



JPM

JANKOVIĆ POPOVIĆ MITIĆ

CORONAVIRUS

PRIMENA ROKOVA U UPRAVNIM POSTUPCIMA ZA VREME
PROGLAŠENOG VANREDNOG STANJA

DEADLINES IN ADMINISTRATIVE PROCEDURES DURING THE
STATE OF EMERGENCY

Primena rokova u upravnim postupcima za vreme proglašenog vanrednog stanja/
REGULATION ON DEADLINES IN COURT PROCEEDINGS DURING A STATE OF EMERGENCY
Publisher: JPM Janković Popović Mitić
NBGP Apartmani, Vladimira Popovića 6
www.jpm.rs
Autor: Jelena Milnovic Partner
Design and prepress: JPM Janković Popović Mitić
Copyright: © JPM Janković Popović Mitić 2020. All rights reserved.

Disclaimer:
The sole purpose of this publication is to provide information about specific topics.
It makes no claims to completeness and does not constitute legal advice.
The information it contains is no substitute for specific legal advice.

If you have any queries regarding the issues raised or other legal topics, please get in touch with your usual contact at JPM Jankovic Popovic Mitic.

Nadležne institucije Republike Srbije nastavljaju sa legislativnim aktivnostima koje su vezane za vanredno stanje koje je proglašeno 15. marta 2020. godine, o čemu ćemo nastaviti da informišemo, kako naše klijente, tako i svakog zainteresovanog pojedinca, pravno lice ili privredno društvo. U skladu sa rečenim, dana 24. marta 2020. godine, doneta je i istog dana je i stupila na snagu Uredba o primani rokova u upravnim postupcima za vreme vanrednog stanja (u daljem tekstu: Uredba).

Najznačajnija odredba ove Uredbe sadržana je u stavu 1 njenog člana 2 koji propisuje da stranke u postupcima pred organima koji postupaju u skladu sa zakonima kojima se uređuje opšti upravni postupak ne mogu za vreme vanrednog stanja u Republici Srbiji snositi posledice svog, eventualnog, nepostupanja u rokovima propisanim ili određenim tim zakonima.

Ovo, jednostavno rečeno, znači to da, ukoliko bilo koja stranka, fizičko ili pravno lice, za vreme trajanja vanrednog stanja, počev od dana 15. marta 2020. godine, kada je ono proglašeno, pa do dana kada bude ukinuto, pred državnim organom koji postupaju u skladu sa zakonima kojima se uređuje opšti upravni postupak, na primer, ili ne pokrene upravni postupak, ili u pokrenutom upravnom postupku ne preduzme neku procesnu radnju ili ne uloži neko pravno sredstvo ili ne izjavi neki redovni ili vanredni pravni lek, bez obzira na to da li se radi o prvostepenom, drugostepenom ili upravnom postupku po vanrednim pravnim lekovima, neće snositi nikakve posledice svog propuštanja.

Ova Uredba se odnosi na upravne postupke pred:

- državnim organima;
- državnim organizacijama;
- organima pokrajinske autonomije;
- organizacijama pokrajinske autonomije;
- jedinicama lokalne samouprave;
- ustanovama;
- javnim preduzećima;
- posebnim organima preko kojih se ostvaruje regulatorna funkcija;
- pravnim licima kojima su poverena javna ovlašćenja i
- fizičkim licima kojima su poverena javna ovlašćenja (javni izvršitelji i javni beležnici).

Serbian competent authorities continue their legislative activities related to the state of emergency which was proclaimed on 15 March 2020. We will continue to inform our clients, as well as any other interested person, legal entity or company about the mentioned new regulations. In accordance with everything said above, the Regulation on deadlines in administrative proceedings during the state of emergency has been rendered on 24 March 2020 and entered into force on the same day (henceforth: Regulation).

The most important provision in the Regulation is contained in article 1 paragraph 2. It prescribes that the parties in the proceedings that are conducted before the competent authorities in accordance with the laws regulating general administrative procedures cannot suffer any consequences for failure to act during the state of emergency within the deadlines prescribed in these laws.

To put it simply, this means if that any party (natural or legal entity) does not initiate the administrative procedure, fails to undertake a procedural action in the ongoing procedure or does not submit a regular or extraordinary legal remedy, it will not suffer any consequences for the failure to act notwithstanding whether this happens in first and second instance proceeding or the proceedings related to the extraordinary legal remedies. This applies in the period starting from 15 March 2020, i.e. from the proclamation of the state of emergency, until it is revoked by the competent authorities.

The Regulation is applied in the administrative proceedings before:

- State authorities;
- State organizations;
- Autonomous region authorities;
- Local authorities;
- Institutions;
- Public enterprises;
- Special authorities that exercise the regulatory function;
- Legal entities entrusted with public authority and
- Natural persons entrusted with the public authority (public notaries and public enforcement officers).

Isto tako je veoma značajna i odredba stava 3 člana 2 Uredbe koja propisuje to da će se dostavljanje pismena u upravnom postupku i radnje obavještanja od kojih počinju da teku rokovi koji se ne mogu produžiti, a koje su izvršene tokom trajanja vanrednog stanja, smatrati, u smislu primene tih propisanih rokova, izvršenim kada istekne 15 dana od dana prestanka vanrednog stanja.

Kako rokovi koji se, u smislu navedene odredbe stava 3 člana 2 Uredbe, ne mogu produžiti, mogu biti propisani, ne samo zakonima kojima se reguliše opšti upravni postupak, već i različitim drugim zakonima čija primena može doći u obzir u konkretnim upravnim postupcima, a koji se, na ovom mestu, zbog svog broja i specifičnosti svakog pojednog slučaja, ne mogu ni predvideti, niti pobrojati, u slučaju nedoumica koje bi, eventualno, mogli da imate u vezi sa ovim pitanjem, možete nam se u svakom trenutku obratiti i mi ćemo vam pomoći da rešite potencijalni problem ili spornu situaciju.

