

March 2019

In focus: Law on Amendments and Supplements to the Law on Legalization of Facilities

The National Assembly of the Republic of Serbia adopted on May 25th 2018 the **Law on Amendments and Supplements to the Law on Legalization of Facilities** (“Official gazette of RS”, no. 96/2015 and 83/18, hereinafter: the “**Law**”) that was published in the “Official gazette of RS” no. 83/2018 dated October 26th, 2018, and which came into force on November 6th, 2018.

Having in mind the number of illegally constructed facilities which are subject to legalization, the main reason for adopting this Law is to enable more efficient implementation of the procedure for legalization of illegally built facilities in the Republic of Serbia, and to influence adjunctively on the prevention of illegal construction as well as the disposal of such facilities.

Certain provisions of the Law, which became outdated, ceased to exist, while certain provisions were harmonized with the provisions of other new laws, especially with the Law on Planning and Construction and the Law on General Administrative Procedure.

I. Record of objects not registered in the real estate cadaster

The Law has established the registry of facilities that are not registered in the real estate cadaster, which is available on the digital platform of the national geo-space data infrastructure.

II. Facilities subject to the Law and facilities excluded from its application

The Law also amended the provisions in respect to facilities that are subject to legalization. It is prescribed that subject to legalization are facilities for which requests for legalization was submitted by January 29th, 2014, in accordance with the previous law that regulated the legalization of facilities and which are visible on the satellite image of the territory of the Republic of Serbia during 2015.

The Law further stipulates that all facilities built without an issued building permit or decision on the approval of works after November 27th, 2015, are not subject to legalization in accordance with the provisions of the Law, and the civil engineering inspector competent for these facilities issues a resolution on demolition, which is enforced on the date of issuance, in accordance with the Law on Planning and Construction.

III. Prohibition of alienation of facilities in the process of legalization

The Law introduces an explicit prohibition of alienation of facilities that are in the process of legalization, by imposing an obligation for the competent authorities to submit to the competent cadastral offices a certificate confirming that the facility is in the process of legalization within 6 months from the date of entry into force of the law (May 6th, 2019) in order to register the **annotation on prohibition of alienation for the stated facilities.**

IV. Amendments regarding implementation of the decision on demolition of illegally constructed facilities

The most significant amendments to the Law prescribe that the decision on demolition of the facilities issued by the civil engineering inspector based on the records of illegally constructed facilities in accordance with the provisions of the Law **shall not be enforced until the decision on rejection of the request for legalization in the procedure initiated on the basis of the demolition decision is final, as opposed to the previous legal solution by which the implementation of the demolition decision can be enforced only after the legally binding termination of the procedure** (after expiration of the legal deadline for submission of the lawsuit, if the lawsuit was not filed in the administrative dispute, or until completion of the administrative dispute, if the lawsuit was filed in a timely manner).

In addition, the Law prescribes that if a facility, which is temporarily connected to the electricity network, gas network and

electronic communications network or district heating network, water supply and sewage system, is not legalized in accordance with this Law, the civil engineering inspector is obliged to immediately, without delay and no later than three days after receiving the decision on rejection of the request for legalization, deliver a copy of the act to the public company, public utility company, company or entrepreneur who has temporarily connected the facility to its network or infrastructure, and which are obliged to exclude the facility from the network or infrastructure to which it is temporarily connected within 30 days from the receipt of this act.

V. Amendments regarding competence in the process of legalization

The Law now prescribes that cities with city municipalities may entrust the implementation of the process of legalization to city municipalities, in accordance with the provisions of the statute of that local self-government unit.

VI. Amendments regarding deadlines in the procedure of legalization

If, in the term of five years from the date of entry into force of the Law, the facility subject to legalization is not legalized, the competent authority shall issue a decision on rejection of the request. In addition, if a facility for which no legal decision has been issued, is used for commercial or other activities that involve the stay or gathering of a large number of people, and especially if it is used for catering activities or is used as a catering facility, the competent authority shall issue a decision on

prohibition of use of that facility if within five years from the date of entry into force of this Law, the competent authority does not issue a decision on the legalization of the facility in question. The prohibition shall last until completion of demolition of the facility.

VII. Report on the current state and application for determining property tax

The Law prescribes the obligation of preparing a report on the current state with the survey of geodetic works. Additionally, after determining the fulfillment of conditions for legalization of the facility, and before issuance of the decision on legalization, the owner of the illegally constructed facility is obliged to submit proof that he has filed the application for property tax for the illegally constructed facility, if there are no official records on this matter.

The data stated in the tax application must correspond to the content of the technical documentation and the data from the survey of geodetic works that are submitted in the legalization process.

VIII. Deletion of annotations on facilities on which ownership is registered under a special law

The Law further stipulates that the competent authority shall, ex officio, within three days from the date of finalization of the decision on approving the legalization of the facility or a part of the facility, submit a motion to the competent cadaster real estate office for deletion of the annotation

on prohibition of alienation for facilities that are registered in the cadaster based on the Law on Special Conditions for the Registration of Ownership Rights on Facilities Constructed Without a Building Permit.

After the decision on legalization becomes final and binding, upon the motion of the person who registered ownership on the property on the basis of the Law on Special Conditions for Registration of the Ownership Right on Facilities Constructed Without a Building Permit, the annotation that the property was acquired on the basis of the mentioned law shall be deleted from the real estate cadaster sheet.

Disclaimer: The text above is provided for general guidance and does not represent legal advice.

Copyright Cvetkovic, Skoko & Jovicic 2019