

U drugom delu rada, autor ispituje nedostatke mera nadzora koje kao specijalne Zakon o obaveznom osiguranju u saobraćaju uvodi u odnosu na poslovanje društava za osiguranje koje sprovode obavezno osiguranje u saobraćaju i posebno društava koja obavljaju poslove obaveznog osiguranja autoodgovornosti. Centralno mesto u radu je posvećeno upoređivanju specijalnih mera nadzora koje ustanovljava ovaj zakon i onih koje društvu za osiguranje zbog istovetnih povreda obaveza i drugih nezakonitosti u poslovanju u obaveznom osiguranju mogu biti izrečene primenom mera nadzora propisanih u Zakonu o osiguranju od 2004. godine. Analiza je usredsređena na nepotpunost i neodređenost predviđenih mera i kriterijuma za njihovo izricanje društvu za osiguranje, neprihvatljivu kumulaciju novčane kazne kao mere nadzora sa novčanom kaznom kao kazneno-pravnom sankcijom u vidu privrednog prestupa i prekršaja zbog istovetne povrede obaveza, odnosno nezakonitosti u poslovanju društva za osiguranje. Autor se zatim posvećuje ispitivanjima kojima dokazuje da primenom regulative Zakona o osiguranju o merama nadzora sistem osiguranja autoodgovornosti može efikasno da funkcioniše i ne ugrozi interese subjekata u ovom pravnom odnosu, te suvišnosti postojanja specijalnih mera nadzora u sistemu obaveznog osiguranja u saobraćaju.

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**DRAWBACKS IN THE METHOD  
FOR ORGANIZATION OF THE GUARANTEE  
FUND AND REGULATED SUPERVISION  
MEASURES IN THE NEW LAW ON  
COMPULSORY INSURANCES IN TRAFFIC**

**SUMMARY**

*Author dedicated first part of the work to studying organisation of the guarantee fund in a new way, provided for by the Law on Compulsory Insurance in Traffic 2009 – Fund that shall in two years time as from coming into force of this new law, i.e. as from 12 October 2011, be organised as a standalone legal entity, instead as per previous Law on Insurance of property and Persons 1996 as an organisational unit of the Association of Serbian Insurers. Appointment of the board of directors and director, content of the board of directors, conditions for appointment of director, method of ensuring means for establishment and start of the funds' operati-*

*ons, fund's finance in the first year of operation, position of the employees at fund regarding salaries and other income, lack of possibility to issue penalty measures or supervision measures for illegal operations provided for insurance companies that write compulsory insurance in traffic, except issuing orders to fund for fixing illegalities. Based on these and other elements of its status and method of operations he is proving that the guarantee fund shall be created as a quasi state body. Special attention author gives to analysis of possible political reasons why organisation of the guarantee fund shall be changed, after thirteen years of a successful work of guarantee fund within the Association of Serbian Insurers. In addition, an effort was made in the work to study certain disharmonisations of the provisions of the said law about guarantee fund with the EU Directive EU 2009/103/EC.*

*In the second part of the work, author examines drawbacks of the supervision measures, which, as a special, the Law on Compulsory Insurance in Traffic introduces for operations of insurance companies writing compulsory insurance in traffic and companies writing only MTPL insurance. Central place in the work was given to comparison of the special supervision measures this law introduced and those that may be issued on the operation of the Law on Insurance 2004 for the same breaches and other illegalities in the operation of compulsory insurance. Study was focused on the partiality and vagueness of the measures and criteria for their issuance to insurance company, unacceptable accumulation of the fines as a supervision measure together with the fine as an offence sanction for a commercial offence and offence for the same breach of duty, i.e. illegality in an insurance company's operation. Author, then, concentrates on investigation proving that by application of the provisions of the Law on Insurance on supervision measures, system of MTPL insurance could efficiently function without jeopardising interests of the subjects at a legal relation and that existence of special supervision measures in the system of compulsory insurance in traffic are superfluous.*