Dalje, Uredbom je u njenom članu 3 stav 1 propisano to da će se rokovi koji u upravnim postupcima koji su već u toku i koji ističu za vreme trajanja vanrednog stanja, a koji se odnose na:

- preduzimanje upravnih radnji;
- okončanje upravnih postupaka i
- odlučivanje po vanrednim pravnim sredstvima

smatrati isteklim kada istekne 30 dana od prestanka vanrednog stanja.

Ova odredba se odnosi postupanje samih organa koje smo pobrojali u četvrtom pasusu ovog teksta. Za stranke u postupcima je značajna iz razloga što, po proteku roka od 30 dana od prestanka vanrednog stanja, u kom roku su pobrojani organi dužni da preduzmu ili upravne radnje, ili okončaju upravni postupak ili odluče po vanrednim pravnim sredstvima u upravnim postupcima u kojima su za ove njihove procesne radnje predviđeni posebni rokovi, počinji da teku, na primer, rokovi za prigovore ili žalbe zbog takozvanog „ćutanja uprave“ u upravnim postupcima ili rokovi za tužbe u upravnim sporovima, takođe, zbog takozvanog „ćutanja uprave“, kao i neki drugi rokovi koje je, na ovom mestu, teško apstraktno predvideti i pobrojati.

Another important provision is contained in article 2 paragraph 3 of the Regulation and is related to the start of the non-prolongable deadlines. Namely, in cases where delivery of official mail and actions related to informing the parties are executed during the state of emergency, it will be considered that they have been executed 15 days after the state of emergency ends if they are related to the start of a non-prolongable deadline.

As the non-prolongable deadlines from the article 2 paragraph 3 of the Regulation can be prescribed not only in the law regulating the general administrative procedure but in numerous other laws which can be applied in the administrative procedure, please contact us if you need any clarification with this question and we will assist you in resolving particular issue or situation.

It is stipulated in article 3 paragraph 1 of the Regulation that the deadlines in the ongoing administrative procedures that are expiring during the state of emergency and that are related to:

- Undertaking administrative action;
- Finalization of the administrative procedures;
- Rendering the decision in the administrative procedures;

are expiring 30 days after the state of emergency ends.

This provision is related to the acts that need to be undertaken by the competent authorities listed in paragraph 4 of this article. However, this provision is also important for the parties since if a deadline for these actions is prescribed in the law, the competent authorities are obliged to undertake them within 30 days after the state of emergency ends. If an authority fails to act accordingly in a particular proceeding, it implies the start of other prescribed deadlines, such as for objections, appeals, and claims for „silence of administration“, as well as numerous other deadlines.

Naravno, i u vezi sa ovim, u slučaju bilo kakve neodumice oko ovog, ili bilo kog drugog pitanja u vezi sa Uredbom, možete od nas, u svakom trenutku, dobiti asistenciju i pravni savet u skladu sa tridesetogodišnjim iskustvom naše advokatske kancelarije i renomeom JPM-a i njegovog tima.

Na kraju, Uredba predviđa i to da rokovi za izjavljivanje pravnih sredstava protiv usmenih rešenja nadležnih organa donetih tokom vanrednog stanja u primeni hitnih mera radi sprečavanja širenja zarazne bolesti COVID-19 izazvane virusom SARS-CoV-2 i rokovi za podnošenje zahteva za dostavljanje pismenih otpravaka tih rešenja, počinju da teku od prestanka vanrednog stanja. Ovde se Uredba i njena upravo navedena odredba odnosi isključivo na usmena rešenja nadležnih organa koja su vezana za primenu hitnih mera radi sprečavanja širenja zarazne bolesti COVID-19 izazvane virusom SARS-CoV-2.

Nadamo se da će vam ove informacije biti od koristi u toku rada i života u vanrednom stanju uopšte.

Verujemo da znate, a sada koristimo priliku i da vam ponovimo, da smo tu za vas i ovim vremenima, da radimo za vas i da uživamo u bavljenju pravom zbog vas i da vam stojimo na raspolaganju za svaku pomoć i eventualnu konsultaciju ukoliko vam budu bile potrebne.

Nastavićemo da vas informišemo o svim aktuelnim pitanjima vezanim za proglašeno vanredno stanje u Republici Srbiji koja se tiču tumačenja i primene novodonetih propisa.

If you need any clarification concerning this or any other issue related to the Regulation, we would be happy to provide you with assistance and legal advice in accordance with the thirty years of experience of our law firm and the reputation of JPM and his team.

Finally, the Regulation stipulates that the deadlines for legal remedies against oral decisions rendered during the state of emergency which are related to the implementation of emergency measures for prevention of the spread of the infectious disease COVID19 caused by the virus SARS-CoV-2 and the deadlines for the delivery of the written versions of these decisions start after the state of emergency ends. This provision is related specifically to the oral decisions concerning emergency measures for the prevention of the spread of the infectious disease COVID19 caused by the virus SARS-CoV-2.

We hope that this information will be of use to you in your work and life in general during the state of emergency.

We believe that you already know, but we will use this opportunity to repeat that we remain at your disposal at these difficult times and that we enjoy practicing law for you. Please contact us if you need any help or consultation.

We will continue to inform you of all current issues concerning the interpretation and application of the regulations adopted in relation to the state of emergency in the Republic of Serbia.

COVID-19

JPM

JANKOVIĆ POPOVIĆ MITIĆ

Vladimira Popovića 6 | NBGP Apartmani
11070 Beograd | Srbija | tel: +381 11 207 6850
fax: +381/11/207-6899
www.jpm.rs