NEWSLETTER
11/01/2016

RENDERED SET OF JUDICIAL LAWS


In this text we shall particularly refer to the Law on Enforcement and Security, Law on amendments to the Law on Public Notaries, Law on Amendments to the Law on Organization of Courts and Law on Amendments to the Law on Court Taxes.


This Law **enters into force on July 1, 2016**, except of the certain provisions which entered into force on the 8th day of its publishing in the “Official Gazette of RS”, i.e. on **December 29, 2015**.

In relation to the applicable Law on Enforcement and Security, this Law partially changes the provisions which determine what is considered as an executive title and authentic document. Namely, the provisions of the new Law introduce two new categories of executive titles: public notary documents which have the force of the executive titles and the agreement on resolving a dispute by mediation, which fulfills the conditions determined by the law that regulates mediation in resolving disputes, while the executive decision confirmed as a European executive
title is no longer considered an executive title. Also, a bond or other security issued in series entitling its holder to the payment of nominal value is no longer considered an authentic document, but it is specified that the authentic document is an excerpt from the Central Security Depository on the account balance of the lawful holder of bonds or instruments of the money market (treasury, cash and commercial papers) and a decision on their issuance, and as an additional category a calculation or an excerpt from the business books for claiming of the tax for public media service is added.

The most significant novelty introduced by the new Law on Enforcement and Security is introduction of the appeal as a regular legal remedy, in addition to the objection.

Namely, the appeal is a legal remedy against the resolution of the first instance court or public enforcement officer, unless it is prescribed by this law that the appeal is not allowed or that that kind of resolution shall be contested by an objection. The objection is being submitted against the resolution rendered on the motion to enforce based on the authentic document, against other resolution of the first instance court or public enforcement officer determined by this law, as an objection of the third party.

An appeal and an objection postpone the enforcement of the resolution only when prescribed by the law, and a deadline for submitting an appeal is 8 days, instead of 5 working days, how it is stipulated in the applicable Law on Enforcement and Security. On the appeal against a resolution of the first instance court or commercial court the decision is rendered by a higher instance court or a Commercial Appellate Court, depending on the enactor of the resolution that is being contested.

Additionally, the law introduces the possibility for the public enforcement officers to render a resolution on enforcement, which previously was the exclusive jurisdiction of the court. On the motion to enforce based on an executive title or authentic document and on motion for security decides the court, while on the motion to enforce based on the authentic document in order to settle a monetary claim arising from the communal services or similar activities a public enforcement officer renders the decision.

Enforcement creditors in whose favor a resolution on enforcement based on the executive title or authentic document or resolution on security is rendered, and which on May 1, 2016 still lead the enforcement procedure or the security procedure are under an obligation to state, within the time interval from May 1, 2016 until July 1, 2016, whether they are willing for an execution to be conducted by the court or by a public enforcement officer. If they do not provide a statement within the deadline the procedure shall be suspended.


The provisions of this law entered into force on December 29, 2015.
The law introduces **notary associates**. Those are the persons who, after the expiry of the internship, can enter into employment relation on indefinite period of time at the public notary. Also, by the amendments of the Law it is introduced that the court can delegate to the public notary the conduction of the procedure or undertaking of certain non-contentious actions under the conditions stipulated by the law that regulates that procedure.


This Law enters into force on the eighth day of its publishing in the “Official Gazette of Republic of Serbia”, i.e. on **December 29, 2015**, and the provision regarding the change of the subject-matter jurisdiction of higher courts in enforcement and security procedure (article 1 paragraph 2) enters into force at the same time as a new Law on Enforcement and Security, i.e. on **July 1, 2016**.

The main purpose of the amendments to the Law on Organization of Courts is rendering a new Law on Enforcement and Security that introduces appeal as a regular legal remedy.

Article 1 of the Law stipulates that on the appeal of the first instance court a higher court shall decide, and Article 2 of the Law stipulates that the commercial courts determine enforcement and conduct enforcement based on the executive titles in which the enforcement creditor and enforcement debtor are the persons from the point 1 Article 25 of the Law on Organization of Courts, respectively in the disputes between domestic and foreign legal entities, companies, cooperatives and entrepreneurs and their associations (business entities), in the disputes arising between business entities and other legal entities in conducting business activity, as well as when in the above mentioned disputes one party is a natural person if it is in the relation of a material co-litigation with a party, and not only based on the authentic documents as it was prescribed until now.

4. **Law on Amendments to the Law on Court Fees (“Official Gazette of RS”, no. 106/2015)**

This Law enters into force on the eighth day of its publishing in the “Official Gazette of Republic of Serbia”, i.e. on **December 29, 2015**, except for the certain provisions which entered into force on **January 1, 2016**.

These amendments are adjusted to the existence of parallel jurisdiction of the courts and enforcement officers for the conduction of enforcement, having in mind the tendency to transfer this jurisdiction to the enforcement officers as much as possible.
By entering into force of the Amendments of the law, the court fees, which are being paid to the court in cases when the enforcement is conducted by the enforcement officer, shall be decreased and the payment of the court fee for the decision rendered by the court on the motion to enforce based on the executive title or authentic document shall be abolished. Also, the jurisdiction for the enforced payment of the fees, for payers who are natural persons, is changed and delegated to (now public) enforcement officers, in order to improve payment from those persons.

Also, by the amendments it is stipulated that if a natural person, as a fee-payer, does not pay a court fee within 8 days, the court shall render the resolution on enforcement in the following 5 days, which obliges the payer to pay the owed fee and a penalty fee in the amount of 50% of the fee within 5 days of receipt of the resolution and which does not determine the mean and the object of the enforcement, and deliver the resolution on enforcement to an enforcement officer, and in the file it shall be noted that the resolution has been delivered to the enforcement officer.

Another reason for the exemption from fee payment has been added by the amendments, so the party in non-contentious procedure is exempt from paying the fees for the actions or the procedures that the court has delegated to the public notary. In that case, the party shall pay the compensation of costs and the award for work to the public notary according to the Public Notary Tariff.