

# **LAW ON FINANCIAL LEASING**

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## **Chapter I**

### **BASIC PROVISIONS**

#### **Area of Application of the Present Law**

##### **Article 1**

The present Law regulates the financial leasing transaction, the contract of financial leasing, the rights and obligations of parties to the financial leasing transaction, and the financial leasing registry.

Parties and legal relations involving the financial leasing transaction, taking place on the ground of the present Law, shall be subject to provisions of other laws in cases that are not regulated by the present Law.

#### **Financial Leasing Transaction**

##### **Article 2**

In terms of the present Law, the financial leasing transaction shall be understood to be a transaction where the grantor of leasing:

- 1) concludes with the supplier of the subject of leasing, as indicated by the recipient, a contract on the ground of which he acquires the right of ownership over the subject of leasing, according to specification of the recipient of leasing, and under the conditions which, if affecting the interests of the recipient of leasing, shall be approved by the recipient of leasing (hereinafter: contract of delivery);
- 2) concludes with the recipient of leasing a contract of financial leasing by which he commits himself to transfer onto the recipient of leasing the authority of holding and using the subject of leasing in accordance to the stipulated time limit, while the recipient of leasing assumes the obligation to pay to him for the above a stipulated fee, in the installments agreed upon (hereinafter: contract of leasing).

#### **Term of the Contract of Leasing**

##### **Article 3**

The minimum period for which the contract of leasing shall be concluded may not be shorter than two years, beginning with the day of entering into contract.

## Subject of Leasing

### Article 4

The subject of financial leasing shall be a non-consumable movable property (equipment, installations, vehicles and the like).

## Notifying the Supplier

### Article 5

The grantor of leasing shall be obliged to notify the supplier of the subject of leasing that he acquires the subject of leasing for the purpose of carrying out the contract of leasing, and to indicate the person who, in terms of that contract, has the status of a recipient of leasing.

The notification specified in paragraph 1 of the present Article has to be made until the moment of entering into contract of delivery, at the latest.

## Contents and Form of Contract of Leasing

### Article 6

The contract of leasing shall obligatorily contain the following: precise indication of the subject of leasing, amount of fee to be paid by the recipient of leasing, amount of specific fee installments, their number and the payment time limits, as well as the indication of the period of validity of contract.

In addition to elements referred to in paragraph 1 of the present Article, the contract of leasing may include the following elements as well: location, time and manner of delivery of the subject of leasing, ownership over the subject of leasing, the party assuming the obligation to insure the subject of leasing and risks against which it has to be covered by insurance, the manner of termination of contract, the option of purchase or the extension of contract, costs of transportation of the subject of leasing, its assembling, dismounting and running maintenance, spare parts replacement, servicing and technical-technological improvement, training of personnel of the recipient of leasing for the purpose of using the subject of leasing, and other elements to be agreed upon by the contracting parties.

The contract of leasing has to be concluded in writing.

## Leasing Fee

## Article 7

The fee to be paid by the recipient of leasing to the grantor of leasing for the use of the subject of leasing (hereinafter: leasing fee) shall be specified primarily on the ground of depreciation of the entirety or the most essential portion of the value of the subject of leasing.

## Contract of Leasing

## Article 8

The contract of leasing shall be concluded in accordance to the present Law and the Law regulating the obligations (contracts and torts).

## Chapter II

### PARTIES TO FINANCIAL LEASING TRANSACTION

## Defining the Parties

## Article 9

The parties to a financial leasing transactions shall be: the grantor of leasing, the recipient of leasing and the supplier of the subject of leasing.

## Grantor of Leasing

## Article 10

Grantor of leasing is understood to be a person who, while keeping the right of ownership over the subject of leasing, transfers onto the recipient of leasing the authority to hold and use the subject of leasing, for the stipulated period of time and against the stipulated fee.

The person specified in paragraph 1 of the present Article is a commercial company, established in accordance with the law regulating the legal status of commercial companies whose monetary part of capital may not be below 100,000 EUR in dinar counter-value at the average exchange rate of the National Bank of Serbia on the day of payment, and that has obtained a permit of the National Bank of Serbia to perform financial leasing transactions in conformity with the present Law.

The grantor of leasing may perform only the financial leasing activity.

The grantor of leasing shall be bound to ensure that in his business activity his capital assets be always in the amount that is not below the amount specified in paragraph 2 of the present Article.

## Recipient of Leasing

### Article 11

In terms of the present Law, the recipient of leasing shall be a legal or natural person being a party onto which the grantor of leasing transfers the authority of holding and using the subject of leasing, for a stipulated period of time and against a stipulated fee.

