WHITE BOOK

Proposals for improvement of the business environment in Serbia

2023

Foreign Investors Council

FOREIGN INVESTORS COUNCIL

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Proposals for improvement
of the business environment in Serbia

Editors:
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and Foreign Investors Council

2023

White Book is also **available for download** at

https://fic.org.rs/WhiteBook2023.pdf

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FOREWORD

Dear Reader,

I wish you a warm welcome to the 2023 edition of the White Book. It is FIC's flagship project, an overview of Serbia's business climate and collection of recommendations and proposals for resolving burning issues. More than 120 foreign companies, from all around the globe, investing EUR 44 billion and employing more than 115k people, have prepared concrete, practical and feasible recommendations on how to improve the business and investment climate. The 2023 edition consists of 58 articles with 397 recommendations prepared by 59 authors, proving as a true ally to the business society, Serbian Government, and the overall society on how to navigate business in these challenging times.

2023 has not been a steady-going year. The impact of climate change, inflation, the energy prices, and macroeconomic structural challenges have marked the year so far. We are on a rather rickety recovery, with our international order undergoing a turbulent adjustment.

In such global surroundings, it is clear, more than ever, that there are things we can do and improve, regardless of the circumstances. Our job is, and has always been, to represent the unanimous voice of leading investors in the country by addressing a variety of regulatory issues which hinder day-to-day company operations. We have not been just continuing, but rather intensifying our activities, investing our expertise, know-how and knowledge to create a better business society, for the benefit of all. We have established an excellent cooperation with the National Bank of Serbia, aiming to open a permanent dialogue between the public and private sectors. In April 2023, we organised FIC Insight into the regulation and purposes of hedging as protection instruments, with NBS Vice Governor as a special guest and in May, the first FIC Financial Services Conference with the participation of the NBS, the Ministry of Finance, Prevention of Money Laundering Administration and all relevant state bodies and business associations. The same month, we used the opportunity to raise awareness on ESG at one more FIC Insight. ESG is more important than ever. There are many innovations relating to ESG, and Serbian companies should take urgent steps to familiarise themselves with these legislative changes and comply with them, regardless of whether they are related to non-financial reporting, protection of whistleblowers, carbon border adjustment mechanisms, or top-of-the-supply-chain management, whilst we in FIC will continue work on this important topic jointly with our partners.

The young generations have a huge role in the overall process. We need to make sure that they are given a possibility to express their meaningful opinion and participate. They are our future leaders and part of our future business community, and I am positive that together we will make Serbia even a better place to invest in. Cooperation with universities remains a permanent FIC commitment.

We always insist on intensifying negotiations with the EU on membership status. At the same time, we are aware that there had been no better outcomes because of the new circumstances. Serbia should return to investment-led growth. We should have a 25% share of investments in GDP to achieve a sustainable GDP growth rate of 5% per year. To reach that goal, private investments should rise by at least 3% to 4%. And we in FIC will be there to propose, motivate, lead, and insist on the changes we want to see.

Thank you and enjoy the reading.

Mike Michel
FIC President

FOREWORD EU

Dear reader,

I am honoured to write the foreword for the Foreign Investors Council's (FIC) White Book for the third consecutive time.

I congratulate the FIC on yet another successful White Book publication and would like to underline the White Book's importance as a manual, a blueprint, toward a better business environment and, ultimately, to a more competitive and dynamic economy with a strong focus on EU integration.

In the foreword of this year's White Book, I would like to focus on three crucial issues of great significance for both decision makers and businesses.

There is an unprecedented window of opportunity to accelerate Serbia's EU integration. The geopolitical landscape in Europe has changed since Russia's war of aggression against Ukraine. Enlargement has resurfaced on the top of EU's agenda and there is a growing sense of urgency in the EU to make the EU enlargement to the Western Balkans, Ukraine, Moldova and other aspiring countries happen. Aspiring EU members should understand this crucial geopolitical juncture and respond to the growing EU desire for enlargement, by delivering on their commitments. We, as a credible and long-standing partner of Serbia, have sent a clear message that we will be ready for an enlarged Union, as confirmed by the EU leaders via the Granada declaration. This is an opportunity that could and should be used to the benefit of Serbia's citizens, its economy and its place in the world. The time is now to step up on all necessary reforms.

To help Serbia and the region in using that opportunity, this year, together with the Enlargement Package, we also presented a New Growth Plan for the region. The Plan is built on four mutually reinforcing pillars. Firstly, it aims to bring the Western Balkans closer to the EU Single Market. Secondly, the plan seeks to deepen regional economic integration through the establishment of a common regional market. The third pillar of the Growth Plan is to accelerate fundamental reforms in the Western Balkans. Lastly, with a new Reform and Growth Facility for the Western Balkans the European Commission proposed additional funding to bridge the economic and social gap between EU Member States and accession countries. For this, we have proposed a EUR 6 billion investment package, composed of EUR 2 billion in grants and EUR 4 billion in loans. The same approach we used in our Next Generation EU instrument for the EU Member States – investment and reforms; the funding will be provided upon delivery of reforms.

The benefits are myriad. Opening the Single Market for goods and services from the Western Balkans, streamlined customs procedures and reduced waiting times at borders, reducing the cost of cross border payments through the single European payment area, opening up the road transport market etc. are just a few examples of measures which would concretely benefit companies and citizens. Simultaneously, a reform agenda, linked to concrete financial support, will ensure that the investment climate continues to improve and provides the conditions necessary for the economy to thrive, businesses to grow and citizens to enjoy a higher quality of life.

This will go in parallel with our ongoing initiatives such the Economic and Investment Plan, through which, together, we are installing broadband internet infrastructure, building renewable energy resources, diversifying gas supply, building roads, railways, waterways; we are creating solar and wind power plants, science and technology parks, supporting Small and Medium Enterprises (SMEs) and much more.

The EU enlargement process and a clear EU membership perspective has been and remains the key driver toward economic and societal prosperity in Serbia. It is clear that Serbia's place is in the EU, and nowhere else. That is why it is important that, through reforms in areas such as the rule of law, media freedom, good neighbourly relations, public administration reform, public procurement, State owned enterprises' governance, the green transition, digitalisation and many others, Serbia, along with the countries in the region, continue to progress toward membership in the European Union.

These reforms are the driving forces behind a range of policies which provide local SMEs, foreign investors, financial markets and many other actors with the sense of stability, transparency and predictability they need to operate and grow successfully.

In that respect, I am very happy to note that the White Book's recommendations directly and explicitly work toward facilitating progress in Serbia's EU integration path. They are based on experiences from projects, investments,

business transactions, institutional coordination and many other ''real-life'' situations that have contributed to what is effectively a blueprint for reform. A blueprint, which can provide valuable guidance for decision makers on the next steps to take: a better investment climate, a stronger and more resilient economy and ultimately membership in the European Union.

Ultimately, it is up to Serbia to make the best use of the opportunities it has in its EU accession path and to implement the necessary reforms that make Serbia a more competitive place for local and foreign investors and a more secure and prosperous place to live for its citizens. Their proper implementation is what signals Serbia's value as a place to live, a place to do business and a place to work.

With the EU by far Serbia's most important trading partner, close to 300,000 employed by EU companies in Serbia and the vast majority of investments in Serbia having originated from the EU, the positive effects of these reforms and the EU integration path are clear.

Serbia's ongoing commitment to its reform agenda, with the support of civil society and business associations such as the Foreign Investors Council, will determine the extent to which this positive trend will continue.

Sincerely,

Emanuele Giaufret
Ambassador of the European Union
to the Republic of Serbia

FIC INDEX FOR 2023

TABLE 1: RANKING BY PROGRESS IN IMPLEMENTING RECOMMENDATIONS IN 2023

Rating in 2023		Average score in 2023	Average score in 2022	Change of scores in 2023	Significant progress 2023	Certain progress 2023	No progress 2023	Average time of delayed recommendations 2023	Rating in 2022
Sectors									
1	Energy sector	2.30	2.50	-0.20	4	5	1	3.40	2
2	Protection of users of financial services	2.11	1.50	0.61	3	4	2	3.11	11
3	Fiscalization and electronic invoicing	2.00	NA	NA	5	1	5	1.00	NA
4	Illicit trade prevention and inspection oversight	2.00	1.57	0.43	2	5	2	2.33	10
5	Customs	2.00	1.20	0.80	2	1	2	4.20	25
6	Labour legislation: Employment of foreigners	2.00	1.00	1.00	1	2	1	4.75	40
7	Consumer protection	2.00	2.00	0.00	0	3	0	6.67	3
8	E-commerce and digitalization	1.83	2.57	-0.74	2	1	3	2.17	1
9	Real estate: Cadastral procedures	1.82	1.73	0.09	1	7	3	2.00	5
10	Telecommunications	1.79	1.57	0.21	3	5	6	2.21	8
11	State aid	1.71	1.57	0.14	1	3	3	5.86	9
12	Trade	1.67	NA	NA	0	2	1	3.00	NA
13	Pharmaceuticals	1.64	1.71	-0.07	2	10	10	5.00	6
14	Capital market trends	1.60	1.50	0.10	1	1	3	6.00	12
15	Prevention of money laundering	1.50	1.25	0.25	0	2	2	6.25	19
16	Law on payment transactions	1.40	1.80	-0.40	0	2	3	1.60	4
17	Protection of competition	1.38	1.33	0.04	0	3	5	6.33	16
18	Foreign exchange operations	1.33	1.38	-0.04	1	1	7	5.38	14
19	Central registry of real owners	1.33	1.33	0.00	0	1	2	2.00	15
20	Public procurement	1.33	1.33	0.00	0	1	2	4.00	17
21	Real estate: Construction land and development	1.33	1.18	0.15	1	1	7	1.89	26
22	Human capital	1.33	1.17	0.16	0	2	4	6.67	28
23	Real estate: Restitution	1.33	1.00	0.33	0	1	2	6.00	37
24	Labour legislation: Safety and Health at Work	1.33	1.00	0.33	0	2	4	1.83	49
25	Environmental regulations	1.25	1.43	-0.18	0	2	6	1.75	13
26	Insurance: Motor third party liability	1.25	1.00	0.25	0	1	3	2.50	36
27	Leasing	1.20	1.10	0.10	0	1	4	3.17	32
28	Taxes: Personal income tax	1.20	1.00	0.20	0	2	8	5.30	38
29	Taxes: Property tax	1.20	1.00	0.20	0	1	4	5.80	42
30	Labour legislation: Labour Law	1.20	1.00	0.20	0	1	4	5.20	50
31	Private security industry	1.20	1.17	0.03	0	1	4	6.00	27
32	Dual education	1.14	1.33	-0.19	0	1	6	3.14	18
33	Intellectual property	1.14	1.00	0.14	0	1	6	3.17	39
34	Public-private partnerships	1.08	1.58	-0.50	0	1	11	4.67	7

Rating in 2023		Average score in 2023	Average score in 2022	Change of scores in 2023	Significant progress 2023	Certain progress 2023	No progress 2023	Average time of delayed recommendations 2023	Rating in 2022
Sectors									
35	Food& Agriculture: Declarations on food products	1.00	1.25	-0.25	0	0	4	4.25	20
36	Arbitration proceedings	1.00	1.25	-0.25	0	0	4	5.50	21
37	Law on bankruptcy	1.00	1.22	-0.22	0	0	9	6.00	22
38	Oil and gas sector	1.00	1.22	-0.22	0	0	6	1.83	23
39	Investment and business climate	1.00	1.20	-0.20	0	0	4	6.00	24
40	Company law	1.00	1.17	-0.17	0	0	8	5.10	29
41	Food& Agriculture: Food safety law	1.00	1.14	-0.14	0	0	7	5.29	30
42	Taxes: Tax procedure	1.00	1.11	-0.11	0	0	12	5.00	31
43	Taxes: Parafiscal charges	1.00	1.00	0.00	0	0	6	7.67	33
44	Labour legislation: Staff leasing	1.00	1.00	0.00	0	0	3	3.00	34
45	Law on personal data protection	1.00	1.00	0.00	0	0	11	3.55	41
46	Judicial proceedings	1.00	1.00	0.00	0	0	5	9.40	43
47	Taxes: Value added tax	1.00	1.00	0.00	0	0	7	5.29	44
48	Food&Agriculture: Sanitary and phyto. inspections	1.00	1.00	0.00	0	0	4	5.00	45
49	Insurance: Related legislation	1.00	1.00	0.00	0	0	7	1.57	46
50	Labour regulations: Secondment abroad	1.00	1.00	0.00	0	0	3	6.33	47
51	Health insurance	1.00	1.00	0.00	0	0	7	1.57	48
52	Law on whistleblowers	1.00	1.00	0.00	0	0	3	7.33	51
53	Insurance: Law	1.00	1.00	0.00	0	0	6	1.50	52
54	Central Register of Temporary Restriction of Rights	1.00	1.00	0.00	0	0	2	7.25	53
55	Real estate: Mortgages and real estate financial leasing	1.00	1.00	0.00	0	0	4	6.50	54
56	Labour legislation: Employment of disabled persons	1.00	1.00	0.00	0	0	3	14.67	55
57	Taxes: Corporate income tax	1.00	1.00	0.00	0	0	9	6.22	35
58	Tourism	1.00	NA	NA	0	0	6	1.00	NA
AVERAGE/TOTAL		**1.36**	**1.31**	**0.04**	**29**	**78**	**276**	**4.50**	
Areas									
	Real estate	1.48	1.36	0.12	2	9	16	4.10	
	Human capital and dual education	1.23	1.38	-0.14	0	3	10	4.91	
	Food and agriculture	1.00	1.13	-0.13	0	0	15	4.85	
	Taxes	1.29	1.04	0.25	7	5	53	5.64	
	Labour law	1.29	1.00	0.29	1	5	18	5.96	
	Insurance	1.04	1.00	0.04	0	1	23	1.79	

RANKING METODOLOGY

Starting with the previous edition of the White Book, we have included in our annual report a ranking of economic sectors according to the progress made in implementing the FIC recommendations for improving the business climate and regulations in Serbia. Foundations for the ranking methodology were laid down in the White Book for 2011, which provided first tables with scorecards assessing the progress achieved in the previous year. Based on that, we proceed this year with compiling quantitative scores that measure progress and compare the level of accomplishments across sectors and years. The scores are calculated on a Likert-type scale with three levels: significant progress (3 points), certain progress (2 points) and no progress (1 point). Certain progress is the exact midpoint between the two extreme values of significant progress and no progress.

Each methodology of ranking qualitative assessments has advantages and disadvantages. The advantage is that qualitative data can be reduced to a small number of numerical indicators or scores that can be compared in an obvious way. Thus, one can immediately see whether progress has been made in a given year compared to the previous one and which sectors should be credited the most.

Ranking problems, on the other hand, are multiple. As FIC members are treated equally, each sector has the same weight in compiling the outcome. It is true that the FIC singled out several sectors as "Drivers of Development" but does not set them apart from other sectors in the ranking process. Furthermore, sectors are not identical, so there must necessarily be a different number of particular recommendations. Moreover, the composition of these recommendations may change from year to year according to the dynamics of changing regulations and economic policies of the Government of Serbia. In this regard, there is no fixed number of recommendations, nor a predefined questionnaire with possible recommendations, evaluated by FIC members and published by the White Book. Therefore, we have adopted the principle that weighted averages determine scores to reduce some of these problems.

Of course, the mean value of scores suppresses some of the information that matters and, above all, the variability of progress in the recommendations. In this edition of the White Book, we will approximate this variability by the number of recommendations without progress, which can easily be compared with the total number of recommendations. We will use this as an ancillary criterion for assessing sector progress. It did matter when the proposals were first suggested and how much time elapsed before they were adopted. The longer the waiting period, the less valuable their progress will be, as it produces a positive effect later. We still do not use this criterion in the ranking procedure, but we list it in the table as additional information.

Each heading of the White Book, beside the label, has the score size. Additional to individual sectors, there are six cross-cutting areas: Human Capital and Vocational Education, Real Estate and Construction, Food Safety, Labour Regulations, Taxes and Insurance. Table 1 clearly shows which sectors comprise each area. The six cross-cutting areas are listed in the bottom section of Table 1 in a separate bracket.

In this 2023 report, we have analyzed 58 sectors and provided 383 recommendations. In the previous year, our coverage included 55 sectors with 345 recommendations. The average score for 2022 stood at 1.31, and this year it has risen to 1.36. While the number of recommendations has grown, the average rating has seen a slight increase. Additionally, the average waiting time has also extended by 0.34 years (last year it was 4.22 years, and this year it reached 4.50 years).

FIC OVERVIEW

The Foreign Investors Council (FIC) has been working dedicatedly and consistently for more than two decades to improve the business and investment climate in Serbia. The FIC was founded in July 2002, with 14 companies, supported by the OECD, joining forces to enhance the business environment, ethics, and competitiveness of the Serbian economy. Over 21 years, we have remained steadfast in our primary goal, continually advocating for a more favourable business and investment climate that can unlock Serbia's economic potential. We have achieved significant results, surmounting various challenges. Our expertise, experience, and awareness of the need to adapt to changing circumstances and their impact on the economy, society and our members' businesses have been instrumental in our success.

A year after our inception, our members invested a total of 150 million euros and employed 3,160 people. Today the FIC boasts 120 members, who have collectively invested about 44 billion euros in Serbia, directly employing more than 115,000 Serbian citizens. This clear progression demonstrates our members' long-term commitment to Serbia. Our continued dedication naturally goes hand in hand with a commitment to enhancing economic growth and competitiveness, which is a significant driver for the work we do.

The Foreign Investors Council is an association that amplifies the voice of the business community. Our partners and counterparts recognize the value and reliability of our work. We take special pride in our role in promoting Serbia's European integration, convinced that this is the path that Serbia should pursue. We foster special relationships with key partners to achieve our goals. We are the only business association with an institutional framework for cooperation with the Government of Serbia through the joint Working Group for the Implementation of the Recommendations from the White Book. This Working Group is chaired by the Prime Minister and comprises ministers in the Government of Serbia and FIC representatives. The fact that the European Investment Bank (EIB) and the European Bank for Reconstruction and Development (EBRD) are permanent, institutional members of the Management Board underscores our contribution to improving the business environment. Additionally, the FIC brings together bilateral chambers of commerce.

GREEN AND DIGITAL TRANSITION

The Foreign Investors Council has primarily focused its activities on digitization, responsible business, the imperative of a green transition of the economy, and the implementation of a circular economy. These topics are critical to our members not only because of the need to keep abreast of EU and other global trends, but also because they are imperative for further economic growth and development, enabling the utilization of economic potential in the present time. The digital transition has been a priority for us for years. Our members advocate for "paperless work", accelerating the digitization of society and the digital transformation of various business segments as key elements to overcome challenges faced by the Serbian and global economy. The coronavirus pandemic accelerated these processes. Additionally, digitization was a central topic at the first Financial Services Conference that we held in June this year with the aim of becoming a hub for open dialogue of this crucial sector. The National Bank of Serbia (NBS) plays a pivotal role in supporting us, enabling us to continue the work we already started, including solutions in the field of digitization, which will facilitate and enhance business for all market participants. Notably, in the previous period, our members have initiated numerous solutions, such as the digitalization of invoicing, the introduction of video identification, and cloud-based signatures, among others.

Our members recognize that environmental protection, corporate social responsibility and conscientious corporate governance (ESG) have long ago transitioned from the niche interest of a smaller group of socially conscious individuals and organizations to a global requirement. Companies worldwide, especially in developed economies, are subject to clear requirements in these areas. As such, these principles have become an indispensable aspect of doing business, both in the context of cooperation with regional entities that have already established standards and the well-being and preservation of society and the planet. We are particularly proud of our first conference on regenerative agriculture, held in cooperation with the EBRD in September this year. The concept of regenerative agriculture plays a pivotal role in strengthening resilience to climate change, in preserving biodiversity and the environment, and ensuring sustainable food production for future generations. Raising public awareness about this important topic is vital for the functioning of the supply chain system, including local producers, especially in view of the obligation of companies doing business in the EU to align their activities with EU regulations, recommendations, and best practices to protect the environment and reduce harmful gas emissions.

Moreover, during this year, we have channelled our efforts toward knowledge enhancement and the transfer of best practices of our members in areas such as hedging, international ESG regulations and practices, electronic invoicing, as well as occupational safety and health.

COMMITTEES AS THE BACKBONE OF OUR WORK

The Foreign Investors Council operates with nine working committees, which form the backbone of our work. Experts interested in each field participate in these committees. The committees serve as the FIC's hub for knowledge exchange, policy and regulatory analysis, and provide recommendations for improving regulations and, in turn, also the business and investment climate. These committees are a dynamic system, adapting to changing circumstances and the needs of our members. The Foreign Investors Council comprises nine working committees: the Anti-Illicit Trade and Food Committee, Financial Services Committee, Human Resources Committee, Infrastructure and Real Estate Committee, Legal Committee, Pharmaceutical Industry Committee, Taxation Committee, Telecommunications and Digital Economy Committee and the Tourism and Hospitality Committee.

FUNDAMENTAL PRINCIPLES – A GUARANTEE OF STABILITY AND SUCCESS

Since its inception in 2002, the Foreign Investors Council has evolved and adapted to changing circumstances. while retaining its core principles. These principles have stood the test of time, maintaining the stability and continuity of our work. Our fundamental principles are independence, professional competence, best practices, cooperation and European integration.

INDEPENDENCE

The Foreign Investors Council represents the common interests of the business community. Independence and self-sustainability are vital for fulfilling our mission, ensuring that we consistently stand by our views. Our two-tier decision-making process guarantees equal participation among members. Decisions are first reached within the working committees, with an emphasis on consensus rather than simple majority voting. In the second instance, the FIC Board of Directors reviews and decides on the proposals of the working committees.

COMPETENCE

The White Book you hold reflects the extensive professional expertise, practical experience and commitment of our members. The White Book is our primary platform for dialogue on improving regulations and the business climate. It is gratifying to note that the European Commission uses the White Book as an essential source of information for its Annual Report on Serbia's progress toward EU accession. On the basis of our experience, over the years we have developed a unique methodology, the White Book Index, to assess the fulfilment of White Book recommendations. The White Book Index enables us to compare and rank progress in all of the White Book's focus areas, based on the fulfilment of recommendations from previous years. An additional criterion is the time elapsed between when the recommendation was first published in the White Book and when the recommendation was implemented. In this way, we are also able to measure the speed at which the business climate is improving, which can have a significant impact on investment decisions.

BEST PRACTICES

Foreign investors, besides bringing investments and jobs, also introduce high ethical and business standards, business ethics, sustainability, and new technologies. In 2023, the FIC has been dedicated to improving digitization, environmental protection, social corporate responsibility and ethical corporate governance. We are proud to say that our members are responsible employers who take care of their employees and the local community through various socially responsible projects. When it comes to the green agenda and waste management, our members are carbon neutral, following the policies of their parent companies, most of which are based in the EU.

COOPERATION

Collaboration is a fundamental pillar of our activities and accomplishments. The Government of Serbia and regulatory bodies are our natural partners because they are responsible for creating regulations and enforcing them. We would like to highlight our existing institutional framework for cooperation with the Government of Serbia, the Working Group for the Improvement and Implementation

of White Book Recommendations, which facilitates the efficient and effective implementation of the White Book recommendations. We are honoured to be regular partners with the European Union, as well as other key stakeholders, including diplomatic circles, international financial institutions, development agencies, the academic community, and other business and public-private associations.

EUROPEAN INTEGRATION

The Foreign Investors Council has been committed to European integration ever since its inception, believing that the EU has never had any alternative in the previous two decades. For the FIC there is no dilemma that Serbia should continue its EU accession path, especially in view of its strong ties to the European economy and Serbia's geographical location. We are aware that moments of crisis and challenges can put to the test the country's determination to persevere in the complex process of European integration, however, we are deeply convinced that European integration remains Serbia's only viable option in terms of bringing greater economic and social prosperity and opening up new opportunities.

We believe that we are one of the organizations that has the most to offer to the European integration process, and therefore we very actively advocate the harmonization of Serbian legislation with European Union regulations. Namely, about 75% of the FIC members come from the European Union, and most of the remaining members operate on the European market. Our strong European context of action is also reflected in our partnership with the EU Commission, the European Investment Bank (EIB) and the European Bank for Reconstruction and Development (EBRD). In this context, this year we were pleased to participate in the EU Week of Opportunities, with the aim of promoting awareness of the opportunities offered by EU funds to the economy and individuals.

EXECUTIVE OFFICE

The FIC Executive Office plays a crucial role behind the scenes in all our activities, initiatives, and public appearances. This small but efficient team ensures the seamless functioning of our association, fostering communication with FIC members, associates, and partners, and implementing decisions made by the FIC's bodies. The Executive Office is responsible for implementing the decisions of the FIC's bodies, as well as improving cooperation between members through communication on a daily basis. As such, the Executive Office plays an indispensable role in our sophisticated yet manifestly efficient system.

Key characteristics and values of FIC

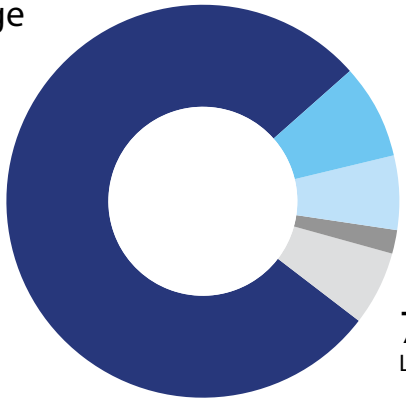
Independence	Regulatory expertise	Consistency
Best Practices	EU promotion	Cooperation

Key FIC figures

21 years since establishment

122 members from **23** sectors

Geo coverage



- 9% USA
- 7% Rest of the world
- 2% Local companies
- 7% Law offices
- 75% Europe

> €44 bil. of investments by FIC members in Serbia

>115,000 directly employed by FIC members in Serbia

White Book 2023 in numbers

CORPORATE SUSTAINABILITY AND RESPONSIBILITY MANIFESTO

ESG, encompassing environmental, social, and governance factors, is increasingly embraced by companies for operational management and by investors for informed decision-making. This broader adoption emphasizes the corporate sector's pivotal role in advancing sustainable development and facilitating the shift towards environmentally-conscious practices.

Simultaneously, substantial regulatory efforts, both on local, European and global scales, are already reshaping market dynamics. An array of public policies related to sustainable finance, circular economy, supply chain responsibility, and climate action, either enacted or under consideration, are placing heightened and rigorous expectations on companies engaged in the European market. The majority of the currently binding provisions trace back to established best practices and voluntary norms that have been universally implemented for a decade. In this sense, companies with previous experience are in an advantage, but aware that the prevailing circumstances are dynamic and demanding, necessitating ongoing reflections and adaptations.

Ultimately, these regulatory endeavors primarily aim to exert a targeted influence on capital and credit markets, particularly concerning the assessment of ESG risks. With the influx of capital from more developed markets, various methods of ESG evaluation have already been integrated into project-based financing within Serbia. Nonetheless, the proportion of financing directly tied to ESG performance is anticipated to grow in the years ahead.

Market regulators are also encouraging companies to improve their corporate ESG disclosure to the benefit of investors and other stakeholders. While the new Directive on Corporate Sustainability Due Diligence (DCSDD) aims to foster sustainable and responsible corporate behaviour across the whole value chains anchoring human rights and environmental considerations in companies' operations and corporate governance, the new Corporate Sustainability Reporting Directive (CSRD) introduced comprehensive European Sustainability Reporting Standards (ESRS) becoming effective in 2024, in order to improve overall quality of disclosed ESG information.

In Serbia, existing practice of voluntary disclosure of ESG information established by sustainability leaders is reinforced by the mandatory non-financial reporting provisions as stipulated by Law on Accounting. This obligation is applicable to large companies with over 500 employees starting from reports for calendar 2021. Nevertheless, it's crucial to recognize that crafting a non-financial/ESG report should extend beyond mere legal compliance. It must evolve into a comprehensive process that not only fulfils regulatory requirements but also serves as a vehicle for pinpointing risks and opportunities, guiding sustainability strategies, and fortifying connections with stakeholders. To steer clear of overlooking critical impacts and to prevent accusations of greenwashing, as well as to ensure a comprehensive grasp of the pivotal ESG factors and their significance to stakeholders – including the foresight to recognize their potential as risks or opportunities – the cornerstone lies in skilfully crafted materiality analysis and purposeful engagement strategies with stakeholders.

The evolution of legal obligations and the dynamic shifts in business models highlight the critical need for proficient professionals capable of navigating the multifaceted landscape of sustainability. This requirement encompasses a blend of technical expertise and adeptness in managing transformative change, all while recognizing the pivotal role of ESG governance. Nonetheless, as the race to meet ambitious emissions and pollution targets accelerates, there is a growing concern that the social dimension of sustainability, represented by the "S" in ESG, might inadvertently receive inadequate attention. To achieve a truly sustainable society, it is imperative to concurrently address social challenges alongside environmental and climate change issues. This holistic approach is fundamental in creating a balanced and enduring societal transformation.

While it's conventional to link ESG with risks, it is important to note that there also exists a multitude of opportunities. The map prepared by the United Nations Development Program (UNDP) in cooperation with the Government of the Republic of Serbia identifies some of the areas and models for investments in Serbia that contribute to the achievement of the Sustainable Development Goals (SDGs) and are in line with the national development needs and priorities of the Government of Serbia.

However, ranked 36th on Global SDG Index 2023, Serbia faces certain environmental and social challenges, needing state-led policies for sustainable economy in accordance with UN Agenda 2030 and European Green Deal. To progress and enhance societies, individual company and civil society efforts should be outlined in a clear vision and (Sustainable) Development Plan. In this regard, a society

wide-dialogue among Serbia's non-state actors, including civil society, corporate sector, academic and research community, media, and the citizens, has been taking place under the "SDGs for All" Platform.

As the driving force behind economic growth, the business sector is uniquely positioned to help establish a more equitable, inclusive, and sustainable society. As this realization gains prominence among enterprises and societal collaborators alike, there is a noticeable surge in corporate involvement, complemented by the emergence of impactful cross-sector collaborations. These initiatives are geared towards tackling urgent social issues, nurturing inclusiveness, and championing environmental guardianship – all while adhering to the most stringent ethical principles.

OUR COMMITMENTS

Believing that the business sector can play a leading role in driving economic growth, while fostering social inclusion and cohesion, as well as sustaining the natural environment, we remain committed to:

- sustaining the adoption of an adequate legal framework, which will enhance and stimulate sustainable and responsible business practices;
- establishing and fostering multi-stakeholder and cross-sector dialogue in addressing the most acute economic, social, and environmental issues;
- acting as best practice examples of good corporate governance and transparency in all aspects of doing business by promoting and practicing transparent reporting on social and environmental impacts, in accordance with EU comparative experience.

INVESTMENT AND BUSINESS CLIMATE

1.00

The investment climate has not improved compared to the previous edition of the White Book. Despite emerging from the economic recession triggered by the COVID-19 pandemic, Serbia's economy has entered a stagnation phase accompanied by rising inflation. While many initially attributed this situation to the ongoing conflict in Ukraine, a more careful analysis reveals that the war is not solely responsible for these challenges. For instance, inflation within Serbia is primarily a result of domestic factors, notably the surge in food prices. Simultaneously, Serbia's growing dependence on foreign trade introduces additional vulnerabilities, especially as the country moves further away from the prospect of EU membership. Compounding these concerns, the growth in public and foreign direct investments has been insufficient to counterbalance the decline in private investments. The goal of achieving a 25% share of total investments in GDP remains a distant aspiration. Although Serbia's credit rating hasn't deteriorated, it has failed to improve and continues languishing below investment grade. In such a challenging environment, Serbia's accession to the European Union could potentially provide a significant boost to enhance the investment climate. However, this endeavour necessitates a sincere collaboration between Serbia and the EU.

WORLD ECONOMY

The pandemic of the Covid-19 virus pushed 2020 the world economy into recession, from which it recovered relatively quickly in 2021. The American economy was in recession for only three quarters, and the European economy for two quarters longer. The decline in production and the increase in unemployment were due to the closure of the economy, the disruption of production chains and the slowing of foreign trade flows (partially due to the trade war between China and the USA).

No one expected the re-formation of recession in 2022. Many governments have meanwhile injected significant financial resources into their economies to combat the pandemic, which has raised consumer demand without adequate change on the supply side. Inflationary pressures started to form, and the fundamental question was how much the central banks would tighten the monetary policy to keep inflation within the target framework. However, nobody talked about the recession.

Then the war in Ukraine started, significant economic sanctions were introduced to Russia, the prices of energy products (oil, gas and electricity) skyrocketed, and in parallel with that, the prices of food and primary metals. Many supply chains have been disrupted. Inflation has increased drastically, and interest rates have begun to rise, with expectations of a new economic recession. The latest IMF forecasts speak of a slowdown in the economy and increasing inflation but not a recession except in Germany (see Table 1).

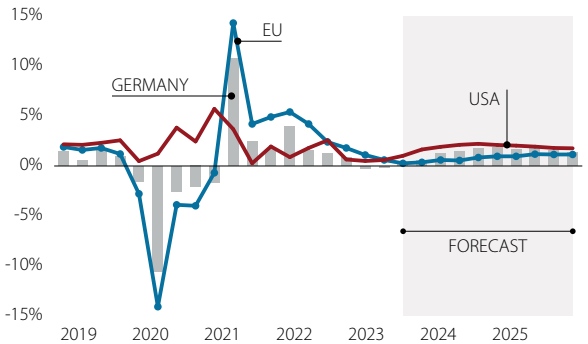
TABLE 1: IMF FORECAST

	GDP		GDP Forecast		
	2021	2022	2023*	2023**	2024**
World	6.1	3.5	3.0	3.0	2.9
Euro Ares	5.4	3.3	0.9	0.7	1.2
Germany	2.8	1.8	- 0.3	- 0.5	0.9
Italy	6.6	3.7	1.1	0.7	0.7
USA	5.7	2.1	1.8	2.1	1.5
Russia	4.7	- 2.1	1.5	2.2	1.1
China	8.1	3.0	5.2	5.0	4.2

Source: IMF, *April 2022; **October 2023

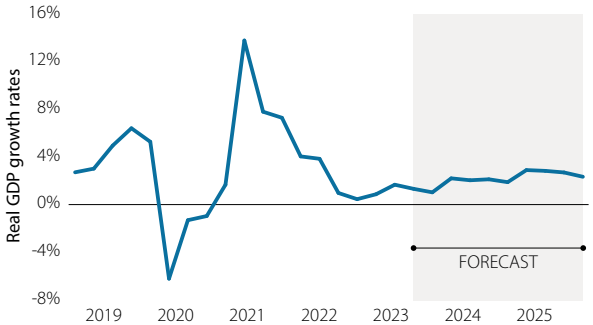
What is particularly worrisome from Table 1 is the severe drop in GDP both in the Euro Zone and in Germany and Italy, which are our biggest export markets. Germany will come out of the recession next year, and Italy will have an average growth of around one per cent. Russia will move from recession to mild growth, but our business with this country is significantly reduced, even without formal sanctions. China will have solid growth, higher than the world average. The USA will not be in recession, but high GDP growth is not predicted. Inflation is higher than expected because the restrictive measures of central banks were milder than those needed to bring inflation back to its sta-

FIGURE 1: ECONOMIC GROWTH IN THE US AND THE EU



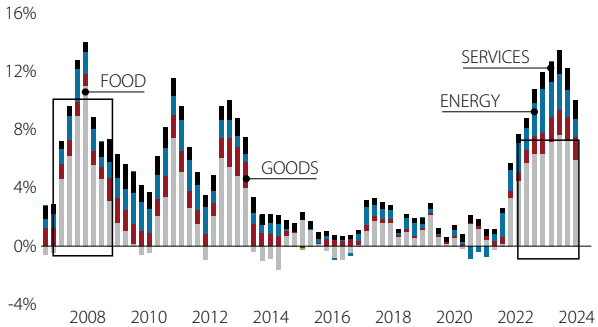
Source: Belox

FIGURE 2: BUSINESS CYCLE IN SERBIA



Source: Belox

FIGURE 3: INFLATION IN SERBIA



Source: SORS

ble state. At the moment, no one knows what will happen this winter due to the energy crisis as a consequence of the new war in the Middle East. In Figure 1, we provide a forecast for the movement of GDP in the USA (based on a three-factor model: GDP, inflation and unemployment), the EU Zone and Germany.

Our forecast indicates relatively low GDP growth rates in the coming period. We predict that the central banks will continue with restrictive policies to return inflation to normal (no more than 2 per cent per year) in the longer term.

What does all this mean for investments? We think this is an atypical situation in which investments are not the driver of economic growth but a consequence of the economy's cyclical movement and uncertainty. We expect investments to return to their role as a growth factor only after stabilizing the world economy in 2025.

BUSINESS CYCLE IN SERBIA

The economy of Serbia depends on the economic trends in the EU. Our GDP growth forecast is given in Figure 2. In Serbia, economic growth will also slow down, but at a slightly higher level than in the EU. Inflation will slowly start to come down in the coming period while staying above the target corridor (3% +/- 1.5%). As for unemployment, it is structural and relatively insensitive to inflation and changes in GDP. GDP growth will be slow and cyclical but positive.

The problem is inflation. If we look at Figure 3, we see a remarkable similarity with the 2008 crisis. The trajectory of inflation moderation will likely look like it did in 2009-10, without lowering it to the target level in the next two years. Both then and now, the most significant contribution to inflation comes from raw and processed food prices. The impact of the increase in energy prices is not negligible,

TABLE 2: PROJECTION OF THE MAIN MACROECONOMIC AGGREGATES

	2023/I-III	2024	2025	2023	2024	2025	2023
		FIC			IMF		Government
Real GDP	2.0	2.1	2.8	2.0	3.0	4.0	2.5
Inflation	14.0	6.7	4.5	12.4	5.3	4.0	8.0
Consumption				0.2	1.7	2.8	
Investment				1.9	1.2	-0.5	
Export				2.7	2.8	4.6	
Import				0.8	1.6	5.0	
Trade balance				-6.2	-6.8	-7.0	
Current account				-2.5	-3.4	-4.3	
Fiscal deficit				-2.8	-2.0	-1.6	
Public debt				55.4	53.7	51.7	

but it is not dominant in Serbia. We must not ignore its influence in the future, mainly due to the rise in the price of crude oil and the decrease in its global supply. Electricity prices will also rise, not because of external circumstances but because of the need to introduce additional excise taxes to finance the budget deficit. The state encourages inflation with its tax policy to stimulate consumer demand. However, consumption is no longer the main driver of GDP growth. Unfortunately, they are not investments either.

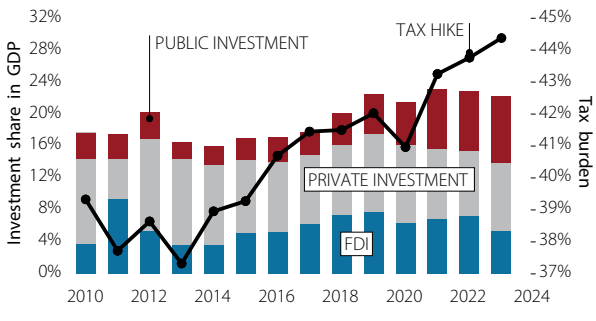
In Table 2, we have provided forecasts of the main macroeconomic aggregates for the period until the end of this year and eight quarters in the next two years. We are pretty sure how this business year will end. However, developments in the next two years depend on exports and imports. We assume further growth in exports with a decrease in imports. If that scenario does not materialize, of course, all other estimates of macroeconomic aggregates become questionable.

