situation on the ground seriously undermines the health care system, the business and the survival of suppliers of medicines as well as the citizens – patients.

SOLUTION-RECOMMENDATION

Harmonize the Health Facilities Netwrok Plan and the situation on the ground by adopting a new Decree on the Health Facilities Network Plan. The new decree should anticipate the number, the compasition, capacities and spatial distribution of health care facilities that will reflect reality, i.e., that should not include facilities that due to their low capacities (spatial and stafffing) do not represent part of the Health Care Facilities Network Plan.

We recomend to amend the Decree to provide for fewer number of delivery locations in Kosovo and Metohija, recipients of donations, and thus enable distribution to other healthcare facilities by means of internal channels and to forsee quarterly delivery in the tender documents of the centralized public procurement, i.e. to require health care facilities in Kosovo and Metohija to plan qurterly deliveries.

REGULATIONS

· *Decree on the Health Facilites Network Plan ("Official Gazette of RS" No. 42/06, 119/07, 84/08, 71/09, 85/09, 24/10, 6/12, 37/12, 8/14 and 92/15)*

3. MINISTRY OF HEALTH

3.12 REGULATE TOY SAFETY

PROBLEM DESCRIPTION

Toy safety is a rather complex area regulated in the European Union by the Toy Safety Directive (2009/48/EC). The Directive regulates the most important aspects such as protection of the health of children and internal market operations.
In the Republic of Serbia toy safety has been regulated through the Law on the General Product Safety. However due to the fact that many aspects of toy safety haven't been regulated, the assumption is that many business entities, producers, importers and distributers have been facing legal uncertainity, risk and unfair competition in pursuing their business interests in the Republic of Serbia.
The Law on the General Product Safety (Article 6, Paragraph 2) provides that the minister regulates in more detail this area by adopting a bylaw that needs to be in line with the applicable EU Directive.
However, the said bylaw hasn't been adopted yet, namely the law was adopted in 2011 and the time limit for the adoption of the bylaw was six months after the adoption of the law. Additionally, the law must be amended as it is not possible to transpose the provisions of the Directive, i.e., EU regulations solely into a bylaw.

SOLUTION-RECOMMENDATION

First, it is necessary to amend the Law on the General Product Safety.
After that, the Rulebook on Health Safety, the Manner and Content and Conditions for Labeling and Marking Children's Toys and Products for Children and Infants needs to be adopted.
The above mentioned amendments need to transpose the most important obligations refered to in the Directive:
- Establish a body for conformity assessment;
- Precisely define general and particular conditions that a toy must fulfil in order to be safely placed in the market;
- Regulate in detail the safety requirements that a toy must meet (physical, mechanical, chamical characteristics, hygiene, etc.)
- Organize and implement such inspection oversight that each group of inspectors (sanitary, market) knows which segment of oversight is in charge of when inspecting a toy;
- Regulate penalties for business entities to make them effective and proportionate

REGULATIONS

· *Law on the General Product Safety ("Official Gazette of RS" No. 92/2011)*

3.13 INTRODUCE NEW PROCUREMENT MECHANISMS FOR SUPPLY OF MEDICINES

PROBLEM DESCRIPTION

The Health Insurance Act, amongst other things, defines the rights of insured persons in regards to medicines issued against a doctor's prescription or at the expense of the compulsory health care insurance fund (the list of medicines subject to the National Health Insurance Fund's rules). Procurement of medicines referred to in the B and C lists is done in line with the so-called INN system (the International Nonproprietary Names system), and in accordance with the Decree on Planning and Types of Goods and Services Subjected to Centralized Public Procurement Procedures, which practically means that medicines of the same type compete against each other in procurement procedures and that only one medicine wins (the one with the lowest price), this occurs without taking into account that other medicines are also placed on the List. Also, such centralized public procurement procedures are not always announced adequately and within an appropriate time frame, therefore the bidders often do not have sufficient amount of time to prepare their bids in line with the government's requirements. The matter of transparency of such public procurement procedures and decision-making is also an issue. Finally, given the patients/ insured persons' statutory right to be issued medicines referred to on the List it should be noted that the centralized public procurement procedures do not enable them to exercise that right in full.

SOLUTION-RECOMMENDATION

Considering the Serbia's experience to-date with centralized public procurement procedures it is necessary to carry out a detailed analysis of their effects on the availability and quality of medicines, on supply and possible monopolization. It is necessary to establish the real effects on savings of funds set aside for medicines compared to the consumption of medicines and re-examine their appropriateness for future use. It is necessary to consider and introduce new, more flexible mechanisms of procurement of medicines and supply of medicines and establish a sustainable policy for medicines based on best practices and the insured persons' right to medicines referred to in the List.

It is necessary to amend regulations in accordance with the conducted analyses to prescribe adequate procurement mechanisms for the supply of medicines.

REGULATIONS

· *Health Insurance Act ("Official Gazette of RS" No. 107/2005 ... 10/2016 – new law); Decree on Planning and Type of Goods and Services Subjected to Centralized Public Procurement Procedures ("Official Gazette of RS" No. 29/2013 ... 95/2016)*

4. MINISTRY OF LABOUR, EMPLOYMENT, VETERAN AND SOCIAL POLICY

4.1 STREAMLINE CLAIMING MATERNITY ALLOWANCE

PROBLEM DESCRIPTION

The procedure for claiming maternity allowance is very complicated.For claiming a right to healthcare (maternity leave before and after giving birth) over 12 different documents need to be provided, beginning with the report on temporary incapacity for work through birth certificates for all children one has, a decision issued by the Business Registers Agency, the employment contract, copies of registrations with the Pension and Disability Fund and Healthcare Fund, a copy of employment record card, a decision approving maternity leave, a decision on approving leave to care for the baby, the certificate on the number of employees, to the calculation of salaries disbursed in the 12 months prior to the month in which leave is initiated, bank statements as evidence of paid contributions, etc. A total of 86 “papers” are required".

SOLUTION-RECOMMENDATION

This procedure must be simplified to the maximum extent possible by refraining from asking the beneficiaries to provide documents that contain data that have already been entered in the electronic registers.
Also, the Tax Administration and the Social Insurance Fund need to be interconnected to exchange information (e.g. the Tax Administration possess data on assessed and paid taxes and contributions paid on different bases and the Fund could access them electronically).

The adoption of the new Law on Financial Support to Families with Children (Official Gazette of RS 113/2017) simplified the procedure to which NALED has been pointing out for the past several years.

SOLVED

REGULATIONS

· *Law on Financial Support to Families with Children (“Official Gazette of RS” No. 16/02, 115/05, 107/09)*

4. MINISTRY OF LABOUR, EMPLOYMENT, VETERAN AND SOCIAL POLICY

4.2 ABOLISH COMPULSORY FILING OF FORMS TO THE PIO FUND FOR REGISTRATION OF YEARS OF SERVICE

PROBLEM DESCRIPTION

The procedure for registration of years of service with the Pension and Disability Fund (PIO Fund) is unnecessarily complicated.

It still involves filing a M4 form for which it is necessary to physically deliver PP OD forms for the entire year, calculated salaries and statements with disbursed salaries and contributions for the year of service that is about to be registered.

This is unnecessary because forms showing disbursed salaries are filed with the Tax Administration during the year for each disbursement separately.

There is identical problem with filing an M-UN form. While the Law on the Central Registry of Compulsory Social Insurance (CROSO) was adopted back in 2010 its implementation hasn't been provided to eliminate this procedure.

SOLUTION-RECOMMENDATION

Immediately begin implementing the Law on the Central Registry of Compulsory social Insurance and by exchanging data between the Tax Administration and the CROSO and abolish the procedure before the PIO Fund which requires submitting and certifying forms for registration of years of service.

Specifically, even if the requirement to file forms to register years of service survives (M4 and M-UN forms) and if the PIO Fund and the CROSO do not establish communication in the given procedure the PIO Fund may access data on disbursements made by directly accessing the Tax Administration's data.

REGULATIONS

· Law on Pension and Disability Insurance ("Official Gazette of RS " No.34/03, 64/04, 84/04, 85/05, 101/05, 63/06, 5/09, 107/09, 30/10, 101/10, 93/12, 62/13,108/13 and 75/14 i 142/14)

· Law on the Central Registry of Compulsory Social Insurance ("Official Gazette of RS" No. 30/10 i 116/14)

4. MINISTRY OF LABOUR, EMPLOYMENT, VETERAN AND SOCIAL POLICY

4.3 INTRODUCE A SEASONAL EMPLOYMENT ELECTRONIC REGISTRATION AND RECORD-KEEPING SYSTEM

PROBLEM DESCRIPTION

Employers and individual farmers often engage seasonalworkers without any employment contract or contract on engagement outside of employment or through agricultural cooperatives which cannot satisfy either of the sides. The consequence thereof is that the engaged seasonal workers' contributions to compulsory social insurance is not paid and their years of service are not registered or years of social insurance. Such a situation is, amongst other things, the consequence of a complex administrative procedure specified for conclusion of contracts the time of which is uncertain or relatively short (matches the duration of a season of specific works, when whether allow working, etc.). It is alarming that around 60% of people engaged in the agriculture sector are not registered.

SOLUTION-RECOMMENDATION

Adoption of a separate Law on Temporary Seasonal Employment that will anticipate introduction of an electronic registration and record-keeping system, payment of the assessed (flat tax) tax with daily rates of compulsory social insurance and health insurance in the case of injuries at work and maximum duration of seasonal employment of 120 days a year.

This will accelerate and simplify the procedure for registration, make maintaining records easier and more precise, make the procedure of issuing evidence of paid compulsory social insurance and health insurance easier, reduce the process costs, enable hiring the number of seasonal worker that is proportionate to the employers' needs and will contribute to increase of the number of contracts and with that a positive effect to budget revenues and will help the workers claim the rights that have been guaranteed to them by law.

REGULATIONS

· *Labour Law ("Official Gazette of RS" No. 24/05, 61/05, 54/09, 32/13 i 75/14)*

4. MINISTRY OF LABOUR, EMPLOYMENT, VETERAN AND SOCIAL POLICY

4.4 ENABLE EMPLOYERS TO TERMINATE EMPLOYMENT CONTRACTS DUE TO IRREPARABLE DAMAGE IN EMPLOYMENT RELATIONS

PROBLEM DESCRIPTION

Article 179 of the Labor Law specifies bases on which employers may terminate employment contracts. Those bases are limited and do not allow the use of more flexible staffing policy, by taking into account the interests of employees.

Article 191, Paragraph 5 of the Law specifies that the court will not reinstate the employee's job, irrespective of the fact that the court established that the termination was against the law, if the employer corroborates by evidence that continuation of the employment, when all circumstances and the interests of both contractual parties are taken into account, is not possible. In that case the court obligates the employer to pay to the employee up to 36 salaries he would earn had he been at work as award of damage.

The courts apply this provision and do not reinstate the employee's job if the employment relations are irreparably damaged, irrespective of the fact that it was not due to employee's fault. Therefore, the court terminates employment by its decision despite the fact that termination was unlawful.

It is unacceptable that the employer may not terminate an employment contract due to irreparable damage to employment relations but has to wait for the court to do so for the same reason. This creates unnecessary and enormous costs for the employers in the form of salaries and contributions paid to the employee during the proceedings, while the result is identical– termination of employment.

SOLUTION-RECOMMENDATION

In Article 179 of the Labor Law after Item 9) add Item 10) which reads: "10) if the employer finds that continued employment is not possible due to irreparable damage to its relationship with the employee"

In Article 189 of the Law add Paragraphs 5 and 6 which read: "If the employment contract has been terminated in accordance with Article 179, Item 10) of this Law, termination becomes effective on the day of its delivery to the employee, and the employer is required to compensate the employee by paying three times the severance pay calculated in accordance with Article 158, Paragraph 2 of this law, because otherwise the termination will not have any legal effect on the employee.

If in the case of termination of employment in accordance with Article 179, Item 10) of this Law, the employer and employee agreed on a higher amount of compensation than that calculated in accordance with the previous paragraph of this Article, the employer is required to pay the agreed amount in case of termination on that particular basis."

The suggested amendment would allow avoiding long proceedings in cases when employers are prepared to pay significant amount of compensation and the courts would be relieved of a large number of labor disputes.

REGULATIONS

· *Article 179 of the Labor Law ("Official Gazette of RS" No. 24/05, 61/05, 54/09, 32/2013 and 75/2014)*

4. MINISTRY OF LABOUR, EMPLOYMENT, VETERAN AND SOCIAL POLICY

4.5 AMEND STATUTORY LIMITATIONS CONCERNING THE RULEBOOK ON JOB SYSTEMATIZATION

PROBLEM DESCRIPTION

By amendments to Article 24 of the Labor Law adopted on 18 July 2014 a new paragraph was added – Paragraph 3 that specifies that only exceptionally employers may establish two subsequent educational degrees for specific job positions.

Read together with Paragraph 2 this rule can be interpreted to say that the employer in its rule on systematization of job positions may anticipate only one education degree for a particular job, and that only exceptionally it is possible to anticipate two educational degrees for particular job positions. Such interpretation significantly reduces the possibility for the employer to match the rulebook on systematization of job positions and its actual needs, qualifications of the employees and the situation in the labor market.

In practice, employees without appropriate education degree but with years of practical experience and knowledge required for specific jobs should become technology surplus or their employer should "invent" similar job positions that require their education degree. Also, employers are not allowed to specify the minimum required education degree; rather they have to limit themselves to specifying only one degree.

This rule results in additional administrative work and costs for employers and is not in line with the requirements of modern business and flexibilization of the labor market.

SOLUTION-RECOMMENDATION

The provisions of Paragraph 2, Article 24 of the Labor Law must be made more precise to enable employers to anticipate those educational degrees that meet the needs of their business, without limitations in terms of the number of education degrees for specific jobs in order to avoid inconsistent interpretations, and Paragraph 3 of Article 24 of the Law needs to be deleted.

REGULATIONS

· *Article 24 of the Labor Law ("Official Gazette of RS" No. 24/05, 61/05, 54/09, 32/13 and 75/14)*

5. MINISTRY OF CONSTRUCTION, TRANSPORTATION AND INFRASTRUCTURE

5.1 ENABLE LEASEHOLDERS TO REGISTER THEIR SHORT-TERM LEASES WITH THE REAL ESTATE CADASTRE

PROBLEM DESCRIPTION

According to the Law on State Survey and Cadastre that entered into force on 11/09/2009, and its Article 198, the Republic Land Survey Authority's Director had until three years ago to harmonize the Rulebook on the Development and Maintenance of the Real Estate Cadastre with new features in the law, that new rulebook has not yet been adopted.

The old rulebook is still used in practice, and in its Article 82 it provides that only long term leases are entered into the Real Estate Cadastre, i.e., leases lasting 10 years or more. This rulebook denies the leaseholders their statutory right to register with the cadastre their contract be that long-term or short-term lease agreement.

Article 77 of the Law on State Survey and Cadastre expressly allows the entry of lease agreements into the Real Estate Cadastre. As opposed to the previous Law on State Survey and Cadastre and Entry of Property Rights, which was amended in 1996 to limit this right in its Article 58e, this law allows all kinds of leases not just long-term ones.

SOLUTION-RECOMMENDATION

Given the aforementioned, it is necessary that the Republic Land Survey Authority's Director acts without delay and adopts the Rulebook on Cadastral Survey and the Real Estate Cadastre to regulate this matter in line with the law, that is, to allow the entry of all lease agreements without any limitations.

REGULATIONS

· *Law on State Survey and Cadastre ("Official Gazette of RS " No. 72/09, 18/10, 65/13)*

· *Rulebook on the Development and Maintenance of the Real Estate Cadastre ("Official Gazette of RS" No. 46/99)*

5. MINISTRY OF CONSTRUCTION, TRANSPORTATION AND INFRASTRUCTURE

5.2 SHORTEN THE PROCEDURE FOR LEGALIZATION OF BUILDINGS

PROBLEM DESCRIPTION

Articles 185–200 of the Law on Planning and Construction provide for legalization of buildings constructed without a permit. While the law was adopted back in 2009, legalization activities have been slowly unfolding that created the need for amendments of that piece of legislation.

Lack of resources created additional problems for practical implementation of legalization. Even in the City of Belgrade files that pertain to individual municipalities were handled by only one civil servant. Thus, in addition to beneficiaries of legalization local government has suffered damage because it has been unable to collect property tax on account of those buildings due to its sluggishness.

Subsequently adopted Law on Special Conditions for Registration of Ownership Rights over Buildings Constructed without a Building Permit has also been implemented with difficulties. The newly adopted Law on Legalization of Buildings, from October 2013 was also unable to address all the cases in which legalization needs to be allowed. Those are multi-storey apartment buildings, built on the most expensive locations and sold to law-abiding citizens. Such buildings cannot be legalized because, as a rule, in terms of the number of floors or set back lines they do not adhere to the Rulebook on General Rules for Subdivision, Regulation and Construction (Official Gazette of the RoS 50/11). In practice, this will mean that buildings build by housing cooperatives over more than two decades ago or buildings built by private companies during the last two decades that acquired building permits but failed to adhere to them either in terms of their dimensions or the number of floors. Their buyers, who are most law-abiding owners among all other owners of "illegal buildings" have been denied the right to legalize the properties they purchased, even though they could not have known, at the time of purchase, that the investor departed from the building permit.

