

Open Parliament Newsletter

**PARLIAMENTARY  
INSIDER** 

Issue 3 / Vol 3 / December 2018

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## ● INTRODUCTORY REMARKS

### What marked the work of the Assembly in 2018?

Violations of parliamentary procedures and abuses of the Rules of Procedure marked the year 2018, in which MPs **passed 218 laws, 103 of which by an urgent procedure.**

Amendments “with special emphasis” and the consolidation of the debate in principle for a large number of agenda items that are not interconnected and whose areas are not similar have become an integral part of each sitting. In this way, the time for discussing the laws is reduced to a minimum.

The beginning of the year was marked by **the elections in Belgrade**, whereas MPs started discussing why there were not any parliamentary sessions. While the Deputy Speaker of the National Assembly and SNS MP Veroljub Arsić kept stressing that there were no sessions since no one filed a motion to hold an extraordinary session, the MPs of the opposition parties warned that in this way the ruling party would prevent talking about “unfavourable issues” publicly in the election campaign.

The first sitting in 2018 was held at the beginning of the regular session - in March. MPs then also adopted the Anti-Corruption Agency’s recommendation to dismiss Secretary General Svetislava Bulajić for abuse of office. The new Secretary General who would replace Svetislava Bulajić, by the end of the year, was not appointed.

Conflicts among MPs culminated in attacks of Radicals against Democratic Party’s MP Aleksandra Jerkov, because she asked at the sitting when Vojislav Šešelj’s mandate was going to be dismissed because he was a convicted war criminal. Let us recall that Vojislav Šešelj was convicted to 10 years in prison by the Mechanism for International Criminal Tribunal.

Given that the then incumbent Minister of Finance Dušan Vujović resigned, MPs elected Siniša Mali in May as the new Minister of Finance. Although MPs, but also many public figures pointed out all the affairs in which Siniša Mali was involved, that fact posed no obstacle for the appointment of Mali as the minister.

Failure to observe the procedures and the abuse of the Rules of Procedure continued during the extraordinary sessions as well. Although a large number of laws were adopted, MPs spent more time praising the Government and the President, discussing Meho Omerović and insulting each other.

The second regular session was nothing different. MPs hastily adopted several important laws, such as **Law on Lobbying, Law on Free Legal Aid, Law on Personal Data Protection, etc.** The expert public and NGOs have warned that some of the proposed solutions are bad, but the debate in detail was not conducted regarding these laws. A comprehensive debate has not been conducted even on the most important law in the country – Law on the Budget for 2019.

If we look at 2018, it is clear that the National Assembly does not perform any of its duties and that a further trend of violating rules and procedures is not even possible.

(The op-ed was first published in Danas on 1st of January 2019)

With this we conclude our presentation of the year in the Assembly in a nutshell. The content that follows is dedicated to exploring how December in the Parliament looked like. December is the month in which parliamentary statistics hit its peaks - with the largest amounts of merged items (62) at the parliamentary agenda for the entire 11th convocation - but the Open Parliament has also recorded a significant increase of the number of crucial pieces - new laws and amendments to laws - adopted by urgent procedure. Parliamentary year may have come to an end, but the new year may bring further decline in the quality of parliamentarism if the recorded practice continues.

## THE OPEN PARLIAMENT INITIATIVE

The Open Parliament initiative actively monitors the work of the Parliament of Serbia, on a daily basis since 2012. The Open Parliament collects and publishes data on the work of the Parliament of Serbia and its results, but also analyses different processes within this institution with regard to principles of transparency, accountability and participation.

The aim of the Open Parliament initiative is to contribute to greater openness of the Parliament, but also to inform the citizens on the work of the institution and to establish regular communication between citizens and their elected representatives. The foundation of our work is the international Declaration on the Parliamentary Openness in whose development the Open Parliament has also participated.

Since January 2018, the Open Parliament team has increased the focus of its activities towards observing the level of accountability of MPs and the Parliament.



The Open Parliament initiative is being supported by the German Federal Foreign Office, including the production of the monthly newsletter. Attitudes expressed in the newsletter belong to the Open Parliament team, but do not necessarily reflect the donor’s view.

## Not a word on the budget

The 2019 state budget, together with 61 items of the agenda, have been adopted from Monday to Friday

During the five days of plenary, the MPs have not only failed to discuss the most important law in the state but also have not even mentioned the law that should have been discussed in detail. The opposition protest had no effect to the adoption of the **62 items** of the session agenda.