The message is evident if we are right with the above analysis. Economic policymakers must pay special attention to the country's position in international trade and, in general, international relations to reduce the country's exposure to risks.

INVESTMENTS AND TAX BURDEN

Support to the economy in the fight against the adverse effects of the COVID-19 pandemic was adequate but short-lived. In 2020, subsidies were significantly increased, state capital expenditures rose moderately, and the tax burden lowered. All this had a positive effect on the rapid recovery of the economy. However, in the following two years, the tax policy changed. The tax burden has increased while subsidies were reduced. At the same time, government capital expenditures jumped significantly.

FIGURE 4: TAX BURDEN AND SHARE OF INVESTMENTS IN GDP



Source: SORS, NBS, Belox

From 2019, the state is trying to increase the share of investments in GDP. The reason is understandable. To ensure a stable GDP growth rate of 5% per year, the share of investments in GDP must be at least 25%. However, the applied measures were contradictory. Especially in the last three years, the state has been increasing public investments, but the share of total investments in GDP is decreasing. Figure 4 provides an answer to this paradox. Shares of investments are represented by bars on the left scale and fiscal burden by a dotted line on the right scale. The state is constantly increasing the tax burden and leaving the private sector with less and less accumulation for investments. Parallel to the growth of public and foreign investments, there is a decline in private investments. The growth of the tax burden prevents the growth of private investments. The correlation coefficient is negative - 0.168.

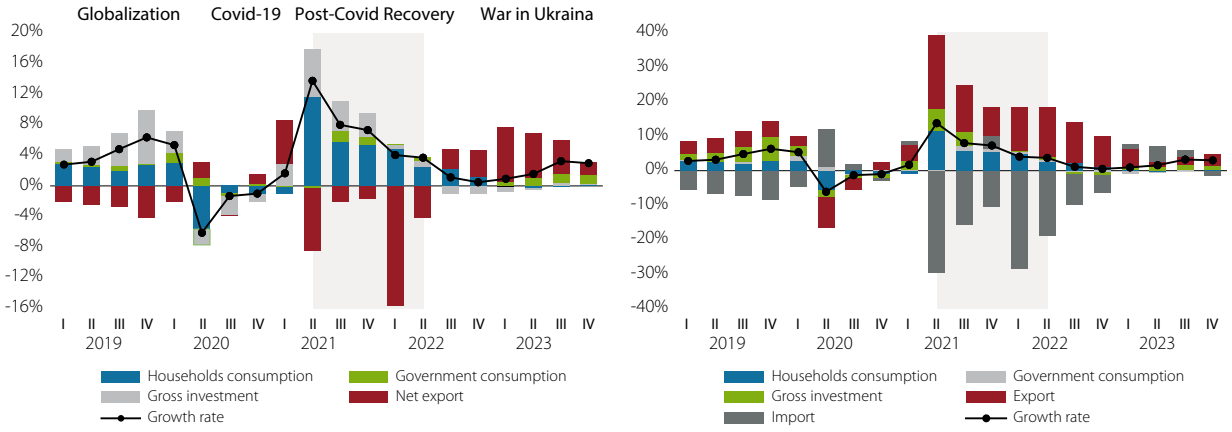
On the other hand, the correlation coefficients of the fiscal burden, public investments, and FDI are 0.877 and 0.307. The tax burden has a negative effect on private investments in Serbia and a positive effect on public and foreign direct investments. With this kind of fiscal policy, the target share of 25% of investments in GDP is a never-ending goal.

EXTERNAL EXPOSURE OF THE COUNTRY

In the last edition of the Investment Climate, we saw the need for a change in the economic growth strategy: we proposed to conduct such an economic policy that would encourage investments to take over from consumption the role of the key driver of growth, which would be based more on industrial production and less on the provision of services. We illustrated this on the graph that showed the contributions to economic growth in the last ten years on the supply and final demand side. Last year, private consumption dominated on the demand side, and trade and services on the supply side. In our opinion, such growth would be unsustainable, although we understand the situation representing the economy's recovery from the shock caused by the COVID-19 pandemic.

However, this recovery was interrupted by the outbreak of war in Ukraine. Again, a depression of economic activity took place. What we want to emphasize at this moment is a significant change in risk. In Figure 5, we have given two versions of the same phenomenon - contribution to economic growth by components of final demand. The difference between one and the other graph is that in the figure on the left, we have shown the contribution to growth by net exports, and

FIGURE 5: CONTRIBUTIONS TO ECONOMIC GROWTH IN SERBIA



Source: SORS

in the figure on the right, we have broken down net exports into two components: exports and imports. We shaded last year's recovery period and added a forecast for 2023.

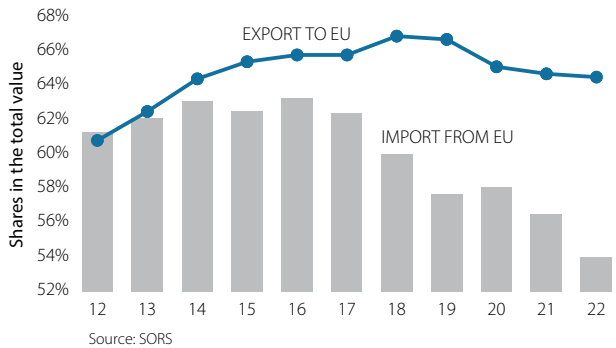
In the recovery period, consumption promotion played a significant positive role, while net exports appeared to reduce economic growth. That did not happen because of a slowdown in exports but because of a significant increase (increase in price) in imports. Net exports continued to have a positive effect on the rate of real GDP growth this year as well, but more due to a decrease in imports rather than an increase in exports. Figure 5 shows that growth depends much more on external factors (exports and imports) than internal factors (public and private consumption and investment).

Regarding Serbia's exposure to the EU, it is surprising that it has visibly decreased in recent years, although it is still dominant. That led the London Times in August 2023 to write, "Beijing is now investing as much in Serbia as the entire EU. This is bad news for Western diplomats". This conclusion is not entirely correct, but according to the NBS data, which we have listed on the right graph in Figure 6, the share of FDI from the EU drastically decreases. Also, EU grants are decreasing. That corresponds to the decline in relative exports to the EU (exports to the EU divided by total exports) over the last four years, shown in the left graph of Figure 6. On the other hand, relative imports from the EU have been falling even more and for longer[1]. Although the EU is still the dominant trade and investment partner for Serbia's economy (the fund of FDI from the EU is five times larger than from China), the trends above are worrying.

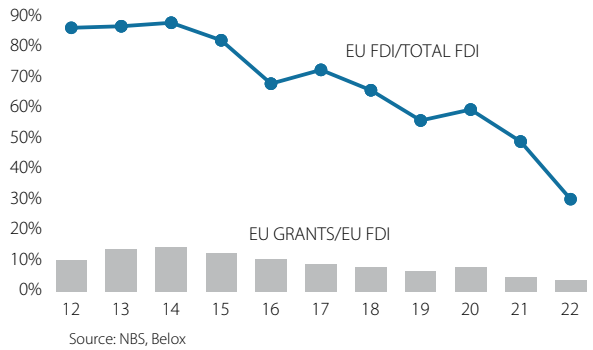
These trends correspond to the declining marginal progress

1 The data of the EU Delegation to Serbia do not agree in everything with the data of the Bureau of Statistics and the NBS.

FIGURE 6: SERBIA'S EXPOSURE TO THE EU



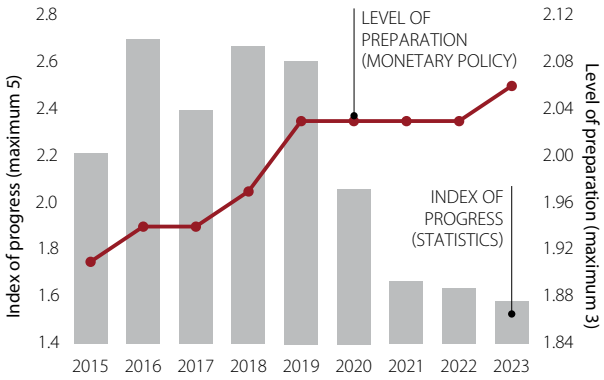
Source: SORS



Source: NBS, Belox

in Serbia's accession to the EU. Based on the assessments of the EU Commission, we compiled numerical progress scores in the negotiations and presented them in Figure 7. Also, the preparation stage is reported. What is the central message of Figure 7? There is a public misconception, which is spreading on both sides of Europe, that Serbia's biggest problem lies in its non-aligned foreign policy with the EU. It is an old wisdom that one should distinguish what is essential from what is important. Serbia's foreign policy is an important factor, especially today under the circumstances of the wars in Ukraine and Middle East. However, that is not the essential factor driving the accession of Serbia to the EU. The crucial obstacle is the institutional mismatch and the absence of necessary reforms in Serbia. The index of progress towards the EU achieved a historic low point in 2023 (1.58), despite an excellent score of statistics, while the level of preparation for the membership gained a small increase (due to efficient monetary policy).

FIGURE 7: SERBIA'S PROGRESS IN JOINING THE EU



Source: EU, FIC

FIC RECOMMENDATIONS

The recommendations of the Foreign Investors Council address the main challenges for investments: Serbia's distance from the EU, keeping inflation at the same time as interest rates rise, the increase in the tax burden and the sustainability of the public debt. Individual recommendations are:

- Intensify negotiations with the EU on membership to harmonize domestic regulations with European standards and reduce geopolitical risk for investments and foreign trade,
- Bring inflation back within the target corridor,
- Optimize the fiscal burden to encourage investments and economic growth and
- Reduce public expenditures and complete the restructuring of infrastructure companies, especially in the energy field, to sustain the fiscal deficit and public debt.

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PILLARS OF DEVELOPMENT

ENERGY

This sector includes generating and transmitting electricity, the market for renewable energy sources and energy efficiency. Last year, the situation in the field of electricity production was dramatic. In addition, due to the energy crisis in the world and economic sanctions, which interrupted the regular supply channels, our country faced significant challenges in ensuring a steady supply of other types of energy. The price shock due to the reduced supply of energy products and supply uncertainty was extreme, significantly increasing inflation and the instability of the domestic market. The initial market liberalisation hit the hurdle of increased costs for households and the economy, so the government introduced price controls. At the same time, the management structure of EPS was replaced, its business policy was changed, and the main causes of its bad business were eliminated. Electricity supply has improved, but the problem of pricing remains.

In 2023, Serbia supplemented the regulatory framework in accordance with the EU's Third Energy Package and de jure liberalised the electricity market. In this regard, 2023 continues the policy of fully implementing the relevant EU regulations. The Republic Commission for Energy Networks was established as an independent body for controlling the electricity transmission system operator - Elektromreža Srbije and the natural gas transport system operator Transportgas Srbija. The newly formed body will take over state responsibilities from the Ministry of Energy over these two state operators of the electricity and natural gas transmission system. That will enable them to obtain appropriate certificates from the Energy Agency of the Republic of Serbia and European regulatory bodies. Also, the transformation of EPS from a public company to a joint-stock company was announced, and a new supervisory board was appointed, which took necessary steps towards professionalising the management of this company.

Households and small customers, for now, have the right to be supplied at regulated prices (unlike other customers, who do not have the right to regulated prices). There is an intention to supplant the regulated electricity supply, but the Energy Agency has taken the position that there is still a need to control electricity prices. On the other hand, the Agency for Energy twice increased regulated prices.

Despite the liberalisation, EPS remains the most dominant supplier, with about 97% share in the open market. The South East European Power Exchange (SEEPEX) manages the day-ahead market.

Coal remains the dominant source of electricity production – more than 70% of the annual output comes from coal-fired power plants. Coal mines are in relatively poor condition and need serious modernisation to meet demand. Some of the largest thermal power plants must be phased out or overhauled. There is an increased import of coal to maintain production in thermal power plants. The transition to a "green" economy has been postponed for some time.

In the case of renewable energy sources, a system of incentive measures for producing electricity from these sources is crucial. Incentive measures are provided through a market premium system and feed-in tariffs. Both methods will be implemented through an auction and relate to the price of electricity, the assumption of balancing responsibility and the right to priority access to the network. By abandoning the incentive system in order and introducing auctions, the opportunity for a new cycle of investments and achieving a competitive price for purchasing electricity opens up.

In the field of energy efficiency, the Directorate for Financing and Encouraging Energy Efficiency began its work. New regulations were adopted that regulate the financing of measures to improve energy efficiency and the use of funds for their implementation. In the energy efficiency market, many local governments have begun implementing projects on energy performance contracting (EnPC) in the public lighting field. Energy Supply Contracting (ESC) has also started to function, primarily in the public sector, where schools and hospitals are priorities.

The Foreign Investors Council made eight recommendations for improving this area's situation. Among other things, in the case of electricity production, it is proposed to abandon price regulation despite the energy crisis; in the case of energy efficiency, the application of a more functional contract model that will regulate the supply of energy, while in the case of renewable energy sources, an adjustment of the methodology for determining the maximum price at auctions is requested to reflect the influence of market conditions. By the way, the Foreign Investors Council highly rated the progress in 2023 with an index of 2.30, although it is somewhat lower than the previous year (2.50).

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TELECOMMUNICATIONS

In 2023, the trend of global negative influences is still present, also reflected in the domestic market. However, despite this, electronic communications operators continued with activities aimed at further development and investment to improve the quality of their networks and the services they provide to users. The growth trend regarding broadband Internet access and media content distribution services is continuously present. In contrast, mobile telephony services continue to represent the service with the largest share of total revenues generated in the electronic communications market.

The first half of 2023 was marked by significant progress in improving the regulatory framework in the field of telecommunications to harmonise it with the regulatory practice of the European Union. A new Law on Electronic Communications was adopted, mainly in line with the European Parliament's Directive (EU) 2018/1972 and the Council of December 11, 2018, on establishing the European Code of Electronic Communications. Of course, its full implementation will require the adoption of additional by-laws in the following period of 6 to 18 months.

Also, the Amendments to the Law on Planning and Construction prevent local self-government units from introducing additional conditions and restrictions for installing radio base stations in their planning and urban planning acts. We expect that in this way, the requirements for the functioning and expansion of the mobile network will be improved to a significant extent and thus enable a better signal quality for the end users.

The Foreign Investors Council expects the continuation of activities on drafting the Law on Broadband Communication Infrastructure for further digital transformation of the Republic of Serbia. In this way, they would come closer to the regulation of the European Union, i.e. Directive (2014/61/EU) on measures to reduce the costs of setting up high-speed electronic communication networks, as well as Directive 2018/1972 on the European Code of Electronic Communications.

The Foreign Investors Council also expects a transparent approach to be applied in defining the minimum conditions for issuing individual licenses and models in public bidding for frequencies. It is proposed to choose a simple model of public bidding of radio-frequency spectrum intended for the development of 5G technology (rather than a combined auction that would include spectrum blocks of different bands), which will open up space for the necessary investments in network construction and the introduction of innovative business models. In this regard, it is essential to consider the price of the radio frequency spectrum to be in proportion to the 5G auctions realised in the region, additionally taking into account the necessary investments required for the construction of the network after the implementation of the auction.

Like last year, the Foreign Investors Council expected to quickly hold an auction to allocate the right to use radio frequency from the radio frequency bands 700 MHz, 900 MHz, 2100 MHz, 2600 MHz and 3500 MHz. That would create optimal conditions for building and investing in 5G infrastructure throughout Serbia.

Following the EU-WB Declaration on Roaming, 38 operators operating in the territory of the European Union and the Western Balkans will begin a phased reduction of retail prices for roaming data services from October 2023. Mobile operators from Serbia have provided their users with lower prices for roaming data supplements, considering that such a price reduction has for end users and the region's economy.

Furthermore, the Foreign Investors Council states that work is being done to define the rules for entering and leaving the "Do Not Call Register" following the Law on Consumer Protection. It is expected that the registration and registration process will be carried out through simple electronic communication. Please note that the registration of the end users of the prepaid service has been introduced, the issuance of electronic invoices for the services provided by the operators and the more significant role of RATEL in the out-of-court settlement of disputes. The obligation to obtain individual licenses for the use of the radio-frequency spectrum for each base station within the radio-frequency range, for which the permit is issued based on a public tender, has been abolished so that there is only the obligation to record them electronically.

Not all changes have improved the position of mobile operators. A significant problem is represented by the disproportionately high fees of collective copyright protection organisations towards the telecommunications industry. There is a risk of further unlimited growth of flat rates from existing and new organisations for the joint exercise of copyright.

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The Foreign Investors Council made 14 specific recommendations for improving the situation in this area. When all changes are considered, he gave a good assessment of the telecommunications sector's progress in 2023 with an index of 1.79, which is slightly higher than the previous year (1.57).

DIGITALISATION AND ELECTRONIC BUSINESS

This sector includes electronic commerce, electronic identification, issuance of electronic documents, as well as electronic business of administrative authorities, including the connection of public databases. That area has made much progress in 2023, from the point of view of adapting the business climate to the proposals of the Foreign Investors Council, but slightly less than the previous year. The FIC score in 2023 is 1.83 (2.57 last year).

At the global level, the technology sector went through major changes in the previous year: at the end of 2022, the bankruptcy of crypto-exchanges led to the culmination of the crisis in the form of the so-called crypto-winters; layoffs in IT giants marked the beginning of 2023, and the considerable success and popularity of Chat GPT indicated that artificial intelligence is the most important topic in the field of digitisation. These trends were also reflected in the dynamics and priorities of the IT sector in Serbia while the state continued to develop new electronic government services.

After adopting the Law on Electronic Communications, which is harmonised with the regulations of the European Union, a public discussion was announced on the conditions for organising an auction of radio frequencies intended for 5G technology. The start of its operation is expected in 2024. RATEL's data analysis established that more than 1,200,000 mobile users in Serbia already own devices that support 5G.

The whole world has started to adapt to the new situation caused by the emergence of the corona virus and to turn to electronic business due to a completely changed way of life and business. Many positive changes have also taken place in Serbia. A large number of companies organised work "from home", many citizens began to use the services of the e-government portal, numerous new services were developed, and unified data registers were formed. In this sense, the development of the 5G network becomes an urgent matter.

The volume of trade via the Internet has increased significantly. A similar trend existed in the previous year - data from the National Bank of Serbia show that in 2022, the number of dinar payment transactions realised by payment card via the Internet recorded a growth of 33.9%, while the value of these transactions increased by 46.3% compared to the previous year. Data for the first two quarters of 2023 show a similar volume of year-on-year growth in the number and value of transactions.

Administrative procedures within the "ePaper" program have been simplified. In August 2023, the number of 2 million citizens who have an account on the eGovernment portal was reached. That is contributed by the number of services supported by eGovernment, which is continuously increasing, making it easier for citizens to use numerous services in the state and the private sector.

The Foreign Investors Council states that from January 2023, the "eInvoice" system is in full use in the economy, replacing paper invoices by implementing the Ministry of Finance's SEF system. That has achieved great administrative relief. In addition to this advantage, the digitisation of invoice transactions has led to an increase in the transparency of transactions in the retail and wholesale market, that is, to decrease the space for the grey economy. In addition, it is expected that the process of VAT refund will be improved in this way, as well as that there will be a reduction in the costs of keeping invoices, which will now be retained in electronic form instead of paper ones. The positive result of eInvoices is reflected in the fact that, since introducing this system, the number of users of qualified electronic certificates in our country has increased significantly.

Changes in the issuance of electronic documents led to the introduction of the service of issuing a qualified signature in the "Cloud". On the other hand, qualified trusted services from providers from the European Union and registered electronic identification schemes from the EU are recognised. In this way, legal representatives of foreign companies in Serbia can use personal certificates issued in their home countries based on electronic identification schemes from the EU without restrictions.

The electronic form has become the primary form of billing for telecommunications services. After adequate notification, the operator will, in the future, deliver the monthly bill to the user electronically. Exceptions exist if the user does not have the technical capabilities to receive invoices elec-

tronically or requires a paper invoice. Let's consider that the number of postpaid users in mobile telephony alone is 5.2 million and that many still receive 12 bills yearly on paper. This change will have a significant impact on green business and environmental protection.

The Foreign Investors Council points out that a great effort was made and significant progress was made to enable further digitisation of the economy and the public sector in the past period and that the readiness of all state institutions to continue in this spirit in the coming period can be seen. For its part, the Foreign Investors Council made seven specific recommendations to improve the situation in this area further.

REAL ESTATE AND CONSTRUCTION

The focus of the Foreign Investors Council remains on implementing the Law on Planning and Construction, especially the procedures for obtaining permits, the status of construction land and the legalisation of buildings.

The issue of property relations on land and mixed forms of state and private ownership is recognised as one of the leading problems in real estate construction. In the previous period, one of the main areas of activity of the Foreign Investors Council was active participation in the process of amending the Law on Planning and Construction to reform the issue of mixed forms of state and private ownership on construction land, as well as to give an incentive to green construction in Serbia and further improved the procedures for issuing building permits.

The most significant improvement is the abolition of the conversion of the right of use into the right of ownership on construction land for a fee (conversion of construction land for a price) for specific categories of persons - primarily for legal entities privatised based on laws governing privatisation, bankruptcy and enforcement proceedings, as well as their legal followers in terms of status, as well as persons who acquired the right of use on the land after September 11, 2009, by purchasing the building with the associated right of use from privatised legal entities.

The Law on Planning and Construction has been amended several times in recent years. Recently, substantial changes have been adopted that bring several novelties in the construction field. Introducing these novelties is expected to facilitate the issuing of construction permits, improve the energy efficiency of buildings, reduce the negative impact on the environment and encourage the development of sustainable construction practices.

However, recently, there has been a noticeable slowdown in construction and a decrease in the number of building permits issued, which we can attribute to current market trends. On the other hand, there is also a noticeable tendency to facilitate issuing permits.

An important novelty is the definition of the terms "green construction" and other elements of the green agenda so that energy efficiency, sustainable materials and technologies, waste management, water and air protection, and the like must be considered when planning and building buildings. In this regard, the obligation to obtain energy passports is introduced for all new buildings. In contrast, already-built buildings are not exempt from this obligation but have one adjustment period for obtaining energy passports. The lawmaker is trying to implement the mentioned obligation through an additional legal innovation that during all future certifications of sales contracts and lease contracts, the energy passport should be attached to the concluded contract as an integral part of the documentation under the threat of a fine.

The sector as a whole is not homogeneous, and in 2023, its parts behaved differently. Overall, the sector achieved somewhat higher progress in implementing the recommendations of the Foreign Investors Council (1.48 compared to 1.36). Real estate and construction achieved a better result (1.33 compared to 1.18). The domain of cadastre functioning and application of the new procedure achieved the best result in 2023 (1.82). In the area of mortgage and financial leasing, according to the assessment of the Foreign Investors Council, there was no progress (1.00); the same rating applies to restitution (1.00).

WORKFORCE AND HUMAN CAPITAL

This year, globally, there was an improvement in the application of labour legislation (so the FIC index is 1.29), as well as in dual education (1.23). The combined labour force and human capital progress index was 1.27.

However, the practice has shown that there are still numerous restrictions on the labour market. As in the previous edition of the White Book, the Foreign Investors Council notes that everyday life in the field of labour relations requires changes to labour regulations that would enable

the application of electronic documents and electronic signatures, with the aim of efficient and flexible administration of documents from labour relations; flexible working conditions outside the employer's premises, in order to efficiently organise work and optimise labour costs; flexible requirements for the engagement of pupils and students in practice, with the aim of easy and legally secure engagement of practitioners; more flexible and rational conditions for determining the length of annual leave; specification of the provisions governing changes to employment contracts (annex), in order to ensure legal certainty; rational salary structure, in order to simplify the calculation and protect the employer from the high cost that occurs when calculating the salary compensation; more flexible conditions and procedures for removal from work and termination of employment contracts, in order to relieve the employer's administration.

The procedure for obtaining a temporary residence permit and work permit was simplified when hiring foreigners. The most significant change is the introduction of a single license, which includes a temporary residence permit and a foreigner's work permit. The procedure is simplified so that the foreigner will submit the request electronically to the Directorate for Foreigners, and the competent authority will forward the request to the NES for further processing. If the Directorate for Foreigners and the NES determine the conditions have been met, they will issue a single permit. The legal deadlines for deciding on the request have been shortened to 15 days from the day of submission of the proper request.

The state of the labour market remains challenging as the consequences of the COVID-19 epidemic continue to be felt, as well as political events in the world, including the global inflation increase. The unemployment rate varies in the territory of the Republic of Serbia, which primarily reflects the state of the economy in different parts of the country, and unemployment is still the lowest in the territory of Vojvodina, which is why employers in the region of Vojvodina face a significant challenge in the recruitment and selection of suitable personnel. The unemployment rate in the entire country in the first quarter of 2023 was around 10%, while employers have increasing challenges to find, attract and retain the workforce and especially quality candidates, especially in the field of IT, where significant inflationary trends have led to employers they are becoming more cautious when investing in new technologies and hiring more people.

Dual education represents a unified educational system that profiles pupils and students according to the needs of the labour market. There is still no formal legal framework which more precisely determines the relationship between the law on dual education and other laws that regulate various aspects of work. Still, last year, there was some progress in specifying the by-laws.

Last year, there was no progress in hiring labour, safety and health at work and sending employees to temporary employment abroad.

The Foreign Investors Council made eleven concrete recommendations for improving the situation in the area of the labour market and labour relations (FIC progress index was 1.00), four recommendations for the work of foreigners (index 2.00), also three recommendations for sending employees to temporary work abroad (index 1.0), three recommendations for hiring labour (index 1.00) and three recommendations for professional rehabilitation and employment of persons with disabilities (index 1.00). In comparison, he gave six recommendations for safety and health at work (index 1.33). In the case of dual education, seven recommendations were given (with a progress index of 1.14).

Serbia's development in these key areas reflects a combination of achievements and ongoing challenges, with continuous efforts to promote growth and improvement in various sectors. The Foreign Investors Council' recommendations guide addressing these challenges and driving further progress.

INFRASTRUCTURE

ENERGY SECTOR 2.30

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Electricity				
Regulation of electricity prices to be abandoned (but vulnerable customers to be protected), allowing new investments in the modernisation and revitalisation of coal and electricity production.	2016		√	
Intra-day market to be introduced.	2020	√		
Consider introducing carbon pricing instruments	2020		√	
Prescribe targeted energy savings, as required by Directive 2012/27/EC and its amendment 2018/2002/EC. The preparation of proposals for the revision of energy efficiency targets in terms of their increase is underway. It is also necessary to anticipate the reduction of "specific consumption" of energy, i.e. consumption per unit of product.	2021		√	
Introduce grid connection reservation security mechanism e.g. bank guarantee or cash collateral by developers in order to avoid existing grid queues holding up capacity;	2020	√		
The regulations concerning the calculation of the VAT on invoices for prosumers should be amended.	2022		√	
Renewables				
Bylaws which will regulate the incentives in more detail should be tailored to accelerate investments in the renewables sector and follow the EBRD and Energy Community policy guidelines.	2021	√		
Adjust the regulations and methodology for determining the maximum purchase price on auctions in order to reflect the effects of the market value of the electricity power.	2022	√		
Energy Effciency				
Adoption of a functional model contract to govern energy supply contracting.	2017			√
Improvement of capacities of the PPP Commission and other notable public stakeholders with respect to both energy performance contracting and energy supply contracting projects involving the public and private sectors.	2017		√	

CURRENT SITUATION

Electricity

The legal framework for electricity in Serbia is set out under the 2014 Energy Law, with amendments adopted in 2021 and minimal changes from 2023, which for the most part transposes the European Union's (EU) Third Energy Package.

The National Assembly of the Republic of Serbia has on July 26, 2023 adopted the Law on Amendments to the Law on Energy, which, according to the proponent - the Government of the Republic of Serbia, solves the issue of full application of relevant EU regulations in a comprehensive and efficient manner. The Republic Commission for Energy Networks was established as an independent body for the control of the operator of the electricity transmission sys-

tem - Elektromreža Srbije and the operator of the natural gas transport system - Transportgas Srbija. The Ministry of Mining and Energy ("Ministry of Energy") explained before the adoption that the newly formed body will take over the responsibility of these two state operators of the electricity transmission system from the Ministry of Energy. In this way, the aforementioned two operators will be able to be certified by the Energy Agency of the Republic of Serbia and European regulatory bodies.

The main authorities responsible for this sector are: (i) the Serbian Government; (ii) the Ministry of Energy (the "Ministry of Energy"); (iii) the Energy Agency;and (iv) The Republic Commission for Energy Networks (which will be established by the aforementioned amendments to the law).

State-owned enterprises Elektromreža Srbije (EMS), Elektroprivreda Srbije (EPS) and EPS Distribution, company that was finally separated from EPS in the end of 2020, remain the dominant players in the sector. EMS is the transmission system operator. EPS is engaged in the production, wholesale and supply of electricity. EPS's ex subsidiary EPS Distribucija carries out the distribution and operates the distribution system. Also, the transformation of EPS from a public company to a joint-stock company was announced, and a new supervisory board was appointed, which is important step towards professionalizing the management of this company.

The electricity market is fully liberalized on paper. Households and small consumers remain, for the time being, entitled to opt to be supplied under regulated prices (unlike other consumers which do not have the right to regulated prices). There is an intention to phase out the regulated supply of electricity, but the Energy Agency has taken the position that there is still a need for the regulation of electricity prices. On the other hand, the Energy Agency has allowed an increase of regulated prices - starting from the latest increase was in May 2023. The experts agree that this increase is insufficient and that new increases should be expected.

Despite the liberalisation, EPS remains the single most dominant supplier with around 97% of open market participation.

The day-ahead market is operated by the joint-stock company South East European Power Exchange (SEEPEX). Also SEEPEX launched and established an intraday market on July 25, 2023

Renewables

The inflow of foreign direct investments increasingly depends on the availability, predictability and structure of the supply of certified green energy. Issues such as the percentage of electricity from renewable sources that is available on the grid, the further development of power plants using renewable energy sources and the possibility of a guaranteed supply of green energy through corporate power purchase agreements are gaining more and more importance and becoming one of the decisive reasons for investment in the Republic of Serbia by foreign investors.

In April 2021, the Law on the Use of Renewable Energy Sources was adopted, which separated issues related to incentive measures for the production of electricity using renewable energy sources from the Law on Energy, that are now regulated by a separate law, until the end of 2021 and during 2022 several bylaws have been adopted, which regulate in more detail the procedure of obtaining the right on the market fee and the feed-in tariff, the content of the agreement on the market premium, the quotas on the wind farms, the status and the way of managing of the registry of the customers - manufacturers

Incentives are provided in the form of a market premium system and feed-in tariffs (only for small facilities). Both systems will be implemented through an auction process and refer to the price of electricity, taking on balance responsibility and the right to priority access to the system. In the premium system, the authorized contracting party will not purchase electricity, but will pay the premium if the realized price at the auction is higher than the reference market price (prices on the SEEPEX day-ahead market). Also, for an energy entity that produces electricity from renewable sources and which does not have the status of a temporary privileged producer in terms of market premium system, or the status of a privileged producer in terms of feed-in tariff, the possibility of obtaining a guarantee of origin and status of producer of electricity from renewable sources energy is envisaged.

By replacing the old system that rewarded everyone by order and introducing auctions, it will be possible to attract a new cycle of investments and achieve a competitive price for the purchase of electricity. As the bylaws that regulate the conditions and the procedure of obtaining the right for the incentives in detail have been adopted, the first auctions were held in June 2023 for the allocation of market premiums for renewable energy sources - wind power

plants (400MW) and solar power plants (50MW). The auction procedure is digitized, which ensures fast and efficient implementation of the process.

In order to harmonize the national regulation of the Republic of Serbia with the legal framework of European Union, the Law on RES introduces the status of consumer-producer for the first time. The consumer-producer is defined in the RES Law as the final customer who has connected his own facility for production of electricity from RES to the internal installations, whereby the produced electricity is used to supply own consumption, and the surplus produced electricity is delivered to the transmission system, distribution system, i.e. closed distribution system.

The balance responsibility for RES producers who are in the RES incentive system is taken over by the "guaranteed supplier" (or EPS). Other manufacturers will have to regulate their balancing responsibility according to market conditions.

With the amendments to the Law on RES from 2023, a new mechanism of mutual financial compensation was introduced between the privileged producer and EPS, which is based on the rule that the privileged producer is obliged to pay EPS additional compensation if it produces less electricity than the reported production plan and vice versa, that is, EPS is obliged to pay the privileged producer compensation for the surplus of produced electricity compared to the planned. This mechanism represents an additional responsibility of the privileged producer in terms of accurate forecasting of electricity production, due to the fact that in the event of a bad forecast, they would be obliged to pay the negative difference.

The Law on RES also introduces the concept of strategic partnership and provides the possibility of conducting a public call for the construction of power plants that produce energy from RES through the selection of a strategic partner. The government made a decision determining the procedure for selecting a strategic partner, and in July 2023 a public call for a strategic partner for the construction of self-balanced large-capacity solar power plants with battery systems for electricity storage in Serbia was announced.

In order to reduce the use of fossil fuels and dependence on fuel imports, the Law on RES defines the status of biofuels, bio liquids and fuels from biomass. In the event that biofuels, bio liquids and biomass fuels that are not produced from waste meet the sustainability criteria and achieve savings in greenhouse gas emissions, energy produced from these fuels can be: a) taken into consideration for the purposes of calculating the share of energy from RES in gross final energy consumption and final energy consumption in all forms of transport (including fulfilment of obligations of fuel suppliers to achieve the share of RES), and b) subject to financial incentives, in accordance with the Law on RES, incentives for the use of innovative technologies and new sources of RE, such as renewable hydrogen, and incentives for the production of "advanced" biofuels). Regarding the use of RES in transport, the Law on RES determines for the first time the use of electricity from RES in the transport sector, as well as the use of "green" hydrogen.

Energy Efficiency

In April 2021, a new Law on Energy Efficiency and Rational Use of Energy was adopted, the aim of which is to create a legal framework for measures that will increase the efficiency of use of energy and reduce energy consumption. The law upgraded the existing basis of the Law on Efficient Use of Energy with new energy policy goals whose foundations were established by European Union regulations (amended Energy Efficiency Directive and Directive on Energy Performance of Buildings, Directive on Eco-Design and relevant EC Regulations).

A Directorate for Financing and Encouraging Energy Efficiency within the Ministry of Mining and Energy, the purpose of which is to provide funds to meet the objectives of the law, and two new regulations have been brought which regulate the financing of the measures for upgrading the energy efficiency and using the resources for the appliance of the measures of energy efficiency.

Similarly, as the previous laws, it explicitly defines the energy services company (ESCO) and sets rules for energy performance contracting in line with the EU acquis, with the aim to provide a comprehensive legal framework for energy efficiency arrangements.

To enable the implementation of these general possibilities, the Rulebook on Model Energy Service Contracts for the Implementation of Energy Efficiency when Users are from the Public Sector (ESCO By-Law) was adopted in May 2015.

The ESCO By-Law prescribes two models of ESCO agreements, one for public buildings and one for public lighting.

It requires public-private partnerships (PPP) to be established between the relevant public partner (e.g. a municipality, a public company, the state) and the relevant private partner (i.e. an ESCO company) on a long-term basis.

The energy efficiency market is still developing. Energy performance contracting (EnPC) projects in the area of public lighting have been initiated in a significant number of local municipalities,.

The energy supply contracting (ESC) has also started functioning recently, primarily with public sector facilities such as schools and hospitals being the main point of interest.

The most notable difference between ESC and EnPC is in that EnPC implies backing the project with guaranteed savings, unlike the ESC, which focuses on a renewed arrangement regarding energy supply where the private partner guarantees the continuous provision of a certain minimum amount of energy. It is expected that, once the ESC model is regulated too, a much needed certainty will be brought into the sector, allowing for successful cooperation between the public and private sectors.

The energy efficiency of buildings is dealt with in a special chapter which prescribes obligations for publicly owned buildings, new buildings and buildings used for non-residential purposes. Publicly owned buildings with a total usable area of more than 250 m2 used by state administration bodies and other bodies and organizations of the public sector as well as public services are required to have a certificate of energy performance, and for buildings used by central government the obligation of energy rehabilitation . The obligations of investors in new buildings have also been specified with regards to the equipment with devices for regulation and measurement of the delivered amount of thermal energy, where there is also domestic hot water.

POSITIVE DEVELOPMENTS

Electricity

SEEPEX membership grew to 37 members.

New legal solutions from 2023 reduce the authority of the government, and increase the authority of the parliament over the activity of production and distribution of electricity and supply, over the state operators of the electricity transmission system - EMS and gas - Transportgas.

Renewables

The legal framework for a new package of incentive measures for the production of electricity from renewable energy sources has been adopted, that envisages a competitive process for awarding incentives. The adoption of a completely new law indicates giving priority to sustainable production of electricity from renewable energy sources, which is extremely important in the long run in order to avoid paying high fees for the production of CO2 emissions that will increase in the European Union in the upcoming years.

Several bylaws have been adopted:

- Decree on market premium and feed-in tariff("Official Gazette of RS", no. 112/2021 and 45/2023 - other decree);
- Decree on the model of the agreement on the market premium („Official Gazette of the RS".br.112/2021);
- Regulation on the quota in the market premium system for wind power plants ("Official Gazette No. 107/2021");
- Regulation on the conditions and procedure for acquiring the status of privileged electricity producer, temporary privileged producer and producer of electricity from renewable energy sources ("Official Gazette of RS", no. 56/2016, 60/2017, 44/2018 - other laws, 54/2019 and 112/2021 - other Regulations);
- Decree on conditions of delivery and supply of Electric Power;
- Decree on the criteria, conditions and way of calculating the receivables and payables between the customers - manufacturers and the supplier („Official Gazette of the RS".br.83/2021 and 74/2022);
- Regulation on the assumption of balance responsibility and the model agreement on the assumption of balance responsibility ("Official Gazette of RS", No. 45/2023);
- Rulebook on the means of managing the registry of customers-manufacturers that are connected to the movable, distributive, enclosed system and methodology of assessment of the manufactured electric energy in the manufacturing facility of the customer-manufacturer(„Official Gazette of the RS".br.33/2022);

The Decree on the Conditions, Manner and Procedure Of

Giving State-Owned Agricultural Land for Use for Non-Agricultural Purposes was adopted, which prescribes exceptions when it is possible to use state-owned agricultural land for non-agricultural purposes, in accordance with the Law on Agricultural Land. This decree enables a constructions of facilities for production of energy using renewable energy sources of wind and sun even on agricultural land, which creates an even more favourable environment for investors.

At the beginning of June this year, the Government of the Republic of Serbia adopted the Plan for the incentive system for the use of renewable energy sources for the period 2023-2025, according to which the total capacity for which the right to incentives in the market premium system can be acquired in the next three years is 1,000 MW for wind power technology and 300 MW for solar power plant technology.

