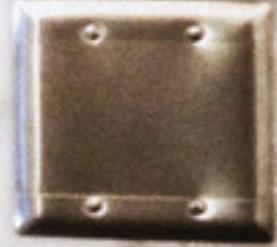




No Lobbyists
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LAW ON LOBBYING

ZAKON O LOBIRANJU



Zakon o Lobiranju / The Law on Lobbying

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Dana 9. novembra usvojen je Zakon o lobiranju (u daljem tekstu: „Zakon”), koji će stupiti na snagu u avgustu sledeće godine. Dugo očekivani rad na donošenju Zakona o lobiranju počeo je u proleće 2018. godine i predstavlja početak antikorupcijske normativne reforme. Osnovni cilj Zakona je da uspostavi jasan normativni okvir u oblasti lobiranja, kroz zaštitu javnog interesa i načela integriteta i otkloni nedostatke u pravnom sistemu Republike Srbije.

Law on Lobbying (hereinafter: the “Law”) which was adopted on 9 November will enter into force on 13 August next year. The long-awaited work on the adoption of the Law on Lobbying began in the spring of 2018 and it represents the beginning of an anti-corruption normative reform. The basic goal of the Law is to establish a clear normative framework in the field of lobbying through protection of public interest and the principle of integrity, as well as to eliminate the shortcomings in the Serbian legal system.

Zakon lobiranje definiše kao aktivnost kojom se, u cilju ostvarivanja interesa korisnika lobiranja, vrši uticaj na organe vlasti, odnosno na lica zaposlena/angajovana u organima vlasti (republičkim, pokrajinskim i lokalnim organima kao i drugim imaočima javnih ovlašćenja) (u daljem tekstu: „Lobirano lice“) u postupku pripreme i donošenja zakona, propisa i drugih opštih akata iz nadležnosti navedenih organa. Zakon izostavlja definisanje aktivnosti koje predstavljaju lobiranje, ali navodi aktivnosti koje se neće smatrati lobiranjem. Između ostalog, radnjom lobiranja se neće smatrati građanske inicijative upućene ogranicima vlasti na predložena rešenja zakona i drugih akata, kao ni informacije, stavovi i mišljenja o pravnim aktima koja budu objavljena u sredstvima javnog informisanja.

Under the Law, lobbying is defined as an activity that is performed in order to influence the authorised bodies, i.e. persons employed/engaged therein (republic, provincial and local authorities, as well as other public authority holders) (hereinafter referred to as: “Lobbied Person”) in the interest of the lobbying clients during the process of preparation and adoption of laws, regulations and other general acts falling within the competence of the abovementioned authorised bodies. Although the Law does not define lobbying activities, activities that are not deemed as lobbying are listed and they include, *inter alia*, citizens’ initiatives directed to the authorities regarding proposals of laws and other acts and information and opinions concerning legal acts published in the media.

Kada su u pitanju lica koja će biti ovlašćena da obavljaju lobiranje, Zakon propisuje uslove za obavljanje lobiranja koji se razlikuju zavisno od toga da li je lice fizičko ili pravno, domaći ili strani državljanin. S tim u vezi, lobiranje mogu obavljati:

- domaća fizička lica upisana u registar lobista;
- domaća pravna lica i udruženja upisana u registar pravnih lica koja obavljaju lobiranje;
- strana fizička ili pravna lica upisana u posebnu evidenciju i
- fizička lica koja nisu upisana u registar lobista (zakonski zastupnici ili zaposleni kod korisnika lobiranja, kao i lica koja zastupaju interesu udruženja ili privrednog društva čiji je član korisnik lobiranja).

(u daljem tekstu zajedno navedeni kao: „Lobisti“)

Navedeni registri i posebna evidencija predstavljajuće javne evidencije, a njihovo vođenje povereno je Agenciji za borbu protiv korupcije (u daljem tekstu: „Agencija“) koja će sprovoditi obuku lobista i odlučivati o upisu, promeni i brisanju podataka.

Postupak lobiranja će započinjati obraćanjem Lobierte Lobiranom licu u pismenoj formi uz navođenje ispunjenosti propisanih uslova za obavljanje lobiranja kao i akta za koji se obavlja lobiranje. Obraćanju Lobierte obavezno će prethoditi zaključenje Ugovora o lobiranju između Lobierte i fizičkog ili pravnog lica u čijem se interesu obavlja lobiranje - korisnika lobiranja.