3.

### Continuation of the sitting initiated in November: who acts against the state?

MPs started the debate in detail about the first item on the agenda – Law Proposal on Central Registry of Compulsory Social Insurance. **521** amendments have been submitted, **328 of which have been submitted by the ruling party.**

Arguments and mutual insults marked this day in the Parliament as well. The MPs of the government and the ones of the opposition spent most of the day discussing who acts against the state. The Speaker of the National Assembly Maja Gojković mentioned for several times that she was being "politically mobbed" and that she was not able to manage the assembly, but also that she did not want to participate in "dismantling the parliament and the state". However, the reprimands were pronounced only to the MPs of the opposition, so they spent the rest of the day standing in the session chamber of the assembly.

4.

### Opposition protest due to disabling the debate on the budget

At the beginning of the debate, MPs requested notifications and explanations, among other things, about the assailants on Borko Stefanović, solving the murder of Oliver Ivanović, the dismissal of Vojislav Šešelj's mandate, etc. For a large part of the day, part of the opposition were standing holding Rules of Procedure up as a response to a large number of amendments the ruling majority submitted thus disabling the debate on the budget.

5.

### MPs of the ruling majority on the work of the President and the Government instead of the amendments

On the third day of the debate in detail, the MPs of the ruling majority were reading amendments to Article 2 of the Law Proposal on the Central Registry of Compulsory Social Insurance, while praising the work of the President and the Government. The opposition MPs mostly did not take part in the debate, and if they did try to talk about the budget, the Speaker of the National Assembly Maja Gojković warned them that this was not a topic, but amendments to the first item on the agenda.

6.

### Reprimands and harsh arguments between the opposition and the Speaker of the Assembly

Before continuing with the debate in detail, MPs sought explanations and notifications, among other things, about the President and the Serbian Government declaring themselves on the Resolution of the European Parliament, about the businesses of NIS, the purchase of "Kopernikus", the reaction of the Constitutional Court to the dissolution of local parliaments in Kula, Kladovo and Doljevac, etc. The day was marked by a heated debate of the Speaker of the Assembly with the MPs from the parties outside of the ruling coalition. While their colleagues from the ruling party were reading amendments, MPs Balša Božović, Boško Obradović and Marko Đurišić reacted by shouting from their seats that they want to speak in accordance with the Rules of Procedure which caused the Speaker of the Assembly to pronounce reprimands to them. When they accused her of taking their time, Maja Gojković replied that they "took 12 years of her life" and thus they cannot be compared.

Part of the opposition MPs protested in the parliament hall because, as they said, they were denied the opportunity to discuss the Law Proposal on the Budget for 2019. They spent the whole night in the hall of the parliament, where they were holding press conferences every two hours. At the last press conference held, they invited the Speaker of the National Assembly Maja Gojković to convene a collegium to normalize the work of parliament.

7.

### All items on the agenda are voted for

Despite the protest of the opposition, all 62 items of the agenda were adopted by majority votes of MPs. Thus, among other things, Law on the Budget for 2019, Law on the Budget System, Customs Law, Law on Salaries of Public Servants and many other laws on the agenda were adopted without being said a word about in the parliament.

12-19.

### Fourth "Week on Parliamentarism"

The National Assembly announced that the "Week of Parliamentarism" will begin on December 12th, on the day the St. Andrew's Day Assembly began its work 160 years ago. However, the detailed agenda of the event was not published, which prevented the citizens and the media from learning more about the events that would be organized. If we look at the most popular media, the impression is that the "Week of Parliamentarism" has not even happened.

26.

### Judges and deputy public prosecutors take an oath of office

The oath was taken before the Speaker of the National Assembly Maja Gojković by 53 newly-elected judges and 23 deputy public prosecutors, who were elected at the Fourth Sitting of the Second Regular Session of the National Assembly.

# PARLIAMENT IN NUMBERS

The statistics is concluded with December 31st 2018



## LEGISLATIVE ACTIVITY

**230** days of legislative activity

**354** adopted laws

**97%** of adopted laws were proposed by the Government

No law proposed by MPs who do not belong to the ruling majority has so far been included on the agenda.



## URGENT PROCEDURE

**51.4%** of all laws (including new laws, amendments to laws and ratifications of international agreements) were adopted by an urgent procedure.