SOLUTION-RECOMMENDATION

Regulations that concern the matter of legalization need to be amended and/or applied to make legalization efficient and just. Local governments' secretariats responsible for the procedure for legalization should secure a sufficient number of public servants to handle it and complete the task in due time.

SOLVED PARTIALLY

The adopted Law on Legalization of Buidlings (Official Gazette of RS 96/15) has regulated the conditions, procedure and manner of legalization of buildings, i.e., parts of buildings built without a permit, approval of construction (hereinafter: illegally constructed buildings), the conditions, manner and procedure for the issuance of decisions on legalization, legal consequences of legalization and other matters significant for legalization of buildings. However, in practice, in particular in city municipalities, the legalization procedure is still unacceptably long and some government authorities responsible for the procedure are not overly responsive in working with clients.

REGULATIONS

· *Article 125, Para. 3 and 4 of the Law on State Survey and Cadastre ("Official Gazete of RS" No. 72/2009, 18/2010, 65/2013, 15/15 and 96/15)*

5. MINISTRY OF CONSTRUCTION, TRANSPORTATION AND INFRASTRUCTURE

5.3. PRESCRIBE AN EFFICIENT MECHANISM FOR LAND SUBDIVISION FOR REGULAR USE OF LEGALIZED BUILDINGS AND BUILDINGS UNDERGOING LEGALIZATION

PROBLEM DESCRIPTION

Applying the Law on Legalization of Buildings is in certain number of cases difficult due to lack of harmony between this law and the Law on Planning and Construction.

Article 70 of the Law on Planning and Construction provides for special cases when land for regular use of buildings (subdivision and re-subdivision) is determined. Paragraph 5 of this Article provides that, after a request is filed, a relevant authority "ex officio asks for a report from the urban planning authority showing whether the existing cadastral plot can be established as land for regular use of the building or as a cadastral plot as it meets the appropriate conditions, i.e., whether a subdivision or re-subdivision design needs to be created to enable determining the land for regular use of the building, whether there are urban planning conditions for these designs, or asks for the opinion that a subdivision design, or re-subdivision design is not needed because it has already been created. If the urban planning authority points to the need to create a subdivision or a re-subdivision design, its report contains a proposal for the formation of aconstruction plot"."

However, Article 70 does not account for the situation in which the urban planning authority does not say in its report whether a subdivision or a re-subdivision design is needed to determine land for regular use of a building, because there are no grounds for it in the planning documents, while legalization of the building exists as an option. Such cases mostly pertain to subdivision of land under buildings built without a permit.

SOLUTION-RECOMMENDATION

Amend the Law on Legalization of Buildings, i.e., add to Art. 70 of the Law on Planning and Construction an efficient mechanism for land subdivision for regular use of legalized buildings, i.e., buildings undergoing legalization, or address the situation differently when the authority responsible for urban planning fails to deliver a report upon a request referred to in Art. 70 of the Law on Planning and Construction in which it will explain whether a subdivision project needs to be prepared for regular use of buildings, i.e., in which it will discuss whether the urban planning conditions have been met for the preparation of these projects.

REGULATIONS

· Law on Legalization of Buildings ("Official Gazette of RS" No. 96/15)

· Article 70 of the Law on Planning and Construction ("Official Gazette of RS" No. 72/09, 81/09, 64/10, 24/11, 121/12, 42/13, 50/13, 98/13, 132/14 and 145/14)

5. MINISTRY OF CONSTRUCTION, TRANSPORTATION AND INFRASTRUCTURE

5.4. IMPROVE THE PROCEDURE FOR REGISTRATION OF RIGHTS IN THE CADASTRE

PROBLEM DESCRIPTION

Selling and buying real estate and claiming property rights, including mortgage is unacceptably complicated due to inadequate communication of the holders of public authority in this domain, primarily the Republic Land Survey Authority and public notaries. Thus, when a property is sold/purchased or a mortgage registered, in order to conclude a contract, i.e., solemnize the contract or a pledge statement with a public notary the buyer must obtain a new copy of the title from the competent office of the Republic Land Survey Authority then go to the public notary to get it solemnized. After the solemnization the buyer files it back with the Republic Land Survey Authority for registration of the right, waiting in queues several times, first to obtain the amount of the fee, then to file a request for registration and finally to pick up the decision on registration in the cadastre, which all, unnecessarily, takes too much time and makes the whole procedure too complicated.

SOLUTION-RECOMMENDATION

Amend the Law on State Survey and Cadastre (Official Gazette of RS 72/2009, 18/2010, 65/2013, 15/15 and 96/15) to enable public notaries to ex officio exchange data with the Republic Land Survey Authority as well as excerpts necessary for public notary documents to be prepared, i.e., necessary for contract solemnization and to file requests for entry of changes on behalf of buyers of real estate, i.e., on behalf of real estate owners based on a document that rtepresents an adequate basis for the entry of a change into the real estate cadastre.

REGULATIONS

· *Article 126, Paragraph 1 of the Law on State Survey and Cadastre ("Official Gazette of RS" No. 72/2009, 18/2010, 65/2013, 15/15 and 96/15)*

5. MINISTRY OF CONSTRUCTION, TRANSPORTATION AND INFRASTRUCTURE

5.5. ABOLISH VEHICLE OWNERSHIP AS A CONDITION FOR ENGAGING IN TAXI TRANSPORT

PROBLEM DESCRIPTION

Article 88, Paragraph 2 of the Law on Road Passenger Transport (hereinafter: the Law) reads: "Only those taxi operators who own, i.e., who leased through financial leasing at least one, registered passenger vehicle referred to in Paragraph 1 of this Article, may engage in taxi transport" By providing that only owners or persons using financial leasing may be taxi operators the law denies other operators who are legitimately using vehicles of other persons the opportunity to engage in a business activity. This is how some absurd situations are created in practice:

- A spouse took a loan or used a finance lease (as she is the only employed family member) and became an owner or lessee of a vehicle that she gave her husband so as he can engage in taxi transport, he did not own a vehicle and therefore he could not be a taxi cab driver because of this limitation.
- A father owns a vehicle and he gave it to his son to engage in taxi transport because he could not have done it otherwise because of this limitation.
- A company engaged in taxi transport owns a vehicle or leased it and based on a cooperation agreement gave it to an independent taxi operator to engage in taxi transport under his own name and on his own behalf, because he couldn't have done it otherwise because of this limitation.

This limitation denies the right to work and also inflicts serious damage to numerous independent taxi operators and to improved business and better services provided to end users.

SOLUTION-RECOMMENDATION

It is necessary to amend Article 88, Paragraph 2 of the Law on Road Passenger Transport to read: "Taxi transport may be handled by a taxi operator who is an owner, lessee in a financial lease, or a user, based on another legitimate basis, of a registered passenger vehicle referred to in Paragraph 1 of this Article"

REGULATIONS

· *Law on Road Passenger Transport ("Official Gazette of RS" No. 68/15)*

5. MINISTRY OF CONSTRUCTION, TRANSPORTATION AND INFRASTRUCTURE

5.6 SIMPLIFY PROCEDURE FOR AMENDING DETAILED REGULATION PLANS AND MAKE THEM MORE FLEXIBLE

PROBLEM DESCRIPTION

Some detailed urban development plans that pertain to local government units within the City of Belgrade haven't been amended for more than 30 years. The said plans specify the rules of development and construction for specific cadastral lots and the designated purposes of those lots. Due to a complicated procedure for amending those urban development plans they have become obsolete, which means that they limit the rights of owners outside of the public interests. Such situation is one of the causes of illegal construction, as the owners of the land cannot legally build outside those obsolete documents.

An example of the effects produced by obsolete detailed urban development plans are lots without a direct access to the Ibar main road (roads that lead to the town) that are in its close vicinity, which the detailed regulation plan of 1990 of a rural area at the periphery of Belgrade labelled as lots intended for buildings for small businesses. Building residential properties on them is prohibited by the plan, due to close vicinity of the Ibar main road and their commercial purposes. As the said lots haven't been used for their intended purposes not even 30 years later, the prohibition concerning residential properties represents a limiting factor for the owners.

SOLUTION-RECOMMENDATION

Examine and offer alternative purposes for land use when working on future detailed regulation plans for urban areas, particularly when it comes to the Belgrade area and the areas of Belgrade city municipalities. We would like to note that narrowing down the purpose of the land lots makes sense only when the public interest in offering specific purposes has been clearly recognized and when such limitations are imposed due to the implementation of documents higher in the hierarchy of development planning (Development Plan, Spatial Plan of the Republic of Serbia).

We recommend to amend the Law on Planning and Construction to provide for the following:

1) shortened procedure for amending detailed regulation plans, i.e., for repealing limitations referred to in them pertinent to specific lots and upon the initiative of the owners of those lots, if they cannot be used for the designated purposes even after the expiration of a certain period of time, e.g., 10 or 20 years after the adoption of the detailed regulation plan due to the lack of planned infrastructure;
2) to use detailed regulation plans to specify purposes as wide as possible, especially if those purposes can be combined (e.g. residential and commercial properties, and the like) and to anticipate alternative measures if the infrastructure needed for the designated purpose is not put in place within an adequate period of time.

REGULATIONS

· Law on Planning and Construction ("Official Gazette of RS" No. 72/09, 81/09, 64/10, 24/11, 121/12, 42/13, 50/13, 98/13, 132/14 and 145/14)

· Rulebook on the Contents, Manner and Procedure for Preparing Documents of Spatial and Urban Planning ("Official Gazette of RS" No. 64/15)

5. MINISTRY OF CONSTRUCTION, TRANSPORTATION AND INFRASTRUCTURE

5.7. PREVENT AMENDMENTS TO TERMS OF USE FOR EXISTING WATERING SYSTEMS DUE TO RESTITUTION AND ENABLE LEGAL EASMENT RIGHT IN ORDER TO CONSTRUCT A NEW UNDERGROUND WATERING SYSTEM

PROBLEM DESCRIPTION

Privatization of agricultural land, and restitution to its previous owners and their heirs, caused problems for all big agricultural producers due to:

· unresolved property relations with the new owners of the rented lots through which existing watering systems are running;

· inability to construct new watering systems as the new owners of the land which they would run through disapprove it.

Namely, Article 25 of the Law on Property Restitution and Compensation (Official Gazette of RS 72/2011, 108/2013, 142/2014 and 88/2015 – CC's decision) and Article 11 of the Law on Property Restitution to Churches and Religious Communities (Official Gazette of RS 46/2006) specified the land that cannot be subject to restitution in rem, including the land (part of the lot) serving the building constructed on it, i.e., the complex of land on which a large number of buildings were constructed the size of which economically justifies their use.

Article 3 of the Law on Property Restitution and Compensation provides reference to definitions of important terms specified by the Law on Planning and Construction; however such law does not recognize "watering system" – a specific line-like type of infrastructure system.

As a reminder, watering systems that companies were building for decades on state-owned agricultural land, became their private property once those companies had been privatized, and they, pursuant to Article 66 of the Law on Agricultural Land have priority in obtaining leases of the land.

The problem is that the Restitution Agency is carrying out restitution of lots based on the findings of experts in agriculture who do not engage in identifying underground infrastructure (pipelines, electric grid, antenna lines, water supply channels, etc.).

Given that underground watering systems represent a whole with the parts of the system placed above the ground, diminishing of the owners' rights on underground parts of the system may lead to obstruction of the whole system and its function, which may lead to material liability of the Republic of Serbia due to reduction of value of those watering systems and damage occurred due to limited use, adaptation and additional development of those watering systems.

SOLUTION-RECOMMENDATION

Amend the Law on Planning and Construction by the following:

· In Article 2, Paragraph 1, Item 22) of the Law after the words: "shelters" add the words: "watering systems";

· In Article 2, Paragraph 1, Item 26) of the Law after the words: "water supply and sewer infrastructure" add comma and the words "watering systems";

· In Article 69, Paragraph 10 of the Law after the words: "wind turbine blades" add comma and the words: "as well as watering systems".

The suggested amendments will enable the adaptation and development of existing watering systems without the need to seek approval from the owners of the lots through which the systems will stretch – a solution applied for underground electrical grids in which case the easement right is based on the force of law. It is evident that the public interest embodied in the construction of electrical grid also includes the development of agriculture in Serbia (threatened primarily by property records that are not up-to-date).

Amend the Law on Property Restitution and Compensation (Official Gazette of RS 72/2011, 108/2013, 142/2014 and 88/2015 – CC's decision), by adding to Article 21, Paragraph 3 of the Law after the words "do not stop" a comma and the words: "including the easement rights that concern underground parts of the energy, water supply and sewer infrastructure, as well as watering systems, and the owners or users of that infrastructure cannot have their rights, acquired before the restitution of the land, diminished in any other way, in accordance with this law".

It is necessary to amend the regulations to clearly show that the owners of the affected land (the lot which the infrastructure runs through) have the right to compensation or indemnity only in the case of construction of new infrastructure and that the owners of the infrastructure built before restitution may not be worse off due to restitution .

REGULATIONS

· Articles 2 and 69 of the Law on Planning and Construction ("Official Gazette of RS" No. 72/09, 81/09, 64/10, 24/11, 121/12, 42/13, 50/13, 54/13, 98/13, 132/14, 145/14);

· Article 21, Paragraph 3 of the Law on Property Restitution and Compensation ("Official Gazette of RS" No. 72/2011, 108/2013, 142/2014 and 88/2015 –CC's decision).

6. MINISTRY OF TRADE, TOURISM AND TELECOMMUNICATIONS

6.1 ALIGN TECHNICAL SOLUTIONS FOR SMOOTH APPLICATION OF THE QUALIFIED DIGITAL CERTIFICATE

PROBLEM DESCRIPTION

Article 13 of the Law on Electronic Signature expressly provides that certification authorities don't have to be licensed to be able to issue digital certificates, or use qualified electronic signature technology suitable for all platforms (Windows, OS X, and Linux) that creates practical problems. Qualified digital certificate of most certification authorities is not possible to use anywhere else but on Windows platform.

Additionally, there is a problem with incompatibility of qualified digital certificates of different certification authorities when used on the same computer, in which case electronic signature is not making business smoother but is a source of additional financial costs and requires more time due to complex application. Also, some government authorities have limited technical resources and can accept only some qualified digital certificates in their online procedures. If we take into account that legal entities must file their tax returns and annual financial statements in electronic form, signed by qualified electronic signature of their authorized person, the mentioned difficulties represent a significant barrier to efficient business operations. On the other hand, all the efforts of the government authorities invested in promoting e-services will be futile as long as technologically-literate citizens are not enabled to smoothly use qualified digital certificate.

SOLUTION-RECOMMENDATION

Our proposal is to enact a new law to regulate electronic signature and to use bylaws to specify the obligation of certification authorities to use that qualified electronic signature technology suitable for all platforms and in all operating systems.

Additionally, the law should provide the obligation of all government authorities and other holders of public authority to enable application of all qualified digital certificates on their portals or platforms.

Technical requirements for certification authorities need to change to introduce the obligation of all certification authorities to use specific time limit to switch from the existing technology of qualified digital certificate to cloud technology. This will enable continuity of e-business in Serbia and independence from currently incompatible search engines necessary for the use of qualified electronic signature.

By the adoption of the Law on Electronic Documents, Electronic Identification and Trust Services in E-Commerce (Official Gazette of RS 94/17) this recommendation has been partially addressed and its full implementation is expected through the adoption of bylaws in the forthcoming period.

REGULATIONS

· *Law on Electronic Document, Electronic Identification and Trust Services in E-Commerce ("Official Gazette of RS" No. 94/2017)*

6. MINISTRY OF TRADE, TOURISM AND TELECOMMUNICATIONS

6.2. REGULATE TRADING OF MEDICINES AND MEDICAL DEVICES THROUGH POSTAL OPERATORS

PROBLEM DESCRIPTION

The Law on Postal Services prohibited sending, or receiving, transport and serving postal packages that contain goods and objects the transport of which has been prohibited by law and other regulations, while the Law on Medicines and Medical Devices prohibited trading medicines by mail, except for sending samples in accordance with this law.

Despite the statutory prohibition of supply of medications and medical devices which includes trading medicines by mail, ever increasing delivery of postal packages containing medicines and medical devices represents a significant problem in practice. In regards to this, we would like to point to the fact that medicines and medical devices are a specific type of goods subject to special rules in terms of production and trading that can be carried out only by authorized legal entities with appropriate licenses issued by the competent ministry.

Given that those actions are not only contrary to the applicable regulations but also represent an act that endangers the lives and safety of patients, and users of such medicines and medical devices, it is necessary to take measures in the shortest period of time to stop delivery of packages with medicines and medical devices.

We recommend that the Ministry of Trade, Tourism and Telecommunications take measures under its jurisdiction, in order to inform postal operators that trading medicines and medical devices via mail is prohibited.

SOLUTION-RECOMMENDATION

Amend and add to the Law on Postal Services the following: Article 25 of the Law should read: "Postal packages must meet the conditions anticipated in this law, general and special terms and conditions that apply on postal services, and must not contain objects the sending, receiving, transport and service of which via the post office has been prohibited"; Article 26 of the Law should read: "Each postal package must be labelled, legibly and clearly with the recipient's name, address or address code or a marking based on which the recipient can be clearly identified, in line with general terms and conditions that apply on postal services, the content of the package and the sender's statement that it does not contain objects the sending, receiving, transport and service of which via the post office, has been prohibited."