Additionally, in June 2023, the Low Carbon Development Strategy of the Republic of Serbia was adopted for the period from 2023 to 2030 with projections until 2050 ("Official Gazette of RS", No. 46/2023). In July 2023, a public hearing was held for the Integrated National Energy and Climate Plan (INEKP), and it is expected that the final draft should be proposed to the National Assembly for adoption in the last quarter of 2023.

Also, in June 2023, the new Regulation on energy vulnerable customers entered into force, which will be the basis for moving away from price regulation, and an additional boost for energy transition, decarbonization and the development of renewable energy production. In addition to aiding in the procurement of electricity and gas, energy vulnerable customers in the field of heat supply will also be provided. According to the Regulation, poor consumers of electricity in Serbia have the right to a reduction in their electricity bill, i.e. they have the right to receive a certain amount of electricity for free on a monthly basis.

Energy Efficiency

A new Law on Energy Efficiency and Rational Use of Energy has been adopted.

With the adoption of the new Law on Energy Efficiency and Rational Use of Energy, the Ministry of Mining and Energy has also started work on the adoption of by-legal acts relating to the model of energy supply contracts. For these purposes, support is provided by the Regional Energy Efficiency Programme implemented by the EBRD and the Energy Community.

A review of the Energy Effect Contract Model (EnPC) is underway based on comments from representatives of ESKO companies, banks and local self-government units who have experience in implementing such projects. It is actively working on the preparation of a Model Energy Efficiency Contract (ESC) to increase investment in energy efficiency and enablethe transition to renewable fuels or low-emission greenhouse gas fuels, taking into account the public sector interest.

Experience with energy performance contracts has shown that the contract model has contributed to the development of the market and provided guidance and certainty for the public sector to use this innovative way to attract private investment in energy efficiency in the public sector.

REMAINING ISSUES

Electricity

Coal remains dominant resource for electricity generation – more than 70% of annual production comes from the coal-fired power plants.

Coal mines are in a relatively poor shape and in need of extensive modernisation in order to meet demand. Some major thermal power facilities will also need to be phased out or overhauled. It is not clear whether Serbia will have enough funds for these investments. Also, the High Court in Belgrade issued a first-instance verdict in favor of the Regulatory Institute for Renewable Energy and the Environment (RERI) and ordered "Elektroprivreda Srbije" (EPS) to reduce sulfur dioxide emissions in thermal power plants due to their danger to human health and the environment. This judgment represents a precedent and additional pressure to reconstruct and modernize the thermal power plants owned by EPS, in order to adequately implement the aforementioned judgment.

It can often be heard that an electricity price increase in Serbia would be justified, but vulnerable customers must be protected.

Renewables

In addition to the adopted amendments to the basic law and the adoption of by-laws, it is necessary to adopt the

remaining necessary by-laws, among other things related to the conditions of delivery and supply of electricity and the connection of facilities to the transmission system, which would enable the implementation of new legal solutions.

The Decree on the Prosumer has been adopted, and work is underway on four more bylaws that should complete the legal framework in the sphere of renewable energy sources.

The Decree on the Conditions, Manner and Procedure Of Giving State-Owned Agricultural Land for Use for Non-Agricultural Purposes was adopted, but it is limited only to agricultural land of 6, 7 and 8 classes.

Opinion of the Ministry of Finance regarding the calculation of VAT on electricity bills for prosumers. Non-incentive maximum purchase price set for wind turbines

Energy Efficiency

As to energy performance contracting (EnPC), apart from the need to have consistent practices in the formal preparation of projects fully in line with the ESCO By-Law and the PPP legislation, the challenges ahead also include the need to reduce subsidies, which keep energy prices on an regulated level, and to introduce further sector-specific incentives for energy efficiency projects in the relevant regulations (notably, real estate and tax-related regulations) as well as the need to further raise financiers' awareness of the practical feasibility of ESCO projects.

As to energy supply contracting (ESC), the adoption of a model contract by the relevant authority (i.e. the Ministry of Mining and Energy) The public sector is still overly careful in considering prospective projects,. This specifically relates to an absence of understanding of public budgeting procedures, with some important projects involving hospitals and schools in Serbia still lagging behind as a result thereof.

The challenges ahead relating to both EnPC and ESC arrangements remain the same and require continuous work:

- sharing of knowledge and existing know-how among various public entities to be strengthened and supported (especially in the case of minor Serbian municipalities);
- improvement of the practical implementation of the rules related to the determination of the value of the project, related to PPP.

FIC RECOMMENDATIONS

Electricity

- Regulation of electricity prices to be abandoned (but vulnerable customers to be protected), allowing new investments in the modernisation and revitalisation of coal and electricity production.
- Continue work on creating the necessary conditions for the introducing carbon pricing instruments.
- Prescribe targeted energy savings, as required by Directive 2012/27/EC and its amendment 2018/2002/EC. The preparation of proposals for the revision of energy efficiency targets in terms of their increase is underway. It is also necessary to anticipate the reduction of "specific consumption" of energy, i.e. consumption per unit of product.
- Further harmonization of the regulations related to the calculation of VAT on consumer invoices.

Renewables

- Bylaws which will regulate the incentives in more detail should be tailored to accelerate investments in the renewables sector and follow the EBRD and Energy Community policy guidelines.

- Adjust the regulation and methodology for determining the maximum price at auctions so that it more closely reflects the impact of the market price of electricity

Energy Efficiency

- Adoption of a functional model contract to govern energy supply contracting.
- Improvement of capacities of the PPP Commission and other notable public stakeholders with respect to both energy performance contracting and energy supply contracting projects involving the public and private sectors.

TELECOMMUNICATIONS 1.79

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Improvement of regulations and their interpretation in the field of construction of radio base stations and protection against non-ionizing radiation:				
– in cooperation with relevant ministries and RATEL, it is necessary to educate professional services in local self-governments about the impact of telecommunications devices on health and the environment as well as about the application of special regulations relevant to the construction of radio base stations;	2021			√
– in accordance with the comparative practice of developed EU countries such as Germany and Finland and countries in the region (e.g. Croatia), we propose to exclude mobile telecommunications facilities from List 2 of the Regulation on establishing the List of Projects Requiring a Mandatory Impact Assessment and List of Projects that May Require an Environmental Impact Assessment, so that instead of making an environmental impact assessment for each individual base station, it would be sufficient to provide the competent authority with a notification on the installation of the base station together with relevant technical data on the base station, as well as measurement after its commissioning, where the local self government has the possibility of inspection supervision;	2021			√
– reexamination of the definition of the term "source of special interest", bearing in mind the negative interpretation unjustifiably related exclusively to radio base stations, yet they are not the only sources of radiation;	2021			√
– abolition of spatial restrictions for the construction and installation of mobile telecommunications infrastructure from spatial regulation plans, in terms of determining the minimum height of antennas and the minimum distance where base stations can be placed in relation to neighboring buildings, given that there is no comparative practice of EU countries for this, nor grounding in regulations and science;	2021		√	

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
– enable the transition from a complicated administrative system of issuing the necessary permits, including individual permits for the use of radio frequencies for base stations, to a system of registration (notification) through a single point of contact (the so-called "single point of contact") in the form of a public portal;	2019	√		
– through the portal, ensure efficiency, transparency, public availability via the Internet and data analysis for supervision, by establishing a unique electronic procedure for reporting the installation of RBS and confirming compliance with the prescribed conditions.	2021			√
Consultations between the state and industry in selecting the model and period of public bidding for radiofrequency spectrum intended for the development of 5G technology - operators propose and advocate a simple auction model to sell the bands that are most needed from the perspective of technologies used and market demands, at a price that will enable the smooth development of new technology and its rapid implementation, in accordance with positive examples from the neighboring countries.	2021		√	
Adoption of the new Law on Electronic Communications and adoption of key bylaws for further market development within the shortest possible period of time. The new law is expected to bring significant progress in the digitization of the process of using telecommunications services, especially regarding the conclusion of contracts and invoicing in digital form.	2021	√		
Adoption of the new Law on Broadband Infrastructure (harmonized with Directive 2014/61/ EU on measures to reduce the cost of deploying high-speed electronic communications networks, as well as with Directive 2018/1972 on the European Electronic Communications Code) and Directive 2014/61/EU on measures to reduce the cost of deploying high-speed electronic communications networks, which will define in detail the rights to use and access the infrastructure	2021			√
Lifting of individual licenses for the use of radio frequencies within the licensed radio frequency spectrum (acquired through public bidding) which assumes the fee for the issuance and renewal of an individual license for the use of radio frequencies for a radio base station in a particular electronic communications service.	2021	√		
When negotiating international agreements in the field of electronic communications (particularly regarding roaming), it is necessary to organize a process of public consultations and include industry representatives in order to consider the technical specifics, deadlines and financial implications, aimed at increasing business predictability	2019		√	
Modify the Regulation on Establishing the List of Devices and Objects and the Obligation to Pay Special Remuneration for the Use thereof to the Copyright and Related Rights Holders, so that the list of devices does not include smartphones, desktop computers, laptops and tablets, but only the devices whose sole function is the reproduction of copyrighted works (photocopiers, DVD cutters, etc.) which was the case before the amendment of this Regulation.	2022		√	

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
A more active role of the Government in order to change public opinion about 5G technology	2020			√
The process of signing up and out of the "Do not call" register must be carried out electronically without additional costs on the part of the operator. It is necessary to consider the possibility of amending Article 37 of the Law on Consumer Protection so that the process of signing up and out of the "Do Not Call" register is done in an electronic form, directly, without the participation of electronic communication operators.	2022		√	

In 2023, the trend of negative global impacts is still present, which is reflected in the local market as well. However, despite the aggravating circumstances, electronic communications operators have resumed their activities aimed at further development and investment in order to improve the quality of their networks and the services they provide to their customers. The growth trend is continuously present when it comes to broadband Internet access services and media content distribution services, while mobile telephony services still remain the service with the largest share in total revenues generated on the electronic communications market.

CURRENT SITUATION

The first half of 2023 was marked by significant progress in the implementation of the reform agenda regarding the improvement of the regulatory framework in the field of telecommunications and harmonization with the regulatory practice of the European Union.

The above is principally reflected in the adoption of the new Law on Electronic Communications, which is harmonized to the greatest extent with Directive (EU) 2018/1972 of the European Parliament and the Council of 11 December 2018 establishing the European Electronic Communications Code, which is the basis of the current EU regulatory framework in the field of electronic communications. The new Law on Electronic Communications entered into force on 7 May 2023, after the successful and transparent work of the Ministry of Information and Telecommunications (hereinafter referred to as: the Ministry) and the working group in charge of drafting this document. For its full implementation, a number of bylaws need to be adopted in the period of 6 to 18 months from the date of its entry into force.

RATEL adopted a new Rulebook on the quality parameters for publicly available electronic communications services, measurements and testing, and on the assessment of the practices of electronic communication operators, which entered into force on 1 April 2023 and will be applied from 2 July 2023. The most important novelties of the aforementioned Rulebook refer to a higher degree of end-user protection, which includes the operator's obligation to grant the end user, at his request, a trial period for the service at a defined location of interest to the end user.

From 1 August 2023, the Rulebook on number portability for services provided on public mobile communication networks, as well as the Rulebook on number portability for services provided on public communication networks at a fixed location, started to apply. The improvements relate to the more efficient implementation of the number porting process while improving the protection of the end users of the service, which, inter alia, includes expediting the number porting process, more precise definition of the provisions in order to reduce the possibility of their different interpretations, especially in the part related to the rejection of porting requests, as well as stipulating the possibility that the request for number porting can also be submitted electronically.

The Ministry formed a working group to draft the Law on Amendments to the Law on Information Security, with the aim of harmonizing it with the EU NIS-2 Directive and the EU Cyber Security Act.

Participation of all the stakeholders in the work of the working group has been ensured through representatives of government bodies, academic community and experts for information security, as well as representatives of the economy with the inclusion of representatives of the Foreign

Investors Council and electronic communications operators. Adoption of the aforementioned law is expected by the end of 2023.

In October 2023, during the final stage of the preparation of the White Book, the Law on Amendments to the Law on Fees for the Use of Public Goods was adopted which is of great importance for the operations of operators on the electronic communications market. The operators took an active part in the public hearing process and submitted comments in order to improve the text of the above-mentioned draft in a direction that would contribute to more efficient use of public goods and improvement of business conditions. Among other things, with regard to the fee for the use of radio-frequency spectrum, it was emphasized that in accordance with the proposed changes, the use of two polarizations on one channel is more expensive than in the case of using one wider channel, which leads to irrational use of the assigned radio-frequency spectrum. Additionally, it was emphasized that operators will be forced to have an additional investment in additional transceivers to use both polarizations on one channel. The comments submitted by the operators were partially taken into account during the public hearing by adopting the proposal regarding the fee for the use of radio frequencies in terms of reducing the Kc coefficient (purpose of the radio network in which a radio relay connection is used determined by the appropriate channel width), as well as the operators' proposal for reduction of the second polarization on the same frequency pair.

The Ministry of Economy held a public hearing on the Draft Law on Copyright and Neighbouring Rights, during which the Foreign Investors Council and operators submitted their comments indicating the disproportionately high fees charged by the collective copyright protection organizations to the telecommunications industry. The reason for this is stipulating the possibility to impose high fees and to establish new organizations for collective protection, which disproportionately and unjustifiably increases the operators' operating costs on the electronic communications market.

Bearing in mind that the public hearing has ended and there is no feedback on the submitted comments and proposals for better regulation of this area, the Foreign Investors Council states its expectation that before the adoption of this Law, the proposed solutions will be thoroughly considered and implemented in order to improve the text of the draft law and create regulatory framework that will not threaten the business of electronic communications operators. With regard to the tariff adoption procedure in accordance with the amended Regulation on Establishing the List of Devices and Items for which there is an Obligation to Pay Special Remuneration to the Holders of Copyright and Neighbouring Rights ("Official Gazette of the Republic of Serbia", number 49/2022), in late April 2023, the Intellectual Property Office issued a finding regarding the tariff proposal submitted by the organizations for collective protection. It was established that the applicant set too high fees for the following devices: 1) desktop computers, 2) laptops, 3) tablets and 4) smartphones, and urged the applicant to make a statement and submit an amended tariff proposal. According to the above, and in accordance with the analysis of the Intellectual Property Office, which considered the justification of the amount of the tariff in a transparent and objective manner, based on the well-grounded facts, a lower tariff was eventually adopted for the above devices, instead of the originally proposed tariff of 1% now it is 0.5% of the percentage of the value of the device and it is applied from 1 July 2023.

On 27 July 2023, the Assembly of the Republic of Serbia adopted the Amendments to the Law on Planning and Construction. A significant novelty in the aforementioned proposal for amendments to the law is preventing local self-government units to define additional requirements and restrictions for the installation of radio base stations in the planning and urban planning documents in relation to the requirements defined by special regulations. We expect that this will significantly improve the conditions for the operation and roll-out of the mobile network and thereby enable better signal quality for end users.

The work of the Expert Group for the reduction of administrative barriers for the installation of radio base stations for mobile telephony, which began its work in 2022 and consists of members from relevant ministries, local self-government, faculties of technology, RATEL and electronic communications operators, has not resulted in actual progress in improving the conditions for setting up mobile radio base stations, which is a prerequisite for the implementation of 5G technology in the Republic of Serbia.

In order to provide an expert contribution to the reform of this area and the improvement of regulations, the Foreign Investors Council, in cooperation with the School of Electrical Engineering, started work on a Study for the improvement of the national legal and implementation framework in the field of non-ionizing radiation, with the aim of defin-

ing the proposed measures to reduce administrative barriers for the installation of public mobile telephony radio base stations in the territory of the Republic of Serbia.

With the adoption of the New Law on Electronic Communications, conditions have been created for the continuation of activities on the drafting of the Law on Broadband Communication Infrastructure, within the working group that includes representatives of the Foreign Investors Council and Operators. The enactment of this law will further improve the legal framework, which will ensure more efficient construction of the electronic communication infrastructure necessary for the further digital transformation of the Republic of Serbia. Enactment of the Law on Broadband Communication Infrastructure is another step towards bringing the operations closer to and harmonizing it with the European Union regulations, given that this Law in one part foresees the harmonization of operations with the Directive (2014/61/EU) on measures to reduce the cost of deploying high-speed electronic communications networks as well as Directive 2018/1972 on the European Electronic Communications Code.

The Foreign Investors Council states its expectation that activities on the drafting of this law will be carried out in a transparent and efficient manner in order to create optimal conditions for sustainable construction and investment in telecommunications and particularly in 5G infrastructure throughout Serbia.

The Foreign Investors Council also states its expectation that the Ministry of Information and Telecommunications (hereinafter referred to as: the Ministry) will have a transparent approach when drafting the Rulebook, which will define the minimum requirements for issuing individual licences and models for conducting the public bidding procedure in accordance with good practice established in the work of the Ministry. It is proposed to choose a simple model of public bidding for the radio frequency spectrum intended for 5G technology development (rather than a combined auction that would include spectrum blocks in different bands), which will open up space for the necessary investments in network construction and the introduction of innovative business models. In this regard, the price of the radio frequency spectrum needs to be considered in detail so that it is in proportion to the 5G auctions held in the region, additionally taking into account the necessary investments required in the construction of the network after the auction.

In accordance with the EU/WB Roaming Declaration, signed in Tirana in December 2022, 38 operators operating in the territory of the European Union and the Western Balkans will begin a phased reduction of retail prices for roaming data services starting on 1 October 2023. When it comes to signatories to the aforementioned Declaration and the use of roaming data services, Serbian mobile operators have offered lower charges for roaming data add-ons, taking into account the aspect of such price reduction for end users and the economy of the Region.

The schedule of price reduction in the period from October 2023 to 2028 has been prepared. By participating in the signing of the aforementioned agreement, mobile operators operating on the market of the Republic of Serbia have shown a high level of readiness to contribute to better connectivity between the Western Balkans and the European Union, while achieving significant savings for the citizens of the Republic of Serbia when using roaming data services in the European Union, within the networks operators that are signatories to this agreement, as well as enabling citizens of the European Union to use roaming services under more favorable conditions during their stay in the Republic of Serbia.

In the second half of 2022 and the first half of 2023, meetings were held of the working group for the development of regulations that will regulate the registration and deregistration with the "Do Not Call Registry" in accordance with the Law on Consumer Protection, in which representatives of the Foreign Investors Council and Operators also take part. In accordance with the above, it is expected that the registration and deregistration procedure will be carried out through an electronic procedure and that this model will be implemented in the final version of the text of the rulebook.

POSITIVE DEVELOPMENTS

Drafting and adoption of the new Law on Electronic Communications in a transparent process in which representatives of the Foreign Investors Council and Operators were involved is a significant step forward in the process of improving the current regulatory framework and harmonizing it with the needs of operators and users, while harmonizing it with the regulatory practice of the European Union, which is important for the further development of the electronic communications market in the Republic of Serbia.

Key novelties in the new Law on Electronic Communica-

tions are the introduction of registration of prepaid service end users, issuance of electronic invoices for services provided by operators and a greater role for RATEL in the out-of-court settlement of disputes. A significant novelty is also the abolition of the obligation to obtain individual licences for the use of radio-frequency spectrum for each radio base station within the radio-frequency spectrum for which a licence is issued on the basis of a public bidding procedure, however, there is only an obligation to record them electronically.

In order to fully implement the provisions of the new Law on Electronic Communications, it is necessary to adopt a number of by-laws, which are expected to be implemented in a transparent process with the involvement of the Foreign Investors Council and Operators in order to define the optimal regulatory framework that will contribute to the further development of the electronic communications market.

The adoption of amendments to the Law on Planning and Construction, which contains provisions that prevent local self-government units to define additional requirements and restrictions for the installation of radio base stations in planning and urban planning documents in relation to the requirements defined by special regulations, is a step in the right direction to improve and standardize the requirements for the construction of base stations in the Republic of Serbia, which will contribute to the further development of electronic communication networks of operators and greater availability of electronic communication services to citizens throughout the territory of the Republic of Serbia.

The FIC appreciates the proactive role of RATEL regarding the adoption of the new Regulations for the number portability service in mobile and fixed networks, as well as the Regulations defining the quality parameters, before the adoption of the new Law on Electronic Communications, which enables a higher quality of service and a higher degree of protection of end users.

Regulatory and legal barriers on the EU side for concluding a roaming agreement between the EU and the Western Balkans region were overcome by signing the EU-WB Roaming Declaration in such a way that the operators on a voluntary basis undertook to create conditions in order to gradually reduce the retail prices of roaming data services.

REMAINING ISSUES

The problem of setting up radio base stations and the issue of applying regulations on environmental protection is still a significant barrier in the construction of telecommunications infrastructure and it is necessary to intensify activities based on the conclusions of the Expert Group for the reduction of administrative barriers for setting up radio mobile telephony base stations and start the implementation of the reform of this area as soon as possible, which will enable more efficient installation of base stations as a prerequisite for the implementation of 5G technology in the Republic of Serbia.

It is necessary to continue activities related to the drafting and adoption of the Law on Broadband Infrastructure, which should be harmonized with Directive 2014/61/EU on measures to reduce the cost of deploying high-speed electronic communications networks, as well as with Directive 2018/1972 on the European Electronic Communications Code), which will specifically regulate issues such as a simplified procedure for granting all necessary licences, coordination of ongoing and planned civil works and publication of data on works in real time at a single information point (a public portal under the jurisdiction of public sector bodies); regulating the operators' right of access to publicly owned facilities and the conditions of use of public facilities and public infrastructure for the needs of telecommunications infrastructure accommodation (e.g. short-range wireless access points (WAS/RLAN network); as well as to define in detail the rights of use and access to the infrastructure. These activities are expected to be implemented by the end of 2023, bearing in mind that this would create the conditions for additional investments in the field of telecommunications and at the same time ensure quality access to the Internet for all citizens in our country.

An important issue are also the disproportionately high fees charged by organizations for the collective protection of copyrights to the telecommunications industry. In this regard, we would like to stress that the Draft Law on copyright and related rights does not contribute to the creation of conditions for a better balance of power between organizations and fee payers and that there is a risk of further unlimited growth of flat rates charged by the incumbent and the establishment of new organizations for the collective exercise of copyright.

FIC RECOMMENDATIONS

- Excluding mobile telecommunications facilities from List 2 of the Regulation on establishing the List of Projects Requiring a Mandatory Impact Assessment and List of Projects that May Require an Environmental Impact Assessment, so that instead of making an environmental impact assessment for each individual base station, it would be sufficient to provide the competent authority with a notification on the installation of the base station together with relevant technical data on the base station, as well as measurement after its commissioning, where the local self-government has the possibility of inspection supervision.

- Abolition of spatial restrictions for the construction and installation of mobile telecommunications infrastructure from spatial regulation plans, in terms of determining the minimum height of antennas and the minimum distance where base stations can be installed in relation to neighboring buildings, given that there is no comparative practice of EU countries for this, nor grounding in regulations and science.

- Amendments to the Rulebook on the limits of exposure to non-ionizing radiation in order to harmonize the reference threshold levels with the ICNIRP recommendations.

- Amendments to the Rulebook on sources of non-ionizing radiation of special interest, types of sources, manner and period of their examination for the purpose of changing the definition of the term "source of special interest", bearing in mind the negative interpretation unjustifiably related exclusively to radio base stations, yet they are not the only sources of radiation as well as in terms of defining the decision-making process of the competent authority based on the Expert Assessment of Environmental Impact, without initiating the environmental impact assessment procedure.

- Education of expert departments, in cooperation with relevant ministries and RATEL, at the level of local self-governments on the impact of telecommunications devices on health and the environment and the application of special regulations relevant to the construction of radio base stations.

- Transition from a complicated administrative system of issuing the necessary licences to a system of registration (notification) through a single point of contact in the form of a public portal and establishing a single electronic procedure for reporting the installation of RBS and confirming compliance with the prescribed requirements.

- Consultations between the Goverment and industry in selecting the model and period of public bidding for radio-frequency spectrum intended for the development of 5G technology - operators propose and advocate a simple auction model to sell the bands that are most needed from the perspective of technologies used and market demands, at a price that will enable the smooth development of new technology and its rapid implementation, in accordance with positive examples from the neighboring countries.

- A more active role of the Government in order to change public opinion about 5G technology.

- Passing by-laws in accordance with the new Law on Electronic Communications in a transparent procedure and involving the Foreign Investors Council and Operators, in order to define the optimal regulatory framework that will contribute to the further development of the electronic communications market.

- Adoption of the new Law on Broadband Infrastructure (harmonized with Directive 2014/61/ EU on measures

to reduce the cost of deploying high-speed electronic communications networks, as well as with Directive 2018/1972 on the European Electronic Communications Code) and Directive 2014/61/EU on measures to reduce the cost of deploying high-speed electronic communications networks, which will define in detail the rights to use and access the infrastructure.

- When negotiating international agreements in the field of electronic communications (particularly regarding roaming), it is necessary to organize a process of public consultations and include industry representatives in order to consider the technical specifics, deadlines and financial implications, aimed at increasing business predictability
- Adoption of the operators' comments on the draft Law on copyright and neighbouring rights regarding a more transparent approach in the relationship between organizations and fee payers due to the perceived risk of unlimited growth of flat rates charged by the incumbent and the establishment of new organizations for the collective exercise of copyright.
- The process of registration and deregistration with the "Do Not Call Registry" must be carried out electronically without additional costs on the part of the operator. It is necessary to consider the possibility of amending Article 37 of the Law on Consumer Protection so that the process of registration and deregistration with the "Do Not Call Registry" is done in an electronic form, directly, without the participation of electronic communication operators.

DIGITALIZATION AND E-COMMERCE 1.83

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Amendment to the part of the Decision on the Classification of Bank Balance Sheet Assets and Off-Balance Sheet Items that refers to the content of the borrower's credit file, which would take into account the existence of the My Data for My Bank project and similar initiatives and which would accept data from the database of competent state institutions as credible proof of employment and earnings or pension of citizens, and in the case of consumer loans of small value and statements of citizens in digital form given under full material and criminal liability.	2021			√
In addition to enabling video identification, other ways of identifying the client should be enabled — exchange of data between banks through the platform (open banking) along with the key and central role of the National Bank of Serbia.	2020			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
In order to improve the efficiency and security of operations, automated data exchange between the public and private sectors should be enabled. For example, enable data exchange between the Tax Administration, the Social Security Register, and the Credit Bureau in order to assess actual creditworthiness and protection against fraud. Also, enable the submission of documentation by service providers to citizens through a unified electronic mailbox of eAdministration.	2020	√		
Reduce the cost of electronic archiving of company documentation through the amendment of regulations along the lines of excluding the largest part of business documentation because it is not relevant for culture, art, science and other categories of the Law on Archival Material and Archival Activities	2021			√
Adoption of the Law on Electronic Communications which will allow electronic form to be the default form of bill for telecommunications services.	2021	√		
Amendment to the relevant Regulation that would allow banks to become trusted service providers and for banking identity to be recognized when issuing the Consent ID credentials.	2022		√	

CURENT SITUATION

On a global scale, the tech sector underwent significant changes in the past year. By the end of 2022, the bankruptcy of cryptocurrency exchanges culminated in the so-called 'crypto-winter'. The beginning of 2023 was marked by layoffs at IT giants, and the massive success and popularity of Chat GPT showed that artificial intelligence is the most important topic in the realm of digitalization. These trends have also impacted the dynamics and priorities of the IT sector in Serbia, while the state continued to develop new e-government services. Following the adoption of the Law on Electronic Communications, which is in line with European Union regulations, a public discussion of the Rules of Procedure defining the conditions for organizing an auction of radio frequencies intended for 5G technology has been announced. Its launch is expected in 2024. Based on the analysis by RATEL of the data provided by mobile operators in June 2023 about mobile device usage in the Republic of Serbia, it was determined that over 1,200,000 mobile users in Serbia already own devices that support 5G.

In the past year, the trend of increased use and reliance on information and communication technologies in everyday life and business has continued. According to data obtained from the Statistical Office of the Republic of Serbia, the number of citizens using the Internet in Serbia in 2021 grew by 7% compared to the previous year and now stands at 81.2%[1]. Regarding online shopping, in 2021, 61% of citizens[2] made a purchase or placed an order online, continuing the trend of reducing the number of citizens who have never participated in e-commerce by several percentage points annually.

In the previous two editions of the White Book, we pointed out that the pandemic had a significant impact on consumer behavior in terms of increasing the volume of e-commerce. A similar trend was observed last year - data from the National Bank of Serbia show that in 2022, the number of dinar payment transactions made online with a payment card recorded a growth of 33.9% compared to 2021, while the value of these transactions increased by 46.3% compared to the previous year. For transactions in euros, during the same period, the number of transactions increased by 71.6%, while their value rose by 51.3%[3]. According to the same report, data for the first two quarters of 2023 indicate a similar volume of year-on-year growth in terms of the number and value of transactions in both currencies.

In February 2023, the Government of the Republic of Serbia adopted an Action Plan for the implementation of the Digi-

1 Use of ICT in the Republic of Serbia - https://publikacije.stat.gov.rs/G2021/Pdf/G202116016.pdf

2 Ibidem

3 Payment transactions made online using payment cards - https://www.nbs.rs/sr/ciljevi-i-funkcije/platni-sistem/statistika/

tal Skills Development Strategy in the Republic of Serbia for the period from 2020 to 2024 during the 2023-2024 period. Activities in this Action Plan are formulated to enhance the digital skills of all citizens. Also, in May 2023, the Government adopted the ePAPER (ePAPIR) program to simplify administrative procedures and regulations for the 2023-2025 period, further continuing the work on digitalization activities and improving the infrastructure for providing digital services.

By August 2023, the number of citizens with an account on the eGovernment (e-Uprava) portal reached 2 million. This increase is attributed to the fact that the number of services supported by eGovernment (e-Uprava) is continuously growing, making it easier for citizens to use numerous services in both the public and private sectors.

Regarding information security, unlike the previous year dominated by news of cyber attacks on the digital infrastructure of the Republican Geodetic Institute and other institutions, this year has been marked by positive developments. Work is underway on amendments to the Information Security Law to align with the new EU directive in this area. It is expected to enhance the resilience of entities in critical industries to cyber threats and give a more significant role to regulators in identifying vulnerabilities in ICT systems. In addition, the State Data Center in Kragujevac received the EN 50600 class 4 (tier 4) standard this year, indicating the highest level of reliability, security, and efficiency in storing equipment and data.

POSITIVE DEVELOPMENTS

From January 1, 2023, the complete implementation of eInvoices in the economy began, replacing paper invoices, through the application of the SEF system of the Ministry of Finance, achieving significant administrative relief. Besides this advantage, the digitalization of invoice transactions has led to an increase in transaction transparency in both retail and wholesale sectors, reducing any room left for the shadow economy. Furthermore, expectations are that this will improve the VAT refund process and result in reduced costs of invoice storage, which will now be stored electronically instead of on paper. A positive result of the introduction of eInvoices (eFaktura) is reflected in the fact that, since the introduction of this system, there has been a significant increase in the number of users of qualified electronic certificates in our country. As mentioned in the introduction, a new Law on Electronic Communications has been adopted, which will be discussed in detail in the White Book related to telecommunications. However, this law fulfills one of the basic recommendations from last year's White Book in the digitalization field, which is that the electronic form should be the primary form of invoices for telecommunication services. Namely, after adequate notification, the operator will deliver the monthly bill to the customer in electronic form in the future. The law also provides for two exceptions: if the customer does not have the technical capabilities for electronic receipt of the invoice (e.g., the customer does not have a smartphone) or if the customer requests a paper invoice. In these cases, the operator is obligated to issue a monthly paper bill free of charge. Considering that the number of postpaid customers in mobile telephony is 5.2 million and many of them still receive 12 paper invoices annually, it's evident that this initiative will have a significant impact on green business and environmental protection.

The Government of the Republic of Serbia and the Office for IT and e-Government, as the central body responsible for coordinating activities in the field of electronic administration, management of public IT Assets, and information security, continue to implement the digital agenda.

As a reminder, in 2022, the Office enabled citizens to obtain a qualified electronic certificate in the cloud free of charge, which they can use easily and quickly via a mobile phone, without the need for installing special software or possessing hardware elements like smart cards. The solution is based on the well-known mobile application Consent ID, whose issuance of user credentials is preceded by personal identification via ID. The solution is based on the well-known mobile application Consent ID, where user credential issuance is preceded by personal identification through an ID card. The expectation was also expressed that all state institutions will integrate with the Office for IT and Electronic Administration in such a way that signing with a qualified electronic signature in the cloud will be enabled on their portals. At the beginning of 2023, the Portal for Electronic Identification eGovernment (eid.gov.rs) integrated with the Business Registers Agency (apr.rs), allowing users with a digital identity to establish companies, submit all kinds of applications and records, and to use other Business Registers Agency services. In this way, Business Registers Agency joined the eInvoice (eFaktura), eHealth (eZdravlje), local tax administration portals, and the My First Salary portal, which were previously integrated with eGovernment (eUprava).

Moreover, Serbian citizens living abroad will be able to become e-citizens through diplomatic-consular representations, i.e., to receive parameters for the aforementioned Consent ID application. In this way, life is made easier for all citizens in the diaspora, who have not had the opportunity to access e-government services outside Serbia so far.

Regarding new services, the Freelancers (Frilenseri) portal was established, enabling easy submission of tax returns by individuals earning income by providing services domestically and internationally, with an estimated number of freelancers in Serbia around one hundred thousand. Additionally, an electronic service called I Protect You (Čuvam te) has been introduced, enabling the reporting of violence, linking schools, social work centers, police stations, and healthcare institutions, all aimed at preventing peer violence among children and minors. Lastly, in 2023, eConsent services (eSaglasnost) were introduced, regulating the issuance of documents to children, as well as residence registration, eCitizenship (eDržavljanstvo), and obtaining extracts from birth registries.

Under the Open Balkans regional initiative, an Agreement was established regarding the Integration of Electronic Identification Schemes. This agreement seeks to facilitate a unified approach to schemes introduced by Serbia, North Macedonia, and Albania.

We have observed notable advancements in the legal structure that promotes the continued digital transformation of financial services, marked by a series of regulations set forth by the National Bank of Serbia in the previous period. Thus, in addition to the video identification of individual persons, the revision of the pertinent decision has also facilitated the identification of corporate entities. In order to further improve the security of clients and prevent fraudulent actions, we have identified a potential avenue for launching and fostering a second-generation video identification, incorporating biometric safeguards during the verification and acceptance of new clients, boasting an efficacy nearing 100%. Beyond the indisputable benefits to client safety, the roll-out of biometric verification could substantially encourage Serbia's digitalization drive, rendering banking services more efficient, user-friendly, and universally accessible.

In addition, when it comes to simplifying the use of banking services, an extremely important aspect is the endorsement of interbank data sharing under the open banking/banking mobility concept, with the National Bank of Serbia playing an instrumental and focal role. The roll-out of these concepts would empower clients to sidestep tedious and time-intensive procedures by capitalizing on the immediate data interchange between banks. To illustrate, tasks like opening and closing current accounts would be vastly simplified for clients, since the bank, where a client intends to open an account, could directly liaise with another bank, whose services the client already uses, to oversee the remaining processes. In this manner, clients could more conveniently access banking solutions best tailored to their preferences, which, in turn, would incentivize market undertakings to recalibrate their offers to better align with consumer demands.

REMAINING ISSUES

After the successfully implemented project "Moji podaci za moju banku" (My Data for My Bank) based on the exchange of data between the public and private sectors, the Council for Telecommunications and Digital Economy sees an opportunity for further digitalization of business in new initiatives of this type.

Procedures in public administration have been significantly accelerated by connecting state institutions and automatic exchange of documents. We believe that similar cooperation between banks, mobile operators, insurance and other business entities with state authorities, can contribute to a greater efficiency and safety of business operations. Data exchange with the Tax Administration, Social Insurance Registry, and Credit Bureau to assess actual creditworthiness and protect against fraud, enabling verification of the validity of the ID card through the Ministry of Interior when concluding a contract or using the e-Government (e-Uprava) e-mailbox for document delivery, are just some examples where we see that potential.

In the last five years, a major shift has been made when it comes to regulations from the domain of electronic commerce. However, regulations governing other areas often represent a barrier to the digitalization of business. These regulations are not easy to amend since they are often based on the erroneous paradigm that paper is a safer and transparent form of a document compared to an electronic document.

However, a bigger problem is the regulations on archiv-

ing, or rather the Regulation on Unique Technical and Technology Requirements and Procedures for Storage and Protection of Archival and Documentary Materials in Electronic Form, adopted based on the Law on Archiving, which will enter into force on 1 January 2024. This regulation provides for a costly and complicated process of archiving electronic documentation which implies, among other matters, that each individual document should be certified by a qualified electronic time stamp of an authorized trusted service provider. The expected costs of introducing an electronic archiving system and putting a qualified timestamp on each individual document threaten to approach or even exceed the cost of running a paper archive. In such circumstances, there will be no motivation for the economy to switch from paper to electronic business, and the return of business entities that already now operate electronically to an archive in paper form would be a major step back.

In conclusion, we note that a great effort and progress has been made in order to enable further digitalization of the economy and the public sector in the past period and that the readiness of all state institutions to continue in the same manner in the future is noticed.

FIC RECOMMENDATIONS

- Amendment to the part of the Decision on the Classification of Bank Balance Sheet Assets and Off-Balance Sheet Items that refers to the content of the borrower's credit file, which would take into account the existence of the My Data for My Bank project and similar initiatives and which would accept data from the database of competent state institutions as credible proof of employment and earnings or pension of citizens, and in the case of consumer loans of small value and statements of citizens in digital form given under full material and criminal liability.

- Enable the development and roll-out of the second generation video identification encompassing biometric safeguards within the client validation framework. This move aims to bolster client security and catalyze the development of digitalization in Serbia.

- Enable the exchange of data between banks by the roll-out of open banking / banking mobility concept, underscored by the significant and central role of the National Bank of Serbia. Such an initiative would let bank customers swiftly and effortlessly access necessary services, amplifying market competition and resulting in a holistic enhancement of services attuned to client necessities.

- In order to improve the efficiency and security of operations, automated data exchange between the public and private sectors should be enabled. For example, enable data exchange between the Tax Administration, the Social Security Register, and the Credit Bureau in order to assess actual creditworthiness and protection against fraud. Also, enable the submission of documentation by service providers to citizens through a unified electronic mailbox of eAdministration.

- Reduce the cost of electronic archiving of company documentation through the amendment of regulations along the lines of excluding the largest part of business documentation because it is not relevant for culture, art, science and other categories of the Law on Archival Material and Archival Activities.

- In the implementation of the Law on Electronic Communications, the Rules of Procedure on prepaid registration of mobile users should enable simple electronic registration of customers.

REAL ESTATE AND CONSTRUCTION

1.48

This year recorded a noticeable decrease in the number of issued building permits, which can be undoubtedly attributed to current market and inflationary trends.

As a part of the working group that participated in the drafting of the recently adopted amendments to the Law on Planning and Construction, this Committee offered a part of the solution to stimulate all participants in the construction market to continue with transactions. First of all, the reform of ownership regime on the construction land and mixed forms of state and private ownership was carried out through the abolition of the conversion of the right of use into the right of ownership on construction land with compensation for certain categories of entities. The aim is to unlock new locations for construction and reduce construction costs for investors, which should ultimately result in expanding the offer of residential and commercial spaces on the market, increasing competition, and balancing the costs of acquiring and renting real estate.