**70.4%** are adopted by an urgent procedure, if we exclude the laws on the ratification of international agreements, which are generally adopted by a regular procedure, and consider only new laws and amendments to laws.



## PAY ATTENTION TO:

“Filibuster” - unlimited discussion of certain issues in order to obstruct the work of the assembly;

Consolidating agenda items into a single debate

Submitting a huge number of amendments by the ruling majority to use up the time for the debate about the the most important law proposals

For the second consecutive year, citizens have not had the opportunity to hear a comprehensive debate on the budget in the Parliament.

## PARLIAMENT'S SUPERVISORY ROLE:

**7 sittings during 2 years during which parliamentary questions were posed:**

October 2016, October 2017, March, April, September, October and November 2018.

**8 public hearings:** only one public hearing was organised in 2018, in November.

**Independent body reports have not been adopted or discussed about at plenary sessions even since 2014.**

**In 2018, only one of the 20 boards is chaired by an MP who does not belong to the ruling majority.**

## ● OPEN PARLIAMENT REACTS

**Press release**

### PREVENTING A DEBATE ON AMENDMENTS TO THE BUDGET MAKES THE PARLIAMENT'S ROLE ABSURD

For the second consecutive year, citizens have not had the opportunity to hear a comprehensive debate on the budget in the Parliament. The MPs of the ruling majority disabled the debate on budget plans for the next year by abusing parliamentary procedures.

By means of cognate debate on 62 agenda items, MPs were left with 5 minutes for the discussion in principle for each agenda item instead of 5 hours. Additionally, by submitting 550 amendments to the two laws preceding the Law on the Budget, the time for a debate in detail was fully spent, thus confirming the intention of the authorities to substantially abolish the debate on the Budget of the Republic of Serbia.

In addition, not even this year did MPs have enough time to prepare for a debate on the budget since the Government submitted the Budget to the Assembly with 23 days' delay. The Law Proposal on the Budget, with more than a thousand pages, was on the agenda of the session the very next day.

Such behavior of the ruling majority is not in the spirit of democracy and is deeply worrying. Parliament should be the place where the elected representatives represent the interests of citizens through the debate and where they improve the laws. The final outcome of such a debate would be a budget that suits the needs of citizens. Without a debate, this budget is the budget of the Government, not the Parliament and the citizens, said Vukosava Crnjanski, director of CRTA.

The Open Parliament Initiative reminds that the entire spring and autumn sessions were marked by the obstruction of the debate by submitting hundreds of non-essential amendments to the first items of the agenda, as well as by consolidating the agenda items of the sittings. By the same principle, the National Assembly adopted the Law on the Budget for 2018, which is why the Open Parliament protested and on that occasion it darkened its portal.

We would like to recall that the European Parliament drew attention to this bad practice that disables discussion and inter-party dialogue within the Serbian Parliament in its resolution on Serbia adopted on November 29th.

## ● ANALYSIS OF THE OPEN PARLIAMENT

### PUBLIC HEARINGS: FROM A GOOD PRACTICE TO A MARGINALISED MECHANISM<sup>1</sup>

Public hearings are a very important mechanism, not only for gathering information and expert opinions regarding the issues for which the members of parliament and the parliament itself need to make decisions, but also for controlling the work of the executive through monitoring the implementation and application of the law. Thus, public hearings devoted to the consideration of legal solutions and the way in which legal solutions are applied are called *legislative public hearings*, whereas those that assess the activities of government representatives and the quality of government programmes are often called *supervisory public hearings*. Besides, the theory recognises *consultative hearings*, intended to help members of parliament to “make decisions on proposals for the election of holders of certain public functions”, as well as the investigative type of public hearings, which focus on the investigation itself in case of suspicion that “public officials have committed an offence while performing their duties”.<sup>2</sup> Investigative public hearings exist in our country, too, but in the form of commissions or boards of inquiry.