REGULATIONS

· *Law on Postal Services ("Official Gazette of RS" No. 18/05, 30/10 and 62/14)*

7. MINISTRY OF JUSTICE

7.1 PROVIDE ACCESSIBLE COURT SERVICES BY ABOLISHING SOME COURT FEES

PROBLEM DESCRIPTION

Unacceptably large number of high court fees charged during court proceedings is causing problems to both businesses and citizens, and make protection of the rights before the court inaccessible. An argument that the court needs to charge high fees for motions filed to instigate court proceedings / litigations, in order to deter frequent litigations instigated by both businesses and citizens may be valid, but it is not acceptable to charge such high fees several times in the course of the same proceedings.

The policy that implies high court fees practically prevents doing business, as the court fees and costs for proceedings instigated to seek collection of outstanding debt, as a rule, exceed the amount of profit that would have been collected, and often, due to duration of proceedings, the costs exceeds the amount of the entire debt.

It is absurd for the court to collect fees even for actions parties take against poor management of proceedings and erroneous decisions (fees for filing regular and extraordinary legal remedies, if duly filed). There is no justification to collect the fees on claims and answers to initial acts. The amount of a fee for issuance of a decision on the execution of payment order is not logical, given the fact it concerns an automated procedure. Because of such policy the courts tolerate default of payment of fees, precisely in those situations in which there were no good reasons for their introduction (for instance, fee for responds to complaint, complaints and extraordinary legal remedies). Likewise, in order to pay lower court fees, complainants deduce the stated amount of litigation, and the court tolerates it so as to enable them to have "cheaper trial".

Despite these high fees, courts do not manage to collect fees in the amount sufficient to finance their operations. Most probably this is the consequence of lack of any court fee income structure analysis (incomes per specific courts and specific fees).

SOLUTION-RECOMMENDATION

1) Amend Article 3 of the Law on Court Fees, as well as tariff number 1 and 2, being an integral part of that Law, way to:

a) Eliminate the following court fees:
   - Fee for a response to a complaint;
   - Fee for objection against the decision on enforcement;
   - Fee for the trial court's decision, if not final;
   - Fee for lodging an appeal and extraordinary legal remedy;
   - Fees for the appellate court's decision and decisions upon extraordinary legal remedy, if a decision is reversed and remanded.

b) Changes to the tariff numbers 1, 2 and 3, in a way to align the court fees in the commercial disputes with the court fee prescribed for disputed before the courts of general jurisdiction, in order to eliminate the mentioned discrimination in claiming of the right to court protection.

c) Delete the tariff number 39 from the Tariff of Court Fees.

2) Amend Article 37 of the Law on Court Fees in a way to delete Paragraph 4.

Ministry in charge of judiciary shall set a court fee collection system that would enable analysis of the court fee income structure, per specific courts and specific fees, as well as oversight and collection of court fees.

Based on the court fee structure analysis, make amendments to the Law on Court Fees in a way to prescribe lower court fees than the current ones, taking into account the realistic costs of the court in rendering specific court protection, and not solely value of a subject of a dispute.

REGULATIONS

· *Law on Court Fees ("Official Gazette of RS" No.28/94, 53/95, 16/97, 34/01, 9/02, 29/04, 61/05, 116/08, 31/09, 101/11, 93/12, 93/14 and 106/15)*

7. MINISTRY OF JUSTICE

7.2 INTRODUCE A MULTILINGUAL STANDARD APOSTILLE FORM

PROBLEM DESCRIPTION

In the past, the apostille form used to be multilingual (English, French and German) and it was filled using Latin alphabet, and could be used abroad with no need for translation, even in a large number of countries where these languages are not mother tongues. Now, the form is exclusively in Cyrillic alphabet, and to be used abroad it has to be translated by a sworn-to-court interpreter, which imposes unnecessary additional costs to citizens..

SOLUTION-RECOMMENDATION

Amend the form referred to in Article 107 of the Court Rules of Procedure,being the integral part of these Court Rules, in a way to make the text of the form be multilingual (in Serbian, English, French and German languages), and upon a request of a party, to be filled in a Latin alphabet so as to be able to be used abroad with no need to be translated by a sworn-to-court interpreter.

REGULATIONS

· *Court Rules of Procedure ("Official Gazette of RS" No. 110/10, 70/11, 19/12, 89/13, 96/15, 104/15, 113/15, 36/16, 56/16 and 77/16)*

7. MINISTRY OF JUSTICE

7.3 ABOLISH THE OBLIGATION TO FILE A REQUEST TO ACCESS AND PHOTOCOPY THE CASE FILE WHERE AN APPLICANT IS THE PARTY TO THE PROCEEDINGS

PROBLEM DESCRIPTION

The right to court protection implies a series of rights a party excersises in the proceedings, and inter alia, the right to access and view the case file, and make photocopies of all documents within the case file.
Even though this right is guaranteed under process laws, with no conditions imposed, Article 98, Paragraphs 3 and 4 of the Court Rules of Procedure prescribe that even parties to the proceedings and their proxies and representatives must file a request for viewing, copying and photocopying documents contained in the case file. The procedure for acting upon the filed request is not the same in all courts, in some the Head of the Registry Office decides the filed requests, and in the others the acting judge.

SOLUTION-RECOMMENDATION

Amend Article 98 of the Court Rules of Procedure by deleting Paragraphs 3 and 4, and thereby allowing the parties and their proxies and representatives to view case files, copy them and make photocopies of documents contained therein with no need to file any special request, but solely by signing a certificate that they have conducted a specific activity.

REGULATIONS

· *Article 98 of the Court Rules of Procedure ("Official Gazette of RS" No. 110/10, 70/11, 19/12, 89/13, 96/15, 104/15, 113/15, 36/16, 56/16 and 77/16)*

8. MINISTRY OF AGRICULTURE, FORESTRY AND WATER ECONOMY

8.1 ABOLISH THE OBLIGATION TO PAY FEES FOR BEE COMMUNITY HEALTH CERTIFICATE

PROBLEM DESCRIPTION

In June 2010, the Government of Serbia adopted a Decree by which it raised the fees for issuance and renewal of certificate of health of bee community from 11 to 64 dinars, which means that this cost was raised by 581%.

This Certificate expires every 3 months and it practically has to be issued or renewed four times a year. Given the number of hives, beekeepers' expenditures on this basis have been dramatically increased, which will affect the prices of honey and make our beekeepers insufficiently competitive at the European market.

We'd like to note that issuance of the mentioned certificate does not imply significant engagement or costs on the side of veterinaries who issue it, as veterinaries are already paid for all activities that need to be taken prior to issuance of this certificate, and fee concerns only issuance of certificate confirming that all examinations have been actually made.

SOLUTION-RECOMMENDATION

Amend a Decree on the amount of fee for issuance and renewal of health certificate for animals by replacing the word "64.00 dinars" in Article 2, Paragraph 1, Item 17) with words "shall not be paid ".

Our recommendation in the previous publications of the Grey Book referred to the amendments of the previously effective Decree on the Amount of Fee for Issuance and Renewal of Health Certificate forAnimals (Official Gazette of the RS 43/10). Despite the fact that in December 2013 a new decree was adopted, our recommendation to abolish the fee for the issuance and renewal of health certificate for bee communities wan obviously not taken into account, as such provision was not deleted.

REGULATIONS

· *Decree on the amount of fee for the issuance and renewal of the certificate on animal health ("Official Gazette of RS" No. 113/13)*

8. MINISTRY OF AGRICULTURE, FORESTRY AND WATER ECONOMY

8.2 ENSURE STANDARDIZED POLICY REGARDING THE RIGHTS OF FARMERS - STOCKBREEDERS TO INCENTIVES

PROBLEM DESCRIPTION

Law on Incentives for Agricultural Production and Rural Development of 2013, and a relevant Rulebook on the use of incentives for organic production favour big agricultural producers – "industrial livestock producers" over the small and medium size producers – stockbreeders handling organic production.

Namely, the Rulebook on the use of incentives for organic production stipulates that incentives may be granted solely for top-quality breeding stock, thereby discriminating stockbreeders that grow breeding stock that (still) do not fulfil that conditions.

The Rulebook on the use of incentives for organic production is designed to prevent a large number of farms engaged in organic livestock breeding to use the incentives.

Stockbreeders from eastern and western Serbia are damaged by such a solution, and that's the area with the smallest number of top-quality breeding animals.

SOLUTION-RECOMMENDATION

Amend the Rulebook on the use of incentives for organic production in a way to balance the rights of small and medium size agricultural producers in organic livestock with the right of big agricultural producers.

Our recommendation presented in the sixth edition of the Grey Book referred to the amendments to the previous Rulebook on the Use of Incentives for Organic Production (Official Gazette of the RoS no. 38/13). Despite the fact that in 2014 a new Rulebook was adopted and was amended two times since then, our recommendations have not been taken into consideration, as the criteria for incentives for breeding stock have not been changed.

REGULATIONS

· *Rulebook on the Use of Incentives for Organic Production ("Official Gazette of RS" No. 41/2017)*

8. MINISTRY OF AGRICULTURE, FORESTRY AND WATER ECONOMY

8.3 IMPROVE EXISTING REGISTER OF AGRICULTURAL HOLDINGS AND INTRODUCE AN ELECTRONIC SYSTEM FOR AWARD OF INCENTIVES

PROBLEM DESCRIPTION

Directorate for Agrarian Payments, as an entity within the Ministry of Agriculture, Forestry and Water Economy, was established by the Law on Agriculture and Rural Development in 2009 (Official Gazette of the Republic of Serbia 41/09) to play a key role in award of agricultural incentives. The Directorate hasn't yet developed the required capacity to efficiently award incentives, primarily funds provided through the IPARD pre-accession EU programmes, and thus Serbia hasn't been able to use funds intended for agriculture development. Additionally, the process and databases, used by the Directorate for Agrarian Payments, need to be optimized in order for registration of agricultural holdings, application for incentives and disbursement to be simple for end-beneficiaries.

Moving to an electronic system for filing applications and requests – by designing and applying software- will make the national budget funds set aside for agriculture and IPARD funds become more accessible for beneficiaries.

SOLUTION-RECOMMENDATION

It is necessary that Directorate for Agrarian Payments simplify its procedures by eliminating the outdated processes and introducing a "simplified procedure" for registration of agricultural holdings and award of incentives.
Improve existing register of agricultural holdings and enable electronic registration and filing of applications for incentives. To make this possible, it is necessary to improve and adopt lacking bylaws to enable improvement of business processes within the Directorate for Agrarian Payments.

REGULATIONS

· *Law on Agriculture and Rural Development ("Official Gazette of RS" No. 41/2009, 10/2013 – new law and 101/2016)*

9. MINISTRY OF ENVIRONMENTAL PROTECTION

9.1 INTRODUCE EXTENDED RESPONSIBILITY IN WASTE MANAGEMENT FOR THOSE PRODUCTS THAT BECOME SPECIAL WASTE STREAMS AFTER USE

PROBLEM DESCRIPTION

Law on Waste Management and Decree on products that become special waste streams after use, defines payment of fees for such products, like electronic and electrical waste (EEP). Five years since the establishment of the current system, many of its weaknesses can be observed: high fees (up to 12% of the product price) that directly affect the product price and represent burden for both buyers and producers importers, reducing the quantity of products (as well as other budget revenues); unfair competition (taxpayers are selectively paying); high fees for EEP (consumer goods) with direct impact on inflation. Persistently high fees can create drop in purchasing power and result in laying off labor; the state gives incentives (state aid) – budget expenditure; state has limited control over funds, because there is no system in place for fee collection (around 25% of taxpayers pay); it is obvious that there is no balance between incentives and actual OEEP management costs paid within the current system. Unspecified accountability for the attainment of the set goals results in the fact that the system is unattractive for investors, and that's the reason why there are no investments in the waste management area. The system is not motivating either for businesses or for citizens; there is no quality education and awareness raising campaigns, there is no extended producer responsibility, which is the basic principle for sustainable waste management.

SOLUTION-RECOMMENDATION

Amend all relevant pieces of legislation to introduce the principle of extended producer responsibility. That means to enable the producers to organize themselves and to take care of their products that become waste after use. Introducing the extended producer responsibility represents a good model for Serbia, its economy and citizens, which can help: prevent unfair competition and reduce the shadow economy, which can be additionally improved through the introduction of a consolidated public register of polluters (producers and importers) so as to ensure fair competition; improve business environment to attract new investments; businesses become an active stakeholder in the environmental protection procedures; introduce new possibilities for investments and new jobs pertinent to environmental protection and harmonize legal legislation with the EU acquis; introduce order in the waste management area; include minority groups; provide healthier environment; secure funds for other environmental projects; lower the prices of products – increased production volume – higher budget revenues.

There is no country in the EU or any neighboring country that has not introduced extended producer responsibility in its efforts to manage special streams of waste.

REGULATIONS

· Law on Waste Management ("Official Gazette of RS" No. 36/09, 88/10 and 14/16)

· Decree on products that after use become special waste streams, daily log form for quantity and type of produced and imported products and of annual report, ways and deadlines for submission of annual report, fee payers, criteria for calculation, amount and way to calculate and pay fee ("Official Gazette of RS" No. 54/10, 86/11, 15/12, 41/13, 3/14, 81/14, 31/15 and 44/15)

· Decree on the amount and terms for giving incentives ("Official Gazette of RS" No. 88/09, 67/10, 101/10, 86/11, 35/12, 41/13, 81/14, 30/15and 44/15)

· Rulebook on the list of electric and electronic products, measures for prohibition and restriction of use of electrical and electronic equipment containing hazardous substances, was and procedure to manage waste of electrical and electronic products ("Official Gazette of RS" No. 99/10)

10. MINISTRY OF THE INTERIOR

10.1 REGULATE THE PROCEDURE FOR OBTAINING LICENSES FOR NATURAL PERSONS – EMPLOYEES, IN ACCORDANCE WITH THE LAW ON PRIVATE SECURITY

PROBLEM DESCRIPTION

The Law on Private Security provides that natural persons-employees hired to provide security services must be licensed for that job. A licence may be issued to a natural person complying with the terms and conditions anticipated by law, which, amongst other things, include attending training and passing an exam.

The problem that occurs in practice is that competent authorities – based on the opinion of the line ministries, enable and conduct training and testing even for persons who do not meet some of the statutory requirements for licencing, primarily the requirement concerning professional qualifications. For that purpose businesses have already spent serious amounts for training and testing of their employees even though they knew that these persons cannot be licenced. This misunderstanding that enabled the employees to pursue professional development but without appropriate result and without certain future in terms of their job (employees have been allowed to undergo training but can no longer deliver security services with the employer).

It is obvious that due to unrealistic time limits for the implementation of the Law on Private Security and not taking into consideration that the training itself takes 17 days caused serious problems with licencing.

SOLUTION-RECOMMENDATION

Clearly define the manner in which to uniformly implement the Law on Private Security by adequate amendments or addenda of the law and by a ministry's instruction on the evaluation of prerequisites for undergoing training and testing.

Specific recommendations for licencing of employees (with employers who have organized self-protection services) in the situation when businesses have already covered the costs of training of persons who are not in compliance with the requirement concerning professional qualifications would be:

(a) categorizing licences, by issuing (after undergoing training and passing an exam) licences for security services involving carrying firearms only to persons with at least secondary school diploma, while persons who do not meet this requirement but who have served as security officers for some years (at least 3 years) could be issued a licence for security services that do not involve carrying firearms (and this category should involve additional periodical health check-ups, training and the like);

(b) separating licencing requirements for self-protection services and companies that professional offer security services.

REGULATIONS

· *Law on Private Security ("Official Gazette of RS" No. 104/2013 and 42/2015)*

11. PROBLEMS UNDER THE PURVIEW OF SEVERAL MINISTRIES

11.1 ENACT THAT DURING AN INSPECTION OR TAX CONTROL DECISIONS AND DOCUMENTS THAT PRODUCED SUBSEQUENT DECISIONS ARE NOT REQUIRED FOR REVIEW

PROBLEM DESCRIPTION

While conducting inspection control, competent inspectorates request to see old decisions that were the grounds for the issuance of new ones. These old decisions are no longer kept in the archives of these entities due to the time when they were issued. They often require original decisions when issuing new ones and the business entities no longer have them. In these kinds of situations, unreasonable burden is put on business entities to obtain decisions that have been archived long time ago.

SOLUTION-RECOMMENDATION

By-laws and instructions can limit inspectorates and tax entities to request from parties to provide decisions and other document based upon which other administrative enactments had been issued, because regularity and contents of these decisions and documents had been verified in the time when administrative act was issued.
As reqards inspectorates, this problem can be resolved efficiently by the adoption of a law that would uniformly regulate inspections, coordination of their operations and inspection control procedure.

The recommendation was addressed by the adoption of the Law on Inspection Oversight (Article 15) and the Law on General Administrative Procedure (Art.9, 103 and 215), and the use of check lists pursuant to Article 14 of the Law on Inspection Oversight.