## Supplier of Subject of Leasing

### Article 12

In terms of the present Law, the supplier of the subject of leasing (hereinafter: supplier) shall be a legal or natural person who transfers onto the grantor of leasing the right of ownership over the subject of leasing, for the purpose of its delivery to the recipient of leasing, to hold and use it for the stipulated period of time and against a stipulated fee.

## Delimitation

### Article 13

A contract in which a grantor of leasing and a supplier make one and the same person shall not be considered a contract of financial leasing in terms of the present Law.

The contract referred to in paragraph 1 of the present Article shall be subject to provisions of the Law regulating obligations (contracts and torts), depending on the nature of the specific contract (lease, sale combined with paying the price by installments, and the like).

## Chapter IIA

### PERMIT TO PERFORM FINANCIAL LEASING TRANSACTIONS AND SUPERVISION OVER THE PERFORMANCE OF THESE TRANSACTIONS

#### Article 13a

The request for issuing a permit to perform the financial leasing transactions, the founders of a commercial company shall file with the National Bank of Serbia.

Enclosed to the request specified in paragraph 1 of the present Article shall be the following documentation:

- 1) company's act of establishment;
- 2) evidence confirming that the monetary part of the capital assets specified in Article 10, paragraph 2 of the present Law has been paid to the temporary bank account;

3) evidence confirming the personnel and technical qualifications for performing financial leasing transactions;

4) program of work of the commercial company covering a three-year period;

5) list of persons proposed for managing bodies' members, and/or proposed persons with special authorities and responsibilities, recommendations relating to expert and professional qualities of such persons, the evidence confirming that these persons are not condemned for committing criminal offences that make them unfit for performing such functions, as well as the evidence that no measure of the ban on performing an activity has been pronounced against them.

The National Bank of Serbia shall prescribe the details of conditions and the mode of proving the compliance with the conditions specified in paragraph 2 of the present Article.

#### Article 13b

In considering the request and the documentation specified in Article 13a of the present Law, the National Bank of Serbia shall also assess the business reputation of the founder of the commercial company and/or the proposed persons with special authorities and responsibilities, and shall prescribe the criteria for assessing the business reputation.

#### Article 13c

The National Bank of Serbia shall render a ruling on the request specified in Article 13a of the present Law within 30 days following the day of receipt of the request.

The ruling specified in paragraph 1 of the present Article shall be finally binding.

Should the National Bank of Serbia deny the request specified in Article 13a of the present Law, it shall be bound to indicate in the ruling the reasons of denying the request.

The founders of a commercial company shall be bound to submit the application form for registering in the registry of commercial entities, together with the ruling by which the permit is granted for performing financial leasing transactions, to the Registrar, within seven days following the day of receipt of the ruling.

#### Article 13d

The grantor of leasing shall be bound:

1) to submit to the National Bank of Serbia an annual report on business activity, with a financial report and the opinion of an authorised auditor;

2) notify the National Bank of Serbia on the status and other changes that are to be registered in the registry of commercial entities;

3) to submit, at the demand of the National Bank of Serbia, other information as well.

The National Bank of Serbia shall prescribe the mode and time limits for submitting information specified in paragraph 1, item 3 of the present Article.

#### Article 13e

The grantor of leasing shall be bound to submit to the National Bank of Serbia a request for granting consent on the decision on nomination of the managing bodies' members, and/or persons with special authorities and responsibilities.

The National Bank of Serbia shall prescribe the documentation the grantor of leasing shall be bound to enclose to the request specified in paragraph 1 of the present Article.

The National Bank of Serbia shall decide by a ruling on the request specified in paragraph 1 of the present Article, within 30 days following the day of receipt of the request.

The ruling specified in paragraph 3 of the present Article shall be finally binding.

#### Article 13f

The National Bank of Serbia may prescribe the obligation to the grantors of leasing to keep their reserve resources on a special account at the bank.

Should the National Bank prescribe the obligation specified in paragraph 1 of the present Article, it shall prescribe by the same act also the amount of reserve resources, the rate of setting apart of these resources as well as the mode and the conditions of their use.

Resources specified in paragraph shall not be subject to compulsory collection.

#### Article 13g

The National Bank of Serbia shall prescribe the minimal conditions on the ground of which a grantor of leasing concludes the contracts of leasing in concordance with the present Law, as well as the mode of indicating the leasing fee and other costs arising through the conclusion of a contract of leasing.

#### Article 13h

The supervision over performance of transactions of grantors of leasing shall be effected by the National Bank of Serbia on the ground of an order of the governor of the National Bank of Serbia or a person authorised by him.

The supervision specified in paragraph 1 of the present Article shall include:

- 1) indirect control of reports and other documentation as well as other information submitted by the grantor of leasing to the National Bank of Serbia, and/or which are at the disposal of the National Bank of Serbia;
- 2) direct insight in business books and other documentation of the grantor of leasing.