The public hearing mechanism, as an example of a good practice in the development of parliamentarism, was first introduced into our legal system in 2010, by the Law on the National Assembly, while the procedures for their organising were precisely defined by the Rules of Procedure of the National Assembly.<sup>3</sup> Unlike the interpellation that an MP can raise as an individual right, committees of the National Assembly initiate organising of public hearing procedures, upon a committee member’s proposal. Once the proposal received, the Committee passes on a decision on organising of a public hearing. The Chairperson of the Committee notifies thereof the Speaker of the National Assembly, who then invites “committee members, MPs and other persons whose presence is of importance for the public hearing topics”.<sup>4</sup>

After this mechanism has been institutionalised, public hearings took off in practice, too, and were fairly regularly organised from 2011 to 2015. In that period there were approximately between 10 and 15 public hearings per year. In 2012, in his analysis of practices of the National Assembly public hearings, Vukadinović rightly concluded that “the institutionalisation of public hearings allowed that they become a permanent (regular) activity in the National Assembly parliamentary practice”.<sup>5</sup> The highest number of public hearings held in one year was recorded in 2013: there was a total of 23 public hearings. However, in 2014, a significant decreasing trend was noted. There were only 10 public hearings held in 2014. In 2015, there were 14 public hearings, and half as many in 2016. There were only seven public hearings organised in 2016. That was the first time that we have had a single-digit number of public hearings since their institutionalisation. In the last two years, there was only one public hearing organised per year, in November 2017 and in November 2018.

<sup>1</sup> The text is an extract from the research on the implementation of the legislative and oversight function of the National Assembly of the Republic of Serbia that shall be published by the end of January 2019, within the project “Civil Society for a Responsible Government”.

<sup>2</sup> More in: Slaviša Orlović, Public Hearings as an institution of a parliamentary practice, the United Nation Development Programme: 2007, pages 17-19.

<sup>3</sup> Articles 83-84, the Rulebook of the National Assembly, “Official Gazette of the Republic of Serbia”, no. 20/2012

<sup>4</sup> Article 84, the Rulebook of the National Assembly, “Official Gazette of the Republic of Serbia”, no. 20/2012

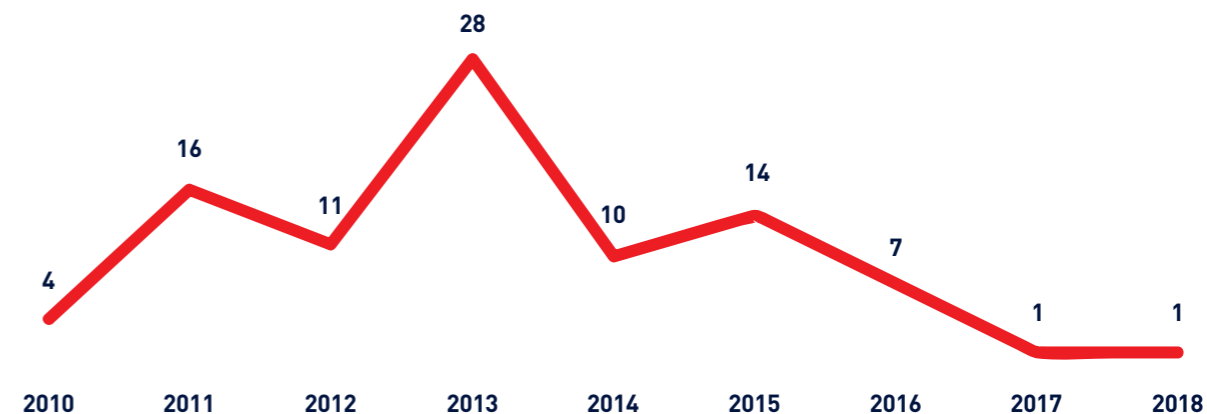
<sup>5</sup> Slobodan Vukadinović, “The Relations between the Citizens and MPs after the Elections”, in: Oliver Nikolić and Vladimir Đurić (edit.), Elections in the National and International Laws, the Institute of Comparative Law, Belgrade: 2012, page 250

Although it appeared that public hearings had become an integral part of the regular parliamentary practice in Serbia, a negligible number of public hearings was held in the last few years which indicates a reversibility of the process in comparison to the previous good practice.

In order to make public hearings an essentially efficient control mechanism, it is crucial not only to organise them regularly, but also to specify topics they are intended for. The analysis of the practice showed that when organising public hearings “life-related topics important for citizens’ problems and systemic problems in the society”<sup>6</sup> were singled out. Between 2012 and 2014, when this mechanism was most often used, public hearings were organised on the topics including media freedoms, higher education, fight against domestic violence, protection against the internet-related child abuse, impact of the GMOs on environment and health, status and perspective of metal industry in Serbia, local elections in Kosovo and Metohija, national priorities for international financial aid, managing of resources coming from IPA 2 funds, etc.