REGULATIONS

· Law on General Administrative Procedure ("Official Gazette of RS" No. 30/10 and 18/16)
· Law on Isnpection Oversight ("Official Gazette of RS" No. 36/15)
· Regulations governing the work of specific inspectorates

11. PROBLEMS UNDER THE PURVIEW OF SEVERAL MINISTRIES

11.2 ABOLISH PARAFISCAL CHARGES IN PROCEDURES FOR OBTAINING DOCUMENTS FOR CONSTRUCTION AND USE OF BUILDINGS AND LIMIT ONE-TIME AND RECURRING CHARGES FOR USE OF INFRASTRUCTURE

PROBLEM DESCRIPTION

Construction and use of buildings require obtaining a series of conditions and approvals of authorities, organizations and holders of public authority, where in each procedure for obtaining such documents those authorities, organizations and holders of public authority collect charges specified in their internal acts. The amounts charged have not been specified by law; they are subject to frequent changes and are not available in the manner that would protect the interests of the parties to the procedure.

This is why investors cannot estimate the total costs as they try to manage their capital construction. In addition, the procedure for obtaining the acts necessary for the construction and use of buildings is further complicated and its duration cannot be planned because these conditions and approvals are mostly always issued only after the charges have been paid.

SOLUTION-RECOMMENDATION

Abolish charges collected by public companies for issuance of design conditions and connections for the construction and use of buildings.

REGULATIONS

· *Internal acts of the authorities, organization and holders of public authority*

11. PROBLEMS UNDER THE PURVIEW OF SEVERAL MINISTRIES

11.3 ABOLISH THE OBLIGATION TO ACQUIRE EXTRACTS FROM PUBLIC REGISTERS AND RECORDS FOR FURTHER ADMINISTRATIVE PROCEDURES

PROBLEM DESCRIPTION

The obligation to acquire documents archived with other state authorities or kept in official records of other state authorities, as evidence, in addition to briefs and other acts, represents a serious and unnecessary burden for the citizens and legal entities in claiming their rights. Examples:

When submitting a request before different state authorities (issuance of IDs, application for tender, submission of different requests, etc.), citizens and legal entities are requested to submit documents such as excerpts from records kept by other state authorities. Some of these records are accessible via internet (for instance, records kept by BRA, RGA, TA), and all can be easily accessible to other state authorities by using all possibilities that ICT offers.

State authorities, in a large number of procedures, request from citizens to submit birth certificates, certificates on citizenship,despite the fact that these documents are already contained- scanned in their IDs. Legal grounds for such requests are as a rule outdated by-laws that have not been amended in line with the modernization of the IDs. These bylaws are in a direct contravention with Article 14 of the Law on General Administrative Procedure which prescribes that administrative procedures must be conducted with no delay and with the least costs possible for the party and other participants in the procedure.

SOLUTION-RECOMMENDATION

Introduce statutory prohibition for the state authorities to request from clients' data which are kept in records of other state authorities and organizations, and obligation to obtain such data ex-officio. This is more a problem observed in the practice, and not in the law, because Article 126, Paragraph 3 of the Law on General Administrative Procedure prescribes that an official person conducting procedure ex-officio shall obtain data on the facts which form part of official records kept by other state authority in charge of keeping these administrative facts.

Competent ministries should amend by-laws (mostly rulebooks) which prescribe submission of birth certificates, certificates on citizenship, to prescribe that competent national and local authorities shall get these data through ID card reader.

Supplement Article 126 of the Law on General Administrative Procedure, so as to add a new Paragraph 4, to read as follows:

"An official conducting a procedure shall obtain data and documents contained in the electronic ID from a client using ID card reader."

SOLVED PARTIALLY

The recommendation has been partially addressed by the adoption of the Law on General Administrative Procedure (Art. 9, 103 and 215) that expressly prohibited requiring the clients to provide evidence, or documents confirming the facts maintained in the public registers and repealed all provisions referred to in other regulations that prescribe such obligation.

Even though local authorities mostly adhere to this obligation, the fact remains that some holders of public authority act contrarily to the above situation, those are primarily notaries acting in the procedures within their authority. Namely, instead of checking information entered in the public registers directly accessing the Republic Land Survey Authority's electronic database, the Business Registers Agency's database, local government registries' database, etc., public notaries as holders of public authority ask the clients to file new extracts from those registries every time they need to certify a document. An example of a successful reform are the amendments and addenda to the Law on Planning and Construction of December 9th 2014, that introduced a consolidated procedure – direct communication between the holders of public authority without the need for clients to walk from one counter to another.

REGULATIONS

· Law on State Administration ("Official Gazette of RS" No. 79/05, 101/07 and 99/14)

· Law on General Administrative Procedure ("Official Gazette of SRY" No. 33/97 and 31/01 and "Official Gazette of RS" No. 30/10)

· Law on General Administrative Procedure ("Official Gazette of RS" No. 18/16)

11. PROBLEMS UNDER THE PURVIEW OF SEVERAL MINISTRIES

11.4 SIMPLIFY PRODUCT IMPORT PROCEDURES

PROBLEM DESCRIPTION

A problem arises concerning the determination of health safety of diet products that are being imported.
According to the sanitary inspector at the border it is not sufficient that a product has health safety certificate, but it is necessary to take samples to be sent for further analysis. Take samples to be sent for further analysis. It usually lasts for one month and a half, and during that time the goods cannot be marketed since the custom procedure is not finalized. This has increased the costs and caused stagnation in business.
Additionally, certificate by the Drug Agency is also required, and a lot of documents need to be produced for that purpose. Some of the documents cannot be supplied by the importers as they may be business secrets or protected industrial property.

SOLUTION-RECOMMENDATION

Enable import of products with health safety certificates issued by EU member States without additional procedures and examinations or significantly reduce number of cases where the analysis of product is necessary for its import.
Simplify the procedure and conditions required for the Drug Agency to issue adequate approvals for marketing of diet products.

REGULATIONS

· Art. 55 of the Law on Food Safety ("Official Gazette of RS", No. 41/2009)
· Law on Drugs and Medical Devices ("Official Gazette of RS", No. 30/2010, 107/2012)
· Internal regulations on sanitary inspection organization.

11. PROBLEMS UNDER THE PURVIEW OF SEVERAL MINISTRIES

11.5 REVISE MINISTERIAL POLICY OF CHARGING HIGH FEES FOR PROVIDING AN OPINION AND ENSURE TIMELY ISSUANCE OF OPINIONS

PROBLEM DESCRIPTION

Regulations in the RS are in a certain number of cases unclear and contain legal gaps, which make their application more difficult, and entities, to which these regulations refer to, found themselves in the situation to request opinion from a line ministry regarding interpretation of certain provisions all with the intent to comply with them.

Ministries issue such opinions within 30 days (Article 80, Paragraph 1 of the Law on Public Administration prescribe time limits), and these opinions are mostly unclear, and do not resolve a problem for which a client addresses that ministry.

However, fees charged by ministries for issuance of such opinions are high, and clients are thus indirectly denied the right to be informed about regulations that are no longer valid.

Additionally, the main contradiction between parts of an argument (contradictio in adiecto) of these enactments issued in the form of opinion is that on one hand side they are binding for authorities, but are not binding for entities the operations of which they regulate (tax payers both citizens and legal entities).

SOLUTION-RECOMMENDATION

Our proposal to the Government and line ministries is to revise their policy to charge high fees in the procedure upon submission of a request for opinion regarding the application of a regulation and to either cancel or significantly reduce them, thus making them affordable to all parties addressing them for the reason of unclear or incomplete regulation they developed.

Likewise, we call on all ministries to issue opinions upon parties' requests in due time, in line with Article 80, Paragraph 1 of the Law on Public Administration, so as to enable to parties to act in line with the law.

In order to keep parties better informed our proposal is to establish a public register of opinions issued by line ministries.

REGULATIONS

· Law on Public Administration ("Official Gazette of RS" No. 79/05, 10/07, 95/10 i 99/14)

· Law on Republic Administrative Fees ("Official Gazette of RS" No. 43/03, 51/03, 61/09, 54/09, 50/11, 70/11, 55/12, 93/12, 47/13, 65/13, 57/14, 45/15, 83/15, 112/15, 50/16 and 61/17)

11.6 SIMPLIFY CALCULATION OF SALARIES

PROBLEM DESCRIPTION

More than 98% of local companies use computers and accounting software for financial management purposes. For this reason, in most cases, the implementation of the new regulation implies updates of software solutions that require time. In addition to changes to the code, the new solution needs to be tested and installed on the end-users computers; this sometimes requires additional round of end user training. Depending on the scale of changes and the number of users this process may last for several months.

In practice, the current system for salary calculation represents a big problem, because it involves a complex algorithm, with a lot of exceptions. The main gross calculation has been corrected with different additions throughout time, whereby a large number of companies use non-existent net calculation as a basic and gross calculation solely to present the final results.

Net salaries are prescribed for budgetary institutions, thus completely ignoring the statutory gross calculation. Gross calculation system results in a set of technical problems. The calculation is made additionally difficult by the existence of non-taxable share of salary, minimum and maximum salary for payment of contributions, different tax exemptions for different group of employees, statutory obligation to calculate income taxes, etc.

SOLUTION-RECOMMENDATION

In due time, amend all relevant regulations to use net salary as a basis for calculation of salaries and pertinent contributions.

REGULATIONS

· Labour Law ("Official Gazette of RS" No. 24/05, 61/05, 54/09, 32/13 and 75/14)

· Law on Personal Income Tax ("Official Gazette of RS" No. 24/01 , 80/02, 80/02, 135/04, 62/06, 65/06, 31/09, 44/09, 18/10, 50/11, 91/11, 93/12, 114/12, 47/13, 48/13, 108/13, 57/14, 68/14, 112/15, 5/16 and 7/2017)

· Law on Madatory Social Insurance ("Official Gazette of RS" No. 84/04, 61/05, 62/06, 5/09, 52/11, 101/11, 7/12, 8/13, 47/13, 108/13, 6/14, 57/14, 68/14, 5/15, 112/15, 5/16 and 7/17)

11. PROBLEMS UNDER THE PURVIEW OF SEVERAL MINISTRIES

11.7 PRESCRIBE AND INTRODUCE A META-REGISTER AND BASIC REGISTERS INTO THE E-GOVERNMENT SYSTEM

PROBLEM DESCRIPTION

While Serbia began introducing e-government 20 years ago, services the state provides to businesses and citizens are still mostly provided in a way corresponding to the days before mass automation. This is even more noticeable, because some public authorities, provincial autonomies and local selfgovernment units have completely automated their work by modern IT systems, whereas the others have not, and the Law on the Information System of the Republic of Serbia of 1996 is completely outdated.

E–government does not solely represent a mean to strengthen democracy, but it efficiently eliminates bureaucratization and all related threats regarding arbitrary decision-making and corrupt behavior, but also is an extremely significant potential for the improvement of the current business environment and generation of savings in business operations and public administration, as well as improvement of quality and safety of business operations and public services.

Therefore, a large number of businesses point to the importance of urgent strategic regulation and improvement of e-government within all services the state provides to businesses and citizens, and the need to urgently define and introduce basic electronic register of persons, assets and businesses is stressed as a precondition thereof.

Without interoperability of the system and open data, provisions of the latest amendments to the Law on General Administrative Procedure of 2015, which anticipate exchange of data among all state authorities, will not be fully applied.

SOLUTION-RECOMMENDATION

It is necessary that all state authorities and public authorities, authorities of autonomous province and local self-governments in the Republic of Serbia initiate systemic preparation for the broadest application of e-government.

It is necessary to urgently regulate basis for full functioning of e-government by providing for a register of all registers– Meta-register and basic registers, specifically: Register of population/citizens, Register of Assets and Business Register.

The following shall be defined as a main content of the law:

1. What the main register is, the obligation to keep it electronically (who may design it, differences between register and records)
2. Data collection (systematization and responsible stakeholders)
3. Access to data and their presentation (standardization, who is funded through self-generated revenues, and who from the budget)
4. Competences over register (and responsibility for the data accuracy)
5. Interoperability and data exchange
6. Safety (problems of unofficial registers, illegal access to registers, and data “leaking”).

REGULATIONS

· *Law on Information System of the Republic of Serbia (“Official Gazette of RS” No. 12/96)*

11. PROBLEMS UNDER THE PURVIEW OF SEVERAL MINISTRIES

11.8 MAKE PUBLIC PROPERTY RECORDS MORE COMPLETE

PROBLEM DESCRIPTION

Article 64 of the Law on Public Property that provides the obligation and the manner of maintaining records anticipates that "the authorities of the Republic of Serbia, an autonomous province, and a local government unit maintain records on the condition, value and movement of the publicly owned assets that they use in accordance with law" (Paragraph 1) and "the authorities referred to in Paragraph 1 of this Article maintain special records of public properties they use" (Paragraph 2). In this way the legislator covered only the records on publicly owned real estate, and based on the authority referred to in Para.4 of the same Article, passed a Decree on the Records of Publicly Owned Real Estate (Official Gazette of the RoS 70/14, 19/15 and 83/15).

However, the Law does not specify anything about publicly owned movable property and other rights over other assets owned by the public, not even when they are of particular value or importance.

Other laws (e.g. the Law on Cultural Assets, etc.) establish the assets they regulate as public property and require that records of such property and rights that pertain to it be maintained in public registers or similar records. However, they are not maintained as provided in the law, which directly prevents stakeholders to claim their rights stemming from it and pursuing the public interest concerning maintenance of appropriate records and collection of public revenues based on such records.

SOLUTION-RECOMMENDATION

Add to the Law on Public Property provisions that will enable and require introducing, maintaining and timely updating appropriate public registers that will let the beneficiaries and other holders of users' rights maintain records of the public property they use by types and rights that stem from it.

Add a provision to the Law to provide that the function of establishing and maintaining public registers may be delegated to other legal entities from the public and the private sectors.

REGULATIONS

· *Law on Public Property ("Official Gazette of RS" No. 72/11, 88/13 and 105/14)*

11. PROBLEMS UNDER THE PURVIEW OF SEVERAL MINISTRIES

11.9 ESTABLISH OPERATIONAL INDEPENDENCE OF THE COMMISSION FOR STATE AID CONTROL

PROBLEM DESCRIPTION

The Law on State Aid Control provided for the formation of the Commission for State Aid Control as an independent body, which was established in 2009. This is highly relevant to Serbia's compliance with the conditions and measures for membership in the EU and in general to establishing a full market economy and to development of economic competitveness.

The manner in which the Commission has operated does not meet the requirement for its independence. The law provides that the Department for State Aid control is a body within the Ministry of Finance which gives rise to suspicion in its independence based on the way it has been set up. Additionally, for almost two years the Commission has never passed a decision in its control procedures, either preliminary or subsequent, to claim misconduct in providing state aid, which reinforces suspicion in its independence based on its practical operations.

The Post-Screening Document for Chapter 8 has confirmed suspicions in terms of Commission's independence by expressly stating that Serbia needs to provide "operational independence of the authority responsible for state aid control and necessary authority and resources for full and correct implementation of rules on state aid distribution", and to "harmonize existing fiscal assistance regime, i.e., the Law on Corporate Income Tax, the Law on Personal Income Tax, and the Law on Free Zones with the EU acquis in the area of state aid control".

SOLUTION-RECOMMENDATION

Amend the Law on State Aid Control by securing actual independence of the Commission for State Aid Control. Serbia has already acquired some experience in establishing such an independent authority– by establishing the State Audit Institution, the Commissioner for Information of Public Importance and other independent bodies.

Our proposal is to analyze whether it is reasonable to keep the Commission for State Aid as a separate body or to establish a new one that would be responsible for state aid control and protection of competition. Those are related areas in terms of their subject matter and in terms of legislation, and given the size of the market in Serbia it is questionable whether the volume of work of two commissions would support their separate functioning.

REGULATIONS

· *Law on State Aid Control ("Official Gazette of RS" No. 51/09)*

11.10 ESTABLISH A CONSOLIDATED REGISTER OF DOG BITE INJURY CLAIMS

PROBLEM DESCRIPTION	SOLUTION-RECOMMENDATION
It has been noticed that for one and the same stray dog bite injury several claims for compensations may be filed with several different local government units (a person reports the same injury to several different local government units and is paid compensation on account of it several times). There are no uniform procedures or guidelines that specify the makeup, the manner of work and measures for decision-making of the commissions for award of damages in dog bite injury claims, formed by local government units, which has resulted in different practice and varied degree of success in recognizing abuse and false reporting of dog bite injuries.	Form a consolidated register of dog bite injury claims and specify data that are maintained in it to prevent filing several injury claims with several cities and municipalities on account one and the same injury. The Minister of Public Administration and Local Government needs to adopt an internal act to define, in line with the best practices, uniform procedures to specify the makeup, the manner of work and measures for decision-making of the commissions for award of damages in stray dog bite injury claims.

