

PRIVREDNO PRAVO: EKONOMSKO UREĐENJE U NOVOM USTAVU REPUBLIKE SRBIJE

Proglašenjem u Narodnoj skupštini Republike Srbije dana 8. novembra 2006. stupio je na snagu Ustav Republike Srbije (Službeni glasnik Republike Srbije br. 83 od 1. oktobra 2006). Trećim delom novog Ustava, koji nosi naziv „Ekonomska uređenje i javne finansije“, propisana su načela ekonomskog poretka.

Ustavom je proklamovano da ekonomsko uređenje počiva na tržišnoj privredi, otvorenom i slobodnom tržištu, slobodi preduzetništva, samostalnosti privrednih subjekata i ravnopravnosti privatne i drugih oblika svojine.

Ustav jemči privatnu, zadružnu i javnu svojinu i njihovu jednaku pravnu zaštitu. Zagarantovana je sloboda preduzetništva, koja se može ograničiti samo zakonom, i to isključivo radi zaštite zdravlja ljudi, životne sredine i prirodnih bogatstava i radi bezbednosti Republike Srbije. Ustav garantuje jednak pravni položaj svim učesnicima na tržištu i zabranjuje akte kojima se, suprotno zakonu, ograničava slobodna konkurencija, stvaranjem ili zloupotrebom monopolskog ili dominantnog položaja. Prava investitora stečena na osnovu ulaganja kapitala, ne mogu zakonom biti umanjena. Ustav nalaže zaštitu potrošača i posebno zabranjuje radnje usmerene protiv zdravlja, bezbednosti i privatnosti potrošača, kao i sve nečasne radnje na tržištu.

Za razliku od režima iz prethodnog ustava, novi ustav proklamuje da gradsko građevinsko zemljište može biti u privatnoj svojini i da se, u tom slučaju, njime može slobodno raspolagati.

Ustav reguliše i položaj stranih lica, pa predviđa da stranci, u skladu sa međunarodnim ugovorima, imaju u Republici Srbiji sva prava zajemčena Ustavom i zakonom, izuzev prava koja su po Ustavu i zakonu rezervisana samo za državljane Srbije. Fizička i pravna strana lica su na tržištu izjednačena sa domaćim i mogu steći svojinu na nepokretnostima, u skladu sa zakonom ili međunarodnim ugovorom, pravo koncesije na prirodnim bogatstvima i dobrima od opšteg interesa, kao i druga prava određena zakonom.

CORPORATE LAW: ECONOMIC SYSTEM IN THE NEW CONSTITUTION OF THE REPUBLIC OF SERBIA

By promulgating in the National Assembly of the Republic of Serbia on November 8, 2006, the Constitution of the Republic of Serbia (The Official Herald of the Republic of Serbia No. 83 from October 1, 2006) has entered into force. The third part of the new Constitution, “Economic System and Public Finance”, prescribes the principles of the economic system.

The Constitution proclaims that the economic system is based on market economy, open and free market, freedom of entrepreneurship, independence of business entities and equality of private and other types of ownership.

Private, cooperative and public ownership as well as their equal protection are guaranteed by the Constitution. The Constitution also guarantees freedom of entrepreneurship, which may be restricted only for health, environmental and natural wealth protection purposes, as well as for national security reasons. Equal legal position to all market participants are provided by the Constitution as well, whereas unlawful acts which circumscribe free competition by creating or abusing of the monopolistic or dominant position are forbidden. The rights of investors acquired on the grounds of an investment cannot be reduced by a law. The Constitution requires consumers’ protection and especially forbids acts against health, security and privacy of consumers, as well as all dishonourable acts in the market.

Unlike the solution from the previous one, the new constitution proclaims that the urban construction land may be privately owned and, in that case, marketed.

The Constitution regulates the status of foreign persons, prescribing that they have all the rights guaranteed by the Constitution and the laws, except those reserved by the Constitution and the laws only for Serbian citizens. Foreign natural persons and legal entities are equal in the market with the domestic ones. They may acquire ownership over real estate in accordance with laws and international conventions, concession right over a natural wealth and goods of public interest, as well as other rights prescribed by the laws.