Law on navigation and ports of inland waters ("Official Gazette of RS", no. 73/2010, 121/2012, 18/2015 – the other Law and 92/2016)

On November 10th, 2016, the National Assembly of the Republic Serbia, adopted the Law on navigation and ports of inland waters ("Official Gazette od RS", no. 73/2010, 121/2013, 18/2015 – the other Law and 92/2016, hereinafter the “Law”), on the third sitting of the Second Regular Session in 2016, which entered into force on November 22nd, 2016. Article 9 of the Law, related to the adoption of the Action Plan, is applicable from December 1st, 2018.

One of the main purposes of prescribing new rules is to discontinue the monopoly of Directorate for Inland Waterways, by entrusting certain activities of technical maintenance of international and interstate water roads and other water works related to technical maintenance of inland waterways to companies which meet the requirements, according to the public procurement procedure.

The provisions of the Law related to consents and approvals impose the same obligations, except it is necessary to obtain nautic consent issued by the competent port authority and consent issued by the Directorate, before start of works on international and interstate waterways, which
are not subject of the issuance of acts in exercising their right to build, in accordance with the law which governing planning and construction.

Completely new provisions prescribe yacht transport of persons, i.e. recreational vessels on inland waters of the Republic of Serbia, based on the rental fee, which can be done only by domestic vessels. Only natural or legal person registered for performing the activity of renting a vessel may carry out the activity of renting, and vessels may be owned by them or by other domestic or foreign legal and natural person.

The authorities of the Minister and list of measures taken in the event of a pollution from vessels, as well as measures necessary for preventive action, are prescribed in detail in Article 63 of this Law.

The novelty is that the Ministry, i.e. navigational safety inspectors, perform testing of navigational accidents. A participant in the navigation, the second organ as well as the other person that is informed of a navigation accident, will be obliged to immediately inform the port master's office, and the inspection of navigation safety about accident.

In accordance with Article 199 of the Law, shippers, port operator and the Directorate must organize security protection of ships, navigation safety facility and ports by hiring licensed operators to perform activities of private security or by organizing self-protective activity that has organized planning, organizational and control functions, all in accordance with the law that regulates private security. According to the new provisions, security protection is carried out in the manner provided by the act on organization and systematization of shippers, port operators, and the Directorate.

As in the previous version of the law, the infrastructure of the ports can be exceptionally owned by operators that acquired that right in the process of privatization or ownership transformation. However, this provision does not apply to port operators that started privatization procedures after June 4, 20013, and based on them they acquired the right of ownership of port infrastructure parts. The novelty is that this provision also refers to port operators who perform port activities within the declared port area. They have built port infrastructure until June 4, 2003, using their own funds on the territory of local self-governments that is included in decision which determines piers for international traffic and for which was issued construction and occupancy permit. If these operators submit preposition for expansion of the port to the Agency for managing ports, they are not obliged to submit the documents that other applicants have to submit (the previous analysis of the main factors, location study and economic and financial analysis), for the cadastral parcels on which they performed port activities until the date this Law entered into force.

In Article 215 of the Law states that port industry of supplying ships with fuel may be carried out on the local self-government territory on which is determined the area of border crossings for international river traffic. The location intended for the performance of these port activities has to be in accordance with documents of spatial and urban planning.
Approval for the performance of port activities shall be obtained in the case of a status change of the port operators, and the Law also prescribes that the approval is necessary in the case of purchase of assets of a company-port operator in bankruptcy or enforcement procedure, i.e. in case of a change of ownership of capital and assets of legal entities operating with socially-owned and public capital.

The law redefines establishment of the port for its own purposes, so that it now specifies that a dock for its own purposes is a dock intended for the operator’s purposes, within the framework of the operator’s activities and can be established only for the transshipment of goods needed for the performance of the operator’s main business activity, for which the transshipment service cannot be provided in the nearest port and which fulfills the other conditions prescribed by the Law.

The misdemeanor penalty has been changed by the new decision. A fine ranging from RSD 200,000 to RSD 2,000,000 shall be imposed on company, a fine ranging from RSD 50,000 to RSD 500,000 shall be imposed on an entrepreneur, and a fine ranging from RSD 30,000 to RSD 150,000 shall be imposed on the responsible person in a company or other legal entity.

Transitional and final provisions of the Law stipulate that the companies that during the privatisation process have acquired assets of a privatisation subject, are obliged to obtain a new authorization for the performance of port activities in accordance with the provisions of this Law, **within 60 days of the entry into force of the Law, i.e. by January 21st, 2017**, while to the companies engaged in port activities that are operating with majority state-owned capital, and have acquired only the right to use the land located in the port area, these rights cease to exist, while The Port Governance Agency gets registered as holder of right of easement, no later than June 1st 2017. Shippers, port operators and the Directorate are obliged to **harmonize their operations with the provisions of the Law by December 31st 2018.**