REGULATIONS

· *Article 52 of the Law on Health Insurance*
("Official Gazette of RS" No. 107/05, 109/05, 57/11, 110/12, 119/12, 99/14, 123/14, 126/14, 106/15 and 10/16)
· *Article 15, Paragraph 1 and Paragraph 4 of the Law on Public Administration*
("Official Gazette of RS" No. 79/05, 101/07, 95/10 and 99/14)

11. PROBLEMS UNDER THE PURVIEW OF SEVERAL MINISTRIES

11.11 ENABLE BUSINESS ENTITIES TO KEEP THEIR BUSINESS DOCUMENTS EXCLUSIVELY IN ELECTRONIC FORM

PROBLEM DESCRIPTION

Legal entities are, pursuant to business-related regulations, obligated to keep their business documents for certain number of years (3, 5 or 10) – business books, accounting documents and financial reports, while the provisions of the Law on Cultural Assets provide for obligation to keep them in original paper form.

Such archiving practice creates unnecessary costs. For instance, one retail chain generates about 2.5 million documents every year, and each has four sheets, on average. As paper costs half euro cent, and toner is 1 euro cent per page, it means that in order to print 10 million pages printing costs account for 150,000 euros every year.

SOLUTION-RECOMMENDATION

By adopting the Law on on E-documents and the Decree on Electronic Office Operations of Government Authorities, the government has recognized the need to harmonize the regulatory framework of office operations with modern European practice. Therefore, our proposal to the Ministry of Culture is to initiate amendments to the Law on Cultural Assets, or to adopt a Law on Archive Material and Archiving and enable businesses to form electronic archive and to keep their business documents only in electronic form. An ideal solution would be to adopt a comprehensive law to regulate the entire are of electronic business operations, e-archiving included.

Note: The problem may be addressed also by adopting a separate law to regulate the matter of keeping and archiving business documents. That is to say, to separate cultural assets, documents of historical and cultural significance, from business documents that are not that significant.

The adoption of the Law on E-Documents, Electronic Identification and Trust Services in E-Commerce ("Official Gazette of RS" No. 94/17) significantly improved the regulatory framework for e-commerce in Serbia. Sharing and keeping electronic documents created in doing business will be regulated in more detail by means of bylaws that will be adopted during 2018 on the basis of this law. However, the ministry in charge of culture and the ministry of charge of trade need to agree on exempting documents created in connection with business operations of companies from the batch of documents that need to be archived pursuant to the regulation that falls under the purview of the Ministry of Culture.

REGULATIONS

· *Article24 of the Law on Cultural Assets ("Official Gazette of RS" No. 71/94, 52/11 and 99/11)*

11. PROBLEMS UNDER THE PURVIEW OF SEVERAL MINISTRIES

11.12 STRENGTHEN A REGULATORY FRAMEWORK AND INSTITUTIONAL CAPACITIES IN THE AREA OF FOOD SAFETY

PROBLEM DESCRIPTION

The Law on Food Safety ("Official Gazette of RS", 41/2009) has only partially aligned with EU regulations.

The food safety control system shows certain inconsistencies as institutions responsible for controls apply several laws especially in the part that concerns collection of charges and fees for the carried out controls and laboratory analyses.

Risk analysis of imported food products hasn't been established in full and taking samples at the border is not directly dependent on the level of risk of shipments. Also, costs of control and laboratory analyses are collected from business, even though the collection has been differently defined in the Law on Food Safety (Article 71), the Law on Sanitary Oversight (Article 20) and the Law on the General Product Safety (Article 27).

This creates certain insecurity with businesses, especially importers who can be subject to unfair competition, which in practice affects the retail prices of food.

SOLUTION-RECOMMENDATION

Establish an efficient system of coordination of all competent authorities included in the food safety system given the divided authority and different approaches, in particular to controls on the ground. It is particularly important to establish a risk assessment-based system that would include controls of imported goods. As the system is not sufficiently transparent and that interpretation of the law or bylaws is left to various actors within the system (including laboratories) competent authorities need to clearly define and make publicly available all procedures and interpretations of regulations.

Adopt amendments to the Law on Food Safety and accompanying bylaws as soon as possible, as well as associated laws that concern the same domain for purposes of alignment with EU regulations. Also, the implementation of the laws that concern this domain need to be aligned with the Law on Inspection Oversight.

The charges collected need to be based on real costs and operators must not be charged twice.

REGULATIONS

- *Law on Food Safety ("Official Gazette of RS" No. 41/09)*
- *Law on the General Product Safety ("Official Gazette of RS" No. 92/11),*
- *Law on Sanitary Oversight ("Official Gazette of RS" No. 125/2004)*

11. PROBLEMS UNDER THE PURVIEW OF SEVERAL MINISTRIES

11.13. ADDRESS THE PROBLEM WITH COLLECTION OF RECEIVABLES FOR THE MEDICINES DELIVERED TO HEALTH CARE FACILITIES

PROBLEM DESCRIPTION

The debts to suppliers for the delivered medicines and medical devices accumulated by health care facilities referred to in the Network Plan have reached the level which can threaten the whole health care system, the survival of wholesalers as a necessary part of the supply chain as well as availability of medicines to the citizens and patients.

According to the data as of September the 30th 2017, the total debt of all health care facilities only to members of a group of wholesalers was 11.9 billion dinars of which the debt for the supplies delivered in centralized public procurement procedures was 10.3 billion dinars. The debt of all health care facilities due for payment on the same date was 4.8 billion dinars of which 4 billion dinars for deliveries based on centralized public procurement procedures funded through the National Health Insurance Fund (RFZO Fund).

It is clear that the existing debt stock following an accelerated upward trend will lead to unimaginable consequences that will be hard to recover from.

The total and due debt for commercial goods follows a downward trend. The reason for such movements of the debt for commercial goods is a poor financial situation of health care facilities – pharmacies, frozen accounts, insolvency and lower capacity and fewer branches –all reasons for significant drop in procurement.

SOLUTION-RECOMMENDATION

Urgently begin addressing the problem with piled up debts of health care facilities to suppliers and establishing a sustainable health care financing system by amending the Law on Health Care and appropriate bylaws.

NEW

REGULATIONS

· Health Insurance Act ("Official Gazette of RS" No. 107/2005, 72/2009 – new law, 88/2010, 99/2010, 57/2011, 119/2012, 45/2013 – new law, 93/2014, 96/2015 and 106/2015)

· Rulebook on Health Care Contracting with Users of Health Care Services within Compulsory Health Insurance for 2017 ("Official Gazette of RS" No. 109/16, 19/17, 29/17, 57/17 and 73/17)

11.14 ABOLISH REGISTRATION STICKERS

PROBLEM DESCRIPTION

The provisions of the Law on Road Traffic Safety and the Rulebook on Registration of Motor Vehicles and Trailers provide that a registration sticker is a label which shows that a vehicle is allowed to take part in traffic within a specific period of time, i.e., that it is issued to a vehicle registered with the national register of vehicles and which is placed on a motor vehicle's windshield.

Placing a registration sticker on a bottom right corner of the windshield threatens the safety of the participants in traffic by reducing the driver's field of vision and thus directly threatens driver's safety.

In addition, a registration sticker contains some data (licence plate, number of the registration area, etc.), which are also contained in the driving license and it is not appropriate require motor vehicle owners to pay for a sticker that has no use value.

By following the above mentioned laws and bylaws, a total of 1,800,000 motor vehicles are registered in the Republic of Serbia during one calendar year. As the issuance of a registration sticker requires depositing on two accounts 440, 00 dinars each, natural persons and legal entities deposit 792,000,000 dinars every year for this purpose.

SOLUTION-RECOMMENDATION

We recommend amending the Law on Road Traffic Safety (Official Gazette of RS 41/09, 53/10, 101/11, 32/13 – CC's decision, 55/14, 96/15 and 9/16 – CC's decision) to abolish registration sticker as a document without which it is not possible to register a vehicle in order to reduce costs of registration for natural persons and legal entities and at the same time increase traffic safety.

The suggested amendment of the Law would cut the unnecessary administrative costs for natural persons and legal entities and with that the price of registration and time needed for this procedure, which should provide significant savings on an annual level.

REGULATIONS

· Law on Road Traffic Safety ("Official Gazette of RS" No. 41/09, 53/10, 101/11, 32/13 – CC's decision, 55/14, 96/15 and 9/16 – CC's decision)

· Rulebook on Registration of Motor Vehicles and Trailers ("Official Gazette of RS" No. 69/10, 101/10, 53/11, 22/12, 121/12, 42/14, 108/14, 65/15, 95/15 and 71/17)

11. PROBLEMS UNDER THE PURVIEW OF SEVERAL MINISTRIES

11.15 LOWER THE TAX RATE ON INCOME FROM PROPERTY RENTAL AND LINK TOGETHER THE TAX LIABILITY AND THE PROPERTY LEASE AGREEMENT

PROBLEM DESCRIPTION

Pursuant to Article 65 of the Law on Personal Income Tax, the tax rate on income from property rental is high-20% of the lease fee. It is estimated that only one percent of landlords pay this tax which sets this area deep into the shadow economy and deprives the national budget of significant revenue.

The problem lies in the fact that a large number of landlords avoid concluding lease agreements with their tenants (regulated in detail by the Law on Contracts and Torts), because of the attitude that such agreement will oblige them to pay 20% tax on rental income. However, this is not true given that landlords become tax payers only by filing a tax return to the Tax Administration. By refusing to sign an agreement they willingly refuse legal certainty (that the agreement can provide) in order to avoid paying 20% tax.

An additional problem is the fact that the landlord must opt for one of two possible situations, either to report rental monthly, which implies going through a complicated procedure before the tax authority every month, or to report a long-term rental, in which case the landlord may not report the termination of the lease, i.e., may not obtain a refund of the tax paid in the case of termination of the lease.

The announced strict control by the Tax Administration and penalties for landlords who do not meet the statutory obligations may lead to a significant increase in lease fees and possible problems in the real estate market. In order to achieve the best results and avoid unnecessary risks, the tax rate needs to be lowered and the tax liability needs to be linked to the property lease agreement. The provisions of the agreement will provide landlords with legal security and help them avoid penalties as they would pay a tax that would be significantly lower. The national budget would also reap the benefits of the increased number of landlords who pay the tax.

SOLUTION-RECOMMENDATION

Amend Article 65g of the Law on Personal Income Tax by lowering the tax rate on income from property rental from 20% to 10%.

We recommend providing under the law that a lease agreement may not be valid without a signature/certification of the competent tax administration unit. This would imply additions to Article 70 of the Law on Housing and Building Maintenance. The procedure for reporting to the Tax Administration would become simpler as a lease agreement could be submitted or filed electronically with the competent tax unit that would assess the tax thus rendering the agreement valid. The Tax Administration should secure an adequate electronic platform to store the data on landlords and valid lease agreements. It needs to be specified that the tax liability ceases to exist immediately after notifying the Tax Administration on termination of a lease.

As a reminder, in 2017 a new Law on Housing was adopted and it provides that managers of buildings are required to maintain a database of all apartments, including those that have been rented. Thanks to this the Tax Administration will be informed about the landlords who have failed to pay the tax on property rental. In our view the implementation of this law represents a good example towards narrowing down the options for evasion of the tax on income from property. These solutions would significantly help moving away from the shadow economy and ensure legal certainty both to landlords and tenants.

REGULATIONS

· *Law on Personal Income Tax ("Official Gazette of RS" No. 24/01, 80/02, 135/04, 62/06, 65/06, 31/09, 44/09, 18/10, 50/11, 91/11, 93/12, 114/12, 47/13, 48/13, 108/13, 57/14, 68/14, 112/15)*

· *Law on Housing and Building Maintenance ("Official Gazette of RS" No. 104/16)*

11. PROBLEMS UNDER THE PURVIEW OF SEVERAL MINISTRIES

11.16. ENABLE PERSONS EMPLOYED BY FOREIGN LEGAL ENTITIES –NONRESIDENTS TO CLAIM RIGHTS TO PENSION AND HEALTH INSURANCE

PROBLEM DESCRIPTION

Natural persons employed by foreign legal entities – non-residents find it difficult to claim rights to pension and health insurance due to incompatibility between the Labour Law and other laws and bilateral agreements that concern citizens permanently employed by foreign legal entities-non-residents, even though they regularly pay due taxes and contributions. Namely, such type of employment has not been anticipated by the national Labour Law and thus they cannot claim the right to registration of years of service with the Pensions and Disability Insurance Fund (PIO Fund) and the right to health insurance despite the fact that according to the Law on Contributions for Compulsory Social Insurance (Article 51, Paragraph 6) the employees of the non-residents are required to themselves assess and pay contributions in the manner specified for payment of personal income tax, and in accordance with the law regulating personal income tax.

According to the Ministry of Labour and pursuant to our Labour Law it is not possible to establish an employment relation with a non-resident. However, in many cases employees do not establish employment on the basis of our Labour Law but on the basis of rules that apply in the country of the non-resident's origin. Serbia has signed bilateral tax agreements on avoiding double taxation with several dozens of countries. In line with that, the implementation of national regulations but also concluded international treaties (if there are any) should reflect the significance of employment by the non-resident and its existence.

Rules that concern citizens employed by non-residents specified in other laws support this kind of solution to the problem. Namely, According to Article 11, Paragraph 1 of the Law on Pension and Disability Insurance, the insured persons are citizens who are, within the territory of the Republic of Serbia, employed by foreign or international organizations, institutions, foreign diplomatic or consular representing offices or by legal entities or natural persons. Also, Article 17, Paragraph 1 of the Health Insurance Act states that the insured persons are citizens of Serbia employed abroad by a foreign employer without health insurance with the foreign health insurance policyholder.

SOLUTION-RECOMMENDATION

Given the fact that there are a growing number of natural persons –freelancers employed by foreign entities – non-residents and that the state collects significant revenues on the basis of this it is necessary to enable these persons who regularly assess and pay contributions to claim the rights to pension and health insurance.

The Labour Law needs to be aligned with international bilateral treaties that concern employees working for foreign legal entities – non-residents.

Additionally clarify the obligations and the manner of claiming pension and health insurance for these persons by amending the Law on Contributions for Compulsory Social Insurance and the Law on Pension and Disability Insurance.

REGULATIONS

· Labour Law ("Official Gazette of RS" No. 24/05, 61/05, 54/09, 32/13, 75/14 and 13/17)

· Law on Pension and Disability Insurance ("Official Gazette of RS" No. 34/2003, 64/2004 – CC's decision, 84/2004 – new law, 85/2005, 101/2005 – new law, 63/2006 – CC's decision, 5/2009, 107/2009, 101/2010, 93/2012, 62/2013, 108/2013, 75/2014 and 142/2014)

· Health Insurance Act ("Official Gazette of RS" No. 107/2005, 109/2005 - corrected, 57/2011, 110/2012 – CC's decision, 119/2012, 99/2014, 123/2014, 126/2014 – CC's decision, 106/2015 and 10/2016 – new law)

· International bilateral treaties

11. PROBLEMS UNDER THE PURVIEW OF SEVERAL MINISTRIES

11.17 ABOLISH THE OBLIGATION TO PROVE PAYMENT OF FEES FOR PUBLIC SERVICES

PROBLEM DESCRIPTION

Most government authorities require their customers to submit proof of payment (a payment slip or a bank statement) with the seal of the financial institution that carried out the payment (bank, post office) as a precondition for the delivery of a public service. The reason for this lays in the fact that government authorities are not able to match the information about the payer, the amount paid and the type of service paid in real time. Consequently, government authorities do not maintain records on payments made but require the customers to file paper payment slips with the seal of the financial institution that carried out the payment in order to manually match the payment and the service delivered. Due to this it is impossible to establish and efficiently use electronic public services and e-payment for public services given that government authorities do not accept electronic bank statements on the payments made.

Due to these shortcomings of the system there have been numerous cases of abuse (added figures on the payment slip after the payment, cancelled payments after filing of the payment slip as proof-of-payment) and a significant deficit has been recorded compared to the number of services delivered. On the other hand, such a situation negatively affects citizens and businesses as it prevents introduction of e-procedures and requires additional time for going to the bank or post office, and after that to the counter of the government authority to file the payment slip. This can discourage introduction of new electronic public services because of the challenge relating to e-payment.

In addition to the above, according to the Law on Administrative Procedure the government authorities are not allowed to ask for proof of payment as a prerequisite for providing services, as they maintain records of all payments and should not ask the clients for that information, as public services, or procedures (especially those initiated ex officio) may not be conditioned by proof of payment of the user fee even before the service has been delivered, or the procedure carried out.

SOLUTION-RECOMMENDATION

Amend relevant regulations and adopt a new Law on E-Government to:

1. establish an efficient system of recording/matching payments of all public charges, services and taxes (code or reference number to personalize the payment) through the Treasury Administration and thus allow government authority to promptly gain an insight into all payments that were made in connection with their procedures;
2. enable prompt recording of payments by means of e-banking or mobile banking in real time (T+0);
3. abolish the prescribed obligation of the customers to file proof of payment;
4. introduce noncash payment through the counters of the government authorities in order to simplify procedures and reduce abuse.
5. The Law on the Republic Administrative Fees should prescribe that the transaction costs shall be born by the budget of the Republic of Serbia in case of noncash payment.