The minutes shall be made in the procedure of effecting supervision specified in paragraph 2 of the present Article.

Should unlawfulness and irregularities are founding the procedure of supervision, the measures shall be taken against the grantor of leasing that relate to the following:

- 1) forwarding a reprimand in writing;
- 2) forwarding an injunction letter, with the possibility of pronouncing a fine;
- 3) issuing an order for eliminating the irregularities found, with the possibility of pronouncing a fine to the grantor of leasing as well as to the members of his managing bodies' members, and/or persons with special authorities and responsibilities;
- 4) taking away of the permit for performing the financial leasing transactions.

The National Bank of Serbia shall prescribe the details of the conditions and mode of effecting supervision over the performance of financial leasing transactions.

#### Article 13i

The National Bank of Serbia shall pass a ruling on taking away of the permit for performing the financial leasing transactions if:

- 1) the permit is issued on the ground of untrue and incorrect data submitted by the founder of commercial company;
- 2) the grantor of leasing discontinues to meet the conditions necessary for issuing such permit;
- 3) the grantor of leasing fails to submit the prescribed reports, documentation and other information relating to his business activity, in the prescribed mode and within the specified time limits;
- 4) the grantor of leasing does not make possible the effecting of supervision over his business activity;

5) it is found that the monetary part of capital assets of the grantor of leasing is lower than the one prescribed by the present Law;

6) the grantor of leasing fails, in the determined time limit, to carry out measures ordered to him by the National Bank of Serbia, and/or fails to eliminate the reasons for introduction of such measures.

The ruling specified in paragraph 1 of the present Article shall be finally binding and the National Bank of Serbia shall forward it to the grantor of leasing and the registry of commercial entities.

As of the day of registering the ruling specified in paragraph 1 of the present Article in the registry of commercial companies, the commercial company that was deprived of the permit for performing financial leasing transactions shall not enter into new contracts of leasing, and the rights and duties stemming from contracts of leasing concluded until the day of that filing shall stay unchanged.

The grantor of leasing deprived of the permit for performing financial leasing transactions shall be subject to provisions of the law regulating the legal status of commercial companies regarding the winding-up of commercial companies.

#### Article 13j

The grantor of leasing who, in accordance with the present Law, is deprived of the permit for performing financial leasing transactions, in case of instituting the bankruptcy proceedings, shall be subject to the law regulating the bankruptcy procedure.

### Chapter III

#### RIGHTS AND OBLIGATIONS OF GRANTOR OF LEASING

##### Obligation of Procuring the Subject of Leasing

#### Article 14

Grantor of leasing shall be bound to procure, under the specification of the recipient of leasing, the subject of leasing from the supplier designated by the recipient of leasing.

##### Protection in Case of Bankruptcy of Recipient of Leasing

#### Article 15

In case of bankruptcy of the recipient of leasing, the grantor of leasing shall be entitled to single out the subject of leasing (right of setting apart) out of the bankrupt's estate, in accordance to the Law regulating the bankruptcy proceedings.

The recipient of leasing and the court in charge of carrying out the bankruptcy proceedings shall be bound to notify without delay the grantor of leasing on the instituting of bankruptcy proceedings.

#### Elimination of Liability for Substantive Defects

##### Article 16

Unless otherwise stipulated by contract, liable to the recipient of leasing for substantive defects of the subject of leasing shall be the supplier.

#### Elimination of Liability for Damage Caused by Subject of Leasing

##### Article 17

A grantor of leasing shall not be liable to the recipient of leasing for damage caused by the subject of leasing, except where the recipient of leasing has suffered damage due to relying on professional qualification of the grantor of leasing, or where the grantor of leasing has participated in the choice of supplier or in making the specification for the subject of leasing, unless otherwise stipulated by contract.

#### Liability for Defects in Terms of Law

##### Article 18

A grantor of leasing shall be liable should a third party have a right relating to the subject of leasing, which right excludes, reduces or restricts the unhindered possession of the recipient of leasing, and about whose existence the recipient of leasing has not been notified, nor has he consented to take the subject of leasing encumbered by such a right.

#### Notifying the Grantor of Leasing

##### Article 19

Should a third party be a holder of the right specified in Article 18 of the present Law relating to the subject of leasing, the recipient of leasing shall be bound to notify accordingly the grantor of leasing, and to request that he disencumbers, in a reasonable time limit, the subject of leasing from such right or pretension of the third party.

A recipient of leasing who, while failing to notify the grantor of leasing, has initiated and lost the litigation with the third party referred to in paragraph 1 of the present Article, may refer, as far as defects in terms of law are concerned, to the liability of the grantor of leasing, unless the grantor of leasing proves that he has disposed of means apt to deny the third party's claim.