Great efforts have been made to reduce the time required for obtaining permits, not only through the improvement of the unified procedure for issuing construction permits, but also in terms of the number of steps that precede this procedure. This primarily refers to completing the planning framework in Serbia, as well as optimizing the procedure and way of issuing technical conditions for designing by the competent authorities.

The focus of the board in the coming period will be support and greater engagement in the reform of the Real Estate Cadastre and Line Cadastre.

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
CONVERSION OF THE RIGHT OF USE TO OWNERSHIP OF CONSTRUCTION LAND				
It is necessary to consider the possibility of amending the Law on Conversion for a Fee in order to exempt the following categories of persons or entities from the obligation to pay the fee for conversion, i.e. for whom the conversion of the right of use on construction land into the right of ownership would be provided without fee: i persons or entities that were or are commercial companies and other legal entities that were privatized on the basis of laws governing privatization, bankruptcy and enforcement proceedings, as well as their legal successors in terms of status; ii persons or entities that acquired the right of use on the land after September 11, 2009, by purchasing the building with the accompanying right of use, from entities that were privatized on the basis of the laws governing privatization, bankruptcy and enforcement proceedings, and who are not their legal successors in terms of status; iii persons or entities - holders of the right of use on undeveloped construction land in state ownership that was acquired for construction in accordance with the previously applicable laws that regulated construction land until May 13, 2003 or based on the decision of the competent authority.	2022	√		
CONSTRUCTION				
The competent authority in the integrated procedure should issue permits with the appropriate content which will, in accordance with the relevant legislation, enable the investors to register ownership rights at the newly constructed building(s) (especially when it is related to a complex with several buildings and lines/pipelines), and without being exposed to an additional consumption of resources and time in order to obtain some special documentation (evaluation reports and etc.) by which it will be confirmed what building/s the construction and usage permits are related to (comparing the permits and projects based on which the permits have been issued). It is necessary that permits be forwarded without delay and in accordance with the official duty to the competent cadastre authority of immovable properties i.e. the office for the utility network cadastre (if it is related to the constructed pipelines).	2021			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
It is necessary to improve software solutions and capacities to facilitate and speed up the procedure of electronic submission of documentation.	2021		√	
SUBCONTRACTOR'S LICENSE				
The lack of precision regarding the obligation to obtain a license for contractors and subcontractors leads to uneven and unclear practice. The question arises as to whether subcontractors are obliged to obtain the license in cases when the main contractor (an entity with whom the investor entered into a direct construction agreement for the whole works) holds the license, as well as whether the main contractor is obliged to have license if its subcontractors hold appropriate licenses. The answer to this question does not only affect the existence of the obligation to initiate the process of obtaining the license, but also other aspects of the subcontractor's and contractor's business, especially if it is a foreign entity. In addition, it is necessary to enact the rulebook regulating issuance of the licences for construction buildings for which the municipalities issue construction permits.	2021			√
Enactment of rulebook on issuance of licences for constructing buildings for which the municipalities issue construction permits and clarify the obligation of subcontractors engaged by a contractor to hold licenses which are already held by the contractor and vice versa.	2021			√
LEGALIZATION				
Prohibition on disposal has created a problem when the title holder of an illegal building and the title holder of the land are not the same person. The Law should be amended in order to enable the legalization of such buildings when there is consent of both sides. Also, it is necessary to reconsider whether the prohibition on the disposal of illegal buildings should be limited to buildings that cannot be legalized because in practice, the existing prohibition significantly complicates legal transactions in situations where legalization is possible and hence such prohibition is not justified. Also, prescribing the deadline for legalization which results in the rejection of a request for legalization is a principle that should be changed, because the procedure is conducted ex officio and does not depend on the will of the party, therefore the owner of an illegal building should not bear consequences of the administration's inefficiency.	2021			√
The Law is ambiguous on the issue of whether a decision on legalization substitutes a construction permit and a use permit. The practice has shown that a decision on legalization does not constitute, pursuant to the opinion of the competent institutions, a valid legal base for issuing an energy licence, which is why the energy licencing procedure requires performing a special technical acceptance procedure for buildings which have been subject to legalization, i.e. obtaining a special technical examination commission report in which it will be clearly stated that the building is fit for use in accordance with its purpose even though for such a building the purpose is stated in the decision. Furthermore, the owners of the buildings are exposed to additional expenses and are put into an unequal position compared to the owners of other buildings with different purposes for which it is not required to obtain an energy licence.	2021			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
It is necessary to amend the Legalization Law in order to limit the prohibition of disposal to buildings that cannot be legalized, as well as to delete the provision that provides for rejecting a request for legalization if the legalization is not completed by 2023.	2021			√
It is necessary that the Decision on legalization has the power of a construction permit and a use permit, which would be acknowledged by appropriate content of the decision (without an additional technical examination /obtaining of a special permit to use).	2021			√

CONSTRUCTION LAND AND DEVELOPMENT

1.33

CURRENT SITUATION

The focus of the Foreign Investors Council (FIC) remains on the implementation of the Planning and Construction Law, and in particular the permitting procedure, construction land status and legalization of buildings.

The issue of property rights and mixed forms of private and public property remains a substantial obstacle in the construction sector in Serbia. Until 2009, the state was the sole owner of urban construction land, and the only right that someone could have had to this land was a permanent right of use, or a long-term lease of 99 years.

Construction

The Planning and Construction Law was amended several times in the past few years.

The recently adopted Law on Amendments and Supplements to the Law on Planning and Construction introduces several important changes in the field of construction. By implementing these novelties, it is expected simplification of the process of issuing construction permits, improve the energy efficiency of buildings, reduce negative impacts on the environment, and encourage the development of sustainable practices in the construction industry.

Legalization

The legislators tried to cope with legalization issue by enacting various regulations, but none of these attempts were deemed successful. The Legalization Law from 2015 stipulates only two options for illegally built facilities – demolition or full legalization. This law was significantly amended in 2018, with the prohibition of disposal on illegal buildings and the 2023 deadline for the completion of the legalization process being the significant amendments. With the new set of amendments within the Legalization Law, the legislature aims to address the issue posed by the previous version of the Legalization Law, which prohibited the connection of illegally constructed buildings to the electricity grid, gas network, and/or district heating, as well as water supply and sewage system.

POSITIVE DEVELOPMENTS

The new Law on Amendments and Supplements to the Law on Planning and Construction has been adopted, with the expectation of further contributing to the growth of the construction sector.

The most significant improvement introduced by the new law is the abolition of the conversion of the right of use into the right of ownership of construction land with compensation (conversion of construction land with compensation) for certain categories of individuals. This primarily includes legal entities privatized based on laws regulating privatization, bankruptcy, and enforcement procedures, as well as their legal successors in terms of status, and individuals who acquired the right of use of the land after September 11, 2009, by purchasing a building with the accompanying right of use from privatized legal entities.

An important innovation and improvement is the recog-

nition and definition of the concept of "green construction" and other elements of the green agenda. Planning and construction of buildings must now take into account energy efficiency, sustainable materials and technologies, waste management, water and air protection, and similar considerations. In that regard, the new law introduces the obligation of obtaining energy passports for all properties that will be constructed after its enactment. Even pre-existing structures are not exempt from this requirement, with a grace period provided for obtaining energy passports. The legislator seeks to implement this obligation through an additional legal provision that mandates the attachment of an energy passport to all future notarizations of sales and lease agreements as an integral part of the documentation, and failure to comply with the aforementioned obligations may result in financial penalties.

Another improvement brought by the new law is the "E-space," which refers to the information system for spatial planning and construction. The introduction of this system is expected to facilitate the processes of issuing construction permits and other necessary approvals.

Additionally, the new law introduces the obligation to establish the Agency for Spatial Planning and Urbanism of the Republic of Serbia, which will take over some of the responsibilities that were previously within the jurisdiction of state authorities. All planning documents issued in accordance with this law will be recorded in the Central Register of Planning Documents, which will be under the jurisdiction of the Agency.

Construction

Recently, there has been a noticeable slowdown in construction and a decrease in the number of issued construction permits, which can be attributed to current market trends. On the other hand, there is also a noticeable tendency towards facilitating the process of issuing permits.

Additionally, there is a noticeable trend within the law to regulate new technological solutions in the field of "green construction." In this regard, the new law explicitly outlines the procedure for installing electric vehicle chargers on privately-owned land. The finer details, such as the method of charging for this service, are yet to be addressed through the Energy Act or other subsidiary legislation as currently service providers charge for this service by leasing parking spaces.

REMAINING ISSUES

Construction

Building the related infrastructure for facilities, which is a prerequisite for obtaining an use permit, often presents a challenge in practice, with the requirement to provide the use permit as the sole valid proof that the relating infrastructure is constructed. Such issues can negatively impact construction timelines and the acquisition of use permits, significantly increasing construction costs for investors.

The authorities responsible for issuing permits in the unified procedure currently issue them with content that prevents the registration of ownership rights for investors on newly constructed facilities (especially when dealing with complexes with multiple buildings and utility networks). Instead, additional specific documentation (expert opinions, etc.) must be obtained by the investor to confirm what the construction/use permits refer to (by comparing the permit with the project based on which the permit was issued).

Legalization

Prohibition on disposal has created a problem when the title holder of an illegal building and the title holder of the land are not the same person. The Law should be amended in order to enable the legalization of such buildings when there is consent of both sides. Also, it is necessary to reconsider whether the prohibition on the disposal of illegal buildings should be limited to buildings that cannot be legalized because in practice, the existing prohibition significantly complicates legal transactions in situations where legalization is possible and hence such prohibition is not justified.

Also, prescribing the deadline for legalization which results in the rejection of a request for legalization is a principle that should be changed, because the procedure is conducted ex officio and does not depend on the will of the party, therefore the owner of an illegal building should not bear consequences of the administration's inefficiency.

The Law is ambiguous on the issue of whether a decision on legalization substitutes a construction permit and a use permit. The practice has shown that a decision on legalization does not constitute, pursuant to the opinion of the competent institutions, a valid legal base for issuing an energy licence, which is why the energy licencing procedure requires performing a special technical acceptance procedure for buildings which have been subject to legalization, i.e. obtaining a special technical examination commission

report in which it will be clearly stated that the building is fit for use in accordance with its purpose even though for such a building the purpose is stated in the decision.

Finally, the law stipulates that only buildings visible on satellite image of the territory of the Republic of Serbia from 2015 are subject to legalization. However, the law fails to adequately regulate the legalization of underground facilities, such as underground utility networks. As a result, the competent authorities reject the legalization of underground utility networks since such facilities are not visible on the mentioned satellite image.

Subcontractor's license

The lack of precision regarding the obligation to obtain a license for contractors and subcontractors leads to uneven and unclear practice. The question arises as to whether subcontractors are obliged to obtain the license in cases when the main contractor (an entity with whom the investor entered into a direct construction agreement for the whole works) holds the license, as well as whether the main contractor is obliged to have license if its subcontractors hold appropriate licenses. The answer to this question does not only affect the existence of the obligation to initiate the process of obtaining the license, but also other aspects of the subcontractor's and contractor's business, especially if it is a foreign entity. In addition, it is necessary to enact the rulebook regulating issuance of the licences for construction buildings for which the municipalities issue construction permits.

FIC RECOMMENDATIONS

Construction Land

- It is necessary for the authorities responsible for issuing use permits for a facility in the unified procedure to accept other evidence (such as expert reports, written confirmations from the electricity distribution company - EDB and/or EMS) that the related infrastructure for the respective facility has been built.

- It is necessary for the authorities responsible for issuing permits in the unified procedure to issue them with appropriate content that will, in accordance with applicable regulations, enable the registration of ownership rights for investors on newly constructed facilities (especially when dealing with complexes with multiple buildings and utility networks) without the need for additional delays and expenses to obtain additional specific documentation (expert opinions, etc.) confirming what the construction/use permits refer to (by comparing the permit with the project based on which the permit was issued). They should also promptly provide the issued permits to the relevant cadastral authorities or utility departments (in the case of constructed utility networks) for implementation on an official basis.

Legalization

- It is necessary to amend the Legalization Law in order to limit the prohibition of disposal to buildings that cannot be legalized, as well as to delete the provision that provides for rejecting a request for legalization if the legalization is not completed by 2023.

- It is necessary that the Decision on legalization has the power of a construction permit and a use permit, which would be acknowledged by appropriate content of the decision (without an additional technical examination / obtaining of a special permit to use).

- The provisions of the law should be amended to introduce alternative means of proof for underground utility networks, such as project documentation of the completed facility, which was prepared before November 2015.

Subcontractor's license

- Enactment of rulebook on issuance of licences for constructing buildings for which the municipalities issue

construction permits and clarify the obligation of subcontractors engaged by a contractor to hold licenses which are already held by the contractor and vice versa.

MORTGAGES AND REAL ESTATE FINANCIAL LEASING 1.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
The Law on Financial Leasing must be harmonized with current real estate regulations, in particular in terms of the possibility of registering an existing real estate lease in the real estate cadastre, which must be clearly prescribed by the Law on the Registration Procedure with the Cadastre of Real Estate and Utilities. Also, by elaborating the tax legislation, the state should create a more favourable climate for implementing financial leasing in the real estate sector.	2009			√
The Law on Mortgage needs to be amended to explicitly regulate the procedure and consequences of amendments to registered mortgages, to regulate some of the more flexible types of mortgages envisaged by comparative law, such as conditional, credit and continuous mortgages, and allow a mortgage to be registered as collateral for multiple claims on different legal grounds, and for different creditors' claims.	2018			√
The rights of the tenant in the case of extrajudicial enforcement should be specified.	2018			√
The Law on Mortgage needs to be amended to simplify the requirements in relation to the mandatory elements of the mortgage document pertaining to the secured claim, i.e., not to require more than the amount, currency and interest (if any). Further, adequate language to be stipulated for future claims by e.g., specifically allowing registration of maximum future secured amount.	2021			√

CURRENT SITUATION

The adoption of the Law on Mortgage in 2005 represented a significant step forward in terms of mortgage rights in the Republic of Serbia. The law provided a more comprehensive regulation of an area of law that, due to obsolescence and inadequacy of provisions in the Law on the basis of Property Law Relations, had previously represented a legal gap in our legislation.

The last amendments to the Law on Mortgage were made during 2015. Despite some general criticism that these changes were not far-reaching enough, the problems that emerged in practice after the adoption of the Law on Mortgage still persist.

Significant progress has been made regarding the procedure of registering mortgages in the real estate cadaster, which was amended with the adoption of the Law on the

Procedure for Registration in the Cadastre of Immovable Property and Utilities in 2018. Additionally, the digitalization of processes in the real estate cadaster has had a positive impact on the speed of the mortgage registration procedure.

However, as there have been no regulatory changes for an extended period of time, we can no longer consider the digitalization of processes as progress in this field.

Financial leasing of real estate, introduced by the amendments to the Law on Financial Leasing in 2011,. The financial leasing of real estate, introduced by amendments to the Law on Financial Leasing 2011, has not yet taken root in practice. The legal framework concerning financial leasing of real estate is not sufficiently elaborated, thus making financial leasing of real estate practically non-functional in practice.

POSITIVE DEVELOPMENTS

There has been no significant progress or improvement in this field.

REMAINING ISSUES

A situation where the registration of one mortgage as collateral securing multiple claims on different grounds and also by multiple creditors has not yet been explicitly regulated. Issues related to setting up a mortgage to secure claims of multiple creditors have appeared as a consequence of the opinion of public notaries that such a mortgage may be set up only in cases when the claims of different creditors have the same legal basis. Similarly, a common issue in practice is the deletion of a mortgage established on multiple distinct properties through the waiver of the mortgagee, as the law does not provide the mortgagee with the right to waive the mortgage on individual properties, but only the mortgage as a whole.

The form of the mortgage document has not been regulated in a satisfactory manner yet. Given that the only requirement for a real estate sale contract is that it should be solemnized by a notary public, there is no policy reason why the same practice should not be applied to the mortgage documents as well.

The requirements of the Law on Mortgage in relation to the mandatory elements of the mortgage document are too excessive and inadequate for claims other than the loans. Further, such requirements are completely inadequate for future claims.

Given that the mortgage creditor can choose whether to activate their pledge based on the Law on Mortgage or the Law on Enforcement and Security interests, one should consider the differences in the legal position of the creditor and the rules of these procedures. The mortgage sale procedure is more cost-effective, with lower expenses, and, if chosen, may achieve a more favorable price compared to public sales in enforcement proceedings. On the other hand, the enforcement procedure is significantly more efficient, legally secure, and precise than the mortgage sale procedure. In the enforcement process, the role of the public enforcement officer, their authority after the sale of the real estate, and the possibilities of vacating the property are concisely prescribed, whereas such provisions are lacking in the mortgage sale procedure, often causing issues in practice.

Considering all the aforementioned, the Law on Mortgage should provide a safer and more comprehensive way to conduct extrajudicial sales, providing creditors with a higher level of security, thereby reducing their reliance on enforcement proceedings and judicial sales in the vast majority of cases.

Moreover, mandatory elements of the mortgage deed give rise to other problems. Namely, if a creditor chooses to initiate an enforcement procedure, they are obliged to quote the mortgage statement in its entirety as it was given, including all spelling and description errors of the property, as they were listed in the real estate cadaster at the time the mortgage statement was issued. This represents a burden due to outdated descriptions and figures that no longer correspond to the cadaster's current state, and it creates issues concerning the courts' interpretation of rights and poses problems when calculating interest in the mortgage statement.

The interest problem in mortgage statements became evident when the courts began rejecting enforcement motions concerning interest. This issue emerged because creditors submitted enforcement motions based on the mortgage statement, where they quoted the statement in the binding part of the motion to make it identical to the given statement. Consequently, creditors sought interest in the same manner as it was stipulated in the contracts. How-

ever, the somewhat descriptive nature of this description is assessed by the court as undecided.

All the foregoing could be partially resolved in favor of the creditor and legal certainty if the Law on Mortgage provided for different mandatory elements of the mortgage deed.

The position of the tenant in the case of an out-of-court settlement of a mortgage is not entirely clear. Unlike the Law on Enforcement and Security interest which explicitly states that the tenant can be evicted unless his lease is registered in the cadastre before all the mortgages and enforcement orders, the Law on Mortgage is silent on this matter. Thus, this implies that the general regime from the Law on Contacts and Torts applies, meaning that the lease agreement survives out-of-court foreclosure if the tenant was already in possession of the mortgaged property.

There is no possibility for mortgage creditors to mutually agree on the change of the order of registered mortgages or to carry out the substitution without deleting them from the real estate cadaster records. The only method provided by the law in this case is the deletion of the registered mortgages, the notarization of new mortgage statements, and the subsequent registration of mortgages in the real estate cadaster, which may result in mortgage creditors losing priority in the collection of their claims. The situation is identical even when the need arises to modify the mortgage itself and its obligatory elements due to changes in the underlying legal transaction that the mortgage secures. In such cases, the principle of the accessory nature of the mortgage doesn't yield its intended effect, and parties are compelled to notarize new pledge statements, thereby incurring additional costs and all the other risks mentioned.

Finally, the Law on Mortgage has not explicitly stipulated more flexible forms of mortgage that exist in comparative law, deposits, credits or continuing mortgages, as well as the (im)possibility and effects of annexing existing mortgage documents.

FIC RECOMMENDATIONS

- The Law on Financial Leasing must be harmonized with current real estate regulations, in particular in terms of the possibility of registering an existing real estate lease in the real estate cadastre, which must be clearly prescribed by the Law on the Registration Procedure with the Cadastre of Real Estate and Utilities. Also, by elaborating the tax legislation, the state should create a more favourable climate for implementing financial leasing in the real estate sector.
- The Law on Mortgage needs to be amended to explicitly regulate the procedure and consequences of amendments to registered mortgages, to regulate some of the more flexible types of mortgages envisaged by comparative law, such as conditional, credit and continuous mortgages, and allow a mortgage to be registered as collateral for multiple claims on different legal grounds, and for different creditors' claims.
- The rights of the tenant in the case of extrajudicial enforcement should be specified.
- The Law on Mortgage needs to be amended to simplify the requirements in relation to the mandatory elements of the mortgage document pertaining to the secured claim, i.e., not to require more than the amount, currency and interest (if any). Further, adequate language to be stipulated for future claims by e.g., specifically allowing registration of maximum future secured amount.
- The Law on Mortgage needs to be supplemented regarding the possibility for mortgage creditors to agree on the change of the order of registered mortgages without deleting them from the real estate cadaster records.

CADASTRAL PROCEDURES 1.82

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
It is necessary to continue with intensive work in order to achieve uniformity of practice and clear implementation of the law for additional acceleration and predictability of cadastral procedures, including finding an adequate solution to overcome problems with the registration of utilities built in accordance with former regulations.	2021		√	
It is necessary to make the cadastre more accessible to parties and professional users, which would certainly lead to greater efficiency in work, as well as a relevant legal service at each real estate cadastre office that would eliminate doubts that parties and professional users have without an appointment. In this way, the number of dismissed and rejected requests, and therefore the number of second-degree procedures, would be significantly reduced. The first step towards this should be to enable professional users to get in direct contact with cadastre officials and to get answers to questions directly and in a short period of time.	2022			√
It is necessary to establish an efficient system for the resolution of clients' requests and simplify the manner of submitting updates to the so-called notary cases or introduce the obligation for the notaries to add the documents necessary for the completion of registration to the documents they are certifying.	2022		√	
It is necessary to find a systemic solution as soon as possible in order to solve all backlogged first-degree and second-degree cases.	2018			√
It is necessary to allow full control of registration procedure by the parties in the case which was initiated by a notary.	2021		√	
Electronic base for utility cadastre should be accessible to the public or registered users, as it has already been done with the real estate cadastre, with the possibility of issuing excerpts from the utility cadastre (as it has been done with real estate sheets that are issued from the real estate cadastre).	2022		√	
It is necessary to register all utilities (and rights to them) in the utility cadastre without delay, i.e. enter the utilities registered so far into the existing software Utility Cadastre, and previously resolve all open issues and introduce uniformity regarding the registration of underground reservoirs.	2019		√	
The new format of the extract from the electronic database of the Real Estate Cadastre (because of which each part of the plot, each building / part of the building must have a separate sheet) is insufficiently clear compared to previous excerpt from immovable property and caused excessive fees for certain companies that own hundreds of land plots. Although the e-cadastre system has been established, banks and other institutions require obtaining official and original statements. For the above reasons, this problem must be solved as soon as possible and the calculation of costs in such a case should be adjusted, because it causes significant burdens for investors. Geodetic organizations should have the right to issue official copies of cadastral plans and cadastral plans of utility lines.	2021	√		

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
It is necessary to amend the Law on the Procedure of Registration in the Cadastre of Immovable Property and Utilities in order to enable the conversion of possession into the ownership right. The solution could follow the path of the one provided for by the Law on State Survey and Cadastre before the adoption of the Law on the Procedure of Registration in the Cadastre of Immovable Property and Utilities, which provided that the possession right ex officio becomes the ownership right if a third party within a certain period does not submits a request for registration of ownership right and does not submit proof of ownership rights to that immovable property.	2022			√
It is necessary to further improve the e-counter and "Real Estate Transaction application software in order to enable the submission of all types of requests.	2022		√	
Prepare a draft of the Law on Infrastructure and start work on the introduction of the infrastructure register.	2022		√	

CURRENT SITUATION

Over the past year, the Republic Geodetic Authority has continued to work intensely on the digitalization of procedures that it started implementing in 2020. Electronic notice board represents an attempt to overcome the problem of decision delivery and, as such, it provides more transparency regarding the acts adopted by the cadastre. An address registry was established, as well as a procedure for determination of house numbers on the territory of the entire country. Introduction of e-desks enhanced digital communication in the work of geodetic organizations and lawyers which realize operations envisaged by the Law on State Survey and Cadastre and Law on the Procedure for Registration in the Cadastre of Immovable Property and Utilities

The progress in this area is noticeable, but there is still room for improvement.

According to analysis conducted by the Republic Geodetic Authority, the exact number of unresolved cases before the adoption of the new Law on the Procedure for Registration in the Cadastre of Immovable Property and Utilities was 1,200,000, while three years after the law was passed, the number fell below 500,000. The effects of COVID-19 pandemic have additionally contributed to delay in resolving cases, despite the efforts on digitalization of work of RGA's services. Regardless of the potential effects of the pandemic or other unforeseen difficulties, it is essential to find systematic solution through dialogue between all stakeholders on the market and holders of public authorities in order to reduce the number of unresolved cases and thus speed-up the process of decision making as soon as possible.

One of the reasons for the constant existence of a certain fund of unresolved claims is the absence of historical documents, or the existence of inadequate documents (according to current regulations) required for the registration of rights to real estate in general, and especially to real estate originating from the unregulated market. Opening a discussion to consider moving the procedure of validation of such documents to other holders of public authority can represent a step towards finding a systemic solution for the reform of the Real Estate Cadastre.

There is still the problem of necessity to increase the efficiency of work of the utility cadastre departments, as well as the non-resolved issue regarding the documentation required for registration of the rights to the utility lines (non-recognition of permits issued before introduction the possibility to register rights on lines, but also for lines for which the permit was issued under the unified procedure due to non-listing each and every line to which the permit refers). Further step towards improvement of the utility cadastre is introduction of the adequate software which will connect public notaries with the cadastre (for example, currently it is not possible to file a request for the mortgage registration on the utility lines through the notary's office).

During the final stage of the preparation of this year's White Book, the Serbian Parliament adopted the Law on Amendments to the Law on State Survey and Cadastre and

the Law on Amendments to the Law on the Procedure for Enrolment in the Cadastre of Real Estate and Utilities, with the aim of creating a legal basis for upgrade the cadastre database of pipelines to include, in addition to pipelines, other infrastructure facilities, as well as all underground facilities, which would create the Cadastre of Infrastructure. We will assess the full effects of the changes made in the next edition of the White Book.

POSITIVE DEVELOPMENTS

Compared to the recommendations of the FIC from the 2020 and 2021 White Book, certain improvements were made in relation to the following recommendations:

- It is necessary to ensure clearer and more transparent instructions on the implementation of laws with the aim of accelerating and improving the foreseeability of cadastral procedures – RGA website offers instructions, request forms, the possibility to monitor the status of the case and make an appointment with the person who processes the request;
- Republic Geodetic Authority should contribute to the harmonization of practices of real estate cadastre offices/utility cadastre departments and strengthen control over their work, to ensure accessibility for the parties that request consultations, act more promptly upon complaints, and allow complaints about the work of utility cadastre departments to be filed via link on the RGA official website - the harmonization of practices was successful in certain cases. Also, RGA regularly publishes documents on its website that are important for standardizing the practice of services and which enable interested parties to become familiar with the practice of RGA (information, cadastral-legal practice, etc.);
- The Republic Geodetic Authority is actively working on solutions and is open to recommendations in order to find an adequate solution for a more efficient resolution of old cases;
- There is a noticeable tendency of more efficient software maintenance and improvement– besides noticeable problems that are actively resolved, improvements have been made in the maintenance of the publicly accessible cadastre database.
- The Amendments to the Law on State Survey and Cadastre and the Amendments to the Law on the Procedure for Enrolment in the Cadastre of Real Estate and Utilities were adopted, and the introduction of the infrastructure register can now be expected.

The implementation of the above listed recommendations can be generally regarded as positive, as their adoption contributes to timeliness, reduces clients' waiting time, simplifies and accelerates registration procedures, even though there is still plenty of room for improvement.

REMAINING ISSUES

Despite improvements, one of the most important problems lies in inconsistent interpretations of applicable regulations by different real estate cadastre offices, which are often non-compliant with other laws and bylaws.

The deadlines for delivery of decisions upon clients' requests for registration in the cadastral and utility registry represent one of the most significant problems, as the deadlines are routinely exceeded, due to overloaded offices with unprocessed cases and inadequate internal work organization (for example, during the submission of cases to the utility cadastre departments by some real estate cadastre offices, the geodetic studies were submitted without the requests and supporting legal documentation that were submitted by the parties). Even though a certain improvement has been made in terms of resolving the requests submitted to the Offices by the professional users, the main problem are the unresolved cases submitted by the parties (either personally or through professional users), as well as a large number of unresolved cases from the past (as a matter of historical heritage). , some of which date years back. The aforementioned also applies to the resolution of second-instance cases

Offices still exhibit excessively formalistic approach to the resolution of requests for the registration of real estate rights. It is evident from their acting in the cases which are submitted by notaries, where the party is not allowed to participate in a possible case update or abandonment of the submitted request. This problem is closely related to the aforementioned problem of untimely decision making of submitted requests. The impossibility to participate in a case update or abandonment of the submitted request by the parties can also lead to unwanted and unnecessary costs (e.g. if there is a previously unresolved request on the real estate, upon receiving of a new request for registration of a mortgage by the notary public (ex officio) the service will not resolve it due to the principle of priority of the real estate cadastre, while in the meantime the party can pay off the debt to the mortgage creditor, and due to the impossibility of abandonment of the request submitted by the public notary, the

mortgage creditor approaches the certification of the written statement (erasure permit), after which the cadastre in the future issues a decision on registration mortgages and payment of tax on the same without a valid reason).

A major problem in the work of real estate cadastre offices remains the lack of transparency in work and inaccessibility to parties (especially professional users). Although it is formally possible to schedule a meeting with an officer dealing with a case. In practice it is not possible.

Also, one of the current problems is the impossibility of scheduling more than one appointment through the "eKatastar" service for submitting submissions and/or appointments for waiving the right to appeal on the same day (by parties as well as professional users), which contributes to limiting business due to restrictions that only one request can be submitted in the scheduled appointment, i.e. it is possible to schedule an appointment for waiving the right to appeal only in one case. The e-counter for professional users and the application "Transfer of real estate" used by public notaries are incomplete. They do not permit professional users to submit all the required requests. For example, it is not possible to initiate the procedure for the condominium of an existing building, nor can notaries public submit a request for the registration of the lease of a building or office space in the real estate cadastre.

There is also a problem with the registration of facilities built under the Law on Mining and Geological Research and the rights to them, particularly in relation to the lines built several decades ago under permits obtained in accordance with the then applicable regulations.

The existing solution from Article 58 of the Law on the Procedure for Registration in the Cadastre of Immovable Property and Utilities regarding deletion of the holder and the possession is incomplete and therefore needs to be amended. Namely, the aforementioned provision foresees that, if the legal conditions are not met by May 1, 2028, at the latest for the registration of property rights on immovable properties where a certain person is registered as a holder in accordance with the Law on State Survey and Cadastre, the office will ex officio delete the status of the holder and this persons possession on the immovable property. However, the Law does not prescribe the legal conditions for registering property right instead of state possession, as well as what the consequences would be after May 1, 2028, that is, who would be the owner of the real estate.

Speaking of the cadastre of utility lines, it should be noted that in practice notaries do not have any access to this cadastre, hence cannot obtain a sheet of utility lines, nor they can electronically file a request for the mortgage registration on utility lines. On the other hand, certain Utility Cadastre Services do not allow submission of hard-copy request, however according to the information received from RGA, they are working on solving this problem.

Also, the issue of systematic (ex officio) entry into the cadastre software of those utilities and boreholes for which legally binding decisions have already been made by the real estate cadastre office remains unresolved, because those utilities and boreholes are registered only at the special request of the party and not by official duty based on the already adopted decisions of the real estate cadastre. In order to have proper records of all previously issued decisions on the registration of utilities in the Utility Cadastre, as well as for the possibility of issuing copies of utility plans and lists of utilities for all previously registered utilities, we believe that it would be more expedient to have RGA ex officio enter all utilities for which there are previously issued decisions by the real estate cadastre offices.

One of the controversial issues is the issue of registering underground tanks, i.e. whether they will be recorded in the real estate cadastre or in the utility cadastre, which affects the circumstance on whether, for the purpose of recording them, it is necessary to record the underground tanks and submit them in the studies for the real estate cadastre, or in the studies for the utility cadastre. Also, cases when the tanks are located under the canopy, in which case they cannot be registered in the real estate cadastre due to overlapping with another object, are also a problem. On these issues, it is necessary to standardize the practice.

Also not for every request for the registration of the possession right in the records of the Utility Cadastre on the basis of a valid construction permit issued before June 8, 2018, i.e. before entry into force the Law on the Procedure for Registration in the Cadastre of Immovable property and Utilities, the state registration was carried out in favour of the applicant with a legally valid building permit, but the utilities were already registered to an unidentified owner, which is an action contrary to RGA notice 959-1/2020 of 09/25/2020 which provides registration of the possession right in favour the applicant - investor on the basis of the submitted valid building permit issued before 08.06.2018, geodetic study and findings of experts.

It is expected that the adoption of the Law on Amendments to the Law on State Survey and Cadastre and the Law on Amendments to the Law on the Procedure for Enrolment in the Cadastre of Real Estate and Utilities, will create prerequisites for up-to-date management and reliable access to data on infrastructure facilities and in the future it is expected to overcome the previously mentioned problems. The Law on Amendments to the Law on State Survey and Cadastre abolishes the misdemeanour liability of civil servants for failure to make a decision within the time prescribed by law, which could result in an additional extension of the duration of the procedures conducted before the Real Estate Cadastre.

Also, for managing data on infrastructure facilities, according to the available information, the development of new software is in progress, which, in addition to time for testing and implementation, will also include the migration of data from the existing Cadastre of Utilities database. Although the digitization of the Cadastre Utilities will be a step towards the improvement of this system, there is a fear of the business that in the phase of transition from the old to the new software, it could further complicate and slow down the work of the Cadastre Utilities. The optimal solution for speeding up the work of the Cadastre Utilities is for the RGA to introduce additional human resources for the entry/registration of previously registered utilities that have not been entered into the existing software, and to quickly resolve backlog cases related to utilities.

FIC RECOMMENDATIONS

- It is necessary to continue with intensive work in order to achieve uniformity of practice and clear implementation of the law for additional acceleration and predictability of cadastral pro cedures, including finding an adequate solution to overcome problems with the registration of utilities built in accordance with former regulations.
- It is also necessary to allow professional users to schedule more than one appointment per day through the "eZakazivanje" system, in order to submit the requests in person on the cadastre premises and/or more than one appointment for waiving the right to appeal in the cadastre premises. The problem is systemic, bearing in mind that it is prohibited to schedule more than one appointment during the day through the same IP address, and solving this system can greatly facilitate measures business and communication of large systems with the cadastre.
- It is necessary to establish an efficient system for the resolution of clients' requests and simplify the manner of submitting updates to the so-called notary cases or introduce the obligation for the notaries to add the documents necessary for the completion of registration to the documents they are certifying.
- It is necessary to find a systemic solution as soon as possible in order to solve all backlogged first-degree and second-degree cases. Consider transferring the procedure for the validation of documents related to real estate from the unregulated market to other holders of public authority and open a public debate on the reform of the Real Estate Cadastre as a service that only formally registers rights to real estate, archives registration documents and delivers its decisions to the parties.
- It is necessary to allow full control of registration procedure by the parties in the case which was initiated by a notary, as it is just a service performed by notaries.
- Electronic base for utility cadastre should be accessible to the public or registered users, as it has already been done with the real estate cadastre, with the possibility of issuing excerpts from the utility cadastre (as it has been done with real estate sheets that are issued from the real estate cadastre).
- It is necessary to register all utilities (and rights to them) in the Utility Cadastre without delay, i.e. enter the utilities

registered so far into the existing software Utility Cadastre, and previously resolve all open issues and introduce uniformity bot regarding the registration of underground reservoirs and other issues where uniformity does not exist.

- The new format of the extract from the electronic database of the Real Estate Cadastre (because of which each part of the plot, each building / part of the building must have a separate sheet) caused excessive fees for certain companies that own hundreds of land plots. The fee for sheets in those situations amounts to several thousand euros, taking into account that each sheet is charged separately. Although the e-cadastre system has been established, banks and other institutions require obtaining official and original statements. For the above reasons, this problem must be solved as soon as possible and the calculation of costs in such a case should be adjusted, because it causes significant burdens for investors.

- Geodetic organizations should get the right to issue official copies of cadastral plans and cadastral plans of utility lines (in the same way as they can issue extracts from the electronic database of the Real Estate Cadastre), and not that the only way to obtain them is by submitting a request to the cadastre of lines by geodetic organizations (or other professional users), whose issuance can take up to several days.

- Without delay it is necessary to amend the Law on the Procedure of Registration in the Cadastre of Immovable Property and Utilities in order to enable the conversion of possession into the ownership right. The solution could follow the path of the one provided for by the Law on State Survey and Cadastre before the adoption of the Law on the Procedure of Registration in the Cadastre of Immovable Property and Utilities, which provided that the possession right ex officio becomes the ownership right if a third party within a certain period does not submits a request for registration of ownership right and does not submit proof of ownership rights to that immovable property. Until the aforementioned changes, it is necessary for the RGA to issue a notification in order to unequivocally determine how the Real Estate Cadastre services should act in these cases.

- It is necessary to further improve the e-counter and “Real Estate Transaction” application software in order to enable the submission of all types of requests.

- The information system of RGA needs to be further improved in order to remain sufficiently secure.

- During the phase of transition from the old to the new Cadastre software, it is necessary for the RGA to introduce additional human resources for the entry/registration of previously registered lines that have not been entered into the existing software, and to quickly solve the backlog of cases related to lines.

RESTITUTION 1.33

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
The Restitution Agency should conduct transparent restitution procedures granting the right to restitution to redress the injustice perpetrated 70 years ago, taking due care to protect basic human rights of the parties to the proceedings.	2015			√
Foreign nationals should be allowed to exercise the right to restitution, equating them with Serbian nationals in these proceedings, irrespective of their citizenship and nationality, in accordance with decisions of judicial authorities and the Ministry of Finance.	2015		√	
Agriculture land under all type of objects/buildings such as lines and boreholes, have to be exempted from restitution and the agriculture land in the restitution for which the consolidation procedure was not being performed have to be listed and disclosed by the Agency	2021			√

CURRENT SITUATION

The urgency of restitution is grounded in its tremendous potential for promoting the security of property rights in a symbolic and exemplary manner, clearly showing the state's intention to return what was unjustly expropriated. The deadline for filing claims has expired, and institutions are processing individual requests, but still the impression is that the finalization of the procedures shall take some time, although the legal deadlines for resolution of individual requests have passed.

The Law on Property Restitution and Compensation (Law) protects the acquired rights of individuals, while the statutory obligation of restitution arises only in cases when a property, which may be subject of restitution, is not in private ownership. Although the Law prescribes in-kind restitution (i.e., restitution of an unjustly expropriated property) as the primary model, there are numerous exceptions and it is likely that compensation will be the most prevalent form of redress. In-kind restitution is the obligation of the Republic of Serbia (RoS), local governments, public enterprises established by the RoS and socially-owned companies and co-operatives, while the disbursement of compensation is the exclusive obligation of the RoS. Rarely, privatized companies may be obliged to make restitution in kind.

The Restitution Agency (Agency), as well as other stakeholders including the Constitutional Court, have taken a rigid position, particularly with respect to foreign nationals. This is reflected in an inadequate application of the principle of discretionary evaluation of evidence, as well as in requests for documentation which is not necessary for decision-making and which is in most cases impossible to obtain.

