




Crna Gora: Novi zakonski okvir u oblasti izgradnje objekata i uređenja prostora

Montenegro: New Legal Framework in the Field of Construction and Spatial Planning

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Na sjednici koja je održana 19.12.2024. godine Vlada Crne Gore je utvrdila predlog Zakona o izgradnji objekata i predlog Zakona o uređenju prostora. Predloženo je da se navedeni zakoni donesu po hitnom postupku.

Do sada su navedene oblasti sveobuhvatno regulisane kroz Zakon o planiranju prostora i izgradnji objekata.

U slučaju usvajanja navedenih predloga umjesto dosadašnjeg jednog zakona, sa dva nova zakona ove oblasti će biti razdvojene, dok je planirano i izdvajanje pitanja legalizacije kroz poseban treći zakon.

At the session held on December 19, 2024, the Government of Montenegro adopted the Bill of Law on Construction of Buildings and the Bill of Law on Spatial Planning. It was proposed that these laws should be adopted through an expedited procedure.

So far, these areas have been comprehensively regulated through the Law on Spatial Planning and Construction of Buildings.

In the event of the adoption of the proposed changes, instead of the current single law, these areas will be separated into two new laws, while the issue of legalization is planned to be addressed through a separate third law.

Predlog Zakona o izgradnji objekata usaglašen je sa Direktivom 2006/123/EZ o uslugama na unutrašnjem tržištu, Direktivom 2005/36/EZ o priznavanju stručnih kvalifikacija, Direktivom 2013/55/EU o izmjeni Direktive 2005/36/EZ o priznavanju stručnih kvalifikacija i Aneksom I Regulative br. 305/2011 Evropskog parlamenta i Savjeta o utvrđivanju harmonizovanih uslova za stavljanje na tržište građevinskih proizvoda i prestanku i važenja Direktive 89/106/EEC.

Jedna o značajnih promjena koje uvodi predlog Zakona o izgradnji objekata jeste potreba pribavljanja građevinske dozvole i decentralizacija u kontekstu podjele nadležnosti pri izdavanju građevinskih dozvola između Ministarstva i jedinica lokalne samouprave.

The Bill of Law on Construction of Buildings is aligned with Directive 2006/123/EC on services in the internal market, Directive 2005/36/EC on the recognition of professional qualifications, Directive 2013/55/EU amending Directive 2005/36/EC on the recognition of professional qualifications, and Annex I of Regulation No. 305/2011 of the European Parliament and the Council on laying down harmonized conditions for the marketing of construction products and repealing Directive 89/106/EEC.

One of the significant changes introduced by the Bill of Law on Construction of Buildings is the requirement to obtain a construction permit and the decentralization of responsibilities regarding the issuance of construction permits between the Ministry and local self-government units.

U regularnom postupku, investitoru će se građevinska dozvola izdavati u roku od 30 dana od dana podnošenja zahtjeva koji će pratiti: glavni projekat; izvještaj o pozitivnoj reviziji glavnog projekta; saglasnost glavnog državnog, odnosno glavnog gradskog arhitekta; dokaz o osiguranju od odgovornosti projektanta i revidenta glavnog projekta; dok drugu potrebnu dokumentaciju nadležni organ pribavlja po službenoj dužnosti.

Propisane su i obaveze investitora prije početka građenja, rok završetka građenja objekta i obaveze u slučaju promjene investitora. Investitor je dužan da završi građenje objekta u roku od pet godina od dana izdavanja građevinske dozvole. Ukoliko ne završi građenje u navedenom roku, dužan je da plati godišnju naknadu, ali i da kontinuirano održava gradilište do pribavljanja upotrebne dozvole.

In the regular procedure, a construction permit will be issued to the investor within 30 days from the date of submitting the application, which must include: the main project; a report on the positive review of the main project; approval from the chief country or city architect; proof of liability insurance for the designer and reviewer of the main project. All other required documentation will be obtained ex officio by the competent authority.