A recipient of leasing shall be entitled to refer to the liability of grantor of leasing, as far as defects in terms of law are concerned, also if he, without notifying the grantor of leasing, has even without litigation recognised the valid right of the third party.

Where in case specified in paragraph 3 of the present Article the recipient of leasing has paid to the third party a specific amount in order to abandon his right, the grantor of leasing may be exempted from liability if he refunds to the recipient of leasing the amount paid, as well as pays the compensation for the damage suffered.

#### Sanctions in Case of Defects in Terms of Law

##### Article 20

Should a grantor of leasing fail to proceed as requested by the recipient of leasing in terms of Article 19, paragraph 1 of the present Law, where the subject of leasing is taken away from the recipient of leasing, the contract of leasing shall be repudiated, unless otherwise stipulated by contract.

Should the grantor of leasing fail to proceed as requested by the recipient of leasing in terms of Article 19, paragraph 1 of the present Law, where the unhindered possession of the recipient of leasing is reduced or restricted, the recipient of leasing may repudiate the contract if, due to that, the purpose of contract may not be effected, or he may request the proportional reduction of the leasing fee.

In the case specified in paragraphs 1 and 2 of the present Article, the recipient of leasing shall be entitled to compensation of the damage suffered.

Where the recipient of leasing, at the moment of concluding the contract of leasing, was aware that the subject of leasing may be taken away, or that its unhindered possession may be reduced or restricted, he shall not be entitled to compensation of damage, if such a possibility comes to being.

#### Contractual Limitation or Exclusion of Liability of Grantor of Leasing

##### Article 21

Liability of grantor of leasing for defects in terms of law relating to the subject of leasing may not be limited or excluded by contract.

#### Transfer of Right of Ownership over the Subject of Leasing

##### Article 22

A grantor of leasing may transfer onto a third party the right of ownership over the subject of leasing.

In case of transferring the right of ownership over the subject of leasing, specified in paragraph 1 of the present Law, the third party shall take the position of the grantor of leasing, so that rights and obligations on the ground of the contract of leasing shall take place between himself and the recipient of leasing.

In the case referred to in paragraph 1 of the present Article, the third party may not request from the recipient of leasing the delivery of the subject of leasing prior to expiration of the period of time for which the contract of leasing has been concluded.

The transfer of right of ownership over the subject of leasing onto a third party may be excluded by contract or may be stipulated otherwise.

## Chapter IV

### RIGHTS AND OBLIGATIONS OF RECIPIENT OF LEASING

#### Taking over of the Subject of Leasing

##### Article 23

A recipient of leasing shall be bound to take over the subject of leasing in the manner and at the time and location as stipulated by contract.

#### Rescission of Contract due to Non-delivery

##### Article 24

If a supplier fails to deliver the subject of leasing to the recipient of leasing, if he is late in delivering it, or where the subject of leasing has a substantive defect, the recipient of leasing, in accordance to the Law regulating obligations (contracts and torts), may deny the delivery or repudiate the contract of leasing, and shall be entitled to compensation of damage.

In the event specified in paragraph 1 of the present Article, the grantor of leasing may keep the contract valid if he himself delivers without delay the subject of leasing to the recipient of leasing, under the terms stipulated by contract of leasing.

Until the fulfillment of the obligation of delivery that is entirely in accordance to the contract of leasing, the recipient of leasing shall be entitled to discontinue the payment of fee that, on the ground of contract of leasing, he should otherwise be obliged to pay to the grantor of leasing.

A recipient of leasing who has repudiated the contract shall be entitled to refund of the fee already paid in accordance to the contract of leasing, reduced by the amount representing the compensation for the benefit realised by the recipient of leasing from the subject of leasing (reasonable amount).

## Utilization of the Subject of Leasing

### Article 25

A recipient of leasing shall be bound to utilise the subject of leasing by applying the attention of a good businessman, i.e. a good master of the house.

The recipient of leasing shall be bound to utilise the subject of leasing in accordance to the contract or the purpose of the subject of leasing.

The recipient of leasing shall be liable for damage caused by using the subject of leasing contrary to the contract or purpose of the subject of leasing, regardless of whether the subject of leasing has been used by him, by a person working at his order, or by another person enabled by him to use the subject of leasing.

## Maintenance of the Subject of Leasing

### Article 26

A recipient of leasing shall be bound to maintain the subject of leasing in working condition and to make necessary repairs of the subject of leasing.

The recipient of leasing shall be liable for damage caused by the failure of maintaining the subject of leasing in working condition.

## Payment of Leasing Fee

### Article 27

A recipient of leasing shall be bound to pay to the grantor of leasing a leasing fee in the amounts, at the time-limits, and in the way as stipulated by the contract of leasing.

