

Serbia:

Información aportada por la Sección Económica y Comercial de la Embajada de la República Argentina en Chile.

Fecha: 12.09.2012

Adjuntamos la reglamentación de los países que fue aportada por la Embajada correspondiente. Dado que en muchos casos el texto de la ley no es específico aconsejamos leer el que figura para Alemania, pues si bien este solo rige para los 27 países que forman la UE el conocimiento de su texto ayuda a conocer los aspectos a tener en cuenta al firmar un contrato con un agente o representante.

De todas maneras puede también comunicarse con la embajada correspondiente solicitando mayor información.

Ley Sobre el Procedimiento de Registro ante la Agencia de Registro de Empresas de la República de Serbia.

PLEASE NOTE – applies as of February 1, 2012 – to the Register of Companies, Register of Tourism, Register of Public Media, Register of Bankruptcy Estate, Register of Injunctions, Register of Sports Associations, Societies and Federations, as of January 1, 2013, to the Register of Chambers of Commerce, as of May 1, 2013, to the Register of Pledges on Movable Property and Rights, Register of Associations and Register of Foreign Associations, as of September 1, 2013, to the Register of Endowments and Foundations and Register of Representative Offices of Foreign Endowments and Foundations, as of October 1, 2014, to the Register of Financial Leasing and as of January 1, 2014, to the Register of Financial Statements and Data on Solvency of Legal Entities and Entrepreneurs.

Official Gazette of RS: 099/2011 Date: December 27, 2011

Pursuant to Article 112, paragraph 1, item 2 of the Constitution of the Republic of Serbia, I hereby issue this

DECREE

on the enactment of the Law on the Procedure of Registration with the Serbian Business Registers Agency

The Law on the Procedure of Registration with the Serbian Business Registers Agency, passed by the Parliament of the Republic of Serbia at the Fifth Meeting of the Second Regular Assembly Session in 2011, on December 26, 2011 is hereby promulgated.

PR No. 176

in Belgrade, December 27, 2011

President of the Republic,

Boris Tadić, in his own hand

LAW on the Procedure of Registration with the Serbian Business Registers Agency

I BASIC PROVISIONS

Scope of the Law

Article 1

This Law shall govern the procedure of registration, recording and publication of data and documents that are subject to registration, recording and publication in the registers and records kept by the Serbian Business Registers Agency (hereinafter: the Agency), pursuant to a separate law, and other issues of relevance for registration, recording and publication.

Terms

Article 2

The terms used herein shall have the following meaning:

- 1) **Register** is a unique, central electronic base of data and documents prescribed as the subject-matter of registration as well as of documents on the basis of which registration has been effected;
- 2) **Data** are facts subject to registration or recording or of relevance for business transactions;
- 3) **Registration** is the act of entering, changing or deleting data and documents in the registers kept by the Agency;
- 4) **Registration application** (hereinafter: Application) is a request for initiating the registration procedure;
- 5) **Registrar** is a natural person in charge of keeping the Register, appointed pursuant to the law governing the legal status of the Agency;
- 6) **Registration applicant** is a person authorized to submit the application;
- 7) **Publication** is the electronic display on the Agency's website, of data and documents that are subject to registration and recording, of decisions adopted in the registration and recording procedure and data and documents that are not the subject to registration and recording but are published pursuant to regulations;
- 8) **Excerpt of registered data** is a public document containing registered data on a legal or natural person or the subject-matter of registration, reflecting the state as it is at the moment of issue of the excerpt;
- 9) **Certificate** means a public document confirming whether certain records or documents were registered, whether the register contains such documents, whether certain facts are contained in the registered documents or confirming the legal circumstances or consequences of registration;
- 10) **Record** means a unique, central electronic base of data and documents prescribed as the subject-matter of recording and of documents on the basis of which recording has been effected;
- 11) **Excerpt of recorded data** is a public document confirming whether data or documents are recorded, whether the records contain some document, whether certain facts are contained in the documents kept in the records;
- 12) **User application** is a software application solution designed for submittal of electronic applications;
- 13) **Annotation** is the entry of data or documents that are the subject to mandatory annotation, pursuant to regulations, or the entry of records or documents that are assessed by the Registrar as facts of relevance for business transactions.

