

Amendments to the Law on Companies

("Official Gazette of the Republic of Serbia" No. 109/2021)

In the Official Gazette of the Republic of Serbia No. 109 from 19 November 2021, Amendments to the Law on Companies ("Official Gazette of the Republic of Serbia", No. 36/2011, 99/2011, 83/2014, 5/2015, 44/2018, 95/2018, 91/2019 and 109/2021; hereinafter: the "**Law**") were published and entered into force on the eighth day from the date of its publication in the Official Gazette of the Republic of Serbia, i.e. 27 November 2021, with the exception of provisions relating to the initiation of compulsory liquidation proceedings, the duty to report jobs and activities in which there is a personal interest, filing a lawsuit to remove the so-called fictitious addresses of the company's headquarters and the obligation to register data on the gender of natural persons, which shall apply **from 1 June 2022** as well as provisions relating to the obligation to register as a user of eGovernment services that shall apply 18 months from the date of entry into force, i.e. **from 28 May 2023**.

The law primarily introduces innovations with regard to defining the address of the company's headquarters, thus the company's headquarters address shall include the city, municipality, settlement, street or square, house number, floor and apartment number, in accordance with regulations governing territorial organization. Companies, entrepreneurs, branches and representative offices of foreign companies that do not have a registered address in accordance with the

provisions of the Law, are obliged to harmonize the address of the headquarters with the provisions of the Law and to register the harmonized address **within one year after the date of entry into force of the Law**.

Some of the most important novelties refer to the remuneration of the company's director. When it comes to joint stock companies that are not public and limited liability companies, the company is obliged, upon the request of any 5% shareholder, to provide insight into data on the amount and structure of income of each director, as well as of members of the supervisory board if the management of the company is bicameral. A minority shareholder has the right to have access to this information even in the case the company has declared it a business secret, but under the condition that the shareholder has previously signed a statement of confidentiality, i.e. non-disclosure of confidential information.

On the other hand, public joint stock companies are obliged to have a remuneration policy for directors and members of the supervisory board, which must, inter alia, contain information on all fixed and variable parts of remuneration (including bonuses and all other benefits), financial and non-financial payment criteria for payout of variable parts and a model employment contract (or other appropriate employment contract).

In addition, there is an obligation to prepare a report on all payments made by the company to each individual current (and former) director, a member of the board of directors, and a member of the supervisory board. The report is prepared once a year and must be published on the company's website and publicly available for a period of 10 years, while the mandatory content of it,

among other things, includes the name of each director and members of the supervisory board, as well as a comparative overview of annual changes of their income, the business success of the company and the average salaries of employees for five years preceding the year in which the report is prepared. In case the report is not published or publicly available in the prescribed period, the Law provides the possibility of imposing a **fine in the amount of 40,000 to 200,000 dinars**.

Public joint stock companies are obliged to comply with the provisions of the Law relating to remuneration in public joint stock companies **within one year from the date of entry into force of the Law**.

Furthermore, the new Law additionally regulates the provisions related to the duty to report legal activities in which there is a personal interest of persons holding special duties towards the company (primarily shareholders, control members, directors, members of supervisory board and other persons referred to in Article 61 of the Law, as well as persons related to them). If the mentioned persons have a personal interest in the legal activities or agreements that the company concludes, they are obliged to inform the board of directors, or the supervisory board if the management of the company is bicameral, which then decides whether to approve such legal activities. In that sense, the new Law not only specifies the content of information that persons referred to in Article 61 of the Law are obliged to prepare and submit to the competent body of the company, but also prescribes the company's duty to provide precise data on all such legal transactions undertaken in the year to which particular financial report relates.

In addition, the institute of fair value assessment is introduced, which is necessary to perform in case the value of the legal transaction that is the subject of approval is more than 10% book value of the company's total assets. Unlike the procedure of market value assessment that has been used so far, the assessment of the fair value of items or rights is determined in accordance with International Financial Reporting Standard - IFRS 13 Fair Value Measurement ("Official Gazette of RS", No. 92/2019). In this regard, the Law stipulates that a company may file a lawsuit for annulment of a legal transaction if it has not been concluded at the previously determined fair value, and in case it was done with the intention of damaging the company, a fine or imprisonment of up to one year is prescribed.

Amendments to the Law also provide for **two additional reasons for initiating compulsory liquidation proceedings**.

The first one refers to the untimely fulfillment of the obligation to increase the share capital up to the amount of the minimum share capital in the case of purchase of the bankruptcy debtor, and the second one refers to the case of untimely registration of the new address of the company. Namely, one of the novelties introduced by the Law is the possibility that an interested person, i.e. a person who is the holder of property rights and who did not allow the use of the property at which an office address is registered, requests the removal of the registered office address. In case of such a lawsuit, the court shall provide a judgment ordering the removal of the registered office address, and the company is obliged to register a new registered office address within 30 days from the day the judgment becomes final, otherwise the condition for initiating the compulsory liquidation procedure is satisfied.

Other legal novelties with delayed application relate to the duty of a company to register as a user of eGovernment services, as well as the obligation to register gender data for domestic and foreign individuals.

Finally, the Law introduces a completely new chapter which refers to special rules regarding the encouragement of long-term engagement of shareholders in public joint stock companies, and which shall apply on the date of the accession of the Republic of Serbia to the European Union. The relevant provisions of the Law introduce and define the terms of institutional investors, asset managers and voting advisors, but also set special rules in relation to informing shareholders and the company through, above all, the identification of shareholders.

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