## Rescission of Contract due to Failure to Pay the Leasing Fee

### Article 28

A grantor of leasing may repudiate the contract should the recipient of leasing fail to pay the first installment on time.

Where after the payment of first installment the recipient of leasing fails to pay on time one or several consecutive installments whose total amount makes one quarter of the entire fee, the grantor of leasing may repudiate the contract, or may request from the recipient of leasing the payment of the remaining fee, including the interest.

By exception to the provisions specified in paragraphs 1 and 2 of the present Article, should the recipient of leasing fail to pay one installment, the grantor of leasing may

repudiate the contract as far as all future obligations of payment are concerned, if it is obvious that, on the ground of given circumstances, they too would not be fulfilled.

The grantor of leasing intending to repudiate the contract out of reasons specified in paragraphs 1 through 3 of the present Article, shall be bound to leave to the recipient of leasing an adequate subsequent time-limit for the fulfillment of the obligation.

Should the recipient of leasing fail to fulfill the obligation within the time-limit referred to in paragraph 4 of the present Article, the contract of leasing shall be repudiated on the ground of the Law itself.

In the events specified in paragraphs 1 through 3 of the present Article, the recipient of leasing may keep the contract valid after giving a corresponding security.

Rescission of contract due to failure of payment of the leasing fee may be regulated by contract in another way, within the limits of compulsory regulations, the public order, and the good usage.

Effects of Rescission

Article 29

A grantor of leasing who repudiates the contract due to failure of payment of the leasing fee out of reasons specified in Article 28 of the present Law, or in the contract of leasing, shall be entitled to the return of the subject of leasing, as well as to compensation of the damage suffered.

Special Procedure for Acquiring Possession over the Subject of Leasing

Article 30

At the proposal of the contracting parties, the court of law shall determine the date of summons at which it shall find, in the minutes, that the contracting parties have come to agreement that, in case of failure to pay the leasing fee in due time on the part of the recipient of leasing in accordance to contract, the grantor of leasing shall be entitled to take over the possession of the subject of leasing.

The signed minutes of the agreement of contracting parties, referred to in paragraph 1 of the present Article, shall have the force of official court settlement.

Should the recipient of leasing fail to fulfill the obligation of payment of the leasing fee on time in accordance to contract, and should he fail to voluntarily hand over to the grantor of leasing the subject of leasing, the grantor of leasing may address the court of law with a request for rendering a ruling on taking away the subject of leasing from the recipient of leasing, or from a person actually in possession of the subject of leasing, and on handing over the possession of that subject to the grantor of leasing.

Enclosed to the request referred to in paragraph 3 of the present Article shall be the signed minutes relating to agreement of the contracting parties specified in paragraph 1 of the present Article.

The court of law shall be bound to decide on the request referred to in paragraph 3 of the present Article within three days from the day of submitting the request.

The procedure of taking away of the subject of leasing shall be conducted within three days from the day of rendering the ruling by which the request referred to in paragraph 3 of the present Article has been granted.

The ruling on taking away of the subject of leasing from the recipient of leasing or the person in possession of the subject of leasing may be objected by the recipient of leasing, within three days from the receipt of the ruling, by claiming that he has fulfilled the duty of payment, which claim has to be supported by evidence in writing.

The objection specified in paragraph 7 of the present Article shall not postpone the execution.

The court of law shall decide on the objection referred to in paragraph 7 of the present Article in accordance to the Law regulating the execution procedure.

Unless otherwise specified by the present Law, the procedure applicable to acquiring the possession over the subject of leasing shall be subject to the Law regulating the execution procedure.

Indemnity

Article 31

Compensation of damage caused by the failure to pay the leasing fee should bring the grantor of leasing into a position in which he would have been were the recipient of leasing fulfilled his obligation in accordance to the contract.

The manner of calculating the amount of damages may be stipulated by contract, which amount shall not exceed the one specified in paragraph 1 of the present Article.

Risk of Accidental Loss of or Damage to the Subject of Leasing

Article 32

Risk of accidental loss of or damage to the subject of leasing shall be born by the recipient of leasing.

Unless otherwise stipulated by contract, the risk shall be incurred by the recipient of leasing at the moment of taking over the subject of leasing.

## Returning the Subject of Leasing

### Article 33

After the termination of contract, the recipient of leasing shall be bound to return to the grantor of leasing, or the person designated by the grantor of leasing, the undamaged subject of leasing, together with accessories, unless the right has been stipulated in the contract of the recipient of leasing to buy up the subject of leasing, or to extend the validity of contract.