The obligations of the investor before the commencement of construction, the deadline for completing the construction of the building, and the responsibilities in case of a change of investor are also stipulated. The investor is required to complete the construction of the building within five years from the date the construction permit is issued. If construction is not completed within the specified timeframe, the investor must pay an annual fee and continuously maintain the construction site until an occupancy permit is obtained.

U skladu sa predlogom Zakona o izgradnji objekata organ lokalne samouprave će izdavati građevinsku dozvolu za građenje objekata, osim ukoliko se ne radi o državnom objektu od opšteg interesa; zgradama bruto građevinske površine 3000 m² i više; i hotelima, odnosno turističkim naseljima sa četiri ili pet zvjezdica i turističkim rizortima.

Oslobođenje od obaveze pribavljanja građevinske dozvole postojaće za privremene i za pomoćne objekte.

Novinu čini i odredba po kojoj će tehnički pregled radi izdavanja upotrebne dozvole biti obavezan za sve objekte, osim za kategoriju porodičnih stambenih zgrada.

Predlogom se cijeni da će se kroz institut građevinske dozvole postići veći stepen bezbjednosti i sigurnosti objekata, kao i povećati pravna sigurnost investitora.

According to the Bill of Law on Construction of Buildings, the local self-government authority will issue construction permits for buildings, except in cases involving country buildings of general interest; buildings with a gross construction area of 3,000 m² or more; and hotels or tourist settlements with four or five stars, as well as tourist resorts.

Exemption from the obligation to obtain a construction permit will apply to temporary and auxiliary structures.

A new provision introduces the requirement for a technical inspection to issue an occupancy permit for all buildings, except for the category of single-family residential houses.

The Bill of Law anticipates that the construction permit system will achieve a higher level of safety and security for buildings, as well as increase legal certainty for investors.

Predlog dalje obuhvata i nove djelatnosti u procesu izgradnje objekata, propisuje veću odgovornost lica koja se bave djelatnostima izgradnje objekata, kao i veći inspekcijski nadzor preko građevinskog inspektora.

Predlog Zakona predviđa izmijenjene uslove za licenciranje društava koja se bave izradom tehničke dokumentacije, odnosno projektovanjem, revizijom tehničke dokumentacije stručnog nadzora, tehničkog pregleda i projektantskog nadzora, te druge licence koje su u korelaciji sa obavljanjem djelatnosti propisanim Predlogom zakona.

Predlogom Zakona o izgradnji objekata predviđeno je postojanje i zasebne komore arhitekata, te udruživanje u dvije komore: Inženjersku komoru Crne Gore i Komoru arhitekata i planera Crne Gore, što su arhitekate, urbanisti (inženjerske i neinženjerske struke) i prostorni planeri.

The Bill of Law also includes new activities in the construction process, prescribes greater responsibility for individuals engaged in construction activities, and introduces enhanced inspection oversight through construction inspectors.

The Bill of Law provides revised conditions for licensing companies engaged in the preparation of technical documentation, including design, review of technical documentation, professional supervision, technical inspections, and designer supervision, as well as other licenses related to activities prescribed by the Bill of Law.

The Bill of Law on Construction of Buildings envisions the establishment of a separate Chamber of Architects, as well as the formation of two chambers: the Engineering Chamber of Montenegro and the Chamber of Architects and Planners of Montenegro, comprising architects, urban planners (from both engineering

Predlogom Zakona o uređenju prostora definiše se nova politika u ovoj oblasti. U prvom planu je decentralizacija poslova planiranja i propisivanja nadležnosti Države i lokalne samouprave za donošenje planskih dokumenata, koja su u skladu sa evropskom regulativom i praksom. Na ovaj način, djelimično se vraća nadležnost lokalnih samouprava u oblasti uređenja i planiranja prostora.

Predlogom se kao planski dokumenti određuju i razdvajaju državni planski dokument i lokalni planski dokument. Planski dokumenti definisani su na način koji omogućava sveobuhvatnu plansku provjeru i definisanost različitih prostora i sa lokalnog i sa državnog nivoa, kako po svojim ambijentalnim karakteristikama i značenju, tako i po površini zahvata.