Zakon reguliše bitne elemente tog ugovora, uslove za njegov dobrovoljan i obavezan raskid i prekid postupka lobiranja. Prava Lobierte obuhvataju pravo da traži da ga Lobirano lice primi u blagovremenom roku i pruži mu sve neophodne podatke i obaveštenja koja se odnose na premet lobiranja.

The Law also stipulates the conditions for performing lobbying activities, which differ depending on whether the lobbyist is a natural person or a legal entity and on whether it has domestic or foreign origin. In this regard, lobbying may be performed by:

- domestic natural persons registered in the lobbyist register;
- domestic legal entities and associations registered in the register of legal entities performing lobbying;
- foreign natural persons or legal entities registered in special records and
- natural persons which are not registered in the lobbyist register (legal representatives or employees of the lobbying clients, as well as persons representing the interests of the association or company whose member is the lobbying client).

(hereinafter jointly referred to as: "Lobbyists")

The abovementioned registers and special record will represent public records and their management is entrusted to the Anti-Corruption Agency (hereinafter referred to as: "Agency"), which will conduct the training of the lobbyists and decide on the inscription, change and deletion of data.

Lobbying will commence by the Lobbyist addressing the Lobbied Person in writing, presenting the evidence on fulfilment of the stipulated conditions for performing lobbying as well as specifying the act for which lobbying is performed. Lobbying Agreement between the Lobbyist and a natural person or a legal entity in whose interest the lobbying is performed is must be executed before commencing the procedure of lobbying.

The Law regulates the essential elements of that agreement, the conditions for its voluntary and obligatory termination and the obligatory termination of the lobbying procedure. Lobbyists have the right to request that the Lobbied Person makes an appointment with them in a timely manner and provide them with all the necessary information and notices relating to the lobbied act.



Kao rezultat namere zakonodavca da zaštiti javni interes i zakonitost samog postupka lobiranja, Zakon predviđa strog nadzor Agencije nad obavljanjem lobiranja. Naime, Lobirana lica biće u obavezi da o prijemu dopisa Lobiste u roku od 15 dana Agenciji dostave obaveštenje, a na zahtev Agencije i vanredno obaveštenje o lobističkim kontaktima, dok će organi vlasti biti u obavezi da o svim lobističkim kontaktima vode propisnu evidenciju. Takođe, domaća fizička i pravna lica upisana u Registre lobista biće u obavezi da Agenciji dostavljaju godišnji pismeni izveštaj o radu.

As a result of the legislator's intention to protect the public interest and the legality of the lobbying procedure itself, the Law stipulates strict supervision of the Agency over the lobbying procedure. Namely, Lobbied persons will be obliged to send a notice to the Agency within 15 days as of receiving the Lobbyist's written submission. At the request of the Agency Lobbied persons shall also submit the extraordinary notice on lobbying contacts, while the authorities will be obliged to keep a proper record of all lobbyist contacts. Also, domestic natural persons and legal entities registered in the Register of Lobbyists will be obliged to submit a written annual work report to the Agency.

U slučaju kršenja obaveza predviđenih Zakonom, Agencija će biti ovlašćena da izrekne mere, odnosno pokrene disciplinske postupke protiv Lobiranog lica, odnosno odgovornog lica u organu vlasti, dok je za kršenje odredbi Zakona od strane Lobista, korisnika lobiranja predviđena prekršajna odgovornost.

In the event of violation of obligations provided by the Law, the Agency will be authorized to impose measures or initiate disciplinary proceedings against the Lobbied person i.e the responsible person in the authorised body, while misdemeanour liability is foreseen for the violation of the provisions of the Law by the Lobbyist or the lobbying clients.

Osnovni cilj donošenja ovog Zakona jeste regulisanje lobiranja shodno međunarodnim obavezama Republike Srbije i to na način kojim se podiže odgovornost lobiranih lica koja vrše javne funkcije, a sve u cilju povećanja poverenja građana u proces donošenja odluka. Vreme će pokazati da li će predviđena rešenja služiti ovoj funkciji.

The main goal of the adoption of the Law is the regulation of lobbying in accordance with the international obligations of the Republic of Serbia in a way that raises the responsibility of the lobbied persons performing public functions, all in order to increase the confidence of citizens in the decision-making process. Time will show whether the solutions envisaged will serve this function.



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