By sifting the current practices, the number of public hearings held in the last two years and the addressed topics, one can pose a question whether in Serbia there are at all socially important topics that require the Parliament’s attention. The only public hearing held in 2017 was dedicated to the role of the National Assembly in the implementation of the sustainable development goals. Without the intention to diminish the significance of this topic, such a specific choice of the National Assembly at the moment when the state of Serbia and its society are facing important challenges such as the solution to the Kosovo issue and changes in the constitutional order of the state on its path to the European Union deserves special attention. On the other hand, the only public hearing organised in 2018 was dedicated to the Bill on Radiation and Nuclear Safety and Security Law in November, submitted by the Speaker of the National Assembly Maja Gojković in her capacity of MP. Interestingly, Maja Gojković was at the same time the chairperson of the managing board of the Agency for Protection against Ionising Radiation and Nuclear Safety of Serbia which was transformed into the Directorate for Radiation and Nuclear Safety and Security by the same Law, while Mrs Gojković remained the chairperson of the managing board.

NUMBER OF HELD PUBLIC HEARINGS 2010-2018.



<sup>6</sup> Slobodan Vukadinović, “The Relations between the Citizens and MPs after the Elections”, in: Oliver Nikolić and Vladimir Đurić (edit.), Elections in the National and International Laws, the Institute of Comparative Law, Belgrade: 2012, page 247.

The question is why public hearing have not been organised on a wide range of key laws adopted or amended in the last two years that have a huge impact on the form of government of the state of Serbia and on the lives of its citizens (the Law on Personal Data Protection, the Law on Free Legal Aid, the Law on the Planning System, the Law on Higher Education, the Lobbying Act, etc). The very fact that the Government is the proponent of laws, i.e., of their modifications and supplements does not justify the lack of interest of the National Assembly itself to organise public hearings on these topics. Moreover, besides legislative public hearings, it is striking that this mechanism was ignored even for the purpose of overseeing the work of the executive power and of the results of the implementation of some of the adopted legal solutions that triggered broader discussions in society.

## ● SUMMARIES OF THE LAWS

### LAW AMENDING THE LAW ON CIVIL SERVANTS

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#### **New system of civil servants work performance appraisal**

In accordance with the amendments to the law, the work performance appraisal of civil servants shall be done on the basis of competences of civil servants and the work results of the organisational unit in which the civil servants carries out the tasks. The appraisal shall serve for planning trainings, development and professional specialized trainings, remedying work deficiencies, termination of the work contract and also for adopting decisions on promotion, rewards, determining salaries and other benefits.

According to the amendments to the law, the work of civil servants shall be monitored during the entire year and the work performance is appraised once during the calendar year. For the managers the appraisal shall be done by the end of January for the previous year, and for executive civil servants by the end of February for the previous year.

The civil servant in an appointed position shall by the decision determine the work performance. The work performance of the civil servant in an appointed position shall be established by the organizational unit manager.

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#### **The system of professionalism and integrity defined through competences as regards work and recruitment in civil service**

The law amendments have for the first time introduced the system of competences, as in the modern systems of public services, with the aim of achieving expected work performance of civil servants at individual work positions. Accordingly, the law proposal defines competences as the set of knowledge, skills, characteristics, attitudes and abilities that the civil servant shall possess, and which shall shape his/her conduct and lead to achievement of work performance at the work position. The government shall closely regulate the competences through its act. The system of competences is important since the selection of candidates for employment shall be done on the

basis of the competence check. Besides, the civil servants promotion shall be done on the basis of the work performance.

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#### **Longer annual vacation for civil servants**

The law amendments have defined that the civil servants shall have to right to the annual vacation which is no shorter than 20 days (legal minimum) and no longer than 35 work days. Until now, the civil servants had the right to a maximum of 30 work days which they could use for their annual vacation. Apart from that, the civil servants who exercise the right to shorter working hours are entitled to maximum 40 work days of the annual vacation.

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#### **Establishing of civil servants employment relationship**

The civil servants employment relationship can be established for the fixed-time period or permanently. As for the employment relationship for the fixed-time period the law provides for 2 new options when the establishment of fixed-term employment is possible, such as the following cases – for replacing the civil servant who has been appointed as the acting executive during his/her mandate and for replacing the civil servant during leave by the reason of performing internship. As for establishing fixed-time employment relationship in the event of the provisional increase of work that cannot be performed by the existing number of civil servants – it is predicted to recruit an employee through the public competition. However, the civil servant selected through this type of public competition can have his/her employment relationship transformed into permanent employment relationship. In this case it is required that civil servant shall fulfil or exceed the expectations set up on the occasion of work performance appraisal so as to establish the permanent work relationship and also that the work position is vacant.