Principles of Registration

Article 3

The registration procedure shall be based on the following principles:

1) **Transparency and availability**, according to which registered data and documents shall be placed in public domain, available to all parties, either on the Agency's website or through direct access to the Register, unless transparency and access are restricted or excluded by law;

2) **Accuracy and bona fides principle**, according to which third parties relying on the data from the Registers in business transactions shall not bear damaging legal consequences arising due to inaccurate data contained in the Registers;

3) **Procedure**, according to which the Registrar makes decisions based on the facts contained in the application, supporting documents and registered data, without verifying the accuracy of the facts in the application, the authenticity of the attached documents and correctness and legality of the procedures through which the documents were issued;

4) **Date of issue**, according to which data and documents are kept in the Register based on the date of issue of the data or documents, unless otherwise prescribed by law;

5) **Time sequence**, according to which priority in decision making is given to the application submitted earlier.

Applicable Law

Article 4

Any and all issues pertaining to the registration and recording procedure that are not specifically regulated by this law shall be subject to the law governing general administrative procedure.

II. REGISTRATION PROCEDURE

Initiating the Registration Procedure

Article 5

The registration procedure shall be initiated by submitting the application to the Agency but it may also be initiated *ex officio*.

Initiating the Procedure by Submitting an Application

Article 6

The Application shall be submitted on a prescribed form and if there is no prescribed form, then in the form of a request containing the following data:

- 1) the name of the register that the application is submitted to;
- 2) subject-matter and type of registration;
- 3) applicant's identification data;
- 4) manner in which the applicant requests the Registrar's decision to be delivered to it, pursuant to this Law.

The application shall be accompanied by the required documents, either originals or certified copies, unless otherwise prescribed, and by proof of payment of the registration fee.

If a document is submitted in a foreign language, it shall be accompanied by a translation certified by a sworn-to-court translator.

Initiating an *Ex Officio* Procedure

Article 7

The registration procedure shall be initiated *ex officio* if such a registration is foreseen by law or when it is in the public interest.

Annotation

Article 8

An entry of an annotation shall be made either based on an application or *ex officio*, if the Registrar becomes aware of facts and documents of relevance for business transactions.

Manner of Filing the Application

Article 9

The Application shall be submitted to the Agency directly or by post.

If the Application is submitted by post, the date and time of its submission shall be deemed to be the date and time of its receipt by the Agency.

If the Application for registration of annual financial statements is submitted by registered mail, the date of its handing over for delivery shall be deemed to be the date of its official submission, pursuant to the law governing postal services.

Deadline for Filing the Application

Article 10

The applicant shall submit the registration application to the Agency within a period of 15 days from the issue date of the data or documents that are subject to registration, i.e. of the change of registered data or documents, unless another deadline is prescribed by law.

If the application is submitted upon expiry the deadline set in paragraph 1 of this Article, a fee shall be charged pursuant to the regulation prescribing charges for the Agency's services.

Submission of Electronic Applications

Article 11

Electronic applications shall be submitted to the Agency by means of the user application for receipt of electronic applications securing the receipt of electronic documents and proofs of payment of registration fees.

Signing of electronic applications or documents and certification of electronic documents shall be performed pursuant to the regulations governing electronic signature and electronic document.

Certificate Acknowledging Receipt of Application

Article 12

The certificate of receipt of application shall be issued at the applicant's request, on the occasion of direct submission of the application to the Agency.

The certificate of receipt of electronic application shall be sent to the electronic address registered as the electronic address for receipt of electronic mail or to the electronic address listed in the Application.

Each certificate of receipt of application shall contain, in particular, the number under which the application has been filed, the date and time of the receipt thereof, application type, Applicant's information and a list of attached documents.

The following data on the received Application shall be posted on the Agency's website:

- 1) register code;
- 2) number under which the application has been filed;
- 3) date and time of receipt;
- 4) type of application;
- 5) applicant data;
- 6) data on the current status of the application.

Application Change and Cancellation

Article 13

The Applicant may change or cancel the Application until the time a decision is made thereon by the Registrar.

If the Applicant cancels the Application the Registrar shall issue a decision discontinuing the procedure.