The recipient of leasing shall not be liable for the wearing out of the subject of leasing as a consequence of its regular use, the same applying to alterations effected in agreement with the grantor of leasing.

### Duty to Insure

### Article 34

Unless otherwise stipulated by contract, the recipient of leasing shall be obliged to insure the subject of leasing against risks provided for by the contract.

### Handing over the Subject of Leasing to Another for Use

### Article 35

After obtaining a consent in writing of the grantor of leasing, the recipient of leasing may hand over the subject of leasing, in its entirety or in parts, to a third party for use.

The grantor of leasing may repudiate the contract and may request indemnity, if the recipient of leasing has handed over the subject of leasing to a third party for use, without his consent in writing.

The special procedure for acquiring possession over the subject of leasing referred to in Article 30 of the present Law may be applied also in case of repudiating of contract specified in paragraph 2 of the present Article.

Handing over of the subject of leasing to a third party for use shall not exempt the recipient of leasing from the obligation assumed by the contract of leasing in favor of the grantor of leasing.

The handing over of subject of leasing to a third party for use may be excluded by contract, or may be stipulated otherwise.

## Chapter V

### RIGHTS AND DUTIES OF SUPPLIER

#### Delivery of the Subject of Leasing

##### Article 36

Unless being stipulated by contract of leasing that the subject of leasing be delivered by the grantor of leasing, the supplier shall be bound to deliver the subject of leasing to the recipient of leasing in working condition, together with accessories, and in the way, at the time and on the location as stipulated by the contract of delivery.

#### Alterations of Contract

##### Article 37

Where the recipient of leasing has agreed with the contents of the contract entered into between the grantor of leasing and the supplier, on the ground of which the grantor of leasing has acquired the right of ownership over the subject of leasing, subsequent alterations of that contract shall have no effect for the recipient of leasing, unless he has accepted them.

#### Liability of Supplier Towards the Recipient of Leasing

##### Article 38

If the supplier fails to deliver the subject of leasing to the recipient of leasing, if he fails to deliver it on time, or if the subject of leasing has a substantive defect, the recipient of leasing shall have against the supplier the rights that, in terms of the Law regulating the obligations (contracts and torts), he would otherwise have as a party in a contract with the supplier.

By exception to paragraph 1 of the present Article, the recipient of leasing shall not be entitled, without the consent of the grantor of leasing, to repudiate or cancel the contract concluded between the grantor of leasing and the supplier, which shall apply also to the right to claim the price reduction.

The supplier shall not be liable for one and the same damage to the grantor of leasing and the supplier.

#### Joint and Several Liability of Grantor of Leasing and Supplier

##### Article 39

If the grantor of leasing has chosen the supplier, he shall be jointly and severally liable to the recipient of leasing if the subject of leasing is not delivered to the recipient of leasing, if it is not delivered on time, or if the subject of leasing has a substantive defect.

## Chapter VI

### TERMINATION OF CONTRACT OF LEASING

#### Expiration of Time-Limit

##### Article 40

The contract of leasing shall be terminated by expiration of time-limit stipulated for the validity of contract.

#### Loss of Subject of Leasing due to Force Majeure

##### Article 41

Contract of leasing shall be terminated should the subject of leasing be destroyed by a case of Force Majeure.

#### Rights to Buy Up or to Extend the Contract

##### Article 42

Subject of leasing shall not become the property of the recipient of leasing by expiration of the time-limit stipulated for the validity of contract of leasing.

The contract of leasing may provide for a right of the recipient of leasing to buy up, after the expiration of the time-limit stipulated for the validity of contract, the subject of leasing, at the price as stipulated by contract, or for a right to extend the validity of contract of leasing (right of option).

The recipient of leasing shall be bound to notify the grantor of leasing of his decision to buy up the subject of leasing, or to extend the validity of contract of leasing, within one month at the latest prior to the expiration of time-limit stipulated for the validity of contract.

## Chapter VII

### FINANCIAL LEASING REGISTRY

#### Concept

##### Article 43

Financial leasing registry shall be a public registry for filing, in accordance to the present Law, the data relating to contracts of leasing that are concluded between natural and legal persons.

Financial leasing registry (hereinafter: registry) shall be an integral electronic data base, whose foundation shall be the central data base keeping safe all the data entered into the registry.

Local registry units shall be established in the territory of the Republic of Serbia.

The central data base shall be accessible by way of local registry units for the purpose of entering into the registry and searching.

Competence for Keeping the Registry

Article 44

The registry shall be kept by the Agency for Commercial Registries (hereinafter: Agency) through the Registrar.

The Registrar shall be appointed and acquitted of duty by the Managing Board of the Agency, after obtaining agreement of the Government of the Republic of Serbia.

The Registrar shall be appointed for a four year period, with the proviso that the same person may be reappointed.