The problem is a result of the deficiencies in the law itself which prevent the stakeholder to apply the principle of free assessment of the evidence, and there are also discrepancies between regulations in the field restitution.

POSITIVE DEVELOPMENTS

In 2017, the Constitutional Court, the Supreme Court of Cassation, the Administrative Court of Serbia and the Ministry of Finance made decisions which annulled the Agency's decisions made in contravention of the law, which, provided that the Agency complies with these authorities' orders, should significantly contribute to progress.

According to the Constitutional Court's and the Supreme Court's decisions, the Agency is obliged, in each case, to request the missing documents from applicants before dismissing a request as incomplete, thus enabling the applicants to participate in the proceedings.

Under the Administrative Court's decisions, the Agency was ordered to act in accordance with all laws and inter-

national agreements, forbidding the Agency to make decisions on issues outside its jurisdiction, especially regarding the existence of reciprocity with foreign countries.

The Ministry of Finance ordered the Agency to comply with court decisions in further processing, in particular court decisions rehabilitating former owners. The Ministry's decision made it clear that in cases where former owners have been rehabilitated by court decisions, the Agency has no authority to deny requests for restitution on the grounds that the former owners were members of foreign occupying forces.

With amendments of by-laws, the restitution of agricultural land by substitution was made possible. This means that, in some cases, it is possible to acquire the right to restitution of agricultural land of the same type and quality as the seized agricultural land, but on the territory of a different self-government unit. In practice such restitution process mostly does not take into consideration existence of different types of buildings/objects (such as lines and boreholes) in the ownership of third parties which agriculture land under such objects have to be exempted from restitution. The list of agriculture land that is included in the restitution procedure without being performed a land consolidation procedure is not officially disclosed.

In the beginning of 2021, the Government of the Republic of Serbia rendered a conclusion determining that the compensation in the cases where it is impossible to allow restitution in kind, will be 15% of the value of the seized property. Payments of compensation on the basis of final and binding resolutions on compensation have begun. The notification with instructions for receipt of payments of compensation is published on the Agency's web page. Portions of compensations payable as down payment are being duly paid, within short deadlines.

By the decision of the Constitutional Court of Serbia from 2021, the uncertainty regarding the scope of individuals entitled to restitution or compensation in situations where the legal heir of the former owner did not submit a claim within the timeframes prescribed by law has been resolved. In such cases, the legal heir who has submitted such a claim is entitled to the full restitution of the property or compensation, thereby preventing an extensive interpretation of the provisions of the law and further safeguarding the interests of the claimants.

REMAINING ISSUES

Ambiguities and inconsistencies in the Law have led to divergent practices by the Agency, which may jeopardize the acquired rights of foreign investors.

In some of the restitution cases, the Agency interprets regulations in a manner that hinders or even denies foreign nationals their right to restitution or compensation. Judicial and administrative authorities of the RoS have made decisions in certain cases to correct irregularities in the Agency's work, but the question remains whether the Agency will adopt and apply instructions from these decisions.

The question of the freedom of the assessment of proofs in restitution procedures has not been resolved. Claimants in restitution procedures who are not able to obtain the legally prescribed specific proof – the document on seizing – will not be granted the restitution right regardless of the existence of other proofs that the seizing of the property did occur. Unfortunately, the Constitutional Court of the RoS has taken the position that lawmakers are allowed to exactly specify the proofs that must be submitted in the procedures for proving a certain fact, as well as those lawmakers are entitled to determine that all the other means of proving are "insufficient and unreliable," so the initiative for determining the constitutionality and legality of the respective provision of the law has been rejected.

FIC RECOMMENDATIONS

- The Restitution Agency should conduct transparent restitution procedures granting the right to restitution to redress the injustice perpetrated 70 years ago, taking due care to protect basic human rights of the parties to the proceedings.

- Foreign nationals should be allowed to exercise the right to restitution, equating them with Serbian nationals in these proceedings, irrespective of their citizenship and nationality, in accordance with decisions of judicial authorities and the Ministry of Finance.
- Agriculture land under all type of objects/buildings such as lines and boreholes, have to be exempted from restitution and the agriculture land in the restitution for which the consolidation procedure was not being performed have to be listed and disclosed by the Agency

LABOUR

1.29

With the development of flexible forms of work, which have particularly gained momentum in recent years, the need for more comprehensive changes to the Labour Law is becoming increasingly evident. After a significant step forward in the improvement of labour regulations in 2014, when over 65% of the recommendations from previous editions of the White Book were adopted, there have been no major changes to the core law. It is apparent that further adaptation of the labour legal framework to the needs of the labour market will have to wait for some time.

In further reforming of the Labour Law, a priority should include, among other things, the need to recognize and regulate more flexible forms of work, such as work from home and remote work, digitalization, and simplification of the highly formal communication between employers and employees, the complex salary structure, and the method of wage calculation. Additionally, certain changes to legal provisions regulating the termination of employment, such as those governing statutes of limitations and notice periods, as well as a clear definition of the procedure for resolving surplus of employees, are needed. This edition of the White Book also points out a number of legal provisions whose application has led to uncertainties in business practices or different interpretations by the courts.

Foreign Investors Council welcomes the progress made regarding employment and mobility of foreign nationals in the domestic market, noting that a significant portion of the Council's recommendations given during the adoption of amendments regulating the work and residence of foreigners has been adopted. The amendments to existing regulations towards introducing a single permit and conducting the process electronically should lead to a significant simplification of the procedure for granting residence and work permits to foreigners in Serbia.

The new Law on Safety and Health at Work is aimed at aligning the domestic occupational health and safety system with European standards, raising awareness and responsibility among all participants in the occupational health and safety system, which should ultimately contribute to improving the quality of implementing safe and healthy working conditions. However, the work from home and the remote work remain inadequately regulated by law, highlighting the need once again for amendments to the Labour Law which would provide for closer regulation of the mutual rights and obligations associated with this type of work.

Continuing the initiated labour reforms is a crucial prerequisite for establishing a business environment that will make the Serbian market appealing to foreign investments and encourage the creation of new employment opportunities. The Human Resources Committee, leveraging its expertise and knowledge in regulatory implementation, has strived to identify the key priorities for further improvements in this field.

LABOUR RELATED REGULATIONS

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
The Labour Law				
Digitization of labour law documents. In order to harmonize with the trends, solutions and possibilities brought by the digitalization process, it is necessary to amend the Labour Law in order to define an alternative way of administering employment rights and obligations by using electronic documents and electronic signature (adoption of acts and concluding contracts), alternative formal communication on the relation employer - employee electronically, primarily via e-mail or other similar channels of electronic communication and with the use of electronic bulletin board, electronic records as well as submission of documentation electronically, etc., as ways and forms that would be completely equal to the currently valid forms. Also, we believe that it is necessary to amend the Law on Labour Records in relation to 3 key items: determining the maximum retention period up to 5 years after termination of employment, explicitly enabling electronic records and using various IT tools for this purpose, and prescribing the correct way disposal of employee files made in paper form.	2016			√
Flexible conditions of work outside Employer's premises. Introduction of a possibility of regulating employment when establishing it or in its course so that the employee would work one part of his working time outside the Employer's premises (not only from home), as well as a possibility of changing the work regime and concluding and Annex to the Employment Agreement during employment, i.e. without the obligation to conclude the Annex (in case when the transition to work regime outside Employer's premises is occasional or short-term, in which case Employer's provisions of general enactments would directly apply to conditions of work from home). It is necessary to precisely establish the difference between the work from home and remote work (by the place of work or means of work), and relativize the need to define "Place of work" as obligatory element of Employment Agreement by introducing, for example, "primary place of work" in case of remote work, as well as introduce general principles for the compensation of costs for work outside Employer's premises, since legal certainty and security are required. Within the flexible organization of work, possibility of introducing overtime should be expanded so that it is not linked only to extraordinary and unexpected circumstances. The Employer and employee should have the freedom to agree on the reason for and purpose of overtime, and the Employers should be entitled to contract a manager's fee that would also cover overtime fee for the overtime work of company managers.	2018		√	
Rational salary structure and salary compensation. We suggest that work performance be envisaged only as an option, and not as a mandatory part of earnings. Also, the proposal is that the basis for calculating the salary compensation during the absence from work be equal to the basic salary increased by the seniority pay. This would make it much easier for all employers to manage salaries and have more flexibility in both the salary contracting and the budget planning, and the salary structure itself would be more understandable. Also, we propose that the amendments to the Labour Law clearly define what the elements or conditions for determining the basic salary are and which general act of the employer determines those elements, as well as to determine the conditions for offering an annex which stipulates a change the basic agreed salary.	2021			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Flexible engagement of students in practice. We propose amendments to the Labour Law in the part that regulates professional training and development. These amendments should provide for appropriate flexible modalities of engaging high school students, students and other persons outside employment (both in the field of education and outside the field of education) in order to gain practical knowledge and experience in a real work environment, career advancement and easier future employment. Additional conditions limiting the possibility of such engagement should be removed from the existing provisions on vocational training and development, and the same should be provided regardless of the employer's activity and whether it is the public or private sector. The competent ministry may establish all necessary mechanisms to prevent abuse of this institute, if this was the reason for the introduction of restrictions by Article 201. In this regard, in order to develop good and safe practice, it is necessary to harmonize the provisions of the Labour Law so that they form a consistent labour law regulation with the provisions of the Law on Dual Education and the Law on the Dual Model of Studies in Higher Education, which regulate the conditions of work practice of high school students and university students. Alternatively, a good way to regulate the employment of students could be the Work Practice Law. However,the draft of this law that was on public discussion had flawed solutions based on which practitioners can perform work practice for a certain period after schooling, for work in a profession within the acquired level of qualifications, which leaves room for the interpretation that work practice within of the aforementioned law, students cannot work for the occupation for which higher education is provided (since at that moment they have acquired secondary education). It remains to be seen what the final solution of the future law will be and whether it will represent an adequate basis for the employment of students.	2016			√
"More flexible conditions and procedures for employment termination. It is necessary to: (a) extend the statute of limitation periods for the conduct of proceedings (the subjective period of 6 months to be extended to at least one year and the objective period to 3 years), (b) in the event of the employment contract termination, extend the maximum duration of the notice period from 30 to 60 days (c) enable employers to issue decisions in the form of an electronic document determining measures (dismissal or milder measure) or releasing employees from liability, as well as delivery these decisions are executed electronically, (d) the employee's refusal to receive the decision served on the employer's premises as if the act had been delivered, (e) enable the employer to unilaterally release the employee from work during the notice period (when the notice period is prescribed/contracted) with the salary compensation payment in the amount of the employee's basic salary, (f) regulate the procedure of termination of employment due to technological, economic or organizational changes – redundancy in cases when program is not mandatory, clearly stating the obligations of the employer or whether the employer is obliged to address a representative union within the company and the republic organization responsible for employment, whether he is obliged to apply measures for new employment and how they are being applied, especially additional qualification and retraining, etc. (g) the Labour Law to define that the establishment of an employment relationship with another employer who submitted the employee's application for insurance, without prior written notice to the original employer, is considered a termination of the employment contract by the employee, and that with the first day when he did not show up for work at the employer ."	2018			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Law on Vocational Rehabilitation and Employment of Persons with Disabilities				
Because the regulations listed herein are considered particularly important and vital for attracting and maintaining foreign investments, and given that the very purpose of this Law is the inclusion of PwD, the FIC previously provided and is still putting forth a number of suggestions on how to improve the situation. To this end, here we underline the most important recommendations on how to improve the existing legal framework and practice:				
Classify business activities subject to a limited application of the Law, due to their specific nature (e.g., private security, manufacturing, construction, etc.), meaning that in these activities the number of PwD the employer must hire should be calculated relative to the number of employees in jobs that do not require special medical fitness pursuant to the law and/or nature of the business activity and that can be performed by employees with disabilities.	2016			√
The assessment of and the issuing of a decision on working ability should be performed by the same body to accelerate the procedure. We suggest that the procedure and decision-making should be accelerated and the list of documents required by the authorities from the employee be reasonably decreased.	2009			√
We believe that a more efficient manner for increasing the employment rate of PwD would be to incentivize employers with subsidies for their employment.	2009			√
Employment of Foreign Nationals				
The Central Registry of Mandatory Social Insurance's certificate on whether an employer, prior to filing an application for a work permit for employment, had dismissed employees as redundant should contain the exact job title of the employee who was declared redundant.	2015			√
The labour market test should not be a condition for issuing a work permit in case of hiring senior managers.	2015		√	
It is necessary to shorten the duration of the procedure for issuance of temporary residence permit, allow a longer validity of temporary residence permit and work permit, and reduce the number of the required documents. Also, it is necessary to provide the possibility to submit the Joint Application electronically in accordance with Article 41a of the Foreigners' Act.	2021	√		
Temporary residence permit, once granted, should be valid from the date of granting and not from the date of submission of the request, given that the applicant does not control the length of the approval process and is, if at all, in Serbia pending the approval on another legal basis and not on the basis of requested temporary residence permit.	2022		√	
Secondment of employees abroad				
We recommend extension of the maximum period employees at managerial positions are allowed to stay abroad on the basis of referral to business trip, without application of the Secondment Act to up to 180 days in total within a calendar year, instead of the currently applicable 90 days.	2016			√
We recommend allowing secondment abroad for the purpose of vocational training and development also to the entities which are not necessarily related to the employer by equity or control.	2018			√
We recommend allowing secondment abroad of employees under the age of 18.	2016			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Staff leasing				
We recommend deletion of Article 14 of the Staff Leasing Act, which limits the number of employees employed at the staff leasing agency on a fixed-term basis that a beneficiary can lease.	2020			√
We recommend deletion of Article 2 paragraph 5 of the Staff Leasing Act, which regulates situations in which there is no comparative employee at the beneficiary.	2020			√
We recommend deletion of Article 17 of the Staff Leasing Act, which prescribes the staff leasing presumption.	2020			√
Human capital				
Improvements of the educational system should be continued. To this end, regular contact between the FIC and the Government, the ministers of education, youth and sport, as well as the universities. The FIC and the business community in Serbia are ready to provide support and put their experts at disposal. Based on an analysis of needs of the economy and the real sector, new educational profiles should be created and implemented, and the university enrolment quotas should be adjusted in line with the market needs.	2008			√
Define the legal framework for the employer-student relation to simplify the implementation of vocational internships in parallel with regular education.	2017		√	
Define the legal framework for preparing persons with high education profiles to work independently in their profession, regardless of whether they meet the requirements for taking an expert exam and/or taking part in an internship program.	2017			√
The National Employment Action Plan should clearly define, redefine and widen the range of educational profiles that are going to be included into the action plan and employment policy, i.e. be attuned to the needs of the market and employers.	2017			√
Design a human capital internal migration plan for Serbia to evenly develop underdeveloped regions and lessen the gap in the economic needs of different parts of the country, prevent migration from Serbia and stimulate citizens to search for a better place for life and work in the country, and not abroad.	2019		√	
Consider to support employment through reducing employment costs regarding taxes and contributions and thoroughly regulate legislation that's considerers work from home.	2020			√
Safety and health at work				
Adoption of laws and bylaws. In the absence of legal norms, there are no bylaws that would be necessary to regulate in more detail:				
Training of employees for safe work from home / remotely,	2021		√	
Procedure related to injury at work while working at home /remotely and filling in the injury list in case of injury while working at home or at another location,	2021			√
Clear division of rights, obligations and responsibilities between the employer and the employee, in connection with the application of measures for safe work from home or remote work, as well as in case of injury at work or the occurrence of occupational diseases,	2021			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Procedures related to the implementation of preventive measures for safe work from home / remote work, control mechanisms for the application of measures for safe and healthy work and mechanisms for determining the causes and manner of injuring when working from home, i.e. remotely (here we primarily refer to the preventive measures related to: ergonomics of work, lighting of the working space, microclimate in the working space, passability, stress management, maintenance of work space, electrical installations, fire protection, prohibited activities and behavior, and the actions of the employee in case of injury at work),	2021		√	
The procedure for drafting the act on risk assessment for the jobs that are performed from home or remotely. We believe that the kitchen/ dining room and bathroom / toilet in the employee's home should be included in the risk assessment, because these are premises that regularly exist in the employer's business premises and that the employee regularly uses them during working hours, hence those premises should also be subject to the risk assessment and measures for prevention/minimization of injuries at work in the circumstances of work from home/remotely.	2021			√
Application of regulations in practice. Along with the adoption of the new Law on Safety and Health at Work, which we believe will bring the expected improvements and to the greatest extent reduce the legal gaps contained in the current version of the same law, we believe that it is necessary to improve the capacities of the labour inspection, all with the aim of ensuring safety and health at work in accordance with applicable regulations.	2022			√
Dual education				
By-laws should be adopted, or authentic interpretations or opinions should be given which will regulate more closely the relationship between the laws on dual education and the Labour Law and other laws governing different aspects of employment, that is, the Labour Law and the Law on Occupational Health and Safety shall be applied accordingly, unless otherwise defined by laws on dual education.	2018			√
By-laws should be adopted, or authentic interpretations or opinions should be given, especially for each scope of business or industry, in respect to all particulars (from specific formal legal requirements to requirements and specificities in practice), which will regulate more closely all aspects of dual education implementation.	2016		√	
Incentives in form of subsidies or tax allowances that would attract companies in Serbia to join this system should be provided and accordingly, by-laws that regulate them should be adopted.	2017			√
Obligation of a student to compensate the employer in case of retaking of the year or causing damage to the employer should be prescribed, as well as the right of an employer in such cases to terminate the on-the-job training agreement, in addition to the right to damage compensation, without any obligation to compensate the student.	2022			√
The provisions of the Law on Dual Education and the Law on Dual Model of Studies in Higher Education should be amended regarding termination of contracts (between employers and schools/higher education institutions and employers and pupils/students) by force of law, in accordance with the above statements.	2022			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
The provisions of both laws should be amended regarding the ability of the school/higher education institution to terminate the contract with the employer and specify the need for prior formal determination of violations by the employer, before contract termination, in accordance with the above statements.	2022			√
Contract termination procedure should be regulated in both laws in accordance with the above statements.	2022			√

THE LABOUR LAW 1.20

CURRENT SITUATION

The labour legislation underwent significant reforms during the pre-2014 cycle, but in the period that followed no extensive amendments were made to the Labour Law (RS Official Nos. 24/2005, 61/2005, 54/2009, 32/2013, 75/2014, 13/2017, 113/2017 and 95/2018; hereinafter: **Labour Law or Law**).

In the meantime, in the past six years, practice has shown that the Labour Law does not meet actual needs of employers and employees hence a significant number of provisions of the Labour Law impose burdensome administrative, organizational, and financial structures in the employment relationship.

In particular, everyday life in the field of labour relations requires improvements or changes to the Labour Law that would enable:

- application of electronic document and electronic signature, in order to efficiently and flexibly administer documents from the employment relationship;
- flexible working conditions outside the employer's premises, in order to efficiently organize work and optimize labour costs;
- flexible conditions for engaging students in practice, in order to easily and legally secure the engagement of interns;
- more flexible and rational conditions for determining the length of annual leave;
- specifying the provisions governing amendments to the employment contract (annex), in order to ensure legal certainty;
- rational salary structure, in order to simplify the calculation and protect the employer from the high costs that arise when calculating salary compensation;
- more flexible conditions and procedures for dismissal and termination of employment contracts, in order to relieve the employer's administration.

Also, since the adoption of the amendments to the Labour Law from 2014 until today:

- certain provisions of the Labour Law remained inconsistent with EU Directives;
- employers and employees face numerous problems related to the practical application of the Labour Law and other labour law regulations that are systematically related to the Labour Law. This is a clear indication that it is necessary to amend the provisions of the Labour Law that create doubts regarding their interpretation and application, as well as to amend the provisions whose application requires complicated or lengthy procedures;
- judicial practice is still inconsistent in terms of application of the provisions of the Labour Law, which is partly a consequence of unclear or vague provisions of the Labour Law.

POSITIVE DEVELOPMENTS

There was no improvement in the previous year, bearing in mind that the Labour Law has not changed and the problems related to the implementation of the Labour Law are practically only recurring.

Improvements in the field of labour relations require amendments to the Labour Law, and it will also be necessary to reach full harmonization in the application of certain institutes through the views of the court and authentic

interpretations.

In order to adopt comprehensive amendments to the Labour Law, it is necessary to take into account not only the requirements for harmonization of the Law in accordance with EU Directives, but also the problems faced by employers in practice in the Republic of Serbia, due to incomplete or unclear provisions of the Labour Law, or due to business requirements that are not yet regulated by the Labour Law.

REMAINING ISSUES

A significant number of provisions in the Labour Law burden the employment relationship in practice in terms of work organization, document administration and labour costs borne by the employer. Also, certain provisions of the Labour Law are open to interpretation and therefore lead to legal uncertainty in practice.

Some of the most significant current problems in the application of the existing provisions of the Labour Law have actually been transferred from previous years, and they are:

1. **Legal uncertainty regarding the (im)possibility of using an electronic signature and an electronic document.** The Labour Law does not explicitly prescribe whether an employment contract can be signed with an electronic signature, although such a possibility should exist, given that the electronic signature is regulated by the Law on Electronic Document, Electronic Identification and Trust Services in Electronic Business. On the other hand, the Labour Law does not prescribe the possibility of adopting general and individual acts in the form of an electronic document (except when it comes to the decision on annual leave and salary pay slip), and in that part the Labour Law is inconsistent with the mentioned Law on Electronic Document. Everyday life in the field of labour relations requires the use of an electronic signature and an electronic document, in order to more efficiently administer labour documents, which we elaborate more in detail in point 10 down below. Therefore, it is necessary to amend the Labour Law by introducing an electronic signature and an electronic document as equal in relation to a handwritten signature and a paper document.

2. **Performing work outside the employer's premises.** The existing provisions of the Labour Law need to be amended to allow for flexible contracting of work outside the employer's premises and legal certainty regarding the reimbursement of costs related to work outside the employer's business premises. The provisions of the Labour Law should be amended to enable:

   - Introduction of occasional work outside the employer's premises without the obligation to conclude an annex to the employment contract and on the basis of the conditions set out in the employer's general acts and through communication between the superior manager and the employee;

   - Introduction of general principles for reimbursement of work-related expenses outside the employer's premises. Employers have doubts regarding the interpretation of the provision of the Law that requires the employment contract to specify the so-called compensation for other labour costs and the manner in which they are determined for work performed outside of the employer's premises. The mentioned provision leaves a room for different interpretations regarding whether the employer is required to determine by a general act, i.e. to stipulate these costs by an employment contract, or whether the employment contract could provide for the parties' free will to agree whether in a particular case there are any so-called other costs for the employee.

3. **Status of high school students and university students on work practice.** Article 201 of the Labour Law allows for the possibility of engaging individuals outside of employment for the purpose of professional development through a contract on vocational training or a contract on professional development. Given that for the conclusion of a contract on vocational training it is necessary that the law or a rulebook require the completion an internship or a professional exam, while for the conclusion of the professional development contract it is necessary that a special regulation envisages professional training for work in the profession or specialization, the application of both of these contracts in practice is limited and rare, especially when it comes to the private sector. In this way, along with the above-mentioned restrictions, work practices or engagement of high school students and university students who want to improve and acquire certain practical knowledge and skills for easier future employment, remain outside the scope of the Labour Law. As a result, employers have difficulty engaging young people for their work engagement, which should be legally secure

and include learning through practise. In the absence of an appropriate form of contract through which high school students and university students would be engaged, in order to implement the work practice of high school students and university students, employers most frequently use the contract on performing temporary and periodical jobs due to its flexible legal nature, even though the intention of the legislator was not to engage high school students and university students through the mentioned form of contract.

4. **Criteria for annual leave.** The Law's mandatory criteria (education, work experience, working conditions and contribution at work) for increasing statutory minimum for annual leave for employers are impractical and administratively onerous. In lieu of the Law determining the criteria for increasing the annual leave in advance, it would be more practical if the Law would leave it to the employer to determine the criteria for increasing the annual leave, with amendments to the Law specifying that the employer may determine the criteria through general labour act.

5. **Modification of the agreed working conditions to alter the elements used to calculate the base salary.** Employers have difficulty applying Article 171 Paragraph 1 Item 5) of the Labour Law, which states that the employer may offer the employee amendments to the employment contract (annex) in order to alter the elements for determining the base salary. Specifically, in order to eliminate ambiguities and ensure legal certainty, it would be necessary to enact amendments to the Law, prescribing the elements for determining the base salary. In addition, Article 107 Paragraph 1 of the Law determines that the base salary is based on conditions determined in the rulebook, which are essential for work on jobs for which the employee has signed an employment contract and the time spent at work. Therefore, it is unclear from the Law whether the elements for determining the base salary are the same as the conditions for determining the base salary, and it is also unclear by which general act it is necessary to determine the conditions or elements for determining the base salary, i.e., whether they are determined by the employment rulebook or by the rulebook on job systematization. The mentioned ambiguities and inconsistencies of legal provisions lead to problems in practice, when employers want to offer employees a change in the amount of base salary, because in the absence of clear legal norms, many employers have not determined or clearly determined the elements or conditions for determining base salary. Therefore, due to the mentioned vague and inconsistent legal provisions, the employer faces the problem that there is no formal legal basis to offer the employee a change in the agreed base salary.

6. **Modification of the agreed working conditions for the purpose of transferring to another suitable job.** Article 171 Paragraph 1 Item 1) of the Labour Law prescribes that the employer may offer the employee a change in the agreed working conditions (annex to the contract) in order to transfer the employee to another suitable job, due to the needs of the process and organization of work. The court practice has taken the standing that in the offer for concluding an annex to the employment contract, it is necessary for the employer to explain in detail which specific needs of the process and organization of work led to the need to transfer the employee to another suitable job. Given this position of the court practice, it would be necessary to amend the provisions of Article 171 by: (a) either explicitly prescribing the employer's obligation to explain in detail the needs of the process and organization of work that led to the need to transfer the employee to other suitable job, considering that in the existing terminology prescribed by the Law employers rightly conclude that it is sufficient to prescribe in the offer for concluding an annex to the employment contract that the reason for transfer is "the need for the process and organization of work" given that the Labour Law uses this phrase; (b) or that, having in mind the views of the Supreme Court of Serbia regarding the transfer of an employee to other suitable job, the Law explicitly stipulates that the employer is not obliged to explain in detail in the contract annex the "needs of the process and organization of work" which led to a transfer to other jobs, provided that the needs of the process and organization of work are real (and not fictive), that the jobs are appropriate in terms of the provisions of the Law and that the Employee is trained to work on those jobs.

7. **The structure and calculation of salary and salary compensation for sick leave, national holidays, annual leave, paid leave, etc.** – Salary structure in the Labour Law is regulated so as it consists of salary for the work performed and time spent at work, salary based on employee's contribution to the employer's business

success (rewards, bonuses etc.) and other income based on the employment relation, according to the general act and employment contract. Furthermore, salary for the work performed and time spent at work is based on base salary, work performance and increased salary. All those elements are regulated in more detail by general act and employment contract. The aforementioned structure is quite complicated and therefore, the international companies which are doing business in Serbia do not have the possibility to calculate salary for their employees as elsewhere in the world where they operate, so they are practically forced to apply complicated salary structure and calculation in Serbia. That is why it is necessary to simplify the salary structure and its calculation. Besides that, although the Law on Health Insurance introduced in 2019 certain novelties regarding the salary compensation during sick leave, there remains a problem that salary compensation is equivalent to the average salary in the previous 12-month period, the same as with salary compensation during national holidays, annual leave, paid leave, etc. This leads to a situation where salary compensation is higher (mostly due to bonuses) than the salary employee would get if he had worked. The direct consequence of this is inability to plan companies' budgets. It is also demotivating that the employee has a higher income during the period of absence than during the period of work.

8. **Flexible work organization** – constantly evolving in practice and taking and assuming a greater role in the evolution of companies and employee relations. However, for the time being the legal solutions do not fully follow this dynamism, so that provisions of the Labour Law regulating work outside employer's premises are incomplete and have contributed to the creation of challenges the employers meet in practice, but also to the unnecessary risks-taking by employers. These risks can be eliminated with more precise definition of the categories of such work – work from home and remote work, by relativizing the concept of "workplace" as obligatory element of the employment contract, as well as by introducing general principles for the compensation of costs for work outside employers' premises. In order for work organization to be able to follow the need for quick transitions and changing circumstances of the new normality, it is necessary to amend Article 171 of the Labour Law to determine that: (a) Annex to the employment contract changes in the contracted conditions of work, the subject of which would be transition to work regime outside employer's premises or vice versa, (b) Annex to the employment contract is not concluded under conditions when the employees only occasionally work outside employer's premises, in line with Article 50, paragraph 2 of the Labour Law, where in such cases conditions of work outside employer's premises are determined by the employer's general enactments and are determined in agreement between line manager and employee. Moreover, regardless of the type of employee engagement, the provisions governing overtime are rather restrictive and should be amended to provide greater flexibility when deciding to implement overtime and how to compensate for overtime (via increased salary or days off). This is especially crucial when discussing employees in managerial positions.

9. **Termination of employment due to technological, economic, or organizational changes, subjective and objective statutes of limitations, notice period in case of dismissal by the employee, termination of employment contract with probationary period** - The procedure for terminating employment due to technological, economic, or organizational changes (redundancy) is not precisely regulated by the Labour Law. Above all, in cases of termination of employment when due to technological, economic, or organizational changes the need to perform a certain job ceases or there is a reduction in the scope of work, the Labour Law did not regulate the procedure for the case of the so-called individual redundancy (situation where there is no statutory requirement for adoption of redundancy program). As for the redundancy program itself, there are many questions, and it is unclear whether the employer should first change the rulebook on job systematization or implement a redundancy program. This issue is particularly topical since several judgments of the Supreme Court were published during the previous year, which interpret the redundancy procedure and the sequence of the mentioned actions in different ways, precisely due to the aforementioned gaps in the Labour Law, which increases the legal uncertainty in the application of this law. There are also some doubts regarding the application of measures for employment, especially the additional qualification and retraining. Furthermore, subjective and objective statute of limitations for termination of employment contract - six months from the date of learning about the facts / one year from the date of occurrence of the fact, is too short defined, which is especially evident for employ-

ers with large numbers of employees, complex structures and processes, mainly regarding the employers who can initiate the procedure for termination of the contract only after the internal controls determine the overall factual situation. For these reasons, in complex cases, legal deadlines are often breached, and the situation is that employees who have grossly violated their work obligations or have not respected work discipline remain employed. In practice, a major problem is the inability to arrange a notice period longer than 30 days in the event of dismissal by an employee. This is especially evident when the employment termination is initiated by the director or another member of the management, because usually it is extremely difficult to find adequate replacement in a short period of time. In addition to the above, it often happens that the employee simply stops coming to work for the employer (without first regulating the labour law status with the employer), because he established a working relationship with another employer, with whom he is registered for insurance. The needs of practice require the introduction of the possibility that, in the case when an employee establishes an employment relationship with another employer without giving written notice to the employer, it is considered that the employee has canceled the employment contract, and that in those cases the first employer is not obliged to implement the procedure for unilateral cancellation of the contract of work due to violation of work obligations and non-observance of work discipline.

Also, it is becoming increasingly apparent that when the employment relationship is terminated during the probationary period, and based on Article 36, paragraphs 3 and 4 of the Labour Law, the courts take the position that it is necessary to provide an explanation for the termination of the employment relationship, which includes a statement that the employer previously followed the same procedure as in the case of cancellation of the employment contract due to failure to achieve work results, i.e. due to lack of knowledge and ability to perform the tasks he is working on, which implies detailed instructions for improving the employee's work and leaving an additional deadline for improving the work.

10. **Digitalization in labour regulations** –The equality of the use of electronic documents and electronic signature need to be specifically defined in the Labour Law to ensure effective and flexible administration of labour-legal documents. Electronic form is one of the forms of written format, according to Article 7 of the Law on Electronic Documents, Electronic Identification, and Trust Services in Electronic Business, and is entirely equal to traditional written form, which denotes paper shape. On the other hand, the Labour Law did not explicitly envisage the electronic form of documents and electronic signature and, in the practice so far, the Labour Law was applied in such a way that the employment contract is concluded in paper form, with individual wet-ink signatures of the employer's representative and the employee. The same holds true for general labour acts and decisions, which determine employees' rights and obligations. The present Labour Law, in its article 75, paragraph 6, prescribes that decisions on the use of annual vacations, can be sent to the employee in electronic form, but that, at the employee's request, the decision must be also supplied in written (i.e. paper) form. Also, the problem is rigid attitude of the Labour Inspectorate on this question – employment contracts, decisions on employees' rights and obligations, notice of dismissal by the employee, have to be in paper form, personally signed, while the employers are still required to provide a stamp, although under the Company Law, the stamp is no longer obligatory. Therefore, digitalization in business operations must be recognized through modernization of the Labour Law provisions that will make it possible on an equitable basis:

- to adopt all labour-related documents (employment contracts, employment rules and other general acts, individual decisions on the use of annual vacation, leaves, suspension from work, pay slips and other documents) in a form of electronic document, with a possibility of using electronic signature, in accordance with the Law on Electronic Documents, Electronic Identification and Trust Services in Electronic Business;

- Electronic communication between the employer and employees (posting general and individual labour-related documents on internal employer's internet notice board and/or by e-mail correspondence; electronic delivery of notifications and documents);

- Administration of annual vacations through the electronic system of annual vacation recording, on internet notice board and abandoning administratively burdening system of issuing annual vacation decisions.

11. **Absence of a guideline for the payment of the minimum compensation that the employer pays to the employee in case of contracting a non-competition clause after the termination of the employment relationship** - Article 162 paragraph 2 of the Labour Law stipulates that a non-competition clause can be concluded after the termination of the employment relationship if the employment contract stipulates that the employer will pay the employee the agreed-upon amount of compensation. In practice, the question of what an appropriate amount of compensation is arises frequently, and it is necessary to establish certain guidelines, so that employers can be sure that by paying a certain compensation, they have resolved the issue of the prohibition of competition during the contracted period following the termination of the employment relationship. The current situation is that, if the compensation from Article 162 paragraph 2 of the Labour Law is contracted in a disproportionately low amount (which is an issue that should ultimately be resolved by the court), the employee is permitted to later request a determination of the nullity of such a provision, which creates a problem in practice and introduces legal uncertainty.

12. **Reinstatement of the employee in case of annulment of the dismissal decision** - Regarding Article 191 of the Labour Law, it is necessary to finally resolve the dilemma that arises when the employee has legally prevailed with a claim for the annulment of the dismissal decision, and the employer is obligated to return him to work, but the employer has no vacancy in his work organization or no suitable position to assign the employee to. Employers are uncertain as to whether they must create a new position at any cost or whether they have the option of declaring the employee redundant and paying him severance pay.

13. **Submission of documents in the employment relationship** - The current legal solution regarding the submission of documents from the employment relationship is unsatisfactory because it does not cover all cases involving submission of documents from the employment relationship. This situation must be rectified so that employers clearly understand how to submit all such documents.

14. **Change of employer** - The current legal solution is unsatisfactory because the Labour Law does not define what constitutes an employer change, which in practice generates dilemmas and legal uncertainty.

15. **Termination of the employment contract upon transfer of the employment contract to the successor employer** - The current legal solution lacks a precise definition of how an employer can terminate a contract with an employee who refuses to transfer the contract to a successor employer. It is unclear from Article 149 of the Labour Law, or on what grounds an employer may terminate a contract with an employee who refuses to take over the contract.

With the change of relevant provisions of the Labour Law, we consider it necessary to also change the Law on Records in the Labour Field and carry out adjustment of the obsolete regulation with modern digitalization processes, by introducing an explicit possibility for safekeeping documents in electronic form, while also adjusting deadlines for documents safekeeping. If more work would be done on digitalization, the positive effect on business would be manifold, primarily through the promotion of efficiency of business operations, costs savings, but also important ecological effects (minimum use of paper).

FIC RECOMMENDATIONS

- **Digitization of labour law documents.** In order to align with the trends, solutions and opportunities brought by the digitalization process, it is necessary to amend the Labour Law in order to define an alternative way of administering employment rights and obligations using electronic documents and electronic signature (adoption of acts and concluding contracts), alternative formal communication on the employer – employee relationship electronically, primarily via e-mail or other similar channels of electronic communication and with the use of internet notice board, electronic records as well as submission of documentation electronically, etc., as ways and forms that would be completely equal to the currently valid forms. Also, we believe that it is necessary to amend the Law on Labour Records in relation to three key points: determining the maximum retention period

up to five years after termination of employment, explicitly permitting electronic records and use of various IT tools for this purpose and prescribing the correct way to dispose of paper employee files.

- **Flexible working conditions outside of the employer's premises.** Introduction of a possibility of regulating employment when establishing it or in its course so that the employee would work one part of his working time outside the employer's premises (not just from home), as well as a possibility of changing the work regime and concluding and annex to the employment contract during employment, i.e. without the obligation to conclude the annex (in case when the transition to work regime outside employer's premises is occasional or short-term, in which case employer's provisions of general enactments would directly apply to conditions of work from home). Since legal certainty and security are required, it is necessary to precisely distinguish the difference between the work from home and remote work (by the place of work or means of work), and relativize the need to define "Place of work" as obligatory element of employment contract by introducing, for example, "primary place of work" in case of remote work, as well as introduce general principles for the compensation of costs for work performed outside employer's premises. Within the framework of a flexible organization of work, possibility of implementing overtime should be widened so that it is not limited only to unforeseen circumstances. The employer and employee should have the freedom to agree on the reason for and purpose of overtime, and the employers should be able to negotiate a manager's fee that includes overtime pay for managers who work overtime.

- **Rational salary structure and salary compensation.** We propose that work performance be viewed only as an optional component of compensation, as opposed to a mandatory one. In addition, the premise for calculating the salary compensation during the absence from work is proposed to be the base salary plus seniority pay. This would make it much simpler for all employers to manage salaries, provide greater flexibility in both the salary contracting and budgeting, and make the salary structure itself more transparent. Also, we propose that the amendments to the Labour Law clearly define the elements or conditions for determining the base salary and the general act of the employer that determines these elements, as well as to determine the conditions for offering an annex which stipulates a change the base salary.

- **Flexible engagement of students in practice.** We propose amendments to the section of the Labour Law in the part that regulates professional training and development. These amendments should enable high school students, students and other persons outside employment (both in the field of education and outside the field of education) to gain practical knowledge and experience in a real-world work environment, career advancement, and easier future employment through the use of flexible engagement models. Existing provisions on vocational training and development should be amended to remove additional conditions limiting the possibility of such engagement, and the same should be provided regardless of the employer's activity and whether it is the public or private sector. The competent ministry may establish all necessary mechanisms to prevent abuse of this institute, if this was the reason for the introduction of restrictions by Article 201. In this regard, in order to develop good and safe practice, it is necessary to harmonize the provisions of the Labour Law so that they form a consistent labour law regulation with the provisions of the Law on Dual Education and the Law on the Dual Model of Studies in Higher Education, which regulate working conditions of high school students and university students.

  Alternatively, an adequate law on work practice could be a good way to regulate the employment of students. However, the draft of this law that was on public discussion provided for flawed solutions based on which practitioners can perform work practice for a certain period after schooling, for work in a profession within the acquired level of qualifications, which leaves room for the interpretation that work practice within of the aforementioned law, students cannot work for the occupation for which higher education is provided (since at that moment they have acquired secondary education). It remains to be seen what the final solution of the future

law will be and whether it will represent an adequate basis for the employment of students.

