



JANKOVIĆ POPOVIĆ MITIĆ



AMENDMENTS TO THE AIR TRANSPORT LAW

ZAKON O IZMENAMA I DOPUNAMA ZAKONA O

VAZDUŠNOM SAOBRAĆAJU

Zakon o izmenama i dopunama Zakona o vazdušnom saobraćaju/
Law on the Amendments and Supplements to the Air Transport Law
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Dana 26.10.2018. godine usvojen je Zakon o izmenama i dopunama Zakona o vazдушnom saobraćaju ("Službeni glasnik RS", br. 83/2018) (u daljem tekstu: „Zakon“) koji je stupio na snagu 06.11.2018. godine.

Zakon omogućava dalje usklađivanje sa međunarodnim standardima i preporučenom praksom Međunarodne organizacije civilnog vazduhoplovstva (ICAO), kao i sa evropskim propisima u ovoj oblasti. Glavne novine koje uvodi Zakon odnose se na odredbe koje se tiču planiranja i izgradnje aerodroma, zaštite životne sredine, a naročito transporta opasne robe koje predstavlja potpuno novo poglavlje kojim domaće zakonodavstvo preuzima standarde Međunarodne organizacije civilnog vazduhoplovstva (ICAO) o kojima će niže u tekstu biti reči.

Pored navedenih, istakli bismo i novine koje se odnose na proglašenje linije u javnom interesu kao i na obavljanje međunarodnog javnog avio prevoza sa Republikom Srbijom.

Kada je u pitanju prevoz na liniji u javnom interesu, Zakon proširuje ovlašćenja Vlade da obavljanje avio-prevoza na liniji u formi odluke proglaši javnim interesom. Ove izmene se odnose na situacije kada je potreba obavljanja redovnog avio-prevoza utvrđena posebnim bilateralnim ili multilateralnim sporazumom. Osim pomenute izmene, ukinut je i šestomesečni rok po čijem isteku ministarstvo nadležno za poslove saobraćaja može pokretanjem postupka javne nabavke odabrati avio-prevozioca. Zakon sada propisuje da nadležno ministarstvo to može učiniti ako nijedan avio-prevozioc ne započne ili ne pokaže da za „kratko vreme“ može da započne redovni avio-prevoz.

U delu koji se odnosi na obavljanje međunarodnog javnog avio-prevoza sa Republikom Srbijom, sada su Zakonom propisani uslovi koje avio-prevozioc mora da ispunjava da bi dobio odobrenje za obavljanje međunarodnog javnog avio-prevoza sa Republikom Srbijom.

On 26 October 2018 the Law on the Amendments and Supplements to the Air Transport Law ("Official Gazette of the Republic of Serbia", no. 83/2018) (hereinafter: the "Law") was adopted and entered into force on 6 November 2018.

The Law enables further harmonization with international standards and recommended practices of the International Civil Aviation Organization (ICAO), as well as the European regulations in this field. The main novelties introduced by the Law are related to the provisions concerning planning and construction of the airports, environmental protection and in particular, the transport of dangerous goods, which constitutes a completely new chapter by which domestic legislation implements the standards of the International Civil Aviation Organization (ICAO), that will be elaborated in the text below.

In addition to the aforementioned, we would like to highlight the novelties regarding the designation of a route in the public interest as well as performing of the international public air transport with the Republic of Serbia.

When it comes to the transportation on a public interest route, the Law extends the authority of the Government to declare, in form of a decision, the air transport on a route as public interest. These changes relate to the situations where the need for performing regular air transport is determined by a specific bilateral or multilateral agreement. In addition to this amendment, the six-month deadline by the expiry of which the ministry responsible for traffic affairs could initiate a public procurement procedure for determining the air carrier was deleted. The Law now prescribes that the competent ministry can do this in case no air carrier starts or does not show that it can start scheduled air services in "short term".

In the part relating to the performance of the international public air transport with the Republic of Serbia, now it is the Law which prescribes the conditions that an air carrier must fulfill in order to obtain the approval for conducting international public air transport with the Republic of Serbia.

Ti uslovi se, između ostalog, odnose na pribavljanje propisanih ovlašćenja za obavljanje zahtevanog javnog avio-prevoza, ispunjavanje međunarodnih standarda u oblasti bezbednosti i obezbeđivanja u vazduhoplovstvu od strane države čiji je nadležni organ izdao prethodno pomenuto ovlašćenje i države registracije vazduhoplova, posedovanje odgovarajućeg osiguranja od odgovornosti za štetu stranog avio-prevozioca itd.

Pored navedenog, Zakon uvodi i jedan izuzetak u pogledu pribavljanja odobrenja Direktorata civilnog vazduhoplovstva Republike Srbije (u daljem tekstu: „Direktorat“) na plan leta koji strani avio-prevozilac koji obavlja međunarodni javni avio-prevoz sa Republikom Srbijom podnosi pružaocu usluga u vazdušnoj plovidbi. Naime, Zakon isključuje obavezu pribavljanja odobrenja Direktorata na plan leta onda kada je potvrđenim međunarodnim ugovorom predviđeno da odobrenje nije potrebno.

Posebno važnu novinu predstavlja uvođenje potpuno novog poglavlja kojim se detaljno uređuje transport opasne robe vazdušnim putem. Zakon ovim uređuje, između ostalog, pitanje uslova pod kojima strani avio-prevozilac može da transportuje opasnu robu na teritoriju i sa teritorije Republike Srbije a koje uslove propisuje Direktorat, zatim u pogledu kojih predmeta i materijala je transport vazdušnim putem zabranjen, kao i obaveze pošiljaoca opasne robe pre njenog transporta i obaveze operatera vazduhoplova. Strani avio-prevozilac koji namerava da transportuje opasnu robu na teritoriju Republike Srbije ili sa teritorije Republike Srbije u obavezi je da najkasnije 30 dana pre započinjanja transporta pribavi odobrenje od strane Direktorata.

These conditions include, inter alia, obtaining of prescribed authorizations for conducting requested public air transport, the fulfillment of international standards in the field of safety and security in aviation by the state whose competent authority has issued the aforementioned authorization and the state of aircraft registration, possession of the appropriate liability insurance for damages of the foreign air carrier etc.

In addition to the above, the Law also introduces an exception to obtaining the approval of the Civil Aviation Directorate of the Republic of Serbia (hereinafter: the “Directorate“) on the flight plan submitted by the foreign air carrier carrying out international public air transport with the Republic of Serbia to the air navigation service provider. Namely, the Law excludes the obligation to obtain the approval of the Directorate on the flight plan, when ratified international agreement stipulates that the approval is not necessary.

One of the major novelties of the Law represents the introduction of completely new chapter that regulates in detail the transport of dangerous goods by air. The Law here governs, inter alia, the conditions under which a foreign air carrier can transport dangerous goods to the territory and from the territory of the Republic of Serbia, which conditions are prescribed by the Directorate, in respect of which objects and materials the air transport is prohibited, as well as the obligations of the shipper of dangerous goods before transport and the obligations of the aircraft operator. Foreign air carrier who intends to transport dangerous goods to the territory of the Republic of Serbia or from the territory of the Republic of Serbia needs to obtain the approval issued by the Directorate at the latest 30 days prior to the planned transport.



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