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Serbia: New Inspection Act in effect: be inspection-ready

The new Inspection Act came into force on 29 April 2015, with the majority of its provisions coming into effect as of 29 April 2016.

The new Inspection Act (the "**IA**") introduces several key changes:

- The Act serves as the framework regulation for all inspection procedures;
- The inspection control procedure is now more transparent and standardized for legal entities: **inspection plans and control lists are published on inspectorates' websites**;
- Lists of legal entities failing to comply with the applicable regulations will be published on inspectorates' websites;
- Inspectorates must give legal entities written notice of an inspection, three working days prior to the inspection at the latest (this is not mandatory only in exceptional cases);
- **The powers of inspectorates are now much broader** (e.g. an inspectorate can in exceptional cases order that the carrying on of a business activity be prohibited, and that property and documents be seized etc.);



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Be familiar with the time and scope of upcoming inspections

Based on inspection plans, entities can now acquaint themselves with the time, scope and goals of an upcoming inspection.

Inspectorates must prepare strategic – perennial, and yearly inspection plans, with the latter being implemented through half-yearly, quarterly, and monthly inspection plans.

Inspection plans, *inter alia*, **state the frequency and scope of planned inspections, list of entities to be inspected, an inspection schedule**, territory in which the inspections are to be conducted, evaluated risks, information on types of inspection that are to be conducted etc.

Compliance levels of inspected businesses with applicable regulations will now be gauged using the **control lists i.e. checklists**.

The checklist is **a document that contains a list of priority inspection issues**, and other activities to be covered by the inspection, listed according to the severity of potential harmful consequences in a given area, in accordance with the rules on risk assessment, and the subject and scope of the inspection.

Each inspectorate must draw up checklists in its area of inspection, publish them on its website, and apply to the regular inspection procedure.

A certain number of checklists have already been disclosed on the website of the Coordination Committee, with the remaining expected to be disclosed on this

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website in the near future (<http://www.inspektor.gov.rs/#/item/13/kontrolne-liste>).

According to unofficial information received from the Labour Inspectorate, this inspectorate is expected to adopt a checklist during the course of this week, and until then they shall not conduct any regular inspections.

Procedural Steps

Inspectors give the entities under inspection at least three working days' **written notice** of the inspection being conducted. Exceptionally, inspections can be conducted without notice if there are justified grounds, or concern that notice would adversely impact on the objectives of the inspection, or if there are grounds for protecting the public interest, or preventing, or eliminating an imminent danger to human life or health, assets, rights and interests of employees and the workers, the economy, environment, flora and fauna, communal order or security.

When conducting an inspection, inspectors are bound by the content of the **inspection order**.

In principle, if during an inspection an inspector identifies a particular violation of law, he/she must request that the original order be amended, except where urgent measures should be taken to prevent or remove an imminent danger to human health and life, the environment, flora or fauna (certain types of inspection can be conducted even in the absence of an inspection order (on-the-spot and subsequent inspections)).

What are the Inspectorate's powers?

If an inspector identifies incompliance with regulations, which is punishable by law, he/she may bring criminal charges, charges for an economic offence, motion for initiation of misdemeanour proceedings, or issue a misdemeanour order with the competent judicial authority. The inspector may take other steps and measures to which the law or other regulations entitle him/her (e.g. initiate temporary or permanent revocation of license).

The inspector is entitled to, without additional deadlines to address shortcomings, **impose a ban on business activities, or carrying on of an activity or seizure of property or documents** if it is necessary to urgently prevent or eliminate an imminent danger to human life or health, valuable assets, *rights and interests of employees and the workers*, the economy, environment, flora and fauna, high-value public revenues, the undisturbed operation of public bodies and organisations, communal order or security.

In a situation when an inspected entity has, within the deadline, complied with the order or proposal of the inspector for remedying the violations, the inspector shall not file a motion for initiation of misdemeanor proceedings against the inspected entity, if the maximum amount of the fine imposed for the offence does not exceed RSD 100,000 (approx. EUR 800) and protective measures were not imposed, provided no harmful effects have occurred, and where such consequences occurred but were addressed by the entity before the inspection commenced, or within the given timeframe. This is not possible in case of recidivism.

Having in mind the explained changes above all business entities are advised to check whether they are in compliance with the published checklists and duly prepare themselves for the upcoming inspections.