- **More flexible conditions and procedures for employment termination.** It is necessary to: (a) extend the statute of limitation periods for the conduct of proceedings (the subjective period of 6 months to be extended to at least one year and the objective period to 3 years), (b) in the event of the employment contract termination, extend the maximum duration of the notice period from 30 to 60 days, (c) enable employers to issue decisions in the form of an electronic document determining measures (dismissal or milder measure) or releasing employees from liability, as well as delivery these decisions are executed electronically, (d) the employee's refusal to receive the decision served on the employer's premises as if the act had been delivered, (e) enable the employer to unilaterally release the employee from work during the notice period (when the notice period is prescribed/contracted) with the salary compensation payment in the amount equal to the employee's base salary, (f) regulate the procedure of termination of employment due to technological, economic or organizational changes – redundancy in cases when program is not mandatory, clearly stating the obligations of the employer or whether the employer is obliged to address a representative union within the company and the republic organization responsible for employment, whether he is obliged to apply measures for new employment and how they are being applied, especially additional qualification and retraining, etc. (g) to be defined by the Labour Law that the establishment of an employment relationship with another employer who submitted the employee's application for insurance, without prior written notice to the original employer, is considered a termination of the employment contract by the employee, effective on the first day he did not report to work at the employer.

- **Termination of a probationary employment contract.** Amend Article 36 of the Labour Law by specifying: (a) that the report of the immediate superior is sufficient justification for the termination of the contract with probationary work, during the probationary period, and that the employer is not required to give the employee any additional period for improvement of his work; (b) that in the case referred to in Article 36, paragraph 4, it is not at all necessary for the employer to justify why the employee did not demonstrate appropriate work and professional abilities, but that he can only issue a declarative decision stating that the employee's employment ends on the day the probationary period expires.

- **Introduction of guidelines for defining the minimum compensation that the employer pays to the employee in case of contracting a non-competition clause after the termination of the employment relationship.** Amend Article 162 paragraph 2 of the Labour Law specifying that the agreed amount of compensation cannot be lower than, for example, 1/3 of the average net salary in the previous 3 months before the termination of the employment relationship, for each month of validity of the non-competition clause, after the termination of the employment relationship.

- **Specifying the procedure for returning an employee to work.** Amend Article 191 of the Labour Law by specifying that if the court legally obliges the employer to return the employee to work, and the employer does not have a vacant position in his organization to which he can assign the employee, he has the right to declare the employee redundant in the sense of Article 179 paragraph 5 point 1 of the Law on work and pay him severance pay.

- **Specifying the submission of employment-related documentation.** Amend Article 193 of the Labour Law to specify that the provisions on delivery of the decision on dismissal from Article 185 apply to all documents from the employment relationship, including the offer and the annex to the employment contract.

- **Change of employer.** In Article 147, it is necessary to specify precisely what constitutes a change of employer, i.e., which situations (aside from status changes prescribed by the Companies Act) constitute a change of employer.

- **Cancellation of the employment contract in terms of Article 149 of the Labour Law.** Article 149 of the Labour Law must be amended by specifying the grounds on which the employer may terminate the employment contract of an employee who refuses to take over the employment contract - does he have to declare him redundant or is it possible to terminate the contract based on Article 175 paragraph 1 point 7) (in other cases determined by law).

LAW ON VOCATIONAL REHABILITATION AND EMPLOYMENT OF PERSONS WITH DISABILITIES 1.00

CURRENT SITATION

Since the adoption of the Law in 2009, the goal of the legislature has been to raise awareness and increase employment of persons with disabilities (PwD) in all industries, by applying the same rules to all industries, regardless of their key differences. In that respect, the legislature's disregard of the fact that some industries require full working ability caused significant challenges for employers, which will be difficult to overcome.

POSITIVE DEVELOPMENTS

There were no significant changes in the field of PwD employment and inclusion in relation to the previous period regarding legislation activities. The impression is that neither the legislature, nor the implementing institutions have made this legislative area a focus of their attention. Positive progress can be seen in forming of various organizations and platforms with focus on this topic. It is a significant effort of such organizations to make this group of candidates visible on the market, as well as to bring their needs closer to employers. These efforts could give good results in the future.

REMAINING ISSUES

Problems remain the same and are reflected in the following:

- The problem for employers is the lack of staff that would apply for jobs appropriate for PwD.
- Working in some industry sectors (such as construction, private security, manufacturing, etc.) requires specific medical fitness and it is therefore practically impossible to employ PwD.
- Failure to carry out the classification of business activities of employers that, due to their nature, cannot be subject to the application of the Law in the same way as business activities not requiring special medical fitness or special mental or physical abilities of employees for certain jobs. Furthermore, companies selling services rather than products, where employees with special mental and physical characteristics are a key factor in performing core business activities, are unable to meet the requirements set by this Law.
- The Law on Vocational Rehabilitation and Employment of Persons with Disabilities is in conflict with the Law on Private Security. The latter stipulates that, starting from 1 January 2017, private security activities can only be carried out by persons with an appropriate license the acquisition and maintenance of which requires appropriate mental and physical abilities. This especially applies to employees handling weapons, who are required to undergo annual health check-ups. Thus, companies from the private security industry are additionally prevented from complying with provisions of the Law on Vocational Rehabilitation and Employment of Persons with Disabilities.
- Although there is a possibility for current employees to undergo an assessment of their working ability to be recognized as PwD, in practice such a procedure is very complex and administratively cumbersome, as it includes the submission of numerous documents by the employee and the involvement of different state authorities with somewhat overlapping powers within just one procedure (the National Employment Service [NES] and the National Pension and Disability Insurance Fund [NPDIF].

FIC RECOMMENDATIONS

Because the regulations listed herein are considered particularly important and vital for attracting and maintaining foreign investments, and given that the very purpose of this Law is the inclusion of PwD, the FIC previously provided and is still putting forth a number of suggestions on how to improve the situation. To this end, here we underline the most important recommendations on how to improve the existing legal framework and practice:

- Classify business activities subject to a limited application of the Law, due to their specific nature (e.g. private security, manufacturing, construction, etc.), meaning that in these activities the number of PwD the employer must hire should be calculated relative to the number of employees in jobs that do not require special medical fitness pursuant to the law and/or nature of the business activity and that can be performed by employees with disabilities.
- The assessment of and the issuing of a decision on working ability should be performed by the same body to accelerate the procedure. We suggest that the procedure and decision-making should be accelerated and the list of documents required by the authorities from the employee be reasonably decreased. Main challenge is gaining status as a person with disability.
- We believe that a more efficient manner for increasing the employment rate of PwD would be to incentivize employers with subsidies for their employment.

EMPLOYMENT OF FOREIGN NATIONALS 2.00

CURRENT SITUATION

Employment of foreigners is regulated by the Employment of Foreigners Act from 2014 and the Foreigners Act from 2018. Last amendments to both acts, have entered into force in August 2023, whereas the most significant provisions will begin to apply from February 1st, 2024.

The employment (based on an employment or another type of agreement for work outside employment relationship) and self-employment of foreigners in Serbia is subject to obtaining a work permit, except in cases specifically listed in the Employment of Foreigners Act.

POSITIVE DEVELOPMENTS

On August 4th, 2023, the Act on amendments to the Act on Foreigners and the Act on Employment of Foreigners have entered into force and aim to simplify the procedure for obtaining temporary residence permits and work permits.

The biggest change is the introduction of a unified permit, which includes a temporary residence permit and a foreigner's work permit. The entire procedure is simplified in such a manner that the foreigner will submit the request electronically to the Immigration Office, and the competent authority will forward the request to the NES for further processing. In the event that the Immigration Office and the NES determine that the conditions have been met, they will issue a unified permit. The legal deadlines for deciding on the request have been shortened and amount to 15 days from the day of submission of the proper request.

The amendments to laws, should make progress, especially taking into account the following changes:

- The labour market test will remain mandatory, but as an integral part of the application for issuing unified permit, and the NES will conduct it within a period of 4 days instead of the previous 10 days. The government will, through publication of a special act, have the opportunity to exempt certain profiles and occupations of employees from the obligation to conduct a labour market test.

- A unified permit will be issued for a duration of up to 3 years, which will significantly alleviate the position of foreign citizens, considering that the residence and work permits were valid for one year until now, and foreigners had to renew them annually.
- The request for the renewal of a unified permit can be submitted not earlier than 30 days before the expiration date and no later than the date of expiration of the single permit. In accordance with the current regulations, the request for the extension of the temporary residence could be submitted no later than 30 days before the expiration date, and after the renewal of the temporary residence, the foreigner had to renew the work permit.
- Exclusive electronic submission of requests and issuance of a single permit in the form of a biometric document, which will allow better access of the foreigners to electronic services of Serbia.
- Foreigners will be able to conduct work solely based on the Visa D without obligation to apply for work permit after arrival to Serbia, for period up to 180 days.

REMAINING ISSUES

- A work permit for employment will only be issued if the employer had not dismissed employees as redundant at jobs subject to the requested work permit within the period of three months prior to the filing the application for work permit for employment. This is confirmed by a certificate issued by the Central Registry of Mandatory Social Insurance. The employer must additionally submit, along with such certificate, a statement that no employee has been declared and as redundant from the specific work post for which a work permit is requested or if redundancy has been declared within the period of three months before the submission of the request to the NES, must submit all the individual dismissals in order to establish that they relate to other jobs. It has been announced that the NES will obtain this information ex officio from CROSO, however, the register does not contain information about the job, i.e. to the workplace that was subject to redundancy, since it is not compiled in the deregistration;
- A labour market test is still required for obtaining unified permit, including when senior management is employed, which is impractical, in particular when it comes to hiring senior management;
- It remains to be seen whether the Ministry of Internal Affairs will maintain the practice of issuing a unified permit from the date of the submission of the request, but in general the problem with deadlines has been reduced by amendments to the act, if the state authorities adhere to the legal deadline of 15 days for deciding on the request.
- The potential problems may arise in the transitional period for requests that will be submitted before February 1st 2024, bearing in mind that the transitional and final provisions of the amendments to the act do not contain identical provisions, i.e. only the amendments to the Act on Foreigners contain a provision that foresees that the act more favorable to the foreigner is applied in the initiated proceedings.

FIC RECOMMENDATIONS

- The Central Registry of Mandatory Social Insurance should contain the exact job title of the employee who was declared redundant.
- The labour market test should not be a mandatory condition in case of hiring senior managers. This should particularly apply to legal representatives specified by the appointment decisions.
- Temporary residence and work permit, i.e. a unified permit should be valid from the date specified by the request and not from the date of submission of the request. This way, the legal uncertainty regarding the day on which the employee starts work, registration of employee to social insurance and possible misdemeanor liability of the employer, would cease.

SECONDMENT OF EMPLOYEES ABROAD 1.00

CURRENT SITUATION

The Act on Conditions for Secondment of Employees to Temporary Work Abroad and their Protection ("Secondment Act") has been in effect since 13 January 2016, regulating secondment of employees abroad by a Serbian employer for the purpose of temporary work or vocational training and development abroad. The Secondment Act defines the following types of secondment: (I) performance of investment and other works and provision of services, pursuant to a business cooperation agreement or another adequate basis; (II) work or professional training and development at the employer's business units established abroad, pursuant to a secondment enactment or another appropriate basis; and (III) work or professional training and development in the context of intra-company movement pursuant to an invitation letter, intra-company movement policy or another appropriate basis (which includes secondment to a foreign employer that has a significant equity in the Serbian employer or exerts controlling influence over the Serbian employer, or to such foreign company which is, together with the Serbian employer, under the control of a third foreign company).

The Secondment Act does not apply to business trips abroad which last for up to 30 days continuously or up to 90 days with interruptions within a calendar year. In 2016, the Ministry of Labour issued an opinion which states that the employer can refer its employees to business trips abroad irrespective of the said limitations, if such business trips do not fall under one of the cases (I) – (III) from the previous paragraph (e.g. business trip abroad for the purpose of negotiations with a potential business partner and concluding a business cooperation agreement).

An employer can second abroad only its employees, and not persons engaged outside employment. The employer and the employee must conclude the amendments to employment agreement regulating the terms of secondment abroad (the mandatory elements are prescribed by the Secondment Act). The employee must be employed at the employer which is seconding the employee for at least three months prior to secondment (except in case secondment assumes work which falls within the employer's core business activity, and if the number of employees to be seconded does not exceed 20% of the total number of employees at the employer; furthermore, the exception also applies in certain cases of secondment to Germany).

An employee may be seconded abroad only with his written consent. When the possibility of secondment abroad is stipulated in the employment agreement, no additional consent is required, but the employee may refuse secondment abroad for justified reasons prescribed by the Secondment Act (e.g. during pregnancy). The initial duration of secondment is limited to 12 months, with the possibility of extension. In case of secondment of fixed-term employees, the duration of secondment may not exceed the term of their employment, and the time spent on secondment does not count toward the maximum statutory duration of fixed-term employment.

The employer must register the change of the seconded employee's social security insurance ground in the Central Registry of Mandatory Social Security Insurance, and state the host country, as well as any subsequent change of the host country.

POSITIVE DEVELOPMENTS

There were no positive developments in this area in the past period, compared to the previous edition of the White Book.

REMAINING ISSUES

Although the Secondment Act provisions do not apply to business trips abroad the duration of which does not exceed 30 days continuously or 90 days in total within a calendar year, in practice of a large number of employers, this limitation is inadequate when it comes to managerial positions which require frequent business trips for the purpose of performing work for the employer abroad, since the employees who work at managerial positions are often required to be on business trip abroad for more than 90 days in total within a calendar year.

Limiting secondment abroad for the purpose of vocational training and development only to the employer's business units abroad, and only to a group of entities affiliated with the employer based on equity or control, has been disputed in practice. By not allowing secondment for the purpose of vocational training and development at the companies abroad that are not related to the domestic employer

based on equity or control, but on some other basis (e.g. contractual relationship), the movement of employees seeking training and development abroad is an unnecessary constraint.

The Secondment Act prohibits secondment abroad of employees under the age of 18 (unless another statute regulates otherwise). This limitation is unnecessary, having in mind that secondment for the purpose of vocational training and development can be useful for employees between the age of 15 (the statutory condition for establishing employment) and 18.

FIC RECOMMENDATIONS

- We recommend extension of the maximum period employees at managerial positions are allowed to stay abroad on the basis of referral to business trip, without application of the Secondment Act to up to 180 days in total within a calendar year, instead of the currently applicable 90 days.
- We recommend allowing secondment abroad for the purpose of vocational training and development also to the entities which are not necessarily related to the employer by equity or control.
- We recommend allowing secondment abroad of employees under the age of 18.

STAFF LEASING 1.00

CURRENT SITUATION

The Staff Leasing Act ("Official Gazette of the Republic of Serbia", no. 86/2019) ("Staff Leasing Act") entered into force on 1 January 2020, and became applicable on 1 March 2020. This is the first time that staff leasing and staff leasing agencies' work are regulated in Serbia. The Staff Leasing Act regulates the rights and obligations of leased employees employed at a staff leasing agency, equal treatment of leased employees regarding certain employment rights and rights arising from work, the conditions for temporary employment, the operation of the agencies, the conditions for staff leasing, the relationship between an agency and a beneficiary and the obligations of an agency and a beneficiary towards leased employees. However, the Staff Leasing Act created certain problems, such as those connected with the notion of comparative employee, the limitation of the number of leased employees who are employed for a fixed-term with an agency that a beneficiary can lease, and the presumption of staff leasing.

POSITIVE DEVELOPMENTS

There were no positive developments in this area in the past period, compared to the previous edition of the White Book.

REMAINING ISSUES

The Staff Leasing Act prescribes that a beneficiary can engage leased employees who are on a fixed-term employment contact with the staff leasing agency only if the number of such leased employees does not exceed 10% of the beneficiary's total workforce. This provision has many negative effects. Prior to the adoption of the Staff Leasing Act, one of the reasons for staff leasing was that there are industries in which the volume of workload is uncertain, i.e. there are sudden decreases and sudden increases of workload. In such industries, the beneficiary needs to engage leased employees for a fixed-term, during the increase of the workload, and during such times the number of the leased employees the beneficiary needs can easily exceed 10% of the beneficiary's total workforce. With the adoption of the Staff Leasing Act, this can no longer be done because it is not realistic that staff leasing agencies will employ people

for indefinite-term in order to lease them to the beneficiaries for a fixed-term. This leads to an increase in the number of persons engaged on the basis of the agreement on temporary and periodical work (directly or through a youth cooperative). Workers engaged on this basis are less protected than leased employees under the Staff Leasing Act (persons engaged based on the agreement on temporary and periodical work are not guaranteed the same work conditions as comparative employees at the beneficiary). Reduced flexibility in engaging staff in Serbia certainly discourages potential and existing investors. Limiting the number of fixed-term employees that a beneficiary can lease from a staff leasing agency practically obviates the need for staff leasing agencies on the Serbian labour market.

The concept of a comparative employee from the Staff Leasing Act introduces legal uncertainty and potentially leads to the violation of the basic principles of the labour legislation. Namely, the Staff Leasing Act defines a comparative employee by developing the basic idea of the Directive 2008/104/EC (harmonization with the Directive 2008/104/EC was one of the goals when adopting the Staff Leasing Act). However, the Staff Leasing Act prescribes that, when there is no comparative employee at the beneficiary, the leased employee's base salary cannot be less than the base salary of the beneficiary's employees who have the same degree of professional qualification or same qualification level as the leased employee. This solution is not in the spirit of the Directive 2008/104/EC. In addition, a potential consequence of this solution is that leased employees and the beneficiary's employees, who have the same degree of professional qualification, would be entitled to the same base salary even if their jobs are different (the complexity of the job, and responsibility are not taken into account). This is contrary to the equal pay for equal work principle.

The Staff Leasing Act introduces the presumption of staff leasing, according to which a person who does the work for the beneficiary or at the beneficiary's premises, but has an employment agreement or other type of engagement agreement with another employer, is considered a leased employee unless proven otherwise. The Staff Leasing Act, therefore, does not recognize situations in which a beneficiary and another employer have a business cooperation agreement, service agreement, construction agreement etc., on the basis of which the employees of another employer work for the beneficiary or at the beneficiary's premises. The possibility to rebut the presumption ("unless proven otherwise") does not offer sufficient legal certainty, i.e. it unnecessarily shifts the burden of proof to the beneficiary. Having in mind that the Staff Leasing Act defines staff leasing in detail, and determines who can be considered a leased employee, the staff leasing presumption is unnecessary, and can result in practice in unwarranted misdemeanor proceedings and expose the beneficiaries to unnecessary costs of overturning the statutory presumption.

FIC RECOMMENDATIONS

- We recommend deletion of Article 14 of the Staff Leasing Act, which limits the number of employees employed at the staff leasing agency on a fixed-term basis that a beneficiary can lease.
- We recommend deletion of Article 2 paragraph 5 of the Staff Leasing Act, which regulates situations in which there is no comparative employee at the beneficiary.
- We recommend deletion of Article 17 of the Staff Leasing Act, which prescribes the staff leasing presumption.

HUMAN CAPITAL 1.33

CURRENT SITUATION

The state of the labour market is becoming more and more challenging as several factors such as the Covid epidemic and the latest developments in the world, including the global growth of infaltion have made the already existing challenges even more apostrophized. The unemployment rate varies across Serbia, reflecting to a great extent the economic conditions in different parts of the country. The lowest unemployment rate was again registered in Vojvodina, which poses a great challenge to employers in terms of recruiting and selecting adequate staff. The unemployment rate in the entire country in the first quarter of 2023 is around 10.1%, while employers have increasing challenges to find, attract and retain the workforce, especially quality candidates, especially in the field of IT where large inflationary trends have led employers to become more cautious when investing in new technologies and hiring more people.

The consequences of the pandemic are still present, and changed the standpoint of both employers and candidates and established new trends and new challenges with remote working, the outflow of personnel and the partial and short-term return of people to the country without the intention of permanent or longer stay in the country. A big challenge is also reflected in the fact that many companies have returned to the old model of work, while a smaller number have retained the hybrid model, i.e. the possibility of working from home, which makes it even more difficult to find quality candidates, bearing in mind that flexibility in the form of working from home is a special benefit at which employees have become accustomed to since the beginning of the Covid epidemic.

The educational structure and the labour market indicate that finding candidates who meet the requirements of high-level, expert and strategic positions is still challenging. Also, finding candidates for lower positions is becoming more difficult due to various restrictions. The retention of high-skilled workers and development of own resources are still very popular trends, having in mind market conditions. Highly qualified people as well as people with lower education for basic positions are very difficult to recruit and retain since they are leaving the country trying to find better paid jobs abroad.

The epidemiological situation has caused changes in the organization of work and caused the aspirations of employees and employers to maintain efficiency in a challenging environment through the adjustment of work processes, in such a way that the organization of work from home, or returning to the office, is one of the most interesting topics in companies.

Finally, despite the economic crisis that has hit the whole world, the minimum price of labour will be increased this year as well as the previous ones.

POSITIVE DEVELOPMENTS

Unemployment rate was constantly dropping before COVID-19 situation and emerging political crises so it seems that government was trying to support employment in all industries.

REMAINING ISSUES

Despite the many efforts of the Government and legislators to put a stop to the harmful phenomena of the grey economy and unregistered employment, they are still present. The number, age structure and qualification of labour inspectors are among the key challenges the state has to address. Unfair competition, the uneven playing field in the market in various, especially low-profit industries, and a large number of companies that fail to comply with basic legal and fiscal obligations toward employees and the state, as well as unforeseeable labour costs, are a major obstacle to the development of the market and human capital.

The educational system needs to be improved and better connected with the business community. This would lessen the gap between education and employees' needs, at the same time contributing to improving Serbia's image as a desirable investment location.

The population age structure should be rejuvenated and internal migrations of human capital in Serbia should be stimulated to evenly develop underdeveloped regions, reducing the gap in the economic needs of different parts of the country. The decision of foreign investors to enter a certain market is conditioned by the quality and structure of workforce as well as clearly defined labour costs.

With the current situation and the agreed and planned changes of Labour Law, there is great need of amendments to be done in various areas.

FIC RECOMMENDATIONS

- Improvements of the educational system should be continued. To this end, regular contact between the FIC and the Government, the ministries of education, youth and sport, as well as the universities. The FIC and the business community in Serbia are ready to provide support and put their experts at disposal. Based on an analysis of needs of the economy and the real sector, new educational profiles should be created and implemented, and the university enrolment quotas should be adjusted in line with the market needs.
- Define the legal framework for the employer-student relation to simplify the implementation of vocational internships in parallel with regular education.
- Define the legal framework for preparing persons with high education profiles to work independently in their profession, regardless of whether they meet the requirements for taking an expert exam and/or taking part in an internship program.
- The National Employment Action Plan should clearly define, redefine and widen the range of educational profiles that are going to be included into the action plan and employment policy, i.e. be attuned to the needs of the market and employers.
- Design a human capital internal migration plan for Serbia to evenly develop underdeveloped regions and lessen the gap in the economic needs of different parts of the country, prevent migration from Serbia and stimulate citizens to search for a better place for life and work in the country, and not abroad.
- Consider to support employment through reducing employment costs regarding taxes and contributions and thoroughly regulate legislation that's considerers work from home.

SAFETY AND HEALTH AT WORK 1.33

CURRENT SITUATION

The preceding period was in many ways characterised by public debates on the text of the Law on Safety and Health at Work, after which the Law on Safety and Health at Work (Official Gazette, nos. 35/2023) (hereinafter: the "Law") was passed on the World Day for Safety and Health at Work, on 28 April 2023. The Law brings many changes, and the employers were left with a two-year deadline to comply their business activities with the Law. Although, it is expected that many questions will be further regulated with bylaws, for whose passage there is an 18-month deadline from the day the Law was put into force. Some of the most noteworthy novelties refer to the new definition of the concepts of workplace, work at heights, high-risk workplace, risk assessment, risk assessment acts, prevention, preventive measures, expanding the authority of the labour inspection, tightening of penal policy concerning legal entities and responsible persons, giving more importance to data protection etc. On the other hand, new concepts were introduced such as worksite, workplace environment, work at depths, remote work and working from home, health and safety advisor and health and safety associates, employee representative, harmfulness, electronically maintained records of work injuries and license registries, as well as the introduction of a work permit issuance system.

The general impression indicates that the legislator's intention, with this Law, was to introduce the domestic system of safety and health at work with European standards, as well as to raise consciousness and responsibility of all agents within the safety and health at work system, notably with the employers. The end goal of the Law surely is to prevent workplace injuries, occupational diseases and diseases relating to work, all for accomplishing the physical, psychological, and social welfare of the employees throughout their working lives.

POSITIVE DEVELOPMENTS

Due to and during the COVID-19 pandemic, working from home, i.e. remote work, was implemented as the predominant way of working and, simultaneously, as a measure to slow the spread of the disease. However, it is probable that the model of work from home and remote work will continue to evolve, hence it is necessary to regulate work from home/remote work, including safety and health at work from home/remote work. Working from home and remotely is now regulated by the Law. Employers can now, within the confines of the law, make the work organisation more flexible and competitive in the labour market, as well as more securely respond to the demand of candidates and employees for this work model, which, in the end, can also influence the decentralization of the labour market because a stable internet connection and a computer have become often sufficient for performing jobs.

Also, by introducing the concepts of electronic records and registries of work-related injuries, it is anticipated that the work of professionals in this field will be significantly simplified, and that the work of state agencies will become more efficient.

The legislator's intention to distinguish the concepts of health and safety advisors and health and safety at work associates, by determining the professional profile and the minimum number of these persons at the employer in relation to the type of activity and the number of employees at the employer, as well as the introduction of appropriate licenses for individuals according to the type of work they perform, and thus further improve the quality in performing these jobs, is also recognized. However, it remains uncertain whether the exclusion of social-humanistic sciences from the educational profile of advisors will result in a labour market shortage for advisor positions.

The Law increases the level of protection that employees receive in relation to periodic mandatory safe and healthy work training. As a result, employees at workplaces with higher risks are required to complete such training annually, while employees at other workplaces must do so every three years. The Law also established a requirement for additional training in situations where an employee's life or health is seriously, inescapably and directly in danger, such as when they suffer a major or fatal workplace injury.

The improvement is particularly evident when determining the employer's responsibility to ensure that only those employees to whom the employer has given proper instructions and permission to work have access to areas that are seriously, inescapably, or directly dangerous or that are harmful in a way that puts the employee's health in danger.

The Law now recognizes a wider range of employee medical exams. The Law now also allows for targeted medical exams, which will be further governed by bylaws, in addition to the initial and periodic medical exams that are required for employees in workplaces with increased risk. Also, the Law now explicitly stipulates that the employer must regularly, but no later than five years after the previous examination, send the employee for a medical examination that corresponds to the risks at the workplace.

Last but not least, the Law gives the employer the freedom and responsibility to more specifically control the rights and obligations, measures, and processes for safe and healthy work in accordance with the specifics of their business. All of which ought to improve the standard of enforcing safe and healthy working environments.

REMAINING ISSUES

Lack of regulation and legal ambiguities around remote work. The Law does not specifically address the rights and obligations of those involved in working remotely or from home, hence remote work has remained legally unregulated. As a result, it would be necessary for bylaws to regulate at least a basic set of responsibilities for employers and employees when employees work from home or work remotely, and industry or company stakeholders should also be involved in the drafting of these bylaws. Bylaws should unquestionably address obvious differences that exist in relation to work from the employer's premises, particularly with regard to preventive measures for safe work

from home/remote work, minimum ergonomic requirements, lighting, and installations, as well as the creation of a Risk assessment act for jobs performed remotely.

Risks associated with monitoring safe home-based or remote work. Since employers cannot directly control whether or not the requirements for safe and healthy work are met in the area where employees perform their duties, the individual's constitutional right to the inviolability of their home cannot be seen as a constraining factor. Therefore, while regulating requirements through bylaws addressing the integrity of electrical installations, lighting, workspace accessibility, and ergonomic conditions, which unavoidably need the involvement of employees, which unavoidably require the involvement of employees. However, as a result of this, employees' responsibilities cannot be the same as when they work from a location that is directly under their employer's control. On the other hand, dangers increase while performing remotely due to trends and employee demands to frequently change locations and places from which work is performed (which are not the employees' homes), including work outside the territory of the Republic of Serbia.

Risks related to workplace injuries when working from home, i.e., remotely. A crucial factor in situations of injuries when working from home is the inviolability of residence. Because they lack the legal authority to legally visit the scene of the injury to ascertain its cause and manner, employers in such situations must rely on information provided by the employees themselves. It is also necessary to establish a new code or codes (apart from determining the workplace environment) that would be submitted to the competent authorities in case of injuries when working from home or while working remotely. Therefore, new bylaws should prescribe how employers will determine and report the cause of injuries and provide an appropriate code when work is performed remotely.

Finally, it is equally important to have a clear position on whether the "workplace" in the context of working from home includes only the workspace in the employee's home where they carry out their contracted duties or also includes the kitchen, dining room, and bathroom/toilet.

Application of the Law pending the adoption of bylaw regulations. The Law stipulates that competent ministries have 18 months to prepare relevant bylaws. Throughout this time, existing bylaws will still be applicable if they are not in conflict with the Law. Another partially ambiguous clause in the Law states that employers have 2 years to organize their operations in compliance with the Law's provisions. However, it is unclear if this clause refers to compliance with all of the Law's provisions or just those that have to do with advisers' and associates' health and safety licensing obligations. Consequently, it is unclear whether employers will face penalties during this two-year period for any Law-related non-compliance. It would be important for the competent ministry to provide an official interpretation and stance on this provision.

FIC RECOMMENDATIONS

Amendments and additions to the Law and/or the adoption of bylaws in relation to the conditions of working from home or remotely. The Law requires the adoption of bylaws, in order to better regulate specific aspects of workplace safety and health. In that part, the recommendation is that, to the extent feasible, bylaws whose adoption is governed by the Law be used to further regulate the conditions of work from home or for remote work:

- the procedure for drafting the Risk Assessment Act for jobs performed from home, or remotely;
- procedures associated with the implementation of preventive measures, mechanisms for controlling the enforcement of measures for safe and healthy work, and mechanisms for determining the causes and methods of injuries during work from home or remote work (primarily preventive measures associated with: work ergonomics, illumination of workstation, the microclimate in the workspace, adequate equipment, accessibility,

stress management, maintenance of workspace, electrical installations, fire protection, prohibited activities and conduct, and the employee's actions in the event of a workplace injury);

- employee training for safe work from home/remote work and digitization of the entire training process and work from home related administration;
- a distinct separation of the employer's responsibilities, obligations and rights, in relation to the application of measures for safe work from home or remote work.

If it is not possible to regulate the conditions of work from home or remote work by bylaws whose adoption is mandated by the Law, it is recommended to further supplement the Law in that section, given the trend of growth and development of work from home or remote work, which necessitates appropriate measures and procedures for safe and healthy work.

During the adoption of bylaws, consult the economy and arrange processes in accordance with the general intention to digitize legal processes and procedures as much as possible.

DUAL EDUCATION 1.14

CURRENT SITUATION

As of the 2019/2020 school year, the Law on Dual Education and the Law on Dual Model of Studies in Higher Education have been applied in Serbia, regulating the content and implementation of dual vocational education and dual higher education and mutual rights and obligations of all participants.

Pursuant to the Law on Dual Education:

- Mutual rights and obligations of employers and schools will be regulated by an agreement on dual education, to be concluded for a minimum period of three or four years.
- Mutual rights and obligations of employers and students will be regulated by an on-the-job training agreement to be concluded between the employer on the one side, and the parent or legal guardian of a student under the age of majority, or an adult student, on the other side.
- For dual education, the employer is obliged to provide an instructor with experience of no less than three years in the relevant profession, one who has undergone the appropriate training and has acquired a relevant licence issued by the Serbian Chamber of Commerce
- The employer will provide the students with personal protective equipment at work, compensation for actual costs of transport from school to work and back, meal allowance, and insurance against injury while attending on-the-job training.
- On-the-job training at a company can be performed throughout the entire school year, up to six hours per day, i.e., up to 30 hours per week, but not in a period from 10 p.m. to 6 a.m. the next day
- For each hour of on-the-job training, the employer will pay the student compensation in the amount of no less than 70% of the minimum wage.

Pursuant to the Law on Dual Model of Studies in Higher Education:

- A higher education institution which wants to implement dual study programs shall form a network of employers who need to employ persons with appropriate qualifications, and the dual model of studies shall be implemented based on an accredited study program in accordance with the law on higher education.
- Mutual rights and obligations of employer and higher education institution will be regulated by a dual model agreement, to be concluded for a period which cannot be shorter than the number of years of the study program.
- Mutual rights and obligations of employer and student will be regulated by an on-the-job training agreement to be concluded by the employer and the student.
- The employer shall provide an adequate number of mentors who have at least the type and level of higher education corresponding to the education that the student shall acquire according to the study program and three years of professional work experience.
- The employer will pay the student a monthly compensation for each hour of on-the-job training in the net amount of at least 50% of the basic salary of an employee working on the same or similar jobs (where such compensation can be paid in different amounts per years of study, in range from 30-70% of the basic salary of an employee working on the same or similar jobs, but the total compensation paid at the level of the study program must be at least 50% of the basic salary of the employee paid for the same period).

POSITIVE DEVELOPMENTS

Compared to the previous situation, there have been no significant improvements in terms of the FIC recommendations.

Certain improvements are reflected in the amendments to the Law on Dual Education, by which certain provisions of the Law have been specified, but to a very limited extent.

The provisions of the Law on Dual Education were also further specified by the adoption of certain by-laws that more closely define only specific segments thereof (establishment and work of the committee for the implementation of dual education, for example), but again in a limited scope.

REMAINING ISSUES

The implementation of the Law on Dual Education and the Law on the Dual Study Model in Higher Education began in the school year of 2019/2020. Considering the period over which the provisions of these Laws have been applicable, their effects are becoming visible, but not yet fully. We can expect the entire prospective clearly displaying effects and potential problems which occur in practice to be available in the upcoming period.

In order for dual education to be fully implemented, primarily as an educational element unifying the theory and practice which profiles pupils and students for a more comprehensive inclusion in modern trends, and as such to lead the alignment of the education system with the needs of the labour market, a clear and precise formal legal framework is required which shall determine in more detail the relation of the Law on dual education to the Labour Law, the Law on Safety and Health at Work, as well as other laws that regulate various aspects of employment.

Furthermore, the issue is raised on defining the aspects of detail implementation of dual education, in reference to certain areas of business or specific industries where dual education is implemented and taking into consideration the particulars of specific industries.

Although, in principle, the relevant authorities expressed their willingness to consider providing subsidies and tax allowances for companies participating in the dual model of education, since the employers have the obligation of constant supervision, the appointment of instructors/mentors during the entire period of the process, etc. such incentives have not yet been prescribed.

The Law on Dual Model of Studies in Higher Education stipulates that an obligatory element of the on-the-job training agreement shall be a damage compensation in the event of dismissal by the employer unless the dismissal occurred without the fault of the employer. However, the Law does not specify cases in which it is considered that the dismissal occurred without the fault of the employer, which creates a problem in practical application of the stated provision. Further, the Law does not prescribe conditions under which the employer is obliged to compensate the damage to the student in case of dismissal, nor does it provide for a mutual obligation of student to compensate the damage to the employer, e.g. in case of retaking of the year at the

studies or causing damage to the employer, thus, in reference thereto, the only solution is to apply general rules on compensation of damages pursuant to the Law on Contracts and Torts.

Regarding the termination of the contract on dual education, in accordance with the provisions of the Law on Dual Education, particular cases whereby the termination of the contract occurs by force of law, have not been specified, namely: if further operation of school is prohibited or the school has been closed in accordance with the law; if the school ceases to meet the prescribed conditions for the educational profile in which the employer implements on-the-job training; if a decision has been adopted whereby concluding that conditions for performing on-the-job training have not been met; if the student losses his/her status or permanently loses his/her health capacity to perform work required by the profession for which he/she is schooled.

In reference to school's ability to terminate the contract with the employer, the provisions of Article 19 of the Law on Dual Education are not specified in detail. For example, in the event the employer fails to fulfil the obligations stipulated in the contract on dual education, the obligation of the school to notify the employer in writing about specific violations of its obligations stipulated by the Law prior to terminating the contract or consequential obligation to provide the employer with an appropriate deadline for correcting such deficiencies have not been prescribed by the stated law. Further, if the employer violates the prohibition from Article 10 of this Law, it is not stipulated for the violation of the prohibition to be formally ascertained in a specific manner (by a specific decision issued by the inspection body, a court decision, etc.). Similarly, it is not stipulated that the violation of student rights should be formally ascertained in a specific manner, which would establish legal certainty, but would also prevent the school from potentially damaging the employer's reputation by unilaterally terminating the contract.

Another issue emerges here in reference to establishing clear regulations of procedure on employment contract termination, from the standpoint of the employer as well as the position of the school, and in terms of the termination technique itself (sending a written notice) and in respect to the period when the termination occurs (on the day the notice is received or on a certain later date), which should be clarified in order to avoid any interpretations and potential disputes. It is also necessary to further specify the termination procedure in the event the student violates the obligations defined by on-the-job training agreement and the Law, which may imply the obligation of the employer to send a written notice to the school whereby the violation of obligations and/or the law by the student will be specified, following which the employer is granted the right to terminate the agreement with the student upon handing over or sending the written termination of the agreement to the student.

FIC RECOMMENDATIONS

- Bylaws should be adopted, or authentic interpretations or opinions should be given which will regulate more closely the relationship between the laws on dual education and the Labour Law and other laws governing different aspects of employment, that is, the Labour Law and the Law on Safety and Health at Work shall be applied accordingly, unless otherwise defined by laws on dual education.
- Bylaws should be adopted, or authentic interpretations or opinions should be given, especially for each scope of business or industry, in respect to all particulars (from specific formal legal requirements to requirements and specificities in practice), which will regulate more closely all aspects of dual education implementation.
- Incentives in form of subsidies or tax allowances that would attract companies in Serbia to join this system should be provided and accordingly, by-laws that regulate them should be adopted.
- Obligation of a student to compensate the employer in case of retaking of the year or causing damage to the employer should be prescribed, as well as the right of an employer in such cases to terminate the on-the-job

training agreement, in addition to the right to damage compensation, without any obligation to compensate the student.

- The provisions of the Law on Dual Education and the Law on Dual Model of Studies in Higher Education should be amended regarding termination of contracts (between employers and schools/higher education institutions and employers and pupils/students) by force of law, in accordance with the above statements.
- The provisions of both laws should be amended regarding the ability of the school/higher education institution to terminate the contract with the employer and specify the need for prior formal determination of violations by the employer, before contract termination, in accordance with the above statements.
- Contract termination procedure should be regulated in both laws in accordance with the above statements.