Registrar's Course of Action with Respect to Application

Article 14

Upon receipt of the application, the Registrar shall check whether the registration terms have been met, in particular:

- 1) whether s/he is authorized to act upon the application;
- 2) whether the application has been submitted by an authorized person;
- 3) whether the data or the document is subject to registration;
- 4) whether the data or documents requested for registration have already been registered;
- 5) whether the application contains all the data and facts required for registration;
- 6) whether all the required documents are attached to the application;
- 7) whether the facts entered in the application match the facts contained in the documents attached to the Application and the data registered in the Register acting upon the application;
- 8) whether any other legal entity or entrepreneur is already registered under the same name in the Register acting upon an application or if that name has already been reserved pursuant to this law or if the name has been determined pursuant to the law;
- 9) whether the facts contained in the documents are mathematically and logically harmonized in accordance with the regulations governing contents and form thereof, in case the Application has been submitted to the Register competent for registration of financial statements;
- 10) whether the proof of payment of the registration procedure fee has been attached to the Application.

Deadline for Deciding on the Application

Article 15

The Registrar shall issue a decree or conclusion (hereinafter: Decision) on the application within five days from the receipt thereof.

By way of exception, the deadline for deciding on applications for the registration of financial statements shall be 60 days from the receipt thereof.

Decision to Grant the Application

Article 16

If the registration requirements are met, the Registrar shall issue a decision to grant the application, without the applicant's participation in the procedure.

Decision to Reject the Application

Article 17

If the Registrar determines that the registration requirements from Article 14 paragraph 1, items 1), 3) and 4), of this law have not been fulfilled, he shall issue a decision rejecting the application.

If the Registrar determines that the registration requirements from Article 14 paragraph 1, items 2), and 5) – 10) of this law have not been fulfilled, he shall issue a decision rejecting the application, stating which registration requirements have not been met.

If the applicant, within 30 days from the date of publication of the decision from paragraph 2 of this Article, submits an application for registration of the data to which that decision referred and pays one half of the amount of the fee prescribed for the registration that is the subject-matter of the application, the applicant shall retain order-related priority rights in decision-making based on the submission of the earlier application rejected pursuant to paragraph 2 of this Article.

Partially Granted Application

Article 18

If an application refers to the registration of two or more data or documents, the application shall be partially granted by registering the data or documents fulfilling the registration requirements while the remaining part of the application shall be decided upon in the manner prescribed in Article 17 of this Law.

Failure to Issue a Timely Decision on the Application

Article 19

If the Registrar fails to decide upon an application within the deadlines set in Article 15 of this Law, the application shall be deemed to have been granted and the Registrar shall issue a decision accordingly, approving the requested registration without delay, except in cases when requirements prescribed in Article 14 items 1), 3) and 4) of this Law have not been fulfilled.

Procedure Suspension and Postponement

Article 20

The Registrar shall suspend or postpone the procedure of deciding on an application in the cases and in the manner prescribed by the law governing the subject-matter of that particular registration.

Reversal

Article 21

No reversal to the previous state shall be allowed in the process of registration.

Publication and Effectiveness of Registration

Article 22

The decisions issued by the Registrar in the process of registration shall be published.

Registered data and documents shall be published simultaneously with the issuance of a decision granting the application.

The registration shall produce legal effect towards third parties on the day following the publication thereof.

The registration shall produce legal effect for the future.

Rectification of Mistakes

Article 23

If a spelling, calculation or other evident mistake was made in the registration process, the Registrar shall, within five days upon learning of such a mistake, or upon submission of a request for rectification, proceed to rectify the mistake in the Register and issue a decision with regard.

If in the process of deciding on a request for the rectification of a mistake the Registrar determines that no mistake has been made, he/she shall issue a decision dismissing the request as unfounded.

Delivery of a Written Copy of Registrar's Decision

Article 24

A written copy of the Registrar's decision shall be delivered at the Applicant's request:

- 1) by mail, to the registered mailing address of the legal entity or entrepreneur;
- 2) by mail, to the address of the registered office of the legal entity or entrepreneur, if no specific mailing address is registered;
- 3) by sending it to the registered electronic mail address, pursuant to regulations governing e-business;
- 4) collected personally at the premises of the Agency's head office or its organizational units;
- 5) by post, to the address of domicile or residence of the natural person who is a party in the procedure.