The Registrar may be acquitted of duty prior to the expiry of the period he is appointed for, i.e.:

- 1) at the request of the Registrar;
- 2) should the Registrar fail to perform his function in conformity with the law;
- 3) on the ground of other reasons specified by law.

Article 44a

The Registrar shall have authorities and obligations to:

- 1) take care of the lawful, systematic and timely keeping of the Registry;
- 2) determine in details the mode of keeping the Registry;
- 3) pass decisions on demands for filing;
- 4) prescribe the form and substance of the filing forms;

5) undertake other actions necessary for flawless and regular functioning of the Registry in conformity with the law.

The Registrar shall be independent in working on individual files, within the framework of authorities specified by the present Law, and/or other regulations.

#### Accessibility of Registry

##### Article 45

The registry shall be accessible to all persons, regardless of location and territory of their addressing the registry for the purpose of entering a contract of leasing into the registry, or of searching.

#### Transparency

##### Article 46

Data that are entered and kept safe in the registry shall be open to general public.

At the request by an interested person, the organisation keeping the registry shall issue a certified transcript relating to data kept safe in the registry, as well as a transcript confirming that the registry does not include data on a financial leasing relating to a specific matter.

#### Fee

##### Article 47

A fee shall be paid to the Agency specified in Article 44 of the present Law for entering and deleting the Registry data, as well as for other services supplied in conformity with the law.

The amount of fee specified in paragraph 1 of the present Article shall be determined by the Managing Board of the Agency, in agreement with the Government of the Republic of Serbia.

#### Effects of Entering Data in the Registry on Third Parties

##### Article 48

It shall be considered that third parties are acquainted with the existence of a contract of leasing on the ground of its being entered in the registry.

No one may claim that he is not aware of data relating to financial leasing which are entered in the registry in accordance to the present Law.

Data entered in the registry shall not make evidence of the existence of property and other rights over the subject of leasing, which shall apply also to the validity of any legal transaction.

#### Duty of Making an Entry

##### Article 49

The grantor of leasing shall be bound to submit the request for entering the contract of leasing within seven days from the day of delivery of the subject of leasing, and the request for amending the data of the contract of financial leasing, as well as deletion of data from the Registry, within seven days from the moment of taking place of the fact causing such amendment, and/or deleting of data.

The request specified in paragraph 1 of the present Article may be submitted also by the recipient of leasing, if so stipulated by the contract of financial leasing.

Liable for damage caused to a third party acting in good faith, due to failure to fulfill the duty of entering specified in paragraph 1 of the present Article, shall be the grantor of leasing, and liable jointly and severally with him shall be also the recipient of leasing, if the contract of financial leasing provides that he, too, may submit the request for entering in the Registry.

The request for entering an annotation of the court dispute for the purpose of protecting rights and interest, relating to the subject of financial leasing or the contract of financial leasing, may be submitted by every interested person.

#### Data Included in the Registry

##### Article 50

The Registry shall include:

- 1) data relating to the grantor of leasing and the recipient of leasing, and data relating to delivered subjects of leasing only if so demanded by the submitter of the request;
- 2) data making more precise the subject of leasing;
- 3) data on the contract of financial leasing (number assigned by the grantor, the day of conclusion and the period of validity of contract);
- 4) data on the existence of a litigation in relation to the subject of leasing and the contract of financial leasing;
- 5) data on the termination of the contract of leasing;

6) other data in conformity with the law.

If the party in a financial leasing transaction is a domestic natural person, the data specified in paragraph 1, item 1 of the present Article shall refer to the name, surname, personal identification number and the place of residence of such person, and if the party in a financial leasing transaction is a foreign natural person, the data specified in paragraph 1, item 1 of the present Article shall refer to the name, surname, passport number and country of issuing it.

If the party in a financial leasing transaction is a domestic juridical person, the data specified in paragraph 1, item 1 of the present Article shall refer to the business name and identification number, and if the party in a financial leasing transaction is a foreign juridical person, the data specified in paragraph 1, item 1 of the present Article shall refer to business name, designation under which it is entered in the foreign registry of commercial entities, the title of such registry and the name of the state where its head office is situated.

Entered into the Registry shall be also all changes of data specified in paragraph 1 of the present Article.

There shall be a trace left in the Registry relating to data specified in paragraph 1 of the present Article that are deleted from the Registry.

## Article 51

Documentation on the ground of which an entry in the Registry has been effected shall be an integral part of the Registry until its transforming into electronic form.

After the transforming of documentation specified in paragraph 1 of the present Article into electronic form and entering into the Registry, such documentation shall be kept safe in conformity with regulations covering the archival materials.