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#### **Salary reduction or the possibility of dismissal for civil servants who fail the expectations**

Civil servant in executive work positions for whom during the appraisal of work performance the need for the improvement has been established, shall be transferred to the lower rank work position that corresponds to his/her type and degree of professional education and for which he/she meets the working conditions, and if such a work position does not exist, he/she shall be assigned a lower coefficient in accordance with the law regulating the salaries in public authorities. For this civil servant it shall be especially emphasized what shall be his/her areas for improvement and he/she shall be referred to special professional training that shall improve his/her competences. If the civil servant shall refuse or fails to attend the programme of professional training that he/she was referred to for the purpose of work performance improvement, it shall be observed as the heavier violation of duty from the employment relationship. If during extraordinary or annual appraisal of work performance for the civil servant it has been established that he/she fails the expectations, the employment relationship shall be terminated by the day of the final decision on the appraisal of work performance.

## LAW AMENDING THE LAW ON PROPERTY TAX

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### Tax return may be filed through public notary as well

If during the acquiring or disposal of property the contract shall be certified by the public notary, he/she can file the tax return for the benefit of contracting parties. Therefore, if the tax payer shall acquire or dispose of property and get stamp by the public notary for that legal transaction, he/she shall have the right to file the tax return through the public notary. The tax payer may but need not use this right. If he/she gives consent and desires to establish his property tax in this way, the public notary shall file the tax return to the cadastre office which shall later on deliver the tax return to the competent tax administration. If the tax payer does not want to file the tax return in this manner, the public notary shall undertake to draw up a special note that shall again be delivered to cadastre that shall forward it to the competent tax administration. If the tax return has not been made and forwarded through the public notary, the tax payer has 30 days to notify the competent tax administration and file the tax return. In this manner the tax return can be filed in the case of gifts, inheritance and absolute rights transfer. If there are no designated public notaries for the particular municipality/city, the obligation of delivering the tax return shall lie with the court of local jurisdiction (the court which has validated the legal transaction).

### Integral part of the land as the notion that shall be exempted from the property tax

The law proposal shall introduce new category – integral part of the land which shall mean that no property taxation shall be carried out for the following objects:

- 1) the paths and other open spaces covered with slag, asphalt, concrete, slabs or other solid material at the level of the ground, open parking space, object driveway, open traverse – testing track for training candidates for driving licence and drivers;
- 2) a fence, retaining wall, staircase outside of the object overall dimensions, gardening shade up to 15 m<sup>2</sup> ground area, garden pool (including fountains) with ground area up to 12 m<sup>2</sup> and 1 m depth, the canopy with ground area up to 10 m<sup>2</sup>, backyard fireplace up to 2 m<sup>2</sup> area and 3 m height, cattle pit, septic tank, notification board with ground area up to 6 m<sup>2</sup>, children playground, monument and memorial in the area intended for public use or at the graveyards and tombstones;
- 3) the installations incorporated in the object or the installations from the object to network connection, and if the position of the connection cannot be precisely determined, the installation integrated into the object shall be observed as the integral part of the object.

## LAW AMENDING THE LAW ON CORPORATE INCOME TAX

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### Incentives for the economic operators if they invest in start-up companies

Bearing in mind the new technologies and innovations importance for current politics of the state, the law proposal provides additional benefits for economic operators which invest in start-up companies – these are the subjects established in the past 3 years which are performing innovative activities. Namely, each economic operator, other than start-up, which has invested in the newly

established start-up, shall receive the tax loan of 30% of the investment. This right may be exercised by all economic operators that do not own more than 25% of the shares or a part in the new start-up. Besides, on the occasion of the initial investment the economic operator must continue investing the same amount of funds in the start-up for the following 3 years in order to exercise a right to the tax loan. Upon fulfilling the requirement as regards the continuous investment, the economic operator may use the tax loan the following year already. The amount of the tax loan that is recognised for the individual economic operator shall not be higher than RSD 100 million.

### New incentives for research and IT sector

With this new solution, the expenses which are directly related to the research and business development may be recognised as the expenditure in the tax balance of the tax payers, but for the double amount. The proposed solution is first of all related to the IT sector and the innovation sector. The research shall not in particular recognise the expenses incurred for the purpose of finding oil, gas or other mineral deposits. More detailed regulation of the expenses which are directly related to the research and development shall be determined by the minister of finance.