LEGAL FRAMEWORK

In terms of the areas covered by the section of the White Book dealing with the legal framework in general, there hasn't been much legislative progress in the recent period. However, it's important to mention that, when speaking generally about legislative developments, significant new laws have been enacted, which delve more deeply into other areas covered by the White Book. Primarily, this includes a set of regulations in the field of labour – the Law on Occupational Health and Safety has been amended to introduce new (more contemporary) concepts related to workplace safety. Furthermore, amendments to the Law on Foreigners and the Law on Employment of Foreigners have streamlined the government apparatus by implementing an electronic procedure for foreigner registration. It's worth noting a package of important laws related to real estate (such as amendments to the Planning and Construction Act, which have abolished conversions with fees and introduced a batch of new requirements related to the green agenda).

When it comes to novelties, it's necessary to mention the introduction of electronic company registration with the Business Registers Agency, which represents a positive step and simplifies this process for new investors. Additionally, this registration process allows the simultaneous electronic registration of the ultimate beneficial owner, further improving the efficiency of this procedure (and, in general, expediting the arrival of new companies in the Serbian market).

Notwithstanding the mentioned changes, there is a need for new laws to be introduced in various additional areas, as it is primarily the case with the new Competition Protection Law. Of course, in the same sense, it's necessary to continue improving existing regulations, such as laws dealing with data protection, civil and bankruptcy proceedings, foreign exchange transactions, etc. In this regard, it's important to highlight that there have been certain legal amendments in the previous period that haven't actually contributed to the investor protection and legal certainty - a good example of this is one of the amendments to the Law on Business Companies (as one of the "main and umbrella" laws) that undermines the trust in the public register (Business Registers Agency) by investors when purchasing companies i.e. shares in companies.

In general, it is important to note that in Serbia, laws are constantly being enacted and amended to harmonize the domestic regulatory framework with the EU regulatory framework. However, despite this, it appears that there is significant room for improvement and enhancement in the implementation of (new) legal provisions, on which the FIC's Legal Committee, along with all its partners, will continue to work. In this regard, as emphasized previously by the FIC Legal Committee, the following is necessary:

- More uniform practice of the Serbian courts, as well as greater overall efficiency of the judiciary and regulatory authorities. Despite some efforts, the duration of legal proceedings remains one of the most significant issues in creating a more favourable climate for investors.

- More work and resources to be allocated for the training of authorities and the establishment of adequate law enforcement mechanisms, considering the large number of new and specific areas relevant to the business environment (as it is the case, for example, with competition protection regulation or intellectual property rights protection).

- More efforts to be invested in public education regarding legal provisions and available options (for example, for consumers and potential whistleblowers).

- More practical options to be made available for the implementation of various legal solutions (such as the introduction of "foreign" electronic signatures, which would significantly facilitate business operations in Serbia).

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LAW ON COMPANIES

1.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Limited liability partnerships (LLPs) should be prescribed by the Law.	2013			√
The new confusing provisions in relation to the (i) agreement between the company and a new shareholder regarding the share transfer, and (ii) nullity of share transfer agreement should be amended to avoid legal uncertainty.	2022			√
The provisions in the Law on Contracts and Torts that deal with limitations to the authority of a company's representatives should be harmonized with the provisions of the Law	2011			√
Consequences for breaching the share transfer restrictions provided under the Memorandum of Association should be prescribed by the Law.	2022			√
Consequences for adopting the decisions by various corporate bodies (such as board of directors) contrary to the law should be prescribed by the Law.	2022			√
Common practical issues should be resolved, such as regulating shareholders' additional payments, e-signing, representatives liabilities, share capital increase and approving the transactions involving the personal interest.	2018			√
Difference between regular and interim dividend should be prescribed in a less formalistic approach.	2022			√
Clearly defining reasons for lifting the corporate veil.	2018			√
Corrections of technical flaws in the Law should be made to eliminate inconsistencies and provide clear procedures and competencies, harmonizing provisions within the Law itself.	2013			√

CURRENT SITUATION

The Companies Law ("Official Gazette of the Republic of Serbia", Nos 36/2011, 99/2011, 83/2014, 5/2015, 44/2018, 95/2018, 91/2019 and 109/2021) ("Law") came into force on 4 June 2011 and is applicable as of 1 February 2012.

By signing the Stabilization and Association Agreement with the European Union, the Republic of Serbia undertook the obligation to harmonize its domestic law with the EU acquis. Within the negotiations on the accession of the Republic of Serbia to the EU, Chapter 6 – Law has a special role, which includes issues of establishment and operation of companies in EU member states, in accordance with which the Republic of Serbia would be provided with better business conditions on the EU market, simplified procedures and the possibility of establishing new forms of economic entities. The Law is an indicator of progress in harmonizing the legislation of the Republic of Serbia with the EU acquis, which is important for the process of integration of the Republic of Serbia into the EU.

The main characteristics of the Law are:

- application of standards harmonized with EU legislation;
- harmonization with the Law on the Capital Market;
- certain problems that were a characteristic of the previous regulation have been resolved;
- the distinction between (public) joint-stock companies and other forms of business organization and;
- single-tier and two-tier management systems.

The latest amendments to the Law were in November 2021 which is the seventh time the Law undergoes changes

since it was enacted twelve years ago. These latest amendments introduced various changes, such as:

- Each company must register for use of e-government services.
- The companies may have only legal entities as directors.
- Provisions on approving the transactions involving personal interests contain more details and duties.
- There are new (confusing) provisions in relation to the (i) agreement between the company and a new shareholder regarding the share transfer, and (ii) nullity of share transfer agreement (as explained below in more detail).
- More information must be registered in relation to the company's seat.
- For all individuals registered in the companies' registry (director, shareholder, member of the supervisory board, etc.) gender is mandatory as registration data.
- Each joint stock company must provide to a shareholder, who initiated litigation procedure against the company based on legal grounds provided by the Law, the information related to the court case (even if in ordinary course of dealings such information would not be available to such shareholder).
- The total remuneration of the director (of a joint stock company) includes salary or other remuneration provided in employment/management agreement and may include the right to incentives through the allocation of shares of the company or another affiliate of the company. Also, the shareholders holding at least 5% of the share capital are now entitled to access the documents and data on the amount and structure of the total remuneration for each director and member of supervisory board.

The public joint stock companies are now obliged to prepare the policy which will in detail regulate the fixed and variable parts of compensations to directors and supervisory board members. Such policy is to be adopted by the shareholders meeting, and any payments must be made in accordance with that policy. Additionally, the detailed report on the compensations to directors and supervisory board members must be part of the annual financial statements of the company, is subject to audit and must be publicly available for at least 10 years.

POSITIVE DEVELOPMENTS

There are no improvements in terms of fulfilment of the recommendations published in last year's White Book, but there are some improvements as a result of the beginning of implementation of the provisions on mandatory electronic incorporation. The said improvement relies heavily on the company's obligation to register for e-government services, and was introduced by the latest amendments to the Law on the Registration Procedure Before the Serbian Business Registers Agency ("Official Gazette of the Republic of Serbia ", Nos. 99/2011, 83/2014, 31/2019 and 105/2021) ("**Law on Registration**"). Its implementation began on 17 May 2023.

This means that, from 17 May 2023, the electronic registration application of incorporation is mandatory. Consequently, all supporting documents must be submitted to the Serbian Business Registers Agency as electronic documents. We note that this is a significant step forward in the direction of harmonization with the existing practices of a large number of EU member states, in which the use of electronic signatures and e-communication with official institutions is already an established practice. Evidently, this is an effort to facilitate the registration procedure and to speed up all administrative procedures so as to create a more attractive business environment and bring in additional investors (we note that even greater progress in the incorporation procedure would be achieved if the use of electronic certificates issued in foreign countries was enabled).

REMAINING ISSUES

As previously stated, one of the disadvantages of the Law continues to be the absence of the concept of limited liability partners in a partnership. The existence of such a concept would be particularly relevant for partners in professional partnerships, since they should be allowed to enjoy limited liability protection, while third parties' risks could and should be covered by liability insurance.

The latest amendments of the Law we reflected on earlier, introduced a rather confusing provision requiring that for a third party to become a shareholder in a LLC, an agreement between that party and the company itself must be made (person nominated by the shareholders meeting

signs on behalf of the company). It seems that the purpose of this amendment is to provide a legal basis for the existing practice where in case of a share capital increase by a third party, the Serbian Business Registries Agency ("**BRA**") required an agreement on accession to be signed between existing and new shareholders. On the other hand, according to the BRA, this provision will apply only in special (in practice very rare) cases where the company's memorandum of association provides that consent of the company itself is required for transfer of the share to a third party. There is a concern that the wording of the provision is such that this provision apparently applies even if a third party becomes a shareholder by acquiring shares from the existing shareholder. Requiring such an agreement does not only seem to lack purpose but is arguably detrimental to the status of minority shareholders in LLC's. It appears that this provision may give the right to majority shareholders to block the minority shareholders to rightfully transfer their shares to third parties (by blocking execution of such an agreement at the level of shareholders' meeting). It seems that this was not the intention of the legislator but is apparently an unfortunate inadvertent effect.

The latest amendments also contain a provision that, if a nullity of a share transfer agreement is established by a court ruling, the parties can request from the BRA to change the registration of the title to the affected share. It is not clear whether this newly introduced article will override the principle of reliance in the registered data, providing that the parties cannot bear negative consequences if they relied on the registered data (which is of paramount importance for the certainty of legal transactions), and whether subsequent acquirers of the share (in case of sale chain) acting in good faith would bear consequences to their title to the share if the title of one of the previous sellers in the sale chain would be declared null. We hope this controversy will be resolved in court practice in favour of the reliance principle, but until then the huge legal uncertainty remains.

On a related note, the Law allows various restrictions (regarding the share transfer) to be prescribed in the company's memorandum of association. However, there is no prescribed consequence if such restrictions are breached, which may limit practical aspects of limitations provided under the memorandum of association.

The latest amendments also enhanced "mechanism" in relation to the approval of transactions involving personal interests. In general, it seems that duty to publish such transactions (that is, to publish the intention of entering into such transactions) for companies that are not public joint-stock companies is excessive and contrary to the nature of "private" companies. Parallel to this general notion that these duties may be deemed as too burdensome, in any case it should be: (i) clarified that there is no need for publishing the details about the related party transaction, if there an exception to a duty to approve respective personal interest transaction, (ii) clarified if an exception related to the Republic of Serbia refers to the transactions only involving the Republic of Serbia or transactions with companies where the Republic of Serbia is shareholder (irrespective if Republic of Serbia is a party to the respective transaction); (iii) provided that subsequent approval for these transactions is allowed.

The "standard" comment about e-signing under Serbian legislation should be considered from the perspective of executing the decisions of corporate bodies as well – electronic signatures recognized in other countries should be acceptable in Serbia (and not only qualified electronic certificates in Serbia). This would significantly speed up the business operations.

In relation to the representatives' responsibilities, it is required to (i) harmonize non-compete duty with employment regulation, (ii) reflect provisions regarding director's liability in joint stock companies (Article 415) to the LLCs as well, (iii) clarify if fiduciary duties are applicable to the representatives of the branch and representative offices. Also, the Law should prescribe consequences if decisions of various management boards (e.g. board of directors) are not adopted in line with the law.

The provisions of the Law restricting the powers of representatives to represent the company are inconsistent with the relevant provisions of the Law on Contracts and Torts. It should be clear that the respective provisions of the Law, as lex specialis, have a prevailing effect.

Currently, any dividend paid between the regular shareholders meetings are deemed as interim dividend (which triggers additional duties for the companies). There is no reason that distribution of dividends (representing the profit based on annual financial statements) made after the regular shareholders meeting is considered as an interim dividend i.e. current approach is too formalistic.

Other inconsistencies of the Law include the provision pro-

hibiting a single-member LLC from acquiring own shares, which is contrary to the Law's provisions on status changes.

Another issue to be underlined is the increase in a company's share capital through a debt-for-equity swap, provided by Article 146, paragraph 1, item 3 and Article 295. Specifically, the Law does not provide a precise explanation in terms of the procedures and conditions of such a swap, and this should certainly be regulated. It is also required to clarify if the evaluation made by external expert is always needed when the share capital is increased by the in-kind contribution.

Article 295 prohibits debt-for-equity swaps in public joint-stock companies, which is contrary to Article 67, paragraph 4, item 3) of the Law on Tax Procedure and Tax Administration, for which reason it is necessary to harmonize these two laws. Furthermore, the SBRA's practice on this matter is not uniform.

FIC RECOMMENDATIONS

- Limited liability partnerships (LLPs) should be prescribed by the Law.
- The confusing provisions in relation to the (i) agreement between the company and a new shareholder regarding the share transfer, and (ii) nullity of share transfer agreement should be amended to avoid legal uncertainty.
- The provisions in the Law on Contracts and Torts that deal with limitations to the authority of a company's representatives should be harmonized with the provisions of the Law.
- Consequences for breaching the share transfer restrictions provided under the Memorandum of Association should be prescribed by the Law.
- Consequences for adopting the decisions by various corporate bodies (such as board of directors) contrary to the law should be prescribed by the Law.
- Common practical issues should be resolved, such as e-signing, representatives liabilities, share capital increase and approving the transactions involving the personal interest.
- Difference between regular and interim dividend should be prescribed in a less formalistic approach.
- Corrections of technical flaws in the Law should be made to eliminate inconsistencies and provide clear procedures and competencies, harmonizing provisions within the Law itself.

CAPITAL MARKET TRENDS

1.60

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
The issuance of state and municipal bonds for the financing of infrastructural and other large communal projects, including green bonds, should be stimulated, while IPOs and issuance of corporate bonds in the private sector should be encouraged.	2015		√	
The legal framework for performing operations with financial derivatives and more complex financial instruments should be improved, including in relation to establishment of regulatory framework in connection with Employee Share Plans, and crowd financing and its manifestations.	2015			√
It is necessary to amend the Law on Financial Collateral in order to make available to commercial entities protection in derivatives transactions in the way that is provided to other entities to which its provisions apply.	2021			√
Further stimulation of the possibility of Serbian residents to invest in more complex securities on foreign markets, including structural products, structural deposits, ETFs and investment funds, all in accordance with European standards and ESMA guidelines.	2017			√

CURRENT SITUATION

The existing regulatory framework is partly harmonized with European Union legislation and IOSCO principles, but the Serbian capital market is still underdeveloped and the regulatory framework has yet to be tested in practice, so all the potential flaws of the reforms implemented back in 2011, and of the additional more material reforms from 2016 and 2018, cannot be duly assessed.

Although noticeable, regulatory reforms alone were not enough to stimulate growth of the capital market. There is a constant downward trend in the number of financial instrument issuers as well as of public joint stock companies where such trend was also continued in the previous year, according to the publicly available information of the Central Securities Depositary and Clearing House.

Despite the emergence of interesting new products on the debt instruments market, we need to note once again that the capital market in Serbia is still developing and that there are still issues associated with quality and liquidity of capital market products.

POSITIVE DEVELOPMENTS

Last year recommendations in relation to which certain developments were made:

- The issuance of state and municipal bonds for the financing of infrastructural and other large communal projects should be stimulated, while IPOs and issuance of corporate bonds in the private sector should be encouraged.

Enactment of the Regulation on the Procedure for Issuance of Debt Securities by which procedure for issuing corporate bonds, as an additional financing option, was eased for the limited period of time, although in relation to COVID – 19 pandemic and its effects on the economy, could also generally have positive effects on stimulation of the issue of corporate bonds as way of financing in future.

The indication of potentially positive movements on the corporate bonds market in Serbia in future could be trading with corporate bonds of the state-owned Telekom Srbija and a number of other state-owned companies, which were offered to local banks and also partially purchased by the National Bank of Serbia.

Also, in relation to education and support of initial public offerings, we commend activities on the "IPO Go!" programme – a project of the Belgrade Stock Exchange supported by, inter alia, EBRD (through EBRD SSF), which was launched in 2018.

Although this is not new, significant event was the issuing of RSD 2.5 billion worth of dinar bonds by EBRD in Decem-

ber 2016, which boosted investors' confidence in Serbia's capital market.

- The legal framework for performing operations with financial derivatives and more complex financial instruments should be improved, in which regard we believe that the amendments to the Law on Financial Security to also apply it to business subjects, in addition to financial institutions, would represent a major step towards regulating legislation on transactions with financial derivatives.

- Furthermore, improving the legal framework in connection with Employee Share Plans and crowd financing and its manifestations is also necessary.

As the most important novelty and development in this segment, we emphasise enactment of the Regulation on Financial Derivatives Transactions for the Purpose of Managing the Republic of Serbia's Public Debt, which lays down the general conditions for the performance of financial derivatives transactions by the Serbia for the purpose of hedging. Although this Regulation was enacted in 2019 it came into force in the begging of 2020, where implementation practices are already being established to a certain extent. According to the publicly available information published by the Serbian Administration for Public Debt, a couple of financial derivatives transactions were entered into by Serbia in 2020, for certain hedging purposes.

It is important, in parallel with improving the legal framework, to continue jointly with the NBS the education campaign of corporate participants on the benefits of introducing financial derivatives in business and to provide support (accounting, IT, technical etc.) in order to foster demand for these instruments. Special focus should be put on promoting the interest swap (IRS) as financial derivative, which protects legal entities from the now imminent risk of interest rates increase.

Additional developments:

We point out to the enactment of the Law on Digital Assets, which for the first time provides legal grounds for, inter alia, issuance of digital assets (including virtual currencies) on the primary market as well as secondary trading therewith. Although the said Law and the relevant bylaws are yet to be tested in practice, we commend regulation of this area and efforts of, inter alia, the Securities Commission in relation thereto.

Moreover, we welcome the announcement of the National Strategy for the Development of the Capital Market, which may have an important impact on growth of the capital market in Serbia.

REMAINING ISSUES

We have to note that identifying all of the remaining legislative issues related to the capital market is difficult as the capital market in Serbia is rather underdeveloped, i.e. shallow and insufficiently liquid.

Although state bonds are being successfully issued in the practice, municipal bonds are still rare, and these bonds were not traded on the secondary market. The same applies for the corporate bonds market, which is still in development. Certain types of bonds are still not present on the market, such as government bonds that are linked to the inflation rate and government bonds whose coupon rate is linked to a variable interest rate (BELIBOR, EURIBOR). The potential introduction of the mentioned types of government bonds would enable banks and other investors to better manage market risks (risk of interest rate changes or revaluation of asset values due to the inflation rate) in their balance sheets.

Consider the possibility of taking some more concrete steps in the construction of the dinar yield curve in cooperation with regulatory institutions, since the volume and liquidity of transactions among market participants on the secondary market does not allow obtaining reliable values for this curve. An example could be the organization of several primary auctions of the Public Debt Administration for the sale of government bonds with several different maturities compared to the existing ones. Another example could be auctions with several possible maturities of NBS repo operations (in addition to the existing weekly auctions with maturities of 7 days).

Regulatory should be improved to enable transactions with more complex financial instruments, including the regulatory framework by which more liberal approach and better legal certainty in relation to Employee Share Plans, as well as regulatory framework in relation to securitization.

The Law on Financial Collaterals, which application began in January 2019, was adopted in order to regulate the security procedure in transactions with financial derivatives. Although the draft provided that the Law applies to both financial institutions and legal entities, in the process of adoption the relevant provisions relating to commercial

entities were excluded, thereby not giving the opportunity for them to be on an equal footing with other participants in the subject transactions; to utilize the benefits and perform netting of claims in accordance with the provisions of this Law; to use the protection provided by the financial collateral agreement, as well as the protection in case of bankruptcy proceedings of the other party. Therefore, we believe that it is necessary to amend this Law in order to provide legal entities with the stated level of protection.

Therefore we believe that the engagement of the Ministry of Economy first of all, as well as other relevant authorities, is needed in order to amend this Law in order to provide legal entities with the mentioned level of protection.

We note that it is necessary to establish a straightforward regulatory regime so to support more complex investment methods through crowd funding, as potential way of financing of small and micro enterprises.

FIC RECOMMENDATIONS

- The issuance of state and municipal bonds for the financing of infrastructural and other large communal projects, including green corporate bonds, should be stimulated, while IPOs and issuance of corporate bonds in the private sector should be encouraged. Consider the possibility that the state starts issuing bonds whose coupon is linked to the inflation rate and with a variable coupon rate.
- Consider with the regulatory authorities the possibility of organizing more frequent primary auctions of government bonds with different maturities compared to the existing ones and/or increasing the number of NBS repo auctions with different maturities
- The legal framework for performing operations with financial derivatives and more complex financial instruments should be improved, including in relation to establishment of regulatory framework in connection with Employee Share Plans, and crowd financing and its manifestations.
- It is necessary to amend the Law on Financial Collateral in order to make available to commercial entities protection in derivatives transactions in the way that is provided to other entities to which its provisions apply.
- Further stimulation of the possibility of Serbian residents to invest in more complex securities on foreign markets, including structural products, structural deposits, ETFs and investment funds, all in accordance with European standards and ESMA guidelines.

JUDICIAL PROCEEDINGS 1.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Additional education and specialization of judges and the introduction of better mechanisms for the liability of judges in wrongful decisions.	2012			√
Improve and justify the even allocation of cases among courts and judges.	2011			√
Enactment of new amendments to the Law on Civil Procedure to assure flexibility of the timeframe and deadlines for certain actions	2011			√
Concepts that allow for delay of procedure, such as postponement and restitutio in integrum, have to be restrictively interpreted and implemented.	2016			√
Consensus on the cases arising under Article 204 of the Law on Civil Procedure.	2018			√

CURRENT SITUATION

The amendment to the Constitution of the Republic of Serbia conducted through a constitutional referendum in 2022 represents a step forward in the reform of the judiciary in the Republic of Serbia. These changes aim to supress the politicization of the judiciary and signify important progress. However, the legal framework for judicial proceedings was not significantly changed, nor were there important legislative reforms that would affect judicial proceedings in the Republic of Serbia.

The amendments to the Constitution were implemented through the adoption of a new set of laws in the field of judiciary - the Law on the Organization of Courts, the Law on Judges, the Law on the High Judicial Council, as well as in the field of public prosecution - the Law on Public Prosecution and the Law on the High Prosecutorial Council.

The most significant change in the procedure for the election of judges is the exclusion of the National Assembly's involvement. Now, the High Judicial Council is responsible for conducting the process of selection and appointment of all judges, including those who are being elected for the first time to a judicial function. As for the general and specific qualifications for the selection of judges, there have not been any significant changes.

The new Law on Judges started to be applied from the date of the constitution of the High Judicial Council, i.e. 10 May 2023. With the beginning of the implementation of this law, Article 10, paragraph 3, and Article 383, paragraph 7 of the Law on Civil Procedure ("Official Gazette of RS", no. 72/2011, 49/2013 - decision of the Constitutional Court, 74/2013 - decision of the Constitutional Court, 55/2014, 87/2018, 18/2020, and 10/2023 - other law), as well as Article 16 of the Law on Enforcement and Security ("Official Gazette of RS", no. 106/2015, 106/2016 - authentic interpretation, 113/2017 - authentic interpretation, 54/2019, 9/2020 - authentic interpretation, and 10/2023 - other law) have ceased to be valid. The mentioned articles of the law pertain to disciplinary liability of judges in case of exceeding the time frame of a proceeding. The reason for the mentioned is the circumstance that disciplinary liability of judges can now be regulated exclusively by the Law on Judges.

The external organization and jurisdiction of courts have remained largely unchanged, with the exception of renaming of the Supreme Court of Cassation to Supreme Court. The number of courts, as determined by the Law on the Seats and Territorial Jurisdictions of Courts and Public Prosecutors ("Official Gazette of the Republic of Serbia" No. 101/2013), as of 1 January 2014, remains unchanged, therefore there are 66 basic courts, 44 misdemeanor courts, 25 higher courts, 16 commercial courts, and 4 appellate courts.

The Law on the Protection of the Right to a Trial within a Reasonable Time, which came into force on 1 January 2016, is being increasingly applied in practice, considering that the courts are still burdened with a large number of court cases (which has become a chronic issue in the judiciary).

In February 2021, the Unified Program for Resolving Old Cases in the Republic of Serbia for the period 2021-2025 was adopted, aiming to reduce the total number of unresolved cases in the courts. However, regarding the statistics for the year 2022, the annual report on the work of the courts

showed that the basic courts in the Republic of Serbia still had a high number of unresolved cases at the end of the reporting period, specifically 417,425. The total number of unresolved cases in all courts in the country amounted to 1,174,642. This data indicates the evident overload of the courts, which undoubtedly has a negative impact on the efficiency of the judiciary.

In 2021, the Work Group for Amendments to the Law on Civil Procedure presented a draft of a new law. However, criticism from certain segments of the general public and expert community regarding certain proposed legal solutions led to the draft being sent back for further refinement by the Work Group, whose work is still ongoing.

As for the Law on Public Prosecution, the most significant change is the abolition of the monocratic organization of public prosecution. Now, the Supreme Public Prosecutor, Principal Public Prosecutor, and Public Prosecutor are in a hierarchical relationship. The Principal Public Prosecutor is responsible for the work of the public prosecution and reports to both the Supreme Public Prosecutor and to the higher-level Principal Prosecutor. The Republican Public Prosecution has changed its name to the Supreme State Prosecution, and the State Council of Prosecutors has become the High Council of Prosecutors.

Dispute Resolution

Although many solutions of the Law on Civil Procedure came across a positive reaction from judicial authorities and parties, such as using electronic mail for summoning or notifying parties and the court, utilizing audio and video equipment, or transcribing proceedings, they have not come to life in practice.

On the other hand, despite the Law on Civil Procedure foreseeing the mandatory setting of a timeframe for the main hearing, in practice, judges often fail to adhere to the established timeframes or set unjustifiably lengthy periods for adjudication. The aforementioned particularly comes to light due to the increasing application of the Law on Protection of the Right to Trial within a Reasonable Time.

Additionally, there is a challenge of uneven workload distribution among courts and judges in Serbia, with a noticeably higher number of cases being resolved in courts in Belgrade. The concentration of a large number of cases in specific courts can lead to judges' overload and prolongation of the timeframes for case resolution.

POSITIVE DEVELOPMENTS

In all courts within the territory of the Republic of Serbia, electronic verification of the case status is now available, thereby greatly facilitating the access to information about specific cases. Data about cases is regularly updated, enabling timely information on the status of the case in most instances. Additionally, on the website of the Portal of Serbian Courts, it is possible to follow the course of cases before a public bailiff.

Compliance of the number of judges with the scope and structure of their workload

The Government of the Republic of Serbia adopted the Strategy of Human Resources in the Judiciary for the period 2022-2026 ("Official Gazette of RS" No. 133/2022). Some problems that this strategy seeks to solve are the unnecessarily long duration of court proceedings due to a lack of staff and the establishment of a judge evaluation system that, at the moment, does not recognize the connection between the uniform workload of judges in relation to the complexity of the case, the actual time spent on solving the cases depending on their complexity, and additional professional development and training.

Dispute Resolution

The Law on Civil Procedure was last substantially amended in 2014, when significant developments were introduced, such as the expansion of the possibility of filing a revision request as an extraordinary legal remedy by prescribing new situations where a revision is always allowed, as well as by reducing the threshold to EUR 40,000; i.e. up to EUR 100,000 for commercial disputes.

Enforcement

The authentic interpretation of the Law on Enforcement and Security, Article 48, issued by the National Assembly in 2017, was a last significant development in this Law's application. According to the interpretation, Article 48 should be understood to encompass the assignment of a claim or obligation within the legal term "transfer" of a claim or obligation, i.e. includes all sorts of successions of claims or obligations, irrespective of when the succession took place, during the legal entity's existence or after it has ceased to exist.

Payment of court fees

During 2021, the Ministry of Justice enabled the payment of court fees through the e-Payment portal, so that the court

automatically receives information about the fees paid, so it is not necessary to submit proof of payment.

Submitting submissions electronically

Many courts in Serbia have accepted the option of sending and receiving submissions electronically and have created special email addresses for this purpose. This has made the work of lawyers easier, especially when submissions are to be sent to a court located outside of the lawyer's seat.

REMAINING ISSUES

Training and specialization of judges

One of the most important goals should be the improvement of the quality of the judiciary through enhanced training of judges. Likewise, the specialization in specific areas of work for judges should be finally introduced.

Access to case files

Efforts should be made to increase the accessibility of case files to parties in the proceedings and their representatives, allowing access to these documents without the need for specific court approval. Moreover, emphasis should be placed on facilitating the use of electronic devices for recording or photographing case files, which would save resources for both the court and the parties involved.

Flexibility of the timeframe and deadlines for certain actions

The timeframe, although potentially a good concept for efficient case resolution, is not flexible enough because the course of the litigation process is often unpredictable, and the legal possibilities for its extension are not sufficient. On the other hand, judges either do not adhere to the established timeframe or set unnecessarily lengthy timeframe which contributes to the prolongation of court proceedings and undermines the effectiveness of this concept. Some of the deadlines are unrealistically short, and the deadline for submitting evidence is too strict, which may lead to abuse by the parties.

Hearings should be scheduled in shorter time periods, and the duration of the appeal process in practice should be brought in line with the legal provisions at the very least.

The latest amendments to the Law on Civil Procedure have not addressed the mentioned issues.

Consensus on cases arising under Article 204 of the Law on Civil Procedure

Article 204 of the Law on Civil Procedure prescribing the possibility to complete a litigation between the same parties if a party has disposed of an asset or right subject to litigation, has resulted in a progressive stance of the jurisprudence regarding the reversal of the claim by the assignor – respondent could be obliged to pay the assignee at the request of claimant. However, such reasoning is not uniformly accepted by the entire jurisprudence, leading to unequal treatment before the courts and legal uncertainty in terms of the rigid interpretation of the law, contrary to the jurisprudence in jurisdictions that have similar provisions in their legislation. Even though Article 204 was amended with the previous amendments of the Law on Civil Procedure, only time will show whether these amendments will lead to the resolution of the above-mentioned problem in the jurisprudence.

Restrictive interpretation of concepts that allow delay of procedure

The concept of restitutio in integrum has been restored to the enforcement procedure system. The legislature has foreseen that restitutio in integrum is allowed only in case of failure to comply with the deadline for submitting a legal remedy in the procedure of contesting decision on enforcement. Although the scope of the application of this concept has been significantly narrowed, abuse of this concept can be reasonably expected.

The Law on Enforcement and Security does not prescribe what happens with the paid advance costs where a creditor petitioning for enforcement based on an invoice or a promissory note has initiated litigation and lost. The current solution where the public bailiff keeps the entire amount of the advance, is not acceptable.

Although the new Law explicitly stipulates those extraordinary legal remedies may not be used in the enforcement procedure, the Law itself has in fact introduced an extraordinary remedy. Where the decision dismissing an appeal is based on the facts which are disputed between the parties and pertain to the claim itself, the enforcement debtor may initiate a litigation proceeding declaring the enforcement inadmissible within 30 days of receipt of

this decision. Even though litigation will not postpone enforcement, it is a further procedural burden on the enforcement creditor.

The concept of postponement has been restored to the enforcement procedure. Although the postponement of enforcement upon the request of the enforcement debtor is possible only once, it opens the door for malpractice as the criteria for the assessment of legal grounds for postponement is too broad, and there is a possibility that, in theory, the postponement could last for a longer period of time, depending on the public bailiff's assessment.

Necessity of a non-resident bank account with a non-resident creditor when initiating enforcement proceedings

In 2021, the Commercial Court in Belgrade took the position that it is necessary to state the number of the non-resident bank account of the enforcement creditor who is a non-resident when submitting a proposal for enforcement, even when the enforcement is being carried out on the entire assets of the enforcement debtor. The stated position is not in accordance with the Law on Enforcement and Security. In practice, this kind of court action led to a significant prolongation of the initiation of the enforcement procedure, because opening a non-resident bank account can take up to a few months, which opens a space for debtors to dispose of assets and creates additional costs for non-resident creditors, that are not necessary at the given moment.

Limited ground for appeal in small value disputes

Article 479, paragraph 1 of the Law on Civil Procedure, stipulates that a judgment or a resolution that concludes a dispute in the small value proceeding may only be challenged on the grounds of a significant violation of provisions of the civil procedure from Article 374, paragraph 2 of this law and due to an incorrect application of substantive law. Thus, the law limits the appeal reasons by which a judgement or a resolution can be challenged, and there is no possibility to appeal the decision in small value disputes based on incorrect or incomplete determination of facts. This solution is unclear because, unlike other specific features related to small value disputes (starting from shorter procedural deadlines), it does not contribute to a faster or higher quality resolution of disputes of this kind. Moreover, deprivation of the possibility to challenge the decision in small claims disputes due to incorrect or incomplete determination of facts is contrary to the purpose of filing a legal remedy, and the second instance review of the court decision in the appeal process. Especially considering that the accurate and complete determination of facts is of utmost importance for making a correct and legally grounded decision, so it is unclear why the monetary threshold of a particular dispute should take precedence over a party's right to have the second instance court examine whether the factual circumstances were properly and fully determined in the first instance proceedings. The fact that a certain dispute is qualified as a small value dispute does not imply the infallibility of the first instance court in determining essential facts. This limitation significantly and unjustifiably restricts the rights of parties to the litigation and the second instance court's ability to fully assess the correctness of the appealed decision.

FIC RECOMMENDATIONS

- Additional education and specialization of judges
- To allow easier access to case files to parties in the proceedings, and their representatives
- Improve and justify the even allocation of cases among courts and judges.
- Enactment of new amendments to the Law on Civil Procedure to assure flexibility of the timeframe and deadlines for certain actions.
- Concepts that allow for delay of procedure, such as postponement and restitutio in integrum, have to be restrictively interpreted and implemented.

- Consensus on the cases arising under Article 204 of the Law on Civil Procedure.
- Remove the limitation of appeal ground in small value disputes, and through amendments and additions to the Law on Civil Procedure, allow the possibility of filing an appeal in this type of disputes based on incorrect or incomplete determination of facts, as in regular type of proceedings.

ARBITRATION PROCEEDINGS

1.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
It is necessary to clarify the relationship between bankruptcy and arbitration proceedings in the Bankruptcy Law.	2018			√
Promote the possibilities and advantages of dispute resolution through arbitration by providing institutional support to the relevant governmental and non-governmental bodies as well as by instructing professional organizations and companies to accept the jurisdiction of local arbitration institutions.	2010			√
Develop a supportive legal framework for the activity of arbitration institutions in Serbia to ensure conditions for regional companies to accept its jurisdiction, subsequently creating a regional arbitration centre in Serbia.	2021			√
Organize trainings and conferences aimed at judicial sector in order to facilitate and consolidate experience in arbitration related court procedures (annulment and recognition).	2021			√

CURRENT SITUATION

The regulatory framework for arbitration proceedings in Serbia is comprised of the Law on Arbitration ("Official Gazette of RS", no. 46/2006) and the rules of two arbitral institutions, the Permanent Arbitration at the Chamber of Commerce and Industry of Serbia (CCIS) (effective from 30 June 2016) and the Belgrade Arbitration Centre (effective from 1 January 2014). Both arbitral institutions have the jurisdiction to settle any dispute eligible for arbitration, regardless of whether it is an international dispute or a domestic one.

The general impression is that arbitration is increasingly popular as a way of resolving commercial disputes. However, it is still mostly present in international business relations, where there is a traditional mistrust among foreign companies in the competence of domestic courts. On the other hand, domestic companies still believe that arbitration is rather expensive compared with courts. However, it is often disregarded that the lengthy court proceedings (especially in disputes of greater value) can be significantly more expensive than arbitration, where decisions are made faster in comparison to courts.

The Law on Arbitration, in force from 10 June 2006 in its original text, was drafted in accordance with international standards, based on the Model Law on the Arbitration of the UN Commission on International Trade Law from 1986. Given the implementation of the law so far, a number of highly experienced practitioners, significantly cheaper costs of the arbitration proceedings compared to the more popular arbitration institutions in Europe and the fact that Serbian courts rarely annul arbitration decisions, Serbia should be perceived as an attractive arbitration destination.

In 2021 The Government of the Republic of Serbia adopted the Resolution on the establishment of the Commission for considering issues related to disputes before the international arbitrations. The tasks of the Commission are analysing the legal and factual aspects presented in documents expressing the intention to initiate an arbitration proceeding against the Republic of Serbia before an international arbitration, providing proposals to the Government for amicable settlement of the disputed matter before filing a claim before an international arbitration, if the Commission deems it justified and appropriate, and other.

POSITIVE DEVELOPMENTS

Recently, the advance of arbitration in Serbia and other countries has been focused on the extension of the jurisdiction of arbitration, rather than the improvement of arbitration rules. In general, arbitration laws, as well as the rules of arbitration institutions, today have a satisfactory legal framework, and the professional community is primarily focused on promoting the broader and more frequent use of arbitration as a dispute resolution mechanism.

Serbia has been following these trends, and in 2017 a positive step forward in regulating the relationship between bankruptcy and arbitration was made through amendments to the Bankruptcy Law ("Official Gazette of RS", no. 104/2009, 99/2011 – other law, 71/2012 – decision of the Constitutional Court, 83/2014, 113/2017, 44/2018 and

95/2018). In particular, since 2009, it was unclear whether a creditor whose claim (the subject of an arbitration agreement) in bankruptcy proceedings is disputed can initiate or resume arbitration proceedings in order to determine the merits of the disputed claim. The Bankruptcy Law regulates the relation between arbitration and bankruptcy proceedings in Art. 117, which stipulates that the creditor whose claim is disputed shall initiate court proceedings, or resume suspended litigation or arbitration proceedings in order to determine the merits of the disputed claim, and Art. 118, which stipulates that the bankruptcy administrator shall take over civil or arbitration proceedings in the state in which they are at the time of opening the bankruptcy proceedings.

It is necessary to emphasise that the entire legal system that regulates the application of arbitration in the Republic of Serbia is modern and satisfactory.

REMAINING ISSUES

- It is necessary to clarify the relationship between bankruptcy and arbitration proceedings in the Bankruptcy Law.

Amendments to the Bankruptcy Law in 2017, although representing a positive step forward in resolving the relationship between arbitration and bankruptcy proceedings, are still not sufficiently clear in the present form, and there are many controversial issues which will cause certain problems in practice.

Firstly, based on the provisions of Art. 117 and Art. 118 of the Law on Bankruptcy, it remains unclear whether creditors who did not initiate an arbitration before the opening of bankruptcy proceedings, in case of a disputed bankruptcy claim, can determine the merits of the claim through arbitration, or whether arbitration proceedings are available only to the creditor who initiated arbitration proceedings against the debtor prior to the initiation of bankruptcy proceedings. If there is an arbitration clause in the contract from which the disputed claim arises, which refers to the settlement of the dispute before arbitration, the court would be incompetent to resolve such a dispute. Despite this, there are interpretations according to which the creditor in this situation can choose between litigation and arbitration proceedings.

Also, the Bankruptcy Law does not regulate the following important issues for the relationship between arbitral and bankruptcy proceedings:

- there is no explicit requirement that the claimant in arbitration proceedings is obliged to change the claim, that is, to request declaratory claim instead of establishing a condemnatory claim (this requirement exists for litigation),
- the consequences of opening bankruptcy proceedings while there is an ongoing arbitration in which the bankruptcy debtor is the claimant are not regulated,
- it is not explicitly regulated that the opening of bankruptcy proceedings results in the termination of arbitration proceedings,
- it is not prescribed whether a bankruptcy administrator can conclude an arbitration agreement, and whether the board of creditors' consent would be required for concluding such an arbitration agreement.
- Also, the efficiency of the current framework of the court procedure for the annulment of arbitral awards is questionable, as it is based on a two-step ruling process, first before the first instance court, and then before the appellate court.
- Finally, there is insufficient arbitral practice and therefore relevant arbitral experience in this area. Since case law is somewhat modest, foreign case law should also be consulted in order to determine best practices based on the UNCITRAL Model Law and improve efficiency in recognition and enforcement of foreign arbitral award.