## Procedure of Making an Entry into the Registry

### Article 51a

The procedure of making an entry into the Registry shall be initiated by submitting a request for making an entry (hereinafter: request).

The request shall be submitted on a prescribed form that includes data specified in Article 50 of the Law.

Enclosed to the request shall be:

1) documentation on the ground of which an entry into the Registry is requested (contract, an annex to the contract, a court decision and the like);

2) evidence confirming that the fee for making an entry has been paid.

The request for making an entry shall be submitted in the language and letter that are in official use in the Republic of Serbia.

Where the documentation enclosed to the request is written in a foreign language, the applicant shall be bound to enclose its certified translation as well.

#### Article 51b

The Registrar shall check:

- 1) if the applicant signing the request is authorised to submit it;
- 2) if the request includes all required data;
- 3) if all necessary documentation is enclosed to the request in conformity with the law;
- 4) if data included in the request are identical to data in the documentation enclosed to the request;
- 5) if the evidence confirming the payment of fee for making the entry in the registry are enclosed to the request.

The Registrar shall not examine the accuracy of data and the authenticity of documents enclosed to the request.

#### Article 51c

The Registrar shall decide on the request by a ruling or a conclusion.

The ruling shall be a mode of approving the entry into the Registry or deletion of data from the Registry, if so required in the request.

The conclusion shall be a mode of denying the request, if it was not submitted in conformity with the present Law.

The Registrar shall be bound to hand back to the applicant, together with the conclusion on denying the request, the original documentation submitted in writing.

#### Article 51d

A complaint may be lodged against the ruling and the conclusion specified in Article 51c of the present Law within 15 days following the day of forwarding the ruling, unless otherwise specified by the law.

The complaint shall be submitted, through the Agency, to the minister in charge of economic affairs.

#### Article 51e

Matters regarding the procedure of making entries into the Registry, and that are not regulated separately, shall be appropriately subject to provisions of the law regulating the general administrative procedure.

#### Article 51f

Data that are entered into the Registry shall be made public simultaneously on the Internet pages of the Agency.

### Chapter VIIa

#### PENAL PROVISIONS

#### Article 51g

A fine of from 300,000 to 3,000,000 dinars shall be imposed for commercial offence on a commercial company that is engaged in financial leasing transactions without meeting the conditions specified in Article 10, paragraph 2 of the present Law.

A fine of from 20,000 to 200,000 dinars for the commercial offence specified in paragraph 1 of the present Article shall be imposed also on the person in charge in the commercial company.

#### Article 51h

A fine of from 100,000 to 1,000,000 dinars shall be imposed for commercial violation on a commercial company that is a grantor of leasing:

- 1) if it enters into a contract of leasing providing a time limit that is shorter than two years (Article 3);
- 2) if it fails to submit information in the mode and within the time limits to be prescribed by the National Bank of Serbia (Article 13d, paragraph 2);
- 3) if it does not keep reserve resources on a special account at the bank, if so prescribed for it by the National Bank of Serbia (Article 13f, paragraph 1);
- 4) if it fails to proceed in conformity with Article 49, paragraph 1 of the present Law.

A fine of from 10,000 to 50,000 dinars shall be imposed for the violation specified in paragraph 1 of the present Article shall be imposed also on the person in charge in the commercial company that is a grantor of leasing.

## Chapter VIII

### TRANSITIONAL AND CONCLUDING PROVISIONS

#### Article 52

Contracts of leasing that are concluded prior to 1 January 2004 shall be entered in the registry from the day of commencement of the application of provisions of Article 43 through 51 of the present Law, and until 31 January 2004, at the latest.

The present Law shall come into force on the eighth day from its publication in the "Official Herald of the Republic of Serbia", while the provisions of Article 43 through 51 of the present Law shall apply from 1 January 2004.

#### Independent Articles of the Law on Amending the Law on Financial Leasing

("Official Herald of the RS", No. 61/2005)

#### Article 12

Commercial companies that are grantors of leasing and are established until the day of coming into force of the present Law shall be bound to bring into accordance their business activity with the provisions of the present Law, within six months following the day of its coming into force.

Commercial companies that are grantors of leasing and are established until the day of coming into force of the present Law which fail to bring into accord their business activity with the provisions of the present Law, within the time limit specified in paragraph 1 of the present Article, shall cease to work after the conducted proceedings of winding-up at the charge of the entity of winding-up, which proceedings shall be instituted by the Agency for Commercial Registries in line of duty, and shall be deleted from the registry of commercial entities.

#### Article 13

Contracts of leasing concluded until the day of coming into force of the present Law shall remain valid until the expiry of the time limit of validity of obligations from such contracts.

#### Article 14

The present Law shall come into force on the eighth day following the day of publication in the "Official Herald of the Republic of Serbia".