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INFO-LETAK br. 06/2016

Vršenje inspekcijskog nadzora u stambenom prostoru

Dana 15. aprila 2015. godine Narodna skupština Republike Srbije usvojila je *Zakon o inspekcijskom nadzoru* („Sl. glasnik RS", br. 36/2015; u daljem tekstu: *„Zakon"*) kao sistemski zakon koji uređuje poseban upravni postupak – postupak inspekcijskog nadzora. Zakon je počeo da se primenjuje 30. aprila 2016. godine.

Za razliku od Zakona o državnoj upravi, koji se do donošenja Zakona primenjivao na oblast inspekcijskog nadzora, Zakon je veliki iskorak ka modernom zakonu koji nastoji da odgovori izazovima i potrebama savremenog vršenja inspekcijskog nadzora, a koji na jedinstven način uređuje ovu oblast.

Kao odgovor na veliku pojavu obavljanja privredne delatnosti od strane neregistovanih subjekata, Zakonom je propisano da je inspektor, radi utvrđivanja činjenica u postupku inspekcijskog nadzora, ovlašćen da izvrši uviđaj i u stambenom prostoru ili drugom prostoru koji ima istu, sličnu ili povezanu namenu (u daljem tekstu: „stambeni prostor"), ali pod uslovom da pribavi pisanu naredbu izdatu od strane nadležnog suda.

Međutim, u skladu sa Zakonom, inspektor nije dužan da pribavi pisanu naredbu nadležnog suda u slučaju kada se uviđaj vrši na zahtev ili uz izričit pisani pristanak vlasnika ili korisnika, odnosno držaoca stambenog prostora. Sa druge strane saglasnost za uviđaj može se dati i usmeno i to u slučajevima koji su eksplicitno propisani Zakonom, što se posebno obrazlaže u zapisniku, i to kada je neophodno da se preduzmu hitne mere radi sprečavanja ili otklanjanja opasnosti po:

- život ili zdravlje ljudi,
- imovinu veće vrednosti,
- životnu sredinu ili biljni ili životinjski svet.

Takođe, Zakonom su propisani izuzeci kada inspektor ne mora pribaviti saglasnost vlasnika ili korisnika, odnosno držaoca stambenog prostora koji je nepoznat, nedostupan, duže odsutan ili je preminuo.

NEWSLETTER no. 06/2016

Performing of inspectional supervision in living premises

On 15 April 2015. the National Assembly of the Republic of Serbia adopted the *Law on Inspection Supervision* ("Official Gazette of RS", no. 36/2015; hereinafter *"the Law"*) as a system law that governs a special administrative procedure — procedure for inspectional supervision. The Law has begun to apply from 30 April 2016.

Unlike the Law on State Administration, which was applied in the area of inspectional supervision until the adoption of the Law, the Law is a big step towards a modern law that seeks to respond to the challenges and needs of modern performing of inspectional supervision, and that uniformly regulates this area.

As a response to a major occurrence of performing economic activities by unregistered subjects, the Law requires that an inspector, in order to establish the facts in process of inspectional supervision, is authorized to carry out the investigation in living premises or other area that has the same, similar or related purpose (hereinafter referred to as "residential space"), but on the condition to obtain a written order issued by a competent court.

However, in accordance with the Law, the inspector is not required to obtain a written order from the competent court in case when the investigation is made at the request or with the explicit written consent of the owner or user, or the keeper of the residential place. On the other hand, consent to the investigation can also be given verbally and in cases that are explicitly required by the Law, which is especially explained in the records of inspection, and when it is necessary to take urgent measures to prevent or eliminate hazards to:

- life or human health,
- assets of higher values,
- the environment or plant or animal world.

Also, the Law prescribes the exceptions when the inspector does not have to obtain the consent of the owner or user, or the keeper of residential place that is unknown, unavailable, absent for a long time or is deceased.

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Nakon podnošenja predloga za izdavanje naredbe o vršenju uviđaja sud će dozvoliti vršenje uviđaja u stambenom prostoru ukoliko nađe da postoje osnovi sumnje da:

- se u njemu vrše nedozvoljene delatnosti ili aktivnosti ili da se one vrše suprotno propisima,
- se u njemu čuvaju predmeti, životinje ili druge stvari suprotno propisima,
- neregistrovani subjekat obavlja delatnost u stambenom prostoru, itd.

Takođe, sud može dozvoliti i vršenje pretresanja stambenog prostora i stvari u njemu.

Dodatno, Zakonom je propisana prekršajna odgovornost u slučaju obavljanja delatnosti ili vršenje aktivnosti kao neregistrovani subjekat.

After submitting the proposal for issuing court order on performing the investigation the Court will allow the performance of investigation in a residential place if it finds that there are grounds of suspicion that:

- within those premises are carried out illegal activities or actions or activities that are contrary to the regulations,
- within those premises are stored objects, animals or other things contrary to the regulations,
- an unregistered subject is performing an activity in the residential place, etc.

Also, the Court may allow performing searches of residential place and things in it.

Additionally, the Law prescribed misdemeanour responsibility in case of performance of the activity or the exercise of activities as an unregistered subject.

Za više informacija o ovome kontaktirati



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