## LAW AMENDING THE LAW ON TEMPORARY REGULATION OF SALARY AND OTHER STEADY INCOME CALCULATION AND PAYMENT BASES OF PUBLIC FUND USERS

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### Higher salaries for employees in public undertakings

The Law on temporary regulation of salary and other steady income calculation and payment bases of public fund users stipulated that the employees shall receive salaries reduced for 10% due to austerity measures/fiscal consolidation. The law proposal provides that the employees in public undertakings established by the state, and/or local authorities as well as in the legal entities with direct or indirect control of more than 50% of capital by the state, and/or the local authorities and the entities in which the state, and/or local authorities have more than 50% of votes in the management bodies, shall no longer receive salaries with 10% decrease but with 5% decrease. Therefore, the employees working in this scope of state organisations (primarily public undertakings) shall receive 5% salaries increase starting from January 1st, 2019.

## LAW AMENDING THE LAW ON TAX PROCEDURE AND TAX ADMINISTRATION

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### **In the area of the games of chance, the tax administration shall no longer have the powers**

The law amendments dismiss the powers of the Tax Administration as regards the games of chance. Namely, newly established Games of Chance Administration shall take over the powers of the Tax Administration concerning the area of games of chances starting from March 1st, 2019.

### **Tax Administration may establish the property tax on the basis of the information from public authorities and public notaries**

On assessing the property tax, the tax payer himself can file a tax return to have the amount of property tax assessed. If the tax payer fails to undertake this, the tax administration has to assess the value of the property tax on the basis of the facts independently. Now, if the tax payer fails to file the tax return, he/she shall not be able to submit observations in the tax procedure on the occasion of assessing the property tax. Namely, on the basis of the law proposal, the tax administration may assess the value of property tax independently on the basis of the information from state and competent authorities but also on the basis of the public notaries' data. Related to this, the obligation has been laid down for cities and municipalities, public undertakings as well as the legal and natural persons who carry out tasks under the public law (e.g. notaries, enforcement officers) that they must submit data which shall be used as the basis for the tax assessment as well as the control and tax collection no later than 30 days.

## LAW AMENDING THE LAW ON GAMES OF CHANCE

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### **Improving control in preventing money laundering and terrorism financing by specifying competences of the authority in exercising office and field surveillance**

**Office surveillance** shall actually mean the activities where the Administration shall examine completeness and compliance of delivered data with the law. There is a record on each act of surveillance carried out to establish the facts, and the person who is in charge for making record shall be the inspector. The games operator can lodge a complaint against the record no later than 5 days from the day of delivery, and the inspector shall examine those complaints no longer than three days. If the irregularity shall be established, the decision shall be drawn up concerning the remedying of irregularities.

As for the field surveillance it shall mean the procedure of inspection and establishing the legality and regularity of organising games of chance by the operator as well as the surveillance as regards preventing money laundering and terrorism financing. The operators shall be obliged to enable inspectors to examine the rooms but also all necessary material and objects in relation to the games of chance. Upon establishing that organising games of chance is carried out without the authorisation of the Games of Chance Administration, the inspector shall be authorised to adopt the decision on the temporary closure of the object, and/or the confiscation of items and the equipment used. If he/she shall establish that facts and circumstances indicate that there has been a criminal offence, he/she shall file criminal charges to the competent authority.

## Games of Chance Administration shall take over some of the Tax Administration powers

For the purpose of improving the efficiency of the control for business activities in area of games of chance, the Games of Chance Administration shall take over the activities previously under the competence of the Tax Administration starting from March 1st, 2019. The proceedings initiated by the Tax Administration which shall not be completed by the time of this law entry into force, shall be taken over by the newly established Games of Chance Administration. Moreover, the Administration shall take over the Tax Administration officers – the Sector for games of chance, as well as the cases, information system, archive, equipment and labour resources.

## LAW AMENDING THE LAW ON INSPECTION SUPERVISION

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### **Introducing mixed inspection supervision**

The law amendments introduced the mixed inspections, apart from the existing two – regular and extraordinary. Mixed inspection shall be carried out when the subjects of regular and the extraordinary inspection supervision are matching or related.