FIC RECOMMENDATIONS

- It is necessary to clarify the relationship between bankruptcy and arbitration proceedings in the Bankruptcy Law;
- Promote the possibilities and advantages of dispute resolution through arbitration by providing institutional support to the relevant governmental and non-governmental bodies as well as by instructing professional

organizations and companies to accept the jurisdiction of local arbitration institutions;

- Develop a supportive legal framework for the activity of arbitration institutions in Serbia to ensure conditions for regional companies to accept its jurisdiction, subsequently creating a regional arbitration centre in Serbia;
- Organize trainings and conferences aimed at judicial sector in order to facilitate and consolidate experience in arbitration related court procedures (annulment and recognition).

LAW ON BANKRUPTCY

1.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Regulate the delivery issue in bankruptcy proceedings to make it faster and more efficient and to specify the provisions related to the finality date and starting date for the implementation of the reorganization plan so that all participants can know with certainty when the adopted plan begins to be implemented.	2016			√
Regulate additionally the position of secured and pledged creditors to provide the two-instance procedure with respect to their settlement from the sale of pledged property.	2016			√
Regulate in detail the procedure of electronic sale, if possible, by following the example from the Law on Enforcement and Security.	2020			√
Consider legal regulation of digitalization process in operations of creditors' bodies and communication between bankruptcy bodies.	2020			√
Stipulate that the opening of bankruptcy proceedings produces effects as of the date of publishing the notice of the opening of bankruptcy proceedings in the Official Gazette.	2017			√
The provisions on automatic bankruptcy in the case of a debtor's permanent insolvency should be incorporated into the bankruptcy regulatory framework, but in a form that would be in accordance with the Constitution of the Republic of Serbia.	2012			√
Stipulate the possibility and procedure for amending the adopted reorganization plan.	2016			√
Regulate the procedure of personal insolvency either by amendments to the current Law on Bankruptcy or the adoption of a separate law.	2016			√
To establish electronic sale of debtor property.	2020			√

CURRENT SITUATION

According to data on the Bankruptcy Supervision Agency's website, as of 1 July 2023 there were a total of 1,615 pending bankruptcy proceedings in the Republic of Serbia, with the exception of bankruptcy proceedings conducted under the Law on Enforced Collection, Bankruptcy, and Liquidation (SFRY Official Gazette Nos. 84/89, SRY 37/93, and 28/96) and bankruptcy proceedings conducted against banks, which are within the Deposit Insurance Agency's jurisdiction. The average duration of the procedures initiated under the Law on Bankruptcy Proceedings is about 4 years and 1 months, while average duration of the proceedings initiated under the Law on Bankruptcy is about 1 year and 10 months.

176 bankruptcy proceedings were initiated in the first six months of 2023. This means that approx. 29 bankruptcy proceedings were initiated per month. Compared to 2022, when the monthly average was 38 initiated bankruptcy proceedings, the slight decrease in the number of initiated bankruptcy proceedings is noticeable. That number is still significantly below the monthly average of 80 initiated proceedings in 2012. The grounds for such a decrease after 2012 were presented in previous editions of the White Book, and the main cause was the Decision of the Constitutional Court of Serbia on the unconstitutionality of automatic bankruptcy.

After public consultations held on the Draft Law on Amendments to the Law on Bankruptcy and the Draft Law on Amendments to the Law on Bankruptcy Supervision Agency at the beginning of 2021, the procedure for consideration and adoption of the drafts before the National Assembly of the Republic of Serbia has not yet been initiated. These are the fifth amendments to the Law on Bankruptcy since its entry into force in early 2010.

Also, even though that at the beginning of 2021, the Ministry of Economy has formed a working group to prepare a draft of a law that will regulate the bankruptcy of entrepreneurs, following the Program for resolving problem loans for the period from 2018 to 2020 of the Government of the Republic of Serbia, no specific steps were made in this area.

The main goal of proposed Amendments to the Law on Bankruptcy and the Law on Bankruptcy Supervision Agency, as was the case with the earlier amendments, is to make the procedure more efficient and transparent.

Most of the latest amendments are expected to improve the quality of the procedure, but actual results will be seen after their adoption end entry into force and in court practice in the following period.

POSITIVE DEVELOPMENTS

In the previous edition of the White Book potential improvements included in the Draft Law on Amendments to the Law on Bankruptcy and the Law on the Bankruptcy Supervision Agency were analyzed in more details. However, having in mind that the drafts still did not find its way to the National Assembly, all stated in the section "Positive developments" of the previous edition of the White Book is still pending.

Examples of proposed regulatory amendments that are worth mentioning as potential positive change are as follows:

Improved position of secured and pledged creditors

In the previous edition of the White Book, it was pointed out that one of the remaining problems related to the lifting of the ban on enforcement against pledged property in the reorganization procedure was the provision according to which the bankruptcy judge would not make a decision on lifting the ban on enforcement if the bankruptcy administrator proves that pledged property is crucial for reorganization of the debtor or for the sale of the bankruptcy debtor as a legal entity. One of the recommendations was to additionally restrict possibilities for banning enforcement against the bankruptcy debtor's property during the procedure of the adoption of a pre-packaged reorganization plan, in order to prevent bankruptcy debtors from averting an enforcement settlement over an indefinite period of time and without the support of the majority of creditors through multiple consecutive bankruptcy filings.

The proposed amendments to the Law on Bankruptcy introduce the authority for a bankruptcy judge to decide on the abolition of security measures, upon the proposal of a secured or pledge creditor, including a ban on enforcement against the pledged property of the bankruptcy debtor. with the possibility of the bankruptcy judge to, when making this decision, request the opinion of an expert on cruciality of the pledged property for the reorganization.

Additional increase of transparency and efficiency of the proceedings

Amendments to the Law on Bankruptcy have been proposed to expand the principles of publicity and information, to collect, process and analyze statistical data related to bankruptcy proceedings and now, in addition to allow all creditors to explicitly request and receive all information related to the bankruptcy debtor, on the course of the bankruptcy procedure, on the property and management of the property of the bankruptcy debtor and all state authorities have the obligation to submit to the bankruptcy administrator data on the property, rights and interests of the bankruptcy debtor, free of charge. Also, it is proposed to introduce the sale of the bankruptcy debtor's property electronically, through the portal of the authorized organization for the sale of property. It is proposed to shorten the deadline for filing bankruptcy claims from 120 to a maximum of 60 days and to shorten the deadline for scheduling hearings to decide and vote on the reorganization plan from 90 to 60 days. The draft Law on Amendments to the Law on the Bankruptcy Supervision Agency proposes, among other things, the addition of two new articles, which regulate the implementation of actions in bankruptcy proceedings through an electronic portal, and collection and statistical processing of the data related to bankruptcy proceedings.

All proposed changes should lead to greater transparency and efficiency of bankruptcy proceedings.

Better control of bankruptcy administrator's work and expertise

The proposed amendments to the Law on Bankruptcy specify that the selection of bankruptcy administrators will be made either from the general or from a special list of

active bankruptcy administrators, depending on the criteria for classifying legal entities into micro, small, medium and large legal entities. The Draft Law on Amendments to the Law on the Bankruptcy Supervision Agency prescribes the professional training of bankruptcy administrators, in order to develop and improve their profession. The existence of two lists of bankruptcy administrators from which the selection is made and the existence of the obligation of professional training should solve the issue of bankruptcy administrators' expertise. Finally, the proposed amendments to the Law on Bankruptcy and the introduction of additional reasons for the dismissal of bankruptcy administrators enable better control of their work.

REMAINING ISSUES

Even though the proposed amendments implemented in the last Draft Law on Amendments to the Law on Bankruptcy cover some of the most important topics, which would, if adopted, resolve a lot of problems (improved position of secured and pledged creditors, additional increase of transparency and efficiency of the proceedings, better control of bankruptcy administrator's work and expertise), not all of the existing problems would be solved with it – including these already covered problems, and some other problems which were the subject of the previous editions of the White Book, but were not included in the last draft of the amendments at all.

Following the topic of improving the position of the secured and pledged creditors, we also point out the problem with the distribution of funds collected through the sale of a bankruptcy debtor's property that was pledged in favor of secured and pledge creditors. The claims of these creditors should be settled within five days from the date of receipt of the funds by the bankruptcy administrator. The bankruptcy administrator autonomously, independently and without control by the bankruptcy judge, decides on the amount of settlement of secured and pledge creditors, who then do not have the right to appeal against this decision. The only legal remedy available to them is an objection to the work of the bankruptcy administrator decided by the bankruptcy judge of first instance, and no appeal is allowed against this decision. The legal solution envisaging the right to appeal for unsecured creditors may seem unfair, while secured and pledge creditors are deprived both of a first and second-instance review of the legality of the decision of the bankruptcy administrator.

Also, following the spirit of the amendments of the Law on Bankruptcy and the Law on the Bankruptcy Supervision Agency, to ensure the more efficient and more transparent bankruptcy proceeding, it would be good to stipulate the obligation of the bankruptcy administrator and Agency to regularly deliver and permanently publish all the key documents from the bankruptcy proceedings (conclusion on the adopted and contested claims with all its amendments, draft of the decision on distribution). Bankruptcy administrators ignore the already existing obligations of publishing the documents (quarterly reports for example), without the proper consequences – this problem is especially common when the Agency conducts the bankruptcy.

In practice, a problem also arises in certain cases when the delivery of a decision on the confirmation of a plan lasts longer than the procedure of the adoption itself. This has direct negative implications on the duration and efficiency of bankruptcy proceedings.

It often happens in practice that it is necessary to change a reorganization plan which has already been confirmed by a court, but the current legislation does not allow it. This poses a serious problem, since a bankruptcy debtor's business activity may not be on the expected level after the adoption of the plan and the debtor cannot comply with the payment dynamic envisaged in the adopted plan, whereas a majority of the creditors are willing to accept an amendment to the plan, which formally cannot be made. Having in mind that, in accordance with the provisions of the Law on bankruptcy which are currently in effect, the only possible alternative in such situation is the opening of the bankruptcy or submission of the new pre-packaged reorganization plan (both of these options prolong the collection of claims) it would be in both debtors' and creditors' interest if there was the possibility of one change of the plan once during its implementation (limiting it to one change would prevent possible abuses). Also, it would be good to take into consideration the solution provided by the Law on Bankruptcy Procedure - in such situations, the bankruptcy was continued instead of initiating the new proceeding.

According to current legislation, the opening of bankruptcy proceedings produces effects as of the date on which a notice of the opening of bankruptcy proceedings is posted on a court's notice board. In practice, this rule creates problems as in some procedural situations it is not clear which is the relevant date of the opening of bankruptcy proceed-

ings. To eliminate uncertainties, it is recommended that the opening of bankruptcy proceedings produces effects as of the date of the publication of the notice of the opening of bankruptcy proceedings in the Official Gazette.

One of the outstanding issues where no progress was seen is personal insolvency and entrepreneur insolvency primarily. The resolution of this issue would benefit both creditors and insolvent entrepreneurs. The existing options available to creditors regarding insolvent entrepreneurs do not lead to the most favorable collective settlement. They result in the settlement of the claims of some creditors through enforcement procedure, while other creditors, in most cases, do not have any possibility to settle their claims with over-indebted entrepreneurs. We consider that the introduction of the concept of entrepreneur insolvency would ensure creditors higher settlement amounts, while protecting the integrity and basic needs of overindebted entrepreneurs. Having in mind that in the last couple of years there have been efforts to pass such law, which at this moment have been completely passive, this is very important topic for future.

The trend of increasing digitization should also be followed in in bankruptcy proceedings, often requiring the presence of a large number of people at hearings, meetings of creditors, public sales, etc. (this was confirmed during the COVID-19 pandemic). In that sense, it would be useful to regulate in more detail the procedure of electronic sale and the functioning of creditors' bodies and electronic communication and the delivery between the bodies in bankruptcy procedure.

Finally, the introduction of new reasons for the dismissal of bankruptcy administrators is not without flaws, as the reason relating to their inefficient work is still not prescribed, including prolongation of the sale of property or of the distribution of money obtained from the sale of the property of the bankrupt debtor, etc., which are more common in practice than violations of the duties of bankruptcy administrators. Hence, it would be useful to introduce such a provision, which would include the adequate consequences for the failure to comply with obligations, to better prevent practical problems related to the work of bankruptcy administrators.

At the end, many other questions arise regarding improving and clarifying corresponding regulations in practice, such as the possibility and method of enjoying secured-creditor rights based on a pledge on claims; insufficiently precise definitions of entities to which Article 123, para. 2 of the Law refers, the ability to dispose of the subject of an exclusion request during a dispute regarding such a request; and others.

Some of the expectations presented in the previous editions of the White Book regarding comprehensive amendments to the Law on Bankruptcy have been met, but many other insufficiencies of legal solutions have not yet been fixed and we sincerely hope to see at least concrete proposals of amendments this year.

FIC RECOMMENDATIONS

- Regulate additionally the position of secured and pledged creditors to provide the two-instance procedure with respect to their settlement from the sale of pledged property.
- Stipulate the possibility and procedure for one amending the adopted reorganization plan, as well as the prohibition of the re-adoption of the reorganization plan/ pre-packaged reorganization plan within the certain time period in case of non-implementation, and specify the provisions related to the finality date and starting date for the implementation of the reorganization plan so that all participants can know with certainty when the adopted plan begins to be implemented.
- Regulate the delivery issue in bankruptcy proceedings to make it faster and more efficient, and consider legal regulation of digitalization process in operations of creditors' bodies and communication between bankruptcy bodies.

- Regulate in detail the procedure of electronic sale, if possible, by following the example from the Law on Enforcement and Security.
- Stipulate that the opening of bankruptcy proceedings produces effects as of the date of publishing the notice of the opening of bankruptcy proceedings in the Official Gazette.
- Regulate the procedure of entrepreneur insolvency either by amendments to the current Law on Bankruptcy or the adoption of a separate law.
- Stipulate the obligation of regularly delivering and permanently publishing all the key documents from the bankruptcy proceedings, as well as the proper consequences for failure to meet such obligations.
- Stipulate the consequences for the bankruptcy administrators in case of failure to comply with the deadlines for actions in order to sell the assets and settle creditors.

INTELLECTUAL PROPERTY

1.14

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
The Customs should enable full electronic communication.	2020			√
The Law on Trademarks should be changed in such a way that it enables full electronic communication with the IP Office (e.g., removal of the necessity to submit original priority documents in paper). Use this opportunity to amend the provisions of the Law on Trademarks that regulate exhaustion of rights.	2021			√
Following the example of EUIPO's portal, enable greater transparency in the online register of trademarks, so that it will be visible to third parties whether objections or requests for the termination of the validity of a certain trademark have been filed.	2022			√
Cybercrime:				
State authorities should enhance their efforts to combat online copyright infringement, concerning the software, music, and film industries.	2020		√	
The Government needs to provide more resources to the courts, prosecutors and police units dealing with cybercrime.	2020			√
Adoption of further amendments to the Law on Copyright and Related Rights in terms of TV broadcasting and re-transmission, in line with the changes of EU SatCab Directive passed in 2019.	2020			√
Amendments to the Criminal Proceedings Law and related legislation with regards to cybercrime.	2018			√

CURRENT SITUATION

The intellectual property legal framework mainly consists of the substantive laws enacted in 2009 and afterwards. In the past few years, changes occurred in the fields of copyright, patents, trademark and topographies of semiconductor products. At the end of 2021, amendments to the Law on Patents were adopted, and a new Law on the Protection of Confidential Information was passed in the middle of the same year. Changes in legislation reflect further approximation of the laws to the rules set in the relevant international conventions, the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and in the EU standards. The principal substantive provisions regulating intellectual property in Serbia are contained in the following pieces of legislation:

- The Law on Trademarks (2020);
- The Law on Geographical Indications (2010, amended in 2018);
- The Law on Copyright and Related Rights (2009, amended in 2011, 2012 2016 and 2019);
- The Law on the Legal Protection of Industrial Design (2009, amended in 2015 and 2018);
- The Law on the Protection of Topographies of Semiconductor Products (2013, amended in 2019);
- The Law on Patents (2011, amended in 2017, 2018, 2019 and 2021);
- The Law on the Protection of Confidential Information (new law from 2021, which replaced the law from 2011);
- The Law on Trade (2019).

The Law on Trademarks governs the acquisition and protection of rights with respect to marks used in the trade of goods and/or services. A trademark is defined as a right that protects a mark used in the course of trade to distinguish goods and/or services of one individual or legal entity from identical or similar goods and/or services of another individual or legal entity. The text of the current law is in accordance with the Madrid Agreement Concerning the International Registration of Marks, as well as with the Protocol to the Madrid Agreement.

The Law on Geographical Indications regulates the acquisition and legal protection of geographical indications (appellations of origin and geographical indications), following the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration.

The Law on Copyright and Related Rights regulates the rights of authors of literary, scientific, and artistic works, computer programmes, as well as rights related to copyright: the rights of performers, producers of phonograms, videogames, broadcasts and databases, and 'publishers' rights (rights of the first publisher of a free work and rights of the publisher of printed editions).

The Law on the Legal Protection of Industrial Design governs the acquisition of the rights to the external appearance of an industrial or handicrafts product (defined as the overall visual impression that the product makes on an informed consumer or user) and the protection of those rights.

The Law on the Protection of Topographies of Semiconductor Products regulates the subject matter and requirements for the protection of topographies of semiconductor products; the rights of creators and the ways to exercise those rights; the rights of companies and other legal entities in which the topography was created; and the limitations concerning the protection of such rights.

The Law on Patents regulates the legal protection of inventions in the field of technology which are new, which involve an inventive step, and which are capable of industrial application.

The Law on the Protection of Confidential Information regulates the legal protection of information constituting a business secret (especially financial, economic, business, scientific, technical, technological and production data, studies, tests, research results, etc.).

Finally, the Law on Trade regulates issues of unfair competition, including infringement of unregistered marks used in the course of trade.

The enforcement of the substantive laws listed herein depends upon several important laws setting forth the procedural and organisational provisions for the protection of intellectual property rights and the prosecution of infringers, the most important being the following:

- The Law on the Organization and Competences of State Authorities in Combating High-Tech Crime (2005, amended in 2009 and 2023);
- The Law on Special Powers for the Efficient Protection of Intellectual Property Rights (2006, amended in 2009 and 2021);
- The Criminal Code (2005, amended in 2009, 2012, 2013, 2014,2016 and 2019);
- The Customs Law (2010, amended in 2012, 2015, 2016, 2017, 2019,2020, 2021 and 2022); and
- The Law on Optical Discs (2011).

The institutions that protect intellectual property rights are the Intellectual Property Office (hereafter referred to as the "IP Office"), as well as the relevant ministries and other state bodies (the courts being the most important).

The functioning of the Customs and the IP Office during the pandemic was enabled through their electronic portals. However, there are certain limitations. For example, the initial filing through the INES portal operated by the Customs is possible after a regular written contract with the Customs is signed. Besides that, electronic portal operated by the IP Office does not enable full electronic communication between this body and the right holders. Among other options, it does not enable:

- Registration of changes for multiple trademarks at once, even though the Law on Administrative Fees envisages payment of lower administrative fees in case of multiple registrations;

- Registration of the ownership change without submission of the original assignment deeds in physical form.

POSITIVE DEVELOPMENTS

As of September 2018, Serbia is obliged towards the EU to apply the same standards of protection of intellectual property rights as those imposed by the EU. This obligation is set within the Stabilisation and Association Agreement and the Serbian Constitutional Court confirmed that these provisions are directly applicable. In practice, bearing in mind that the laws are mostly harmonised, this means that the courts and other state bodies ought to follow the same interpretation of these rules as the EUIPO and CJEU. Events in the specific fields will be presented below.

The amendments of the Law on Patents introduced more precise rules in the field of innovations made in the course of employment. The latest changes from 2021 refer to the pharmaceutical industry and additionally regulate the area of supplementary protection certificates and small patents, and were introduced to increase the competitiveness of

domestic drug manufacturers compared to those from the European Union.

The Law on Copyright and related rights - A working group was formed to prepare draft amendments to this law. Emphasis is placed on increasing the transparency of the work of organizations for the collective exercise of copyright and related rights. In the framework of activities referring to the accession of the Republic of Serbia to the European Union, the IP Office headed activities referring to the negotiating Chapter 7 – Intellectual Property Rights. This time, the Special Working Group worked on the preparation of the text of the Draft Law on Copyright and Related Rights for the sake of harmonization with the EU Directive 2012/28/EU of the European Parliament and the Directive 2014/26/EU about the collective management organizations and multi-territorial licensing of rights on musical works for online utilization on the internal market. However, this working group deals with the harmonization of this area with the EU directives adopted by 2019. It follows that issues such as digital education and data mining will remain unharmonized, which will make Serbia less competitive compared to the European Union countries.

The Law on Trademarks introduced the opposition system during the trademark examination procedure. This partially slowed down the registration procedure. However, the IP Office keeps on examining both absolute and relative grounds for refusal itself, as well. The change that also occurred is that the principle of international exhaustion of rights is introduced. This disabled prevention of parallel imports using trademarks. It is worth noting that introduction of this principle got Serbia further away from the EU standards. The EU adopted the regional principle of exhaustion, which means that it recognises the outer borders of its market to be relevant. Therefore, this chapter of the law will have to be changed once again before Serbia accedes to the EU.

In 2022, the IP Office played an active role in the enforcement of intellectual property rights. After a computer platform was created in 2021, in cooperation with the Danish Patent and Trademark Office, for the exchange of information whose goal is to facilitate the cooperation of state authorities, primarily customs and market inspection, in their joint fight against piracy and counterfeiting[1] the IP Office continued its cooperation at the EU level. In 2022, the IP Office in cooperation with the EUIPO translated the principles of the common practice under the title CP4 – Scope of protection for black and white signs as well as common practice under the title CP9 – Distinctiveness of three-dimensional trademarks containing verbal and/or figurative elements and included in its Methodology of the Procedures for the Grant of Trademark. In this way, the successful cooperation with the EUIPO regarding the implementation of the principles of EU common practice in the field of trademarks continued.

In 2022, the organisation for the collective management of the actors' rights became fully operational.

REMAINING ISSUES

The most significant pieces of legislation in this field were amended in the past few years. However, the procedure was not transparent, meaning that the professional community was not substantially involved in the drafting of the texts that reached the parliament.

Despite the fact that the relevant intellectual property legislation has already been in place in Serbia for several years, the efficiency of its enforcement is still not satisfactory. The authorities are still reluctant to apply the reasonings in IP matters that are applied by the EU bodies. There are positive initiatives on combating counterfeits online. The Ministry of Trade has a lead role, and it coordinates all relevant bodies like high-tech crime units and postal service providers. However, prosecutors and police units dealing with high-tech crime need more human and technical resources to be as productive as necessary. In this direction, proposals are currently being collected for drafting changes to the Law on Special Powers for the Effective Protection of Intellectual Property Rights, which could eliminate or mitigate some of these problems.

1 2021 Annual IP Office Report.

FIC RECOMMENDATIONS

- The Customs should enable full electronic communication.
- The Law on Trademarks should be changed in such a way that it enables full electronic communication with the IP Office (e.g., removal of the necessity to submit original priority documents on paper). Use this opportunity to amend the provisions of the Law on Trademarks that regulate the exhaustion of rights.
- Following the example of EUIPO's portal, enable greater transparency in the online register of trademarks, so that it will be visible to third parties whether objections or requests for the termination of the validity of a certain trademark have been filed.
- Cybercrime:
  - State authorities should enhance their efforts to combat online copyright infringement, concerning the software, music, and film industries.
  - The Government needs to provide more resources to the courts, prosecutors and police units dealing with cybercrime.
  - Adoption of further amendments to the Law on Copyright and Related Rights in terms of TV broadcasting and re-transmission, in line with the changes of EU SatCab Directive passed in 2019.
  - Amendments to the Criminal Proceedings Law and related legislation with regards to cybercrime.

PROTECTION OF COMPETITION

1.38

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Adoption of the new Competition Law and relevant bylaws as soon as possible	2020			√
In order to enhance transparency and legal certainty, the Commission should issue clear guidelines and instructions containing the manner of application of certain provisions of the Law, with the involvement of interested parties in commenting proposed documents	2010		√	
The fees in the Tariff Rules should be decreased to a reasonable sum, especially in the merger control area.	2009			√
The Commission should publish issued opinions and decisions on individual exemptions within the shortest possible period from their issuance, i.e. to altogether improve transparency and predictability of decisions.	2018			√
The Commission should issue publications of the relevant definitions of product markets grouped by industries every six months, with the aim of harmonizing practice.	2018			√
Sector inquiries should contain more precise findings related to possible infringements of competition and competitive concerns to enable market participants to immediately comply behaviour in accordance with the findings of the Commission.	2021		√	
Judges of the Administrative Court should complete advanced training in both competition law and economics. All rulings of the Administrative court and the Supreme Court of Cassation should be made publicly available, and explained in detail in terms of the substantive issues of the Commission's decisions.	2010			√
The Commission's practice should be consistent with respect to all market players with detailed reasoning in relation to exceptions from the previous practice and the EU practice. In merger control cases, requests for additional information must be related to the assessment of the concentration having in mind broad discretionary powers of the Commission. Considering the penal nature of decisions in the area of competition protection and the significant powers of the Commission, predictability as well as consistency and legal certainty are of crucial importance for all market players.	2021		√	

CURRENT SITUATION

The harmonization with EU competition rules in Serbia began with the adoption of the currently applicable Competition Law in 2009 (the "Law"). The Law set material and technical preconditions in place for the independent work of the Commission for the Protection of Competition (the "Commission"). The Law was amended in 2013, whereas the corresponding by-laws were adopted back in 2009 and 2010, and the new Regulation on the Content and Manner of Submission of Merger Notifications ("Merger Control Regulation") in 2016.

In 2022, there were no developments in the field of the adoption of the new law and bylaws. It appears that there might have been a lack of legislative initiative by the Commission to bring about changes and improvements in regulations within this area during that time.

Despite the apparent lack of legislative initiative in adopting new laws and bylaws, the Commission has been actively working on raising awareness about the importance of complying with competition protection regulations. The preparation of the Model Program of Compliance with the Rules on Protection of Competition, along with accompa-

nying Guidelines on Competition Compliance Programs, suggests that efforts are being made to encourage businesses and organizations to adhere to competition protection regulations voluntarily. Also, the Commission has adopted a new Instruction concerning bid rigging practices in public procurement procedures. The adoption of the new Instruction demonstrates the Commission's commitment to adapting its practices and procedures to reflect changes in the legal framework, including the Law on Public Procurement and amendments to the Criminal Code that have been enacted since the previous Instruction was adopted in 2011.

Given that the annual report of the Commission has not yet been published at the time of writing this text, the information below is presented in accordance with the information available on the Commission's official website. In comparison to 2021, the number of notified concentrations decreased in 2022. Out of 101 resolved concentrations published on the Commission's official website, all of them were cleared in summary proceedings, indicating that no Phase II in-depth investigations were conducted for any of these cases during 2022. Also, based on publicly available information the Commission did not open any Phase II in-depth investigations in 2022. This could suggest that the Commission found no significant competition concerns or other issues that would warrant a more thorough examination of any of the concentrations happening in the previous year.

In 2022, the Commission initiated three new procedures for investigation of the competition infringements, two for an alleged entering into restrictive agreements and one for an alleged abuse of dominance.

The Commission's focus on investigating restrictive agreements involves two cases where resale price maintenance ("RPM") clauses in vertical agreements were suspected. One investigation concerns the wholesale market of ceramic tiles in the Republic of Serbia, while the other one covers a range of markets related to electronic devices such as mobile phones, tablets, accessories, "smart" watches, "smart" TV boxes, and peripheral computer equipment (keyboards and mice). Both cases are interesting in terms of the Commission's statements made and the approach taken vis-a-vis RPM clauses in the conclusions on the initiation of procedures. In the ceramic tiles investigation, the Commission suggests that the amount of the rebate granted to distributors on the domestic market may serve as an incentive to comply with the recommended retail prices, especially when they are compared with the export agreements. In the latter case concerning electronic devices, it is interesting to learn that the Commission has taken a cross-border approach to investigating potential RPM practices in the electronic devices market. By comparing prices charged to consumers in Serbia with prices in neighbouring countries such as Slovenia, Bulgaria, Croatia, Hungary, and Romania, the Commission aims to identify price disparities that could potentially be indicative of anti-competitive behaviour. In any case, it appears that RPM provisions continue to be a significant focus of the Commission in relation to restrictive agreements. RPM clauses are indeed one of the most investigated types of antitrust violations historically in Serbia.

A lot of attention was attracted by the procedure for abuse of dominance on the market of digital platforms for mediation in the sale and delivery of mainly restaurant food and other products against one of the largest platforms on the market. In the conclusion on the initiation of this procedure, the Commission stated that the number of practices such as awards for exclusive cooperation, large amounts of marketing fees conditional on exclusive cooperation, penalties for cooperation with other competitors, terms on termination of the agreements etc. may have led to an exclusionary type of abuse which may have prevented competitors from entering, sustaining, or expanding their position on the market. Also, the Commission is investigating whether the company applied unequal terms for the same practices with different business partners, primarily in terms of charging different commissions depending on whether they cooperate exclusively with the company or also with its competitors, which might have put some of the business partners at the competitive disadvantage.

Further, the Commission continued to examine failures to notify allegedly notifiable concentrations and initiated three new investigations in merger control matters, claiming that there was a change of control that was not notified to the Commission despite the legal thresholds being met. The first two cases encompass two acquisitions made by the same company active in the provision of private security services. The second case is related to e-commerce, whereas the Commission is examining the acquisition of a target company registered in North Macedonia. The latter case could provide valuable insights into how the Commission will navigate challenges in cross-border acquisitions and e-commerce markets. The enforcement activities undertaken by the Commission in 2022 (and previously in

2021) in relation to merger control indicate that the Commission closely observes all concentrations falling within its scope irrespective of the size of an acquirer and a target, their ownership, and the legal basis of the concentration.

In relation to merger control, the Commission's fees for merger control have remained unchanged and are still very high.

Furthermore, the Commission imposed fines in two restrictive agreements cases in 2022, one of those cases concerned a breach in the form of an RPM in vertical agreements with distributors, and the second one related to bid rigging between competitors. The individual fines imposed on infringers in those cases ranged from approximately EUR 28,000, being the lowest individual fine imposed, to approximately EUR 162,000, being the highest individual fine imposed in 2022.

The Commission terminated one antitrust proceeding in 2022. Namely, a case against a city heating plant that was initiated back in 2018 was terminated based on the fact that the city plant fully and completely acted in accordance with the commitments undertaken in 2019 for the next three years. The termination of the antitrust proceeding against a city heating plant based on its fulfilment of commitments highlights the Commission's willingness to resolve cases, subject to resolution of competition concerns, and promote compliance with competition laws.

POSITIVE DEVELOPMENTS

The trend of opening more investigations continued as well as drafting of the sector inquiries and analysis of the conditions of competition on the relevant markets.

In 2022, four sector inquiries/analyses have been completed and their results were published on the Commission's website, these being:

- a sector analysis of the state of competition in the market of other postal services, specifically courier services, from 2019 to 2021,
- a sector analysis of the state of competition in the textbook market for primary education, in the period 2018-2020,
- a sector analysis of the state of competition in the distribution channels of ceramic tiles and sanitary ware between 2018 and 2020, and
- a sector analysis of the intercity bus transport market in the Republic of Serbia.

Through the findings of sectoral inquiries/analyses, the Commission can provide clear and practical guidelines to market participants, helping them understand competition rules, potential pitfalls, and areas that require improvement. This guidance promotes compliance and reduces the risk of anti-competitive behaviour. Therefore, the need for clear and practical guidelines is paramount. The Commission, however, sometimes does not present clear conclusions about possible competition law infringements and identified concerns that prevent market participants to act proactively and align their behaviour with competition law.

Furthermore, the Commission has been actively promoting compliance with competition law through its efforts, including the presentation of the Model Program of Compliance with the Rules on Protection of Competition and the accompanying Guidelines. Such initiatives are important for ensuring fair business practices and maintaining a competitive marketplace. By presenting the Model Program in various cities across Serbia in 2022, the Commission is aiming to raise awareness among businesses and stakeholders about the importance of adhering to competition regulations.

In terms of the events that took place in 2022 and the activities in the area of international cooperation, it can be pointed out that the Commission participated in the International Conference on Competition and Consumer Protection in Georgia. Furthermore, the Commission took part in the International Conference on Competition (ICC) and the Annual Conference of the International Competition Network (ICN) hosted in Berlin by the German competition authority, Bundeskartellamt. Apart from the Commission, approximately 450 participants from over 80 countries attended the conferences, highest representatives of competition authorities, judges, university professors, anti-trust lawyers, representatives of German ministries and other governmental bodies, international companies, etc. Also, in March 2022, the Commission and the Hellenic Competition Commission signed the Memorandum of Understanding on Antitrust Cooperation which is aimed at improving cooperation between the two authorities through the exchange of experiences and comparative practices in the field of antitrust.

Finally, as previously mentioned, in May 2022, the Commis-

sion adopted a new Instruction for the detection of bid rigging in the public procurement procedure, in the light of the new legal solutions that were adopted after the 2011 Instruction (e.g., in the Law on Public Procurement, and amendments to the Criminal Code).

REMAINING ISSUES

Lack of transparency in the Commission's work

The lack of transparency in the Commission's work is indeed a significant concern. Transparency is crucial in ensuring accountability, promoting fair competition, and building trust among stakeholders, including businesses and the public. When decisions are not promptly and comprehensively published, the ability of interested parties to understand the reasoning behind the decisions and assess their implications is hindered.

It is, therefore, of foremost importance that the Commission's decisions are published on the Commission's webpage to ensure transparency and provide timely information about its decisions as well as to maintain legal certainty. Delays in publishing decisions or not publishing decisions at all raise concerns about accountability and legal certainty in enforcing competition law. Even though the Commission should regularly publish its decisions, it is noticeable that the Commission does not publish all the decisions in relevant areas or that it publishes them with significant delays, which does not contribute to either transparency or legal certainty. This has been an issue in previous years, and it remains to be so in 2022. The cause for particular concern is that the Commission did not publish any decision in individual exemption proceedings in 2022 (except for a single decision on suspensions of individual exemption proceedings that was published on the Commission's website in July 2022).

Also, the Commission has not published any decision on the use of the Leniency programme, therefore this programme remains undeveloped. Additionally, the Commission does not publish information on submitted initiatives, even after the decision on such initiatives has been made. Even in cases of submitted initiatives, Commission delays its mandatory notification to the applicant, which should be done within 15 days as of the submission – certain initiatives were never responded.

Annual reports are published with delay, while the relevant court's decisions issued in the process of control of the Commission's decisions are not publicly available at all since such decisions are not published on the Commission's website. Another shortcoming is the fact that the database of the Commission's decisions does not allow for advanced search (with more detailed criteria).

Observance of deadlines and efficient review by the Commission

The efficient and timely decision-making process by the Commission is of the utmost importance to the business community. Delays in both merger control and antitrust cases can have far-reaching consequences for the parties involved and the overall market dynamics. The parties are often not allowed to proceed with their transactions or business operations until they receive the Commission's decision due to the standstill obligation, therefore, any delay in rendering decisions is postponing regular business operations which may cause substantial damages to the parties.

While the Competition Law might not always provide precise or rigid deadlines, it is still important for the Commission to conduct its reviews efficiently and effectively. The absence of specific deadlines should not be used as an excuse for unnecessary delays or inefficiencies in the review process. That is particularly important in the summary proceedings (Phase I), i.e. cases of no-issue concentrations and individual exemption procedures without competition effects on the Serbian market. For example, it happens that the Commission's review of a simple transaction that is undergoing a Phase I review lasts several months (e.g. over 3 months instead of a month as prescribed under the Competition Law, while we duly note that the one-month deadline starts as of completeness) due to the fact that the Commission is able to interpret the provisions of the law in a manner which enables it to extend such as deadline when there is no real need to analyse simple transaction with no effects on local markets for such a long period. For comparison, an in-depth (i.e. Phase II) review of transactions that may have effects on the local market is limited by the Competition Law to up to four months.

Furthermore, it is noticeable that the Commission has been applying a more complex methodology in analysing the individual exemption of restrictive agreements, It is essential that complex analysis in individual exemption proceedings should not adversely affect the efficiency of the

Commission's decision-making process, in terms of avoiding any unjustified delay. In practice, the review period of individual exemption requests is often prolonged beyond the 60 days deadline as envisaged by the Competition Law (and in some cases even lasts for 4-5 months). This is causing practical problems for the business community when it comes to implementing agreements and business policies which require prior approval of the Commission. The economic reality requires swift action from all parties including the Commission. Additionally, the rather restrictive and formalistic approach of the Commission is more evident, as well as deviations from the comparative EU practice in the interpretation of certain procedural legal institutes, which is especially relevant in the procedures of individual exemptions. It is necessary, in the context of preparations for the new competition law, to examine the acceptability of the concept of individual exemption, which the European Union abolished almost twenty years ago. In the 2019 version of the draft law, the legal institute of self-assessment was introduced, whereby the system of individual exemptions was also retained, which was the proposal of the Foreign Investors Council.

Due process rights

The proceedings before the Commission still do not sufficiently guarantee all procedural rights of the parties, such as the rights of the parties to have access to the case file and powers of the Commission in terms of the treatment of privileged communication. In certain merger control cases, the Commission extensively used its right to ask for additional information as it required information not relevant to the assessment of a concentration, which caused unnecessary delays. If the Commission uses its broad discretionary powers in requests for additional information, the Commission must elaborate on the aim and purpose of the requested information and its relevance for the assessment of the concentration.

Dawn raids as a rule rather than an exception

As for dawn raids, the Commission's decisions on dawn raids still lack explanations of reasonable suspicion that evidence will be removed or altered, which is a statutory condition for carrying out dawn raids. Dawn raids should be used only in cases where there is such suspicion. However, at the moment, it seems that the Commission is conducting dawn raids to gather evidence wherever it wishes, regardless of whether the statutory conditions have been met.

Dawn raids are powerful investigative tools that should be used judiciously and in accordance with legal requirements to ensure that evidence is not tampered with or destroyed. Proper justification and adherence to statutory conditions are crucial to maintaining the integrity of the investigative process.

Lack of an effective judicial review at the second instance

Judges of the Administrative Court, as a second court instance, still lack comprehensive knowledge in the areas of competition law and economics to be able to interpret the Commission's arguments and decisions properly. Decisions of the Administrative Court often lack detailed reasoning and consideration of the merits of the case, limiting their scope only to repeating the Commission's findings and consideration of the basic procedural issues, without analysing the arguments of the parties in dispute.

This is a serious shortcoming, as it prevents a confrontation of opinions, a comprehensive and adequate control of the Commission's decisions, and the development and harmonization of practices with EU standards (which is a requirement of the Stabilization and Association Agreement), while it also jeopardizes