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Serbia: Law on Inspection Control

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Regulatory

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The Law on Inspection Control came into force on 29 April 2015, while its implementation will begin on 30 April 2016, except for provisions that regulate unregistered subjects and measures regarding unregistered subjects (implementation of these provisions began as of 30 July 2015 and 30 September 2015).

As of the day of implementation of the Law on Inspection Control, the Law on Government Administration (*Official Gazette of the Republic of Serbia, no. 20/1992, 6/1993 - decision CCRS, 48/1993, 53/1993, 67/1993, 48/1994, 49/1999 – other law, 79/2005 – other law, 101/2005 – other law and 87/2011 – other law*) from 1992 will cease to apply, which was, prior to the implementation of the Law on Inspection Control, the general law regulating the field of inspection. The enactment of the Law on Inspection Control led to the first specific and unified regulation of inspection in Serbia, having in mind that the provisions of the Law on Government Administration were incomplete, unclear and outdated, and were a reminiscence of a different legal system. As unified regulations were absent, the field of inspection was regulated by many different regulations (laws, statutes, rules, etc.), which caused uncertainty and contradictory provisions in the field of inspection control.

One of the main goals of the Law on Inspection Control is to secure lawful conduct of businesses and monitored subjects, with emphasis on prevention, and, if needed, undertaking of repressive measures by designated inspectors, in terms of penalties which should, in comparison to prevention, be used at a much lesser extent.

The Law on Inspection Control also achieves the standardization of the definition and procedures of inspection control by defining types and means of inspection control, and by normative regulation of the first and second Page | 3 instance procedures of inspection control and the enforcement procedure of inspection control, all with the goal of attaining higher legal predictability, security, and certainty for both the controlled subjects and the designated inspectors.

Another novelty of the Law on Inspection Control is precise regulation of coordination measures for inspection control that, amongst other things, introduce the Coordination Commission and designate it as the competent public authority for the coordination of inspection control, with the aim to control inspectors in a more strict and effective way, while avoiding unnecessary repetition of inspection control procedures.

The Law on Inspection Control also prescribes a number of important provisions regarding the suppression of business activities of unregistered subjects (subjects that undertake business activities, but are not inscribed in the corresponding registry). In regards to that, a number of exceptions are prescribed excluding the unregistered subject from general control measures designated for registered subjects. Thus, the plan on inspection control, prepared by the inspection based on the established case and risk assessment, must contain measures for the prevention of business activities by unregistered subjects, whilst inspection control of unregistered subjects can be done even when not envisaged by the plan on inspection control, or by reports on existing inspection control and issued injunctions on inspection control, within the scope of the subject determined during control by the inspector. Same rules are to be used in case of inspection control of a monitored subject that is engaging a person without a work agreement or another legal basis for the engagement at the subject. Besides the aforementioned, inspections that discover that an unregistered subject is undertaking business activities or activities within the jurisdiction of other inspections, are obliged to, without delay, report their findings to the tax inspection authorities and inspection authorities for unregistered subjects, and other competent authorities, so measures and actions within the scope of those authorities and inspections can be undertaken, including joint inspection control and cooperation in execution of engagements.

Finally, the Law on Inspection Control prescribes that current provisions and inspection control plans, as well as annual reports of inspections, are to be published on the web-site of the inspection, with the aim of promoting transparent work and actions of the inspection. Also, a unified inspection information system has been established, with the aim of creating an extensive data base and enabling access to information and documents to competent inspections, with the aim of reducing the administrative burden on monitored subjects and inspections, and better allocation of resources.

After the presentation of the most important novelties of the Law on Inspection Control, we can conclude that the main goal of the enactment of this law is the stimulation of timely fulfilment of obligations by

monitored subjects, uniformity of inspection practice, and the achievement of a larger level of legal certainty, legal protection, and thus an overall improvement of the business environment.