Pored toga, Predlog redefiniše instrumente sprovođenja planskih dokumenata i građevinsko zemljište.

The Bill of Law on Spatial Planning defines a new policy in this area, with a primary focus on the decentralization of planning tasks and the allocation of responsibilities between the country and local self-governments for adopting planning documents, in accordance with European regulations and practices. This approach partially restores the authority of local self-governments in the field of spatial planning and development.

The Bill of Law designates and separates planning documents into country-level planning documents and local-level planning documents. These documents are defined in a manner that allows for comprehensive planning assessment and definition of various spaces at both local and country levels, considering their environmental characteristics, significance, and coverage area.

Additionally, the Bill of Law redefines instruments for implementing planning documents and addresses construction land.

Predlog uvodi, odnosno definiše institut urbane komasacije koji predstavlja postupak spajanja postojećih katastarskih parcela na području komasacije u jednu cjelinu i njihovo preoblikovanje u urbanističke parcele u skladu sa planskim dokumentom, koji postupak će sprovoditi Komisija za urbanu komasaciju.

Predlogom se predviđa i izrada programa uređenja prostora, kojim se planira izrada novih i izmjene i dopune postojećih planskih dokumenata, ali i mjere od značaja za izradu tih dokumenata.

Predlog zakona predviđa da reviziju državnog planskog dokumenta vrši Komisija za reviziju, a reviziju lokalnog planskog dokumenta vrši privredno društvo koje izrađuje državni i planski dokument.

It introduces and defines the concept of urban land consolidation, a process that merges existing cadastral parcels within the consolidation area into a single unit and reorganizes them into urban plots in accordance with the planning document. This process will be conducted by the Urban Land Consolidation Commission.

The Bill of Law also envisions the development of a spatial management program, which will outline the preparation of new planning documents, amendments and additions to existing ones, as well as measures significant for the creation of these documents.

The Bill of Law stipulates that the revision of a country-level planning document will be carried out by the Revision Commission, while the revision of a local-level planning document will be conducted by the business entity responsible for drafting the country and local planning documents.

Od značaja je i Prostorni plan Crne Gore koji je predviđen Predlogom. On predstavlja strateški dokument i opštu osnovu organizacije i uređenja prostora Crne Gore.

Donosi se na period od 20 godina i njime se određuju državni ciljevi i mjere prostornog razvoja, u skladu sa ekonomskim, socijalnim, ekološkim i kulturno – istorijskim razvojem Crne Gore.

Od značaja je i izrada državne strategije razvoja arhitekture koju donosi Vlada Crne Gore. Donosi se u cilju afirmisanja arhitekture kao dijela nacionalne kulture i identiteta. Takođe, stvara uslov za unaprjeđenje kvaliteta izgrađene sredine. Dodatno, predlogom se predviđa i osnivanje Komore arhitekata i planera Crne Gore, kao i inspekcijski nadzor u ovoj oblasti preko urbanističkog inspektora.

Of particular importance is the Spatial Plan of Montenegro, as proposed in the Bill of Law. This plan serves as a strategic document and the general basis for the organization and development of Montenegro's territory.

It is adopted for a 20-year period and defines national goals and measures for spatial development in line with Montenegro's economic, social, environmental, and cultural-historical development.

Also of significance is the development of a national architectural development strategy, adopted by the Government of Montenegro. This strategy aims to promote architecture as part of the national culture and identity. Additionally, it establishes conditions for improving the quality of the built environment. Additionally, the Bill of Law proposes the establishment of the Chamber of Architects and Planners of Montenegro, as well as inspection oversight in this field through an urban planning inspector.

Predlog Zakona o uređenju prostora usklađen je sa Direktivom 2014/89/EU o uspostavljanju okvira za prostorno planiranje morskog područja, Direktivom 2005/36/EZ o priznavanju stručnih kvalifikacija i Direktivom 2013/55/EU o izmjeni Direktive 2005/36/EZ o priznavanju stručnih kvalifikacija, Protokolom o integralnom upravljanju priobalnim područjem Sredozemlja (Madrid 2008. godine), koji je potvrđen donošenjem Zakona o potvrđivanju Protokola o integralnom upravljanju priobalnim područjem Sredozemlja 2011. godine.