REGULATIONS

· Law on Republic Administrative Fees ("Official Gazette of RS" No. 43/03, 51/03, 61/09, 54/09, 50/11, 70/11, 55/12, 93/12, 47/13, 65/13, 57/14,83/15, 112/15, 50/16, 61/2017 and 113/2017)

· Rulebook on the Manner and the Procedure for Handling Payments within the Consolidated Treasury Account ("Official Gazette of RS" No. 96/17)

· Legal vacuum – adoption of the Law on E-Government

11. PROBLEMS UNDER THE PURVIEW OF SEVERAL MINISTRIES

11.18. MAKE SURE THAT RESTITUTION OF AGRICULTURAL LAND IS DONE BY ADHERING TO RESTRICTIONS PROVIDED UNDER ARTICLE 25 OF THE LAW ON PROPERTY RESTITUTION AND COMPENSATION

PROBLEM DESCRIPTION

By the adopted Law on Property Restitution and Compensation the policy makers have opted for restitution of the land that was subject to land consolidation/management and its subtraction from the total land management area. Even though such solution was disputable from the standpoint of the public interest to preserve consolidated land complexes, and to carry out restitution by land substitution, here we would like to point not to that fact but to the fact that in practice restitution is being carried out by gross violation of law.

Namely, Article 25, Paragraph 1, Item 1) of the law provides that "the right of ownership is not returned for agricultural and forest land if it ...a large number of structures have been built on a complex of such land that are used on the day when the present law came into force –the size of which economically justifies the use of those structures".

In practice, the the Agency for Restitution of the RS, contrary to this provision, returns the land that had been leased to entities undergoing privatization that own the watering system on that land granting them the right of priority lease. In this way the land that is returned is the land "which economically justifies the use of those structures" – the watering system. We would like to point out that the cited provision in the law is unambiguous and that it clearly includes the land which is under the watering systems that can be classified as structures of civil engineering construction. By erroneous implementation of the law the privatized watering systems lose their purpose and the owners of such systems suffer damage as they cannot be used. It is clear that numerous owners of smaller lots that were once part of the larger complex have no intention of paying the owners for the use of watering systems and even block maintenance of such systems.

As a reminder, Article 31, Paragraph 1, Item 2) of the applicable Law on Agricultural Land ("Official Gazette of RS", No. 62/06, 41/09, 112/15) provides that the construction of a watering system or a drainage system is still a reason for land consolidation and it is clear that such practice of the Agency for Restitution is contrary to the public policies created with the cited laws adopted by the Serbian Parliament and still consider the need for land consolidation and maintenance of the watering systems on agricultural land a priority.

SOLUTION-RECOMMENDATION

The Agency for Restitution needs to consistently apply Article 25, Paragraph 1, Item 1) of the Law on Property Restitution and Compensation by exempting from restitution the land which economically justifies the use of watering systems and drainage systems owned by the Republic of Serbia, or third parties, i.e., the land that is being watered by those systems.

The Ministry of Finance needs to issue an instruction for correct use of Article 25, Paragraph 1, Item 1) of the Law on Property Restitution and Compensation by additionally clarifying that the said provisions exempted from restitution agricultural land which economically justifies the use of watering systems and drainage systems owned by the Republic of Serbia, or third parties, i.e., the land that is being watered by those systems.

The Ministry of Finance should secure correct implementation of Article 25, Paragraph 1, Item 1) of the Law on Property Restitution and Compensation in acting in the review procedures - as the second instance authority.

REGULATIONS

· *Article 25, Paragraph 1, Item 1) of the Law on Property Restitution and Compensation ("Official Gazette of RS", No. 72/2011, 108/2013, 142/2014 and 88/2015 – CC's decision).*

12. NATIONAL ASSEMBLY AND SECRETARIAT FOR LEGISLATION

12.1 ALLOW MARKING OF PARAGRAPHS TO FACILITATE READING REGULATIONS

PROBLEM DESCRIPTION

Referring to provisions within regulations is difficult because paragraphs are not marked with numbers. Often even the legislator refers to an erroneous paragraph which results in erroneous references. This is caused by:
1) Article 26 of the Uniform Methodological Rules for Drafting of Legislation that provides the design of paragraphs within articles does not expressly specify that paragraphs are marked with numbers, as opposed to Articles 27 and 28 of the same Rules that expressly provide that items and sub items within paragraphs are marked with numbers, more precisely, that items are marked with Arabic numerals with right parenthesis (e.g.: 1)), and sub items are marked with Arabic numerals inside a pair of parenthesis (e.g.: (1)).
2) Article 29 of the Methodology for Drafting Bylaws that provides the design of paragraphs does not anticipate that paragraphs are marked with numbers while Articles 30 and 31 to expressly specify so for items and sub items.
As opposed to our system, in the Anglo-Saxon legal system there is no need to count paragraphs as they are marked with numbers. The same solution is applied in Germany and Switzerland and they influenced our legal system at least to the same extent as the French legal system in which paragraphs are not marked with numbers.
Among the republics of the former SFRY paragraphs are identically marked with numbers within parenthesis in Slovenia, Croatia, Macedonia, BiH, and recently in Montenegro while the secretariats of the Governments and Assemblies of Serbia and the Republic of Srpska decided not to get their citizens too “comfortable” with it.

SOLUTION-RECOMMENDATION

We recommend to amend:
1) Article 26of the Uniform Methodological Rules for Drafting of Legislation ("Official Gazette of RS", No. 21/10), and
2) of Article 29 of the Methodology for Drafting of Bylaws ("Official Gazette of RS", No. 75/10 and 81/10), by specifying that paragraphs within articles may be marked with Arabic numerals within parenthesis (e.g.: (1)).
In our view the implementation of this recommendation, no matter how trivial may look at first, will contribute to legal security and more efficient application of law.

REGULATIONS

· Article 26 of the Uniform Methodological Rules for Drafting Legislation (“Official Gazette of RS” No. 21/10)
· Article 29 of the Methodology for Drafting of Bylaws (“Official Gazette of RS” No. 75/10 and 81/10)

13. NATIONAL BANK OF SERBIA

13.1 ABOLISH THE OBLIGATION TO REPORT ABOUT INTERNATIONAL TRANSACTIONS

PROBLEM DESCRIPTION

Article 37 of the Law on Foreign Currency Transactions specifies that the National Bank of Serbia requires residents to report payment, collection and transfer with regard to payment transactions referred to in Articles 32 and 34 of the Law.

The Decision on the obligation to report on international transactions specifies that residents (the reporting entities) must file with the National Bank of Serbia reports on their international payment operations amongst other things on:

– Direct investments of non-residents in the country;

– Direct investments of residents abroad.

The NBS's instruction for the implementation of the said decision specifies in its Item 4 that the reporting entities must file their forms with data not later than 10 days after the expiry of the reporting period.

These regulations require legal entities to file quarterly reports to the National Bank of Serbia, even when no changes occurred (to carry out the so-called exchange rate revaluation) which represents unnecessary administrative burden for businesses.

In practice, this regulation creates large, unnecessary costs, especially when it comes to the obligation of businesses with foreign equity ownership to file quarterly reports to the NBS on their equity, even when no changes occurred. Often, the reporting entities are not aware of this obligation and learn that they have breached the rules only after the Foreign Exchange Inspectorate files misdemeanor charges against them.

SOLUTION-RECOMMENDATION

Amend the Law on Foreign Currency Transactions by deleting Article 37 and thus abolishing the obsolete statutory obligation of residents to file reports to the NBS about their international transactions.

Repeal: (1) Decision on the Obligation to Report on International Transactions, and (2) Instructions on Implementation of the Decision on the Obligation to Report on International Transactions.

Until the above proposed amendment to the Law on Foreign Currency Transaction is adopted, the Decision on the Obligation to Report on International Transactions needs to be amended in such a way that the reporting obligation does not concern shares in the companies in Serbia, given that those shares have already been recorded in the register of legal entities maintained by the Business Registers Agency and as such are available online.

REGULATIONS

· Law on Foreign Currency Transactions ("Official Gazette of RS" No. 62/06, 31/11, 119/12)

· Decision on the Obligation to Report on International Transactions ("Official Gazette of RS" No. 87/2009)

· Instructions for Implementation of the Decision on the Obligation to Rep. on In.T. ("Official Gazette of RS" No. 87/2009)

13. NATIONAL BANK OF SERBIA

13.2 ABOLISH COMPULSORY USE OF A STAMP ON A SPECIMEN SIGNATURE CARD WHEN SETTING UP A BUSINESS BANK ACCOUNT

PROBLEM DESCRIPTION

Specimen signature card, with signatures of persons authorized for withdrawal, to be a problem when a business bank account is set up by legal entities that have and use no stamp. Namely, the National Bank of Serbia in its previous and current Decision on Detailed Conditions, the Manner of Opening, Maintaining and Closing of Bank Accounts specified that for a bank account to be opened, in addition to relevant documents the specimen signature card with signatures of persons authorized for withdrawal needs to be stamped.
On the other hand, the Company Law (Off. Gazette of the RoS 36/11, 99/11, 83/14 and 5/15) specifies that a company is not obligated to use stamp in its business notices and other documents if the law hasn't specified it otherwise (Article 25, Paragraph 3). This is a deep-rooted business practice and the question about whether to use a stamp was not discussed. While there are court decisions by which courts clearly presented their holding that stamps are not necessary and that the lack thereof does not bring into question the validity of a business deal, stamps have been in regular use with conviction that their use is compulsory.

SOLUTION-RECOMMENDATION

Align the Decision on Detailed Conditions, Manner of Opening, Maintaining and Closing of Bank Accounts, as a specific piece of legislation, with the company Law, as a general piece of legislation, and specify that it is not necessary to stamp this particular document except when the company's policy provides it differently.

The recommendation has been addressed by the adoption of the Decision on Amendments and Addenda to the Decision on the Conditions and Manner of Opening and Maintaining of Residents' Foreign Currency Bank Accounts and Dinar and Foreign Currency Accounts of Non-Residents, published in the "Official Gazette of RS", No. 82/17, dated September 8th, 2017 by the National Bank of Serbia.

SOLVED

REGULATIONS

· *Decision on Detailed Conditions, Manner of Opening, Maintaining and Closing of Bank Accounts ("Official Gazette of RS" No. 55/2015 and 82/17)*

13. NATIONAL BANK OF SERBIA

13.3 STREAMLINE NOTIFICATION TO THE NATIONAL BANK OF SERBIA ON INTENDED ASSIGNMENT OF RECEIVABLES

PROBLEM DESCRIPTION

Pursuant to the NBS' Decision on Bank Risk Management, banks are required to notify the NBS on their intended assignment of receivables twice – once about the intent and the second time after the conclusion of agreement, by adhering to the provided time limits.

Article 42a, Paragraph 5, Item 6, of the NBS' Decision on Bank Risk Management, specifies that a bank is required to notify the NBS about the intended assignment at least 30 days before the conclusion of an assignment agreement and to file, along with its notification, the following documents:

1) Decision on assignment of a relevant managing body of the bank;

2) Basic information about the entity to which the bank intends to assign its claims (business name, seat, register no., data about the ownership structure and members of its managing authority), with a designation whether the entity is affiliated with the bank;

3) Draft assignment agreement, and the date of the planned conclusion of the agreement, or implementation thereof;

4) Results of assessment referred to in Paragraph 4, of this Item;

5) Data on gross book value of receivables assigned and the amount of allowances for impairment of those receivables;

6) Information on whether the assignment is done for a fee, the absolute amount of the fee or shown as percentage of the value of the assigned receivables minus allowances for impairment, and information whether the bank will, directly or indirectly, secure funds for fee payment.

It is specified that if the bank changes the date of the planned conclusion or implementation of the assignment agreement after it has notified the NBS on the assignment, it is required to notify the NBS of the change. The bank needs to notify the NBS of the completed assignment within 5 days after the date of assignment.

SOLUTION-RECOMMENDATION

The procedure for notifying the NBS of the intended assignment of receivables, as specified in the NBS' Decision on Bank Risk Management, needs to be streamlined in the following manner:

– Decrease the number of documents referred to in Art 42a,Paragraph 5, Item 6, in the sense that at the stage of notification the bank does not have to file a draft agreement with the planned date;

– Extend the time limit for filing a subsequent notification on assignment;

– Enable banks to file the required documents and the signed agreement electronically.

REGULATIONS

· *Decision on Bank Risk Management*
("Official Gazette of RS", No. 45/11, 94/11, 119/12, 123/12, 43/13, 92/13, 23/13, 33/15 and 61/15)

13. NATIONAL BANK OF SERBIA

13.4 SIMPLIFYING THE PROCEDURE OF SUPPLYING DATA ON PROPERTY RIGHTS OF PERSONS JOINING MANAGING OR EXECUTIVE BOARDS

PROBLEM DESCRIPTION

Article 78 of the Law on Banks (hereinafter: the Law) requires members of managing or executive boards within banks to file with the managing board of the bank a written statement with, amongst other things, information about their property rights and property rights of their family members for properties worth more than 10,000 euros, expressed in dinar value according to the official median exchange rate on the date of the appraisal, within a month after taking the position. Members of managing and executive boards are required to notify the managing board of any change to the above mentioned data within a month after the date when they learned of the change.

Given the persons who, in accordance with the Law, are considered family members of an individual (Article 2, Paragraph 25 of the Law) and that those can be, among others, relatives in the collateral line up to the third degree and that a large number of members of managing and executive boards of banks in Serbia are foreign nationals, it is clear that timely obtaining a full statement on the conflict of interest may represent a significant problem.

Additionally, Article 141 of the Law specifies that a fine between 10,000 and 50,000 dinars will be imposed on whoever, as a member of a managing or executive board of a bank, fails to file a written statement with information referred to in the same article or notification on the change to that information within the time limit set in that article.

SOLUTION-RECOMMENDATION

Amend Article 78 of the Law on Banks to specify that members of managing and executive boards are required to file to the managing board a written statement about their property rights and property rights of their family members for properties worth more than 50,000 euros in the market, expressed in dinar value according to the median exchange rate on the date of the appraisal, and the time limit for filing of this statement needs to be extended from a month to two months after taking the position or learning about the change.

REGULATIONS

· *Law on Banks ("Official Gazette of RS" No. 107/05, 91/10 and 14/15)*

14. LOCAL GOVERNMENT

14.1 STREAMLINE PERMITTING PROCEDURE FOR SUMMER GARDENS IN CAFÉS AND RESTAURANTS

PROBLEM DESCRIPTION

Entrepreneurs and private companies engaged in a restaurant business are required to file the same documents year in year out when they apply for summer garden permits (like drawings and documents). A lot of time elapses between applying for and receiving permit, even when permit is issued to a summer garden that was issued permit in the previous several years. In the case when neither size not the appearance of the summer garden has changed it makes no sense to file data that have already been filed with the authority responsible to act upon an application.

SOLUTION-RECOMMENDATION

Simplify and shorten the permitting procedure for summer-gardens when the same garden was issued permit in the previous period.

Local ordinances that regulate the conditions and procedure for setting up summer gardens in front of restaurants on a public land should specify them as a permanent form of a business activity rather than intermittent one that essentially depends only on wheatear conditions. A distinction needs to be made between restaurant owners who apply for permit for the first time and those who have done so before. In the case of a first-time applicant it is reasonable to go through the whole procedure for determining conditions for a summer garden in front of a sidewalk café or a restaurant. For application that pertains to the same summer garden in front of a sidewalk café or a restaurant owned by the same person – applicant, when garden is of the same size, on the same location, of the same appearance, if it has been issued endorsement before, there needs to be a summary procedure that would take into account the documents that have been previously filed with the relevant authority along with a previous application of the same subject and for the same location. Such a summary procedure should include a standardized form without accompanying documents. In case of any changes in the application (different applicant, different size or appearance of the summer garden, different location) the application is treated as if it has been filed by a first-time applicant.

REGULATIONS

· *Local government ordinances that regulate setting up summer gardens in front of cafes and restaurants*

14.2 EXEMPT LIGHTED BUSINESS SIGNS PLACED WITHIN THE FRAMED TITLE OF COMPANY SEAT FROM THE DECISION OF ADVERTISING

PROBLEM DESCRIPTION

From 2007, pursuant to the Decision on Advertising on the Territory of the City of Belgrade, a lighted business name of a company or its logo set within the frame of the business seat name that is not larger than 25x 50 cm is considered to be advertisement Pursuant to the said Decision, any lighted logo or brand name larger than 25 x 50 cm, even set within a decorated portal is considered to be advertisement.

Are the names of the media outlets such as Politika, Tanjug, Main Post Office PTT, bank name, etc., an indication of a seat or advertisements? It is normal that Mercedes repair shop and showroom would include a lighted sign that points to the brand name (if the same sign is found in other locations in the city and on the advertising means it is logical that such setting will be considered advertisement).

Pursuant to the said Decision the entire city is considered to be an advertisement area except if the business signs fits into the previously mentioned dimensions. Consequences are specific. The communal inspectors make tours around the city and charge fines (not so significant) and business owners feel guilty and are under the impression that they have been punished while they are engaged in a regular business.

SOLUTION-RECOMMENDATION

Amend the Decision on Advertising on the Territory of the City of Belgrade by exempting from it everything that is within the portal of a building in which the business takes place (business name or brand of goods sold).

Licenses needed for placing advertisements that are at the same time a brand (in this case a public clock) are of permanent character as long as the fees are regularly paid and while they meet technical and aesthetical requirements and there is no need to extend the license every year.