If the application was sent in electronic form, a copy of the Registrar's decision in electronic form shall be sent to the registered electronic mail address or to the electronic mail address noted on the application.

Delivery of a copy of the Registrar's decision shall be deemed effected on the date it is sent to the address under paragraph 1 items 1), 2), 3) and 5) of this Article.

If the application was submitted by an attorney, a copy of the decision shall be sent to the attorney's address, pursuant to the provisions of this Article.

III LEGAL REMEDIES

Appeal

Article 25

The Applicant can appeal the Registrar's decision to the Minister competent for deciding upon appeals, through the Agency, within a period of 30 days from the publication of the decision.

Filing a notice of appeal shall not stay the enforcement of the decision.

If the Applicant appeals the decision under Article 17, paragraph 2 of this Law and at the same time remediates the deficiencies established by the decision, the actions taken for the remediation of the established deficiencies shall be considered not taken at all, i.e. the appeal procedure shall be continued.

Certificate Acknowledging Receipt of Appeal

Article 26

The certificate acknowledging receipt of appeal shall be issued at the Applicant's request when the appeal is filed through the Agency.

The certificate of receipt of appeal shall contain the appellant's information, date of appeal, and the number and date of the appealed decision.

The following data on the received appeal shall be posted on the Agency's website:

- 1) appeal file number;
- 2) date and time of receipt;
- 3) appellant's information;
- 4) data on the current status of the appeal.

Content of Appeal

Article 27

The appeal shall include the file number and date of the appealed decision, reasons for the appeal, appellant's identification information and the appellant's signature.

In its appeal, the appellant cannot invoke any facts that were not stated in the application and documents that were not attached to the application.

Registrar's Decision upon Appeal

Article 28

If the Registrar finds the appeal to be late, inadmissible or filed by an unauthorized person, he shall issue a decision rejecting the appeal.

If the Registrar finds the appeal grounded, he shall amend the appealed decision or annul the decision on rejection of the application and issue a decision granting the said application.

If the Registrar fails to decide in the manner prescribed in paragraphs 1 and 2 of this Article, within five days from the receipt of the appeal, he shall forward the appeal to the competent Minister without delay.

Minister's Decision upon Appeal

Article 29

The Minister shall decide upon the appeal within 30 days from the date of receipt of the appeal by the Ministry.

The Minister may:

- 1) reject the appeal if it is late, inadmissible or filed by an unauthorized person, if the Registrar has failed to do so;
- 2) dismiss the appeal as groundless;
- 3) uphold the appeal, reverse the decision and refer the case back to the Registrar for revision;
- 4) uphold the appeal and reverse the decision and issue its own decision on the application.

***Ex Officio* Deletion of Registered Data or Documents**

Article 30

If the Registrar determines that data or documents were registered although the requirements for their registration were not satisfied at the moment of registration, he shall reverse his decision and delete the data or the document within 6 months at the latest from the date of publication of the registered data or document.

The decision on deletion of a registered data or document shall be delivered to the person whose data or document has been deleted.

The previously registered state shall be re-established simultaneously with the deletion of a registered data or document.

The applicant who has submitted the application based on which data or documents have been deleted pursuant to the provisions of this Article shall have right of appeal pursuant to the provisions of Art.25 through 29 of this Law.

Legal Remedies Prescribed by the General Administrative Procedure Law and the Effect of Decisions

Article 31

Legal remedies prescribed by the General Administrative Procedure Law shall apply accordingly to decisions issued in the registration procedure.

Decisions issued in the procedure upon legal remedies from paragraph 1 of this Article shall produce legal effects for the future.

Administrative Dispute

Article 32

The Minister's decision is final, however administrative proceedings can be instigated against it.

A request for reconsideration can be filed with to the Supreme Court of Cassation against the legally binding decision of the Administrative Court.

IV. INVALIDITY OF REGISTRATION OF A BUSINESS COMPANY OR ENTREPRENEUR

Invalidity of Company Registration

Article 33

Any person having legal interest may file a lawsuit demanding the registration of the establishment of a business company to be found invalid:

- 1) if false data were stated in the application;
- 2) if the registration was effected based on a fraudulent document, a document issued in an illegal procedure or a document containing false facts;
- 3) if there are other grounds foreseen by law.