Konačno, potrebno je ukazati na nestabilnost crnogorskog zakonodavstva u ovoj oblasti, s obzirom na činjenicu da su u posljednjih desetak godina uvedene brojne promjene, odnosno donijeto je više zakona u tom periodu sa krupnim razlikama. Crna Gora je prije 2008. godine imala model po kojem je ova oblast regulisana kroz više propisa, poput Zakona o planiranju i uređenju prostora, Zakona o izgradnji objekata i Zakona o građevinskom zemljištu.

The Bill of Law on Spatial Planning is aligned with Directive 2014/89/EU which is establishing a framework for maritime spatial planning, Directive 2005/36/EC on the recognition of professional qualifications, Directive 2013/55/EU amending Directive 2005/36/EC on the recognition of professional qualifications, and the Protocol on Integrated Coastal Zone Management in the Mediterranean (Madrid, 2008), which was ratified through the adoption of the Law on Ratification of the Protocol on Integrated Coastal Zone Management in the Mediterranean in 2011.

Finally, it is important to highlight the instability of Montenegrin legislation in this area, given the fact that numerous changes have been introduced over the past decade, with several laws being enacted during this period, often with significant differences. Before 2008, Montenegro had a model where this area was regulated by multiple laws, such as the Law on Spatial Planning and Land Development, the Law on Construction of Buildings, and the Law on Construction Land.

Prvi put 2008. godine uveden je objedinjen zakon kako bi se ova oblast sveobuhvatno regulisala – Zakon o uređenju prostora i izgradnji objekata, koji je važio do 2017. godine. Tokom svog važenja, ovaj zakon je pretrpio čak osam izmjena.

Slična sudbina zadesila je i Zakon o planiranju prostora i izgradnji objekata, donijet 2017. godine, koji je do danas izmijenjen šest puta. Sada se, bez valjane argumentacije, ponovo vraćamo na model koji je postojao prije 2008. godine, sa više zakona koji regulišu ovu oblast.

Ovakav pristup odražava manjak kontinuiteta u zakonodavnom okviru i stvara dodatnu pravnu nesigurnost.

Nažalost, Plan generalne regulacije Crne Gore, koji je trebao biti donijet prije više od četiri godine, do danas nije usvojen, što je dodatno unazadilo stanje u ovoj oblasti.

For the first time in 2008, a unified law was introduced to comprehensively regulate this field - the Law on Spatial Planning and Construction of Buildings - which remained in force until 2017. During its applicability, this law underwent as many as eight amendments.

A similar fate befell the Law on Spatial Planning and Construction of Buildings, adopted in 2017, which has been amended six times to date. Now, without valid justification, there is a return to the pre-2008 model, involving multiple laws regulating this area.

This approach reflects a lack of continuity in the legislative framework and creates additional legal uncertainty.

Unfortunately, the General Regulation Plan of Montenegro, which was supposed to be adopted more than four years ago, has still not been implemented, further worsening the situation in this field.



Umjesto stalnih promjena zakonskog okvira, ključno je fokusirati se na kvalitetnu primjenu postojećih propisa. Problem često nije u samim zakonima, već u njihovoj implementaciji i kontroli.

Čak i manje savršeno zakonsko rješenje može donijeti rezultate ukoliko se dosljedno primjenjuje. Suprotno tome, česte izmjene zakona destabilizuju sistem, obeshrabuju investitore i otežavaju dugoročno planiranje, što nije u interesu zemlje koja teži privlačenju stranih ulaganja i postizanju održivog razvoja.

Instead of constant changes to the legal framework, it is crucial to focus on the effective implementation of existing regulations. The issue often lies not with the laws themselves but with their enforcement and oversight.

Even less-than-perfect legal solutions can yield results if consistently applied. Conversely, frequent legal amendments destabilize the system, discourage investors, and hinder long-term planning, which is not in the interest of a country striving to attract foreign investments and achieve sustainable development.

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