REGULATIONS

· *Decision on Advertising on the Territory of the City of Belgrade ("Official Gazette of the City of Belgrade", No. 86/2016, 126/2016 and 36/2017)*

14.3 AMEND DECISIONS ON THE BRANDING OF PARASOLS IN RESTAURANTS

PROBLEM DESCRIPTION

Article 21, Paragraph 2 of the Decision on Setting up Restaurant Gardens on the Territory of the City of Belgrade specifies that advertisements may not be placed on the elements of summer gardens set up on the pedestrian area and on the public area that belongs to a wider cultural and historical area.

Article 27, Paragraph 4 of the Decision on Setting up Restaurant Gardens in the Territory of the City of Belgrade specifies that a parasol should be of single color, as a rule, white, black or beige or somewhere in between those colors.

This not only limits the selection of colors but eliminates the possibility of outdoor branding by means of parasols in restaurants in Belgrade that are placed in pedestrian areas and public areas that belong to a wider cultural and historical area. Because of that companies engaged in production of promotional parasols – producers of beverages, lose interest in providing restaurants with parasols. As a result of this regulation restaurants in Belgrade may be left without parasols in the summer months.

Similar practice is taking roots in other local government units in Serbia.

SOLUTION-RECOMMENDATION

Amend Article 21 of the Decision on Setting up Restaurant Gardens on the Territory of the City of Belgrade.

This proposal implies that the Decision should allow branding of parasols by adhering to the restrictions in terms of the position and maximum dimensions of the producer's logo.

REGULATIONS

· *Decision on Setting up Restaurant Gardens on the territory of the City of Belgrade ("Official Gazette of the City of Belgrade" No. 11/14, 25/14, 34/14, 2/15, 29/15 and 63/16)*

14.4 CHARGE NATURAL PERSONS AND LEGAL ENTITIES EQUAL UTILITY RATES

PROBLEM DESCRIPTION

Article 25 of the Law on Utility Services in Paragraph 1, Item 5) and Pargraph 2 specifies:
"The tariff for utility services is specified based on the following principles: (...)
5) Absence of difference in the tariff for different categories of consumers, except when the difference is based on different cost of service.
If tariff is calculated differently for different consumer categories due attention will be paid to set the tariff proportionally to the cost of service. "
However, in most towns and municipalities in Serbia utility tariffs for citizens and for legal entities differ in such a way that legal entities pay significantly higher rates (often double).
Irrespective of the reasons that caused this situation, entrepreneurs and businesses in many towns and municipalities are burdened by unnecessary costs as local government authorities do not apply the Law, even though it's been five years since its adoption.

SOLUTION-RECOMMENDATION

Urge the ministry responsible for utilities to exert influence on local government units in terms of the full implementation of the Public Utilities Act.
Amend local ordinances on delivery of utility services (supply of drinking water, treatment and drainage of rain and waste water, production and distribution of heating energy, solid waste management, managing public parking lots, farmers' markets, providing chimney sweeping services, natural gas distribution) to eliminate differences in tarrifs for the same kind of service provided to different consumer categories.

REGULATIONS

· *Ordinances of local government units on delivery of utility services to end users*

ANNEX 1: 2008-2017 GREY BOOK RECOMMENDATIONS

OVERVIEW OF 2008-2017 SOLVED AND PARTIALLY SOLVED RECOMMENDATIONS

NO.	RECOMMENDATION	STATUS	ISSUE	YEAR SOLVED
1	Registering Healthcare Institution and Medical Private Practice Business Associations	SOLVED	Grey Book 2	2010.
2	Requirement that Personal Status Certificates are not Issued More than 6 Months Ago	Solved	Grey Book 2	2010.
3	Recording Completed International Business Deals	Solved partially	Grey Book 3	2011.
4	Import Quotas	Solved	Grey Book 3	2011.
5	Non-Acceptance of Provisions for Fringe Benefits for Employees In the Tax Balance of Corporate Income Tax	Solved	Grey Book 3	2011.
6	Maintaining Sales Records in Trading	Solved	Grey Book 3	2011.
7	Consumer Protection	Solved	Grey Book 3	2011.
8	Daily Completion and Certification of Travel Orders for each Vehicle, Recording and Keeping Thereof	Solved partially	Grey Book 3	2011.
9	Obligation to Declare a Foreigner's Entry into the Country	Solved	Grey Book 3	2011.
10	Customs Procedure for Free Catalogues	Solved	Grey Book 4	2012.
11	Submitting an Annual Financial Report	Solved	Grey Book 4	2012.
12	Records of Wage Taxes and Contributions	Solved partially	Grey Book 4	2012.
13	Using the Customs Clearance Terminal	Solved	Grey Book 4	2012.
14	The Inability to Electronically Obtain Confirmation of Paid Tax Liabilities	Solved partially	Grey Book 4	2012.
15	Obligatory Deposit of Daily Cash Sales	Solved	Grey Book 4	2012.
16	Certification of Salary Disbursement Forms	Solved partially	Grey Book 4	2012.
17	Change of Data in the Decision on Business Registration	Solved partially	Grey Book 4	2012.
18	Business Registration – Obtaining TIN	Solved	Grey Book 4	2012.
19	Maximum Cash on Hand	Solved	Grey Book 4	2012.
20	Registration of Medical Devices	Solved	Grey Book 4	2012.
21	Lengthy Building Permitting Procedure	Solved partially	Grey Book 4	2012.
22	Problems Pertaining to Land Ownership in the Republic of Serbia	Solved	Grey Book 4	2012.
23	Transfer of an Entrepreneurs' Activities to Another Natural Person	Solved	Grey Book 4	2012.
24	Mandatory Marking of Passenger Vehicles	Solved	Grey Book 4	2012.
25	Requirement that Personal Status Certificates are not Issued More than 6 Months Ago	Solved	Grey Book 4	2012.
26	Obligation to Declare a Foreigner's Entry into the Country	Solved partially	Grey Book 4	2012.
27	Vehicle Registration	Solved partially	Grey Book 4	2012.
28	Certification of Signatures and Contracts	Solved	Grey Book 4	2012.
29	Running an Entrepreneur's Business when the Founder is on Sick Leave	Solved partially	Grey Book 4	2012.
30	Actions of Competent Bodies in the Company Liquidation Process	Solved	Grey Book 4	2012.
31	Procedure for Registering Employees for Compulsory Social Insurance	Solved	Grey Book 4	2012.
32	Reporting about International Payment Transactions	Solved partially	Grey Book 4	2012.
33	VAT Calculation on the Date of Sale of Goods and Services	Solved partially	Grey Book 5	2013.
34	Abolish the Obligation to Report on the Change to Data of a VAT Tax Payer	Solved	Grey Book 5	2013.

ANNEX 1: 2008-2017 GREY BOOK RECOMMENDATIONS

35	Simplify Setting Up a Bank Account	Solved	Grey Book 5	2013.
36	Abolish Payment of a Local Signage Fee for Displaying a Company Sign on Business Premises	Solved	Grey Book 5	2013.
37	Simplify the Procedure for Assessment of Local Utility Fees and Land Use Charge	Solved partially	Grey Book 5	2013.
38	Abolish the Obligation to Record the Completed International Business Deals	Solved	Grey Book 5	2013.
39	Simplify the Procedure for Claiming Sick Leave	Solved partially	Grey Book 5	2013.
40	Certificate Confirming Inspection of a Drug Series	Solved	Grey Book 5	2013.
41	Streamline Claiming Maternity Allowance	Solved partially	Grey Book 5	2013.
42	Simplify the Procedure for Registering Employees for Compulsory Social Insurance	Solved partially	Grey Book 5	2013.
43	Shorten the Procedure for Obtaining a Building Permit	Solved partially	Grey Book 5	2013.
44	Clarify the Assessment of Environmental Fee	Solved	Grey Book 5	2013.
45	Abolish the Obligation to Acquire Extracts from Public Registers and Records for further Administrative Procedures	Solved partially	Grey Book 5	2013.
46	Abolish the Obligation to Report on International Payment Transactions	Solved partially	Grey Book 5	2013.
47	Abolish the Obligation to File Annual Financial Report with Several Authorities	Solved	Grey Book 6	2014.
48	Extend Time Limits for Tax Return Filing	Solved	Grey Book 6	2014.
49	Enable Electronic Confirmation of Paid Tax Liabilities	Solved partially	Grey Book 6	2014.
50	Introduce Uniform Practice of Filing VAT Forms	Solved	Grey Book 6	2014.
51	Abolish the Obligation to Record Drink Sales at Festivals Through Cash Registers	Solved	Grey Book 6	2014.
52	Enable 100% Use of Tax Credit on the Basis of Investments in Fixed Assets and Expand the List of Investments to which This Incentive Pertains	Solved partially	Grey Book 6	2014.
53	Enable Automated Recording of Payments of Wage Tax and Contributions That Excludes the Need to File the Forms over the Tax Administration's Counters	Solved partially	Grey Book 6	2014.
54	Additionally Improve Conditions for Starting a Business	Solved partially	Grey Book 6	2014.
55	Prevent Frequent Raising of Local Utility Fee for Business Signage	Solved partially	Grey Book 6	2014.
56	Enable Payments through PayPal	Solved partially	Grey Book 6	2014.
57	Simplify the Procedure for Claiming Sick Leave	Solved partially	Grey Book 6	2014.
58	Enable Equal Access to Private and Public Healthcare Service Providers	Solved partially	Grey Book 6	2014.
59	Simplify the Procedure for Registering Employees for Compulsory Social Insurance	Solved	Grey Book 6	2014.
60	Adopt Bylaws to Implement Energy Laws	Solved	Grey Book 6	2014.
61	Shorten the Procedure for Obtaining an ID	Solved	Grey Book 6	2014.
62	Abolish the Obligation to Acquire Extracts from Public Registers and Records for Further Administrative Procedures	Solved partially	Grey Book 6	2014.
63	Establish One-Stop-Shop System for Building Permitting Purposes	Solved partially	Grey Book 6	2014.
64	Introduce Uniform Penal Policy Concerning VAT Records	Solved partially	Grey Book 7	2015.
65	Implement Reform of Inspection Services	Solved	Grey Book 7	2015.
66	Abolish the Obligation of Investors to file a Bank guarantee worth 2% of the Investment along with a Request for Energy Permit	Solved	Grey Book 7	2015.

ANNEX 1: 2008-2017 GREY BOOK RECOMMENDATIONS

67	Amend the Law on Public Notaries to Make their Services Accessible and Efficient	Solved partially	Grey Book 7	2015.
68	Enable Mortgage Foreclosure in Non-Judicial Procedure	Solved	Grey Book 7	2015.
69	Specify Time Limit for Registration of Property Rights with the Real Estate Cadastre	Solved	Grey Book 7	2015.
70	Make a Distinction in Order of Handling Requests that Pertain to a Building and Land within the Republic Land Survey Authority	Solved	Grey Book 7	2015.
71	Shorten the Procedure for Legalization of Buildings	Solved	Grey Book 7	2015.
72	Abolish the Obligation of Keeping KEPO Book for Legal Entities that Use Double-Entry Bookkeeping	Solved	Grey Book 7	2015.
73	Abolish Employment Card	Solved	Grey Book 7	2015.
74	Adopt a New and Modern Law on Protection of Serbian Citizens While Working Abroad	Solved	Grey Book 7	2015.
75	Adopt a Law on Electronic Money	Solved	Grey Book 7	2015.
76	Establish One-Stop-Shop System for Building Permitting Purposes	Solved	Grey Book 7	2015.
77	Abolish the obligation to submit form for registering employment record to the Pension and Disability Insurance Fund	Solved partially	Grey Book 7	2015.
78	Provide Precise Criteria for Reporting Concentration	Solved	Grey Book 8	2016.
79	Abolish the Obligation of Online Advertisers to Provide Personal Data	Solved	Grey Book 8	2016.
80	Amend the Acts that Require Obtaining Birth and Citizenship Certificates for Further Administrative Procedures	Solved	Grey Book 8	2016.
81	Simplify Maintaining VAT Records	Solved partially	Grey Book 9	2017.
82	Align Criteria for taxes and Benefits Paid by Flat Rate Taxpayers	Solved partially	Grey Book 9	2017.
83	Abolish Certification of Health Care Cards	Solved	Grey Book 9	2017.
84	Align Technical Solutions for the Smooth Application of the Qualified Digital Certificate	Solved partially	Grey Book 9	2017.
85	Enact that During an Inspection or Tax Oversight Documents that Produced Subsequent Decisoins are not Required for Review	Solved	Grey Book 9	2017.
86	Abolish Compulsory Use of a Stamp on a Specimen Signature Card when Settting up a Business Bank Account	Solved	Grey Book 9	2017.
87	Streamline Requirements for Vehicles Transporting Medicines and Medical Devices	Solved	Grey Book 9	2017.
88	Streamline Claiming Materinity Allowance	Solved	Grey Book 9	2017.
89	Eliminate Republic Adminsitrative Fee for Applications to the Cadastral Office	Solved	Grey Book 9	2017.

ANNEX 2: GLOBAL COMPETITIVENESS LISTS

DOING BUSINESS REPORT

The Doing Business Report, a report on the ease of doing business in countries all over the world is prepared by the World Bank based on analysis of the regulatory environment and data collected in a business survey. Questionnaires used in the survey are based on a specific case study, designed to enable comparison of the economies of different countries and in time. The observed case study implies assumptions on the legal form, size, location and the manner of doing business (usually medium size limited liability companies). The Doing Business Report does not take into consideration conditions such as the size of the market, quality of education or citizens' ability to pay dues; instead it focuses on 10 key areas influenced by government policies and the manner in which those policies are implemented. The analysis includes only the capital cities, and the assessment of the ease of doing business is not necessarily representative when it comes to other parts of the observed country. According to the 2018 report Serbia ranks as 43 of 190 countries included in the World Bank's analysis, which is 4 positions higher compared to the previous year, and its best ranking in the last 12 years of having been rated by the World Bank.

INDICATORS	2018	2017	CHANGE	RELEVANT INSTITUTION
Total number of analysed countries	***190***	***190***	***'***	***World Bank***
Ease of doing business - total	***43***	***47***	***+4***	***Republic of Serbia Government***
Starting a business	32	47	+15	Ministry of Economy
Dealing with construction permits	10	36	+26	Ministry of Construction, Traffic and Infrastructure
Getting electricity	96	92	-4	Ministry of Mining and Energy
Registering property	57	56	-1	Ministry of Construction, Traffic and Infrastructure
Getting credit	55	44	-11	National Bank of Serbia
Protecting minority investors	76	70	-6	Ministry of Economy
Paying taxes	82	78	-4	Ministry of Finance
Trading across borders	23	23	-	Ministry of Construction, Traffic and Infrastructure
Enforcing contracts	60	61	+1	Ministry of Justice
Resolving insolvency	48	47	-1	Ministry of Economy

ANNEX 2: GLOBAL COMPETITIVENESS LISTS

GLOBAL COMPETITIVENESS INDEX

The Global Competitiveness Index – GCI of the World Economic Forum measures the quality and competitiveness of the business environment in 137 countries in the world. The GCI is obtained by analysing 114 indicators standing on 12 pillars of competitiveness grouped in 3 categories. In the latest World Economic Forum's Report, Serbia is on the 78th position measured by its competitiveness, which represents the increase of 12 positions compared to the last year's result (90th position) and the best position in the last ten years. The table below provides detailed overview of Serbia's position according to the selected indicators.