The lawsuit under paragraph 1 of this Article shall be filed with a competent court within a period of 30 days from the day the plaintiff has learnt of the reasons for the invalidity, however no later than one year from the date of registration.

Acting upon the plaintiff's notice, submitted together with the proof of the instigated procedure for determination of invalidity of the registration of a business company the Registrar shall register an annotation of the existence of a procedure for the assessment of validity of the registration.

If the invalidity of the registration of a business company has been determined by a legally binding court decision, within 15 days from the date of effectiveness thereof the deciding court shall deliver its decision to the competent Register for the purpose of registration of an annotation of invalidity of the registration and instigation of the procedure for forced liquidation of that company.

Invalidity of Registration of Entrepreneur

Article 34

Acting upon the plaintiff's notice, submitted together with the proof of the instigated procedure for determination of invalidity of the registration of an entrepreneur, the Registrar shall register an annotation of the existence of a procedure for the assessment of validity of the registration.

If the invalidity of the registration of an entrepreneur has been determined by a legally binding court decision, within 15 days from the date of effectiveness thereof the deciding court shall deliver its decision to the competent Register for the purpose of registration of an annotation of invalidity of the registration of establishment and deletion of the entrepreneur from the Register.

V. DATA AND DOCUMENT RECORDS

Instigation of Recording Procedure

Article 35

Data and documents shall be recorded at the request of an authorized person, competent authority or by taking over of data and documents from other registers and records contained in the registers and records kept by the Agency and other competent authorities, prescribed as the subject-matter of recording.

Excerpt of Recorded Data

Article 36

Within five days from the receipt of the request, the Registrar shall issue an excerpt stating whether specific data or documents are recorded, whether the records contain a certain document and whether certain facts are contained in recorded documents.

The request from paragraph 1 of this Article shall be submitted on the prescribed form, and if no form is prescribed, as a written submission.

The proof of payment of the fee for issuance of an excerpt of recorded data shall be attached to the request from paragraph 1 of this Article.

VI. PUBLICATION OF DATA AND DOCUMENTS

Publication of Data and Documents

Article 37

Data and documents that are not subject to registration and recording shall be published at the request of an authorized person, a competent authority or by taking over data and documents from other registers and records contained in the registers and records kept by the Agency and other competent authorities, subject to recording.

At the request of the applicant, within five days from the receipt of the request, the Registrar shall issue a certificate stating whether a certain data or document has been published.

VII. PROCEDURE UPON OTHER REQUESTS

Issuance of excerpts, copies and certificates

Article 38

At the request of a party, the Registrar shall issue, within two days at the latest:

- 1) an excerpt of the data from the Register;
- 2) a copy of the document based on which the registration or recording was effected, i.e. of the document published pursuant to this law;
- 3) a certificate confirming that data or documents have been registered, recorded or published, whether the Register contains some document, whether certain facts are contained in the documents from the Register or confirming legal status and legal consequences of registration, recording and publication.

The request from paragraph 1 of this Article shall be submitted on a prescribed form and if no form is prescribed, then as a written submission.

The proof of payment of the fee for the issuing of an excerpt, copy or certificate must be attached to the request.

VIII. RESERVATION OF NAME

Instigation of Procedure

Article 39

The reservation of a name shall be initiated by submitting an application to the competent Register, along with proof of payment of the fee for name reservation.

The confirmation acknowledging receipt of the application for the name reservation shall contain the following information:

- 1) Register name;
- 2) number under which the application is filed;
- 3) date and time of receipt;
- 4) reserved name;
- 5) applicant's information;
- 6) data on the amount of fee.

Deciding upon the Application

Article 40

If all the requirements for the reservation of a name have been met, pursuant to Article 14 item 8) of this Law, within five days from submission of the application the Registrar shall issue a confirmation acknowledging the reservation of a name, and the reserved name shall be entered in the database of reserved names.

The name shall be reserved in favor of the applicant for a period of 60 days from the date of publication.

If the requirements for the name reservation are not fulfilled, the Registrar shall, within five days from the date of submission of the application, issue a decision dismissing it.