### **Introducing the institute of undercover buy**

The undercover buy is the new institute introduced by the amendments to this law, used in the case of a reasonable doubt that a person performs business activity without registration. If the evidence cannot be obtained in any other way this institute shall be used. Undercover buy shall be carried out without prior notice to the subject being supervised, and the inspector shall collect information and evidence by direct observation where in the end of the completed buy he/she shall show the official identification and warrant to the subject being supervised.

### **Compliance with the Law on e-government**

One of the amendments of this Law shall be the e-Inspektor, a software solution that originated for the purpose of compliance with the provisions of the Law on e-government. For the purpose of easier monitoring and recording of the supervision data, the electronic records of the inspection supervision shall be introduced and the prescribed data shall be included in the Register.

## LAW AMENDING THE LAW ON THE PROPERTY RESTITUTION AND COMPENSATION

The procedure for restitution and compensation for the property confiscated on the basis of nationalisation acts after the Second World War has been regulated by the Law on the Property Restitution and Compensation from 2011. The rules related to the compensation shall enable the government that for the cases provided by the law, instead of recovering the property in its natural form, the old owners shall be compensated in the form of government bonds of the Republic of Serbia, or in cash for the payment of advanced compensation.



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### **Extending the deadline for calculating interest for the commencement of calculating interests for compensation beneficiaries from 15/12/2017 to 30/06/2020**

The law stipulates that the total amount of compensation that the government shall pay will not exceed EUR two billion, plus the sum of accrued interests for all compensation beneficiaries, calculated at an interest rate of 2% per annum. With the law amendments, the deadline for interest calculation commencement shall be changed from 15/12/2017 to 30/06/2020.

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### **Extending deadline for calculating the compensation coefficient, for the bonds maturity and payment of advance compensation on the grounds of the valid decision**

The law provides that the amount of compensation shall be determined in EUR, by multiplying the compensation basis with the coefficient equal to the ratio between the amount of two billion EUR and the total sum of individual compensation basis determined by decisions on the compensation right increased by the estimated undetermined bases. The law amendments have extended the deadline from five to eight years for the government to determine the compensation coefficient. Consequently, the deadline for the maturity of bonds shall be extended (from 05/10/2018 to 15/12/2021) and the obligation of the state to effect irreversibly the advance payment of compensation to the former owners for whom the valid decision on the amount of the compensation has been determined (by 31/03/2021).

Although the government was obliged to regulate the basic elements of the bonds, the amount of issue, as well as conditions of distribution and collection of bonds by 30 June 2017, the law amendments have extended this deadline, so the government may be able to carry out this obligation by 30 June 2020.

## **LAW AMENDING THE LAW ON COMPANIES**

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### **Carrying out legal action without a stamp**

The law amendments prescribe that when the company concludes legal activities, and/or carries out legal actions, the courts, state authorities, organisations and persons carrying out tasks under the public law, as well as other legal persons, may not object as regards the non-use of the stamp, and it cannot be underlined as the reason for annulment, termination, and/or invalidity of the concluded legal transaction, and/or legal actions taken, even if the internal acts have prescribed that the company shall have and use the stamp in its business activities.

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### **Shorter deadline for publishing notification on the concluded legal transaction**

Moreover, by the law amendments the deadline for publishing notification on the concluded legal transaction, and/or legal action taken, involving the personal interest, shall be reduced from 15 to three days

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### **Improving protection of minority company members**

The law amendments have also been directed to improving the protection of the minority members of the company in accordance with the Action Plan – Doing Business. The supplements of

the law prescribe that in the case of the individual complaint, that shall be filed by the member of the company due to the violations of the special duties towards the company, under the prescribed requirements, the competent court shall pronounce the measure of the temporary restriction of the rights of exercising the function of the director, members of the supervisory board, representative or the procurator for the duration of one year. Moreover, it is prescribed that following the validity of this decision the court shall deliver the decision concerned to the Business Registers Agency for the purpose of registering in the Central Register of temporary restrictions of the rights of the persons registered in the Business Registers Agency.

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### **The obligation of publishing data on employment, occupation and functions of the director and members of the supervisory board of the public limited-liability company**

The law amendments shall regulate the obligation to publish data on the employment, occupation and functions of the director and members of the supervisory board of the public limited-liability company, in accordance with measures from the Action Plan – Doing Business list. Namely, the public limited-liability company shall undertake to publish on its website the accurate and updated data on the occupation and former employment of the members of the board of directors, and/or supervisory board, as well as the data on the membership in other boards and functions they carry out in other companies.