INDICATOR	2017/18	2016/17	CHANGE	RELEVANT MINISTRY
Total number of observed countries	***137***	***138***	***-1***	***World Economic Forum***
Overall ranking in global competitiveness	***78***	***90***	***+12***	***Serbian Government***
Strength of auditing and reporting standards	106	101	-5	Ministry of Finance
Budget balance	35	80	+45	Ministry of Finance
Public debt % GDP	105	111	+6	Ministry of Finance
Total tax rate relative to profit	78	77	-1	Ministry of Finance
Burden of customs procedures	87	101	+14	Ministry of Finance /Ministry of Trade, Tourism and Telecommunications
Inflation	1	1	-	Ministry of Finance /NBS
Availability of financial services	107	124	+17	Ministry of Finance /NBS
Availability of financial services	86	73	-13	Ministry of Finance /NBS
Judicial independence	118	122	+4	Ministry of Justice
Efficiency of legal framework in settling disputes	117	124	+7	Ministry of Justice
Efficiency of legal framework in challenging reg.	119	115	-4	Ministry of Justice
Property rights	124	126	+2	Ministry of Justice
Protection of minority shareholders' interests	132	134	+2	Ministry of Economy
Protection of investors	66	73	+7	Ministry of Economy
No. of procedures to start a business	36	54	+18	Ministry of Economy
Time to Start a Business	40	73	+33	Ministry of Economy
Impact of rules on FDIs	80	102	+22	Ministry of Economy
State of Cluster Development	100	112	+12	Ministry of Economy
Protection of intellectual property	116	127	+11	Ministry of Education, Science and Technological Development
Capacity for Innovations	117	130	+13	Ministry of Education, Science and Technological Development
Quality of Scientific Research Institutions	47	60	+13	Ministry of Education, Science and Technological Development
University-industry collaboration in R&D	95	96	+1	Ministry of Education, Science and Technological Development
Gov procurement of advanced tech. products	105	108	+3	Ministry of Education, Science and Technological Development
Availability of scientists and engineers	68	90	+22	Ministry of Education, Science and Technological Development
Quality of education system	93	103	+10	Ministry of Education, Science and Technological Development

ANNEX 2: GLOBAL COMPETITIVENESS LISTS

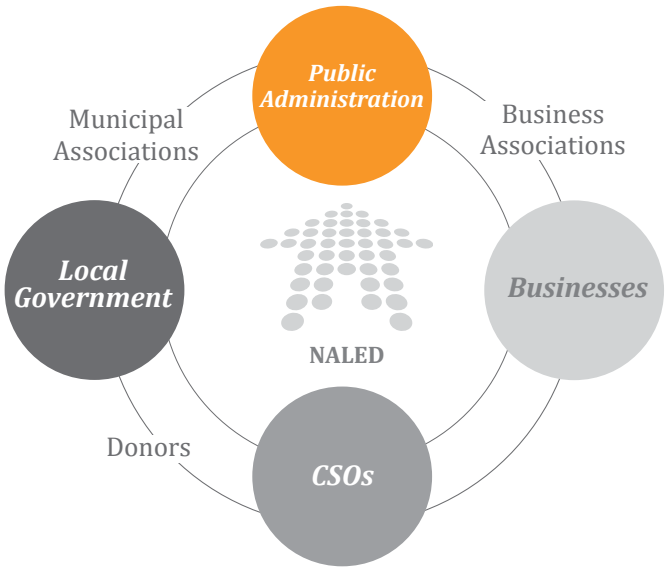
Quality of math and science system	29	46	+17	Ministry of Education, Science and Technological Development
Quality of management schools	85	105	+20	Ministry of Education, Science and Technological Development
Internet access in schools	85	102	+17	Ministry of Education, Science and Technological Development
Cooperation in labor-employer relations	105	126	+21	Ministry of Labour, Employment, Veteran and Social Policy
Flexibility in wage determination	40	46	+6	Ministry of Labour, Employment, Veteran and Social Policy
Hiring and firing practices	80	84	+4	Ministry of Labour, Employment, Veteran and Social Policy
Redundancy costs	18	17	-1	Ministry of Labour, Employment, Veteran and Social Policy
Pay and productivity	68	107	+39	Ministry of Labour, Employment, Veteran and Social Policy
Quality of roads	100	115	+15	Ministry of Construction, Traffic and Infrastructure
Quality of railroad infrastructure	79	86	+7	Ministry of Construction, Traffic and Infrastructure
Quality of air transport infrastructure	76	93	+17	Ministry of Construction, Traffic and Infrastructure
Available airline set kilometres	86	87	+1	Ministry of Construction, Traffic and Infrastructure
Quality of Overall infrastructure	96	107	+11	Ministry of Construction, Traffic and Infrastructure
Fixed-telephone lines	25	27	+2	Ministry of Trade, Tourism and Telecommunications
Mobile-cellular telephone subscriptions	62	61	-1	Ministry of Trade, Tourism and Telecommunications
Internet users	56	56	-	Ministry of Trade, Tourism and Telecommunications
Broadband Internet subscriptions	46	52	+6	Ministry of Trade, Tourism and Telecommunications
Intensity of local competition	115	128	+13	Ministry of Trade, Tourism and Telecommunications
Effectiveness of anti-monopoly policy	114	118	+4	Ministry of Trade, Tourism and Telecommunications / Commission for Protection of Competition
Extent of market dominance	112	129	+17	Ministry of Trade, Tourism and Telecommunications / Commission for Protection of Competition
Business cost of crime and violence	81	80	-1	Ministry of the Interior
Reliability of police services	95	97	+2	Ministry of the Interior

About NALED

The National Alliance for Local Economic Development (NALED) is an independent association of businesses, local governments, and civil society organizations working together to create better conditions for living and working in Serbia. Since its establishment in 2006, NALED has grown into the largest public-private association with nearly 300 members. Over the past 11 years, NALED realized more than 100 projects supporting economic growth in cooperation with relevant international organizations and state institutions. All NALED's projects and activities are focused on improvement of the regulatory framework for doing business, capacity building of public administration and local government and networking of the private, public and civil sectors on all levels.

NALED is a leader in promoting dialogue between the private and the public sectors and one of the leading authorities in monitoring regulatory activity and measuring the public administration performance. NALED's studies and analyses, projects aimed at strengthening competitiveness and original initiatives such as the E-Permitting, the Bylaws Barometer, Calculator of Local Fees and Charges, Para-Fiscal Registry, Business Friendly Certification, Regulatory Index of Serbia, National Program for Countering the Shadow Economy, and the Grey Book, have provided significant contribution to reforms in Serbia and reduced administrative burden to businesses.

NALED'S INTEGRATIVE POSITION IN THE SOCIETY



NALED MEMBERSHIP

Companies

Addiko Bank	www.addiko.rs
Advanced Technologies Solutions	www.atsol.rs
Advokatska kancelarija Karanović & Nikolić	www.karanovic-nikolic.com
Advokatska kancelarija Kosić	www.kosiclaw.co.rs
Agri Business Partner	www.abp.rs
AKS Express Kurir	www.aks-sabac.com
Aleksandar Gradnja	www.aleksandar-group.rs
Apatinska pivara	www.jelenpivo.com
Asseco SEE	www.asseco-see.com
AsterFarm	www.drmaxpharma.com
Astra Zeneca	www.astrazeneca.com
Atlantic Grupa	www.atlanticgrupa.com
Bambi	www.bambi.rs
Banca Intesa	www.bancaintesabeograd.com
British American Tobacco	www.bat.com
Carlsberg	www.carlsbergsrbija.rs
Carnex	www.carnex.rs
Chipita YU	www.chipita.com
Cisco	www.cisco.com/yu
Coca-Cola Company	www.coca-colahellenic.rs
Coca-Cola HBC	www.coca-colahellenic.rs
Comtrade System Integration	www.comtradegroup.com
Confluence Property Management	www.confluence.rs
Contango	www.contango.rs
Continental Wind	www.continentalwind.com
CRH	www.crhserbia.com
Crowne Plaza	www.ihg.com/crowneplaza
Deloitte	www.deloitte.com
Dijamant	www.dijamant.rs
DIS	www.dis.rs
Don Don	www.tvojih5minuta.rs
Donerra	www.donerra.com
Dunav osiguranje	www.dunav.com
Elnos Group	www.elnosbl.com
Energoprojekt holding	www.energoprojekt.rs
Erker-inženjering	www.erker-inzenjering.com
Erste banka	www.erstebank.rs
Eurobank	www.eurobank.rs
Eurozeit	www.eurozeit.rs
Farmalogist doo Beograd Palilula	www.farmalogist.rs
FCB Af irma	www.fcbafirma.rs
FCC EKO	www.fcc-group.rsv
Zdravlje Actavis	www.actavis.rs
Galeb Metal Pack	www.galeb.com
General Electric	www.ge.com
Geoart	www.geoart.rs
Gomex	www.gomex.rs
Gorenje	www.gorenje.rs
Grawe osiguranje	www.grawe.rs
Gudmark Group	www.tikkurila.com
Halifax Consulting	www.halifaxconsulting.com
Heineken	www.theheinekencompany.com
Hemofarm	www.hemofarm.rs
Horwath HTL	www.horwathhtl.rs
Hyatt Regency Belgrade	www.belgrade.regency.hyatt.com
IBM	www.ibm.com/rs-sr
Imperial Tobacco	www.imperial-tobacco.com
In tehnik Šabac	www.intehnik.com
Inpharm Co	www.inpharm.rs
Institut za standarde i tehnologije	www.instate.biz
Isailović & Partners Attorneys at law	www.advokatskakancelarija.com
JT International	www.jti.com
Jubmes banka	www.jubmes.rs
Knjaz Miloš	www.knjaz.co.rs
Koteks Viscofan	www.viscofan.com
KPMG	www.kpmg.rs
Lekovit	www.lekovit.co.rs
Lesaffre	www.lesaffre.com
Linde Gas	www.linde.rs
Luka Beograd	www.lukabeograd.com
M&I Systems	www.mi-system.co.rs
Mace	www.macegroup.com
Marbo Product	www.pepsicostart.marbo.rs
Mastercard	www.mastercard.com
Medija centar	www.mc.rs
Mera Software Services	www.meraswss.rs
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Merck	www.merck.rs
Merck, Sharp & Dohme	www.msd.rs
Messer Tehnogas	www.messer.rs
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Microsoft Software	www.microsoft.com/serbia
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Mlekoprodukt	www.mlekoprodukt.com
Moj Kiosk Group	www.mojkioskstampa.rs
Moji brendovi	www.mojibrendovi.com
Mondelez	www.mondelezinternational.com
Native Consulting	www.native.rs
Nectar	www.nectar.rs
Nelt Co	www.nelt.rs
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NLB banka	www.nlb.rs
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Novosadski sajam	www.sajam.net
Oracle Srbija & Crna Gora	www.oracle.com
OSA Računarski inženjering	www.osa.rs
OTP banka	www.otpbanka.rs
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Pfizer	www.pfizer.com
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PricewaterhouseCoopers	www.pwc.rs
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S&T Serbia	www.snt.rs
SADE Serbia	www.sade.rs
Saga	www.saga.rs
SAP West Balkans	www.sap.com/westbalkans
Sberbank	www.sberbank.rs
Schneider Electric	www.schneider-electric.rs
Sekopak	www.sekopak.com
Serbian Business Systems	www.sbs.rs
Set Šabac	www.set.rs
SGS	www.sgs.com
Siemens	www.siemens.rs
Slobodna zona Pirot	www.freezonepirot.com
Societe Generale Banka	www.societegenerale.rs
Solving IT Solutions and Services	www.solving.rs
Stefkom	www.stefkom.rs
STIHL	www.stihl.rs
Strauss Adriatic	www.strauss-group.rs
TeleGroup	www.telegroup.rs
Telekom	www.telekom.rs
Telenor	www.telenor.rs
Tigar	www.tigar.com
Tigar Tyres	www.michelin.rs
Titan Cementara Kosjerić	www.titan.rs
UniCredit Bank	www.unicreditbank.rs
Uniqa	www.uniqa.rs
Veolia	www.veolia.com
Veolia Water Solutions & Technologies	www.veoliawater.rs
Victoria Group	www.victoriagroup.rs
VIP mobile	www.vipmobile.rs
Visa	www.rs.visa.com
Vojvođanska banka	www.voban.co.rs
Wind Vision Operations	www.windvision.com

Local Governments

City of Beograd	www.beograd.rs
City of Čačak	www.cacak.org.rs
City of Kikinda	www.kikinda.rs
City of Kragujevac	www.kragujevac.rs
City of Kraljevo	www.kraljevo.org
City of Kruševac	www.krusevac.rs
City of Leskovac	www.City ofleskovac.org
City of Loznica	www.loznica.rs
City of Niš	www.ni.rs
City of Novi Pazar	www.novipazar.org.rs
City of Novi Sad	www.novisad.rs
City of Pančevo	www.pancevo.rs
City of Pirot	www.pirot.rs
City of Požarevac	www.pozarevac.rs
City of Šabac	www.sabac.org
City of Smederevo	www.smederevo.org.rs
City of Sombor	www.sombor.rs
City of Sremska Mitrovica	www.sremskamitrovica.org.rs
City of Subotica	www.subotica.rs
City of Užice	www.City ofuzice.org
City of Valjevo	www.valjevo.org.rs
City of Vranje	www.vranje.org.rs
City of Vršac	www.vrsac.com
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Urban Municipality Lazarevac	www.lazarevac.rs
Urban Municipality Obrenovac	www.obrenovac.rs
Urban Municipality Palilula	www.palilula.org.rs
Urban Municipality Rakovica	www.rakovica.rs
Urban Municipality Savski venac	www.savskivenac.rs
Urban Municipality Stari City of	www.stariCity of.org.rs
Urban Municipality Vračar	www.vracar.org.rs
Urban Municipality Zemun	www.zemun.rs
Urban Municipality Zvezdara	www.zvezdara.com
Municipality of Ada	www.ada.org.rs
Municipality of Aleksandrovac	www.aleksandrovac.rs
Municipality of Aleksinac	www.aleksinac.org
Municipality of Alibunar	www.alibunar.rs
Municipality of Apatin	www.soapatin.org
Municipality of Aranđelovac	www.arandjelovac.rs
Municipality of Arilje	www.arilje.org.rs
Municipality of Bač	www.bac.rs
Municipality of Bačka Palanka	www.backapalanka.rs
Municipality of Bačka Topola	www.btopola.org.rs
Municipality of Bački Petrovac	www.backipetrovac.rs
Municipality of Batočina	www.sobatocina.org.rs
Municipality of Bečej	www.becej.rs
Municipality of Bela Crkva	www.belacrkva.info
Municipality of Bela Palanka	www.belapalanka.org.rs
Municipality of Beočin	www.beocin.rs
Municipality of Blace	www.blace.org.rs
Municipality of Bogatić	www.bogatic.rs
Municipality of Bojnik	www.bojnik.rs
Municipality of Boljevac	www.boljevac.org.rs
Municipality of Bor	www.opstinabor.rs
Municipality of BosileCity of	www.bosileCity of.org
Municipality of Bujanovac	www.bujanovacin.rs
Municipality of Čajetina	www.cajetina.org.rs
Municipality of Čoka	www.coka.co.rs
Municipality of Ćuprija	www.cuprija.rs
Municipality of Despotovac	www.despotovac.rs
Municipality of DimitrovCity of	www.dimitrovCity of.rs
Municipality of Gornji Milanovac	www.gornjimilanovac.rs
Municipality of Inđija	www.indjija.net
Municipality of Irig	www.irig.org.rs

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Municipality of Ivanjica	www.ivanjica.rs
Municipality of Kanjiža	www.kanjiza.rs
Municipality of Kladovo	www.kladovo.org.rs
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Municipality of Knjaževac	www.knjazevac.rs
Municipality of Kovačica	www.kovacica.org
Municipality of Kovin	www.kovin.org.rs
Municipality of Kučevo	www.kucevo.rs
Municipality of Kula	www.kula.rs
Municipality of Kuršumlija	www.kursumlija.org
Municipality of Lajkovac	www.lajkovac.org.rs
Municipality of Lapovo	www.lapovo.org
Municipality of Lebane	www.lebane.org.rs
Municipality of Ljubovija	www.ljubovija.rs
Municipality of Majdanpek	www.majdanpek.rs
Municipality of Mali Iđoš	www.maliidjos.rs
Municipality of Mali Zvornik	www.malizvornik.org
Municipality of Malo Crniće	www.opstinamalocrnice.org
Municipality of Merošina	www.merosina.org.rs
Municipality of Mionica	www.mionica.rs
Municipality of Negotin	www.negotin.rs
Municipality of Nova Varoš	www.novavaros.rs
Municipality of Novi Bečej	www.novibecej.rs
Municipality of Novi Kneževac	www.noviknezevac.rs
Municipality of Opovo	www.opovo.org.rs
Municipality of Osečina	www.osecina.com
Municipality of Pećinci	www.pecinci.org
Municipality of Plandište	www.plandiste-opstina.rs
Municipality of Požega	www.pozega.org .rs
Municipality of Priboj	www.priboj.rs
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Municipality of Rača	www.raca.rs
Municipality of Raška	www.raska.org.rs
Municipality of Ražanj	www.razanj.org
Municipality of Ruma	www.ruma.rs
Municipality of Senta	www.zenta-senta.co.rs
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Municipality of Tutin	www.tutin.rs
Municipality of Velika Plana	www.velikaplana.org.rs
Municipality of Veliko City ofište	www.velikoCity ofiste.org.rs
Municipality of Vladičin Han	www.vladicinhan.org.rs
Municipality of Vlasotince	www.vlasotince.org.rs
Municipality of Vrbas	www.vrbas.net
Municipality of Vrnjačka Banja	www.opstinavrnjackabanja.com
Municipality of Žabalj	www.zabalj.rs
Municipality of Žabari	www.opstinazabari.org.rs
Municipality of Žitište	www.zitiste.org.rs

CSO and Independent Institutions

Association of Consulting Engineers of Serbia	www.aces.rs
Business Registers Agency	www.apr.gov.rs
Serbian Export Credit and Insurance Agency	www.aofi.rs
Association of Serbian Clusters	www.aska.org.rs
Automobile and Motorcycle Association of Serbia	www.amss.org.rs
BIRN	www.birn.eu.com
Central Association of Simmental Cattle Breeders	www.cuogsr.rs
ENECA	www.eneca.org.rs
Ethno Network	www.ethnonetwork.com
European Investment Bank	www.eib.org
Faculty of Political Sciences	www.fpn.bg.ac.rs
PEXIM Foundation	www.peximfoundation.org
Chamber of Enfrocement Agents	www.komoraizvrsitelja.rs
West Serbia Business Club	www.poslovniklubzs.org
Business Association International Transport	www.pumedtrans.com
Business Association UVRA	www.uvra.net
Beekeeping Association of Serbia Srbije	www.spos.info
Smart Kolektiv	www.smartkolektiv.org
Waste Recyclers Serbia	www.reciklerisrbije.com
Contractual Chamber of Commerce Pirot	www.komorapirot.com
Via-Vita	www.via-vita.org.rs
Zrenjanin Business Club	www.zrepok.rs

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