TOMIĆ STEVIĆ DULIĆ
ADVOKATSKA KANCELARIJA

TSD NEWSLETTER

Advokatska kancelarija TOMIC STEVIC DULIC informiše o aktuelnostima u radu Kancelarije i u zakonodavnom reljefu RS / Die Rechtsanwaltskanzlei TOMIC STEVIC DULIC informiert über aktuelle Themen der Kanzlei und über den Rechtsrahmen der RS / The TOMIC STEVIC DULIC Law Office is informing about the actual activities of the Law office and the Law frame in RS/ Юридическая контора TOMIC STEVIC DULIC информирует о самых актуельных событиях, о работе конторы и законодательном релефе РС / Glavni urednik/ Chefredakteur / Editor-in-Chief / Главный редактор: Ljubica Tomić /Lektor/Lektor/Proof reader/Лектор: Ivana Radović, Vesna Gašić, Vojislava Katić, Danijela Stanić, Magda Braun / **Br. 38/12**

Carice Milice 3/II, Beograd, SCG, TEL/FAX +381 (0)11 3285.227, +381 (0)11 3285.208, +381 (0)11 3285.153, office@tomic-stevic.co.rs, www.tomic-stevic.co.rs

CONTENT:

NEW CIVIL PROCEDURE LAW ADOPTED

The National Assembly of the Republic of Serbia has adopted a new Civil Procedure Law (Official Gazette No 72/2011), effective as of 1 February 2012.

The most important changes introduced by the Law aim to speed up the civil procedure by providing for certain obligations related to the schedule of evidence introduction. Specifically, the deadline for motions to admit evidence is shifted from the conclusion of the trial hearing to the preliminary hearing, and the court is obliged to observe the schedule for conducting procedure provided for under the Law.

Consequently, litigants are required to present all the facts in support of their motions and to put forward all the evidence in support of the stated facts not later than the preliminary hearing, or the first trial hearing if the preliminary hearing is not required, and to propose a time frame for conducting the civil procedure.

Subsequently, the court is obliged to issue a decision on the time frame, providing for the number of hearings, the date and time of hearings, schedule of presentation of evidence in the hearings and other procedural actions, deadlines, and the total duration of the trial.

These provisions shall certainly speed up the procedure, but the litigants are placed in an unenviable position, as following the preliminary hearing, they may put forward new evidence until the conclusion of the trial only if they may successfully argue that they were unable, through no fault of theirs, to present the evidence, or to put it forward at the preliminary hearing, or the first trial hearing when the preliminary hearing was not held.

The court is required, with the aim of speeding up the procedure, to forward the complaint to the defendant for response within 15 days of receipt of the complaint (under the earlier law, the deadline was 30 days), to schedule the preliminary hearing within 30 days of receipt of the response to the complaint (the earlier law did not provide for any deadlines) and to schedule a trial hearing not later than 30 days from the preliminary hearing, or receipt of the response to the complaint, or expiry of the period for response to the complaint, if it should find that the preliminary hearing is not necessary. In case of an adjournment of a hearing, the court shall set a new time frame which may not be longer than one third of the initially granted time frame.

In addition to the above, the Law provides for significant changes in presentation of evidence by examination of a witnesses and expert testimony.

Thus, the court may decide that witnesses examination may be conducted by reading the witnesses statement in

Advokatska kancelarija TOMIC STEVIC DULIC informiše o aktuelnostima u radu Kancelarije i u zakonodavnom reljefu RS / Die Rechtsanwaltskanzlei TOMIC STEVIC DULIC informiert über aktuelle Themen der Kanzlei und über den Rechtsrahmen der RS / The TOMIC STEVIC DULIC Law Office is informing about the actual activities of the Law office and the Law frame in RS/ Юридическая контора TOMIC STEVIC DULIC информирует о самых актуельных событиях, о работе конторы и законодательном релефе РС / Glavni urednik/ Chefredakteur / Editor-in-Chief / Главный редактор: Ljubica Tomić /Lektor/Lektor/Proof reader/Лектор: Ivana Radović, Vesna Gašić, Vojislava Katić, Danijela Stanić, Magda Braun / **Br. 38/12**

Carice Milice 3/II, Beograd, SCG, TEL/FAX +381 (0)11 3285.227, +381 (0)11 3285.208, +381 (0)11 3285.153, office@tomic-stevic.co.rs, www.tomic-stevic.co.rs

writing, which must by certified by a court or a person having public authorisations.

The court may also decide to examine a witness via video-conference link, using the audio and video recording devices.

As regards the presentation of evidence by expert testimony, the new solutions also aim to speed up the procedure by requiring court experts to submit their findings and opinion not later than 60 days from the date of issue of the decision on presentation of evidence by expert testimony, and to provide their findings and opinion in writing not later than 15 days before the hearing, to be submitted to the litigants by the court not later than 8 days before the scheduled hearing.

Regarding the new solutions for presentation of evidence by expert testimony, litigants are no longer required to name the expert when putting a motion for presentation of evidence by expert testimony. Furthermore, a litigant may submit to the court the evidence which has already been presented by expert testimony (findings and opinion), which is then submitted to the other litigant to declare itself upon such evidence, not later than the preliminary hearing, and the court may decide that presentation of evidence by expert testimony may be conducted by reading the findings and opinion put forward by the litigant following declaration of the opposing litigant.

Furthermore, litigants may engage a professional or another court registered expert in order to provide his or her observations to the submitted findings and opinion or provide new findings and opinion, and the court may permit such person to take part in the hearing by posing questions and providing information. If case of conflicting findings and opinion of the experts, the court may order a new expertise to be entrusted to another expert, which is a departure from the rule that the court may present only the evidence put forward by the litigants.

Under the new Law, litigants may be represented only by an attorney-at-law, except in case of a legal entity, which may be represented by persons who have passed the bar exam and who are employed in such company. Other changes include those related to submission of filings, as litigants will be able to make their filings by e-mail, and changes related to procedure upon ordinary and extraordinary legal remedies.

The new Civil Procedure Law introduces significant changes essentially affecting the concept of the procedure, the pace of undertaking procedural actions, manner of evidence presentation, etc. It remains to be seen whether or not the courts will be able to apply the prescribed rules in court practice.

Sasa Sindjelic, Attorney-at-Law
sasa.sindjelic@tomic-stevic.co.rs