Renewal and Transfer of Reserved Name

Article 41

Prior to expiration of the period the name has been reserved for, the person in whose favor the name has been reserved may, by paying once again the fee for the name reservation, renew the reservation for another 60-day period.

A reserved name may be transferred to another legal or natural person before the expiration of the period the name has been reserved for.

The Registrar shall deliver a confirmation acknowledging the transfer of the reserved name to the person in whose favor the name has been reserved.

IX. FEES

Fee Payment Obligation

Article 42

For the procedure of registration, recording, publication, name reservation, for procedures upon other requests and for other services provided by the Agency, the applicant shall pay a fee pursuant to regulations governing the status and authorities of the Agency.

X. DATA USE AND PROCESSING

Authority for Prescribing the Manner and Terms of Data Use and Processing

Article 43

Manner and terms of processing and use of registered and recorded data are governed by the regulations governing the status and authorities of the Agency.

XI. CONTENT OF REGISTERS AND RECORDS

Competence for Prescribing the Content of Registers and Records

Article 44

The Ministers competent for implementation of the laws prescribing maintenance of registers shall closely regulate the content of the registers, records and documents to be attached with the application for registration or recording, provided the content of a register or record is not already defined by those laws or other regulations.

XII. PENALTY PROVISIONS

Criminal Act

Article 45

Any person who submits false data to the Register, or a false or falsified document, with the intent to use such data or documents in the registration and recording procedure as real ones, shall be punished with imprisonment from three months to five years.

XIII. TRANSITIONAL AND FINAL PROVISIONS

Applicability of the Regulation with Respect to Already Initiated Procedures

Article 46

The registration procedures initiated before the date on which this Law becomes applicable to the corresponding registers, shall be completed in accordance with the regulations under which they were initiated.

If, until this law becomes applicable to the corresponding registers, a registration has been found invalid by a legally binding decision or a Registrar's decision has been reversed by the Minister's decision, the procedure shall be completed under this Law.

Deadline for Adoption of By-Laws

Article 47

By-laws for the implementation of this Law shall be adopted within a period of 90 days from the date this law becomes applicable to corresponding registers.

Until the adoption of the by-laws from paragraph 1 of this Article, the relevant by-laws adopted prior to coming into force of this Law shall apply, provided they do not conflict with this Law.

Cessation of Validity of Regulations

Article 48

With the date this Law becomes applicable to the corresponding Register, the following regulations shall cease to be valid: Law on Registration of Business Entities (Official Gazette of RS No 55/04 and 61/05), provisions of Art. 30, 32, 69, and 70 of the Law on Associations (Official Gazette of RS, No 51/09), provisions of Art. 26, 27, and 28, and Article 31, paragraph 1 of the Law of Endowments and Foundations (Official Gazette of the RS, No 88/10), provisions of Art. 64, 65, 66. and 67 and Article 86, paragraph 3 of the Law on Sport (Official Gazette of RS, No 24/11), provisions of Art. 65a through 65đ) of the Law on Registered Pledges on Movable Property (Official Gazette of RS, No 57/03, 61/05 and 64/06 – correction), provisions of Art. 51a through 51đ of the Law on Financial Leasing (Official Gazette of the RS, No 55/03, 61/05 and 31/11) and the Decree on the registration of representative offices of foreign legal entities in the register of business entities kept by the Serbian Business Registers Agency (Official Gazette of RS, No 114/05).

Entry into Force and Commencement of Implementation

Article 49

This Law shall come into force on the eighth day from its publication thereof in the Official Gazette of the Republic of Serbia and shall apply, as of February 1, 2012 to the Companies Register, Register of Tourism, Register of Public Media, Register of Bankruptcy Estate, Register of Injunctions, Register of Sports Associations, Societies and Federations, as of January 1, 2013 to the Register of Chambers of Commerce, as of May 1, 2013 to the Register of Pledges on Movable Property and Rights, Register of Associations and Register of Foreign Associations, as of September 1, 2013 to the Register of Endowments and Foundations and Register of Representative Offices of Foreign Endowments and Foundations, as of October 1, 2014, to the Register of Financial Leasing and as of January 1, 2014 to the Register of Financial Statements and Data on Solvency of Legal Entities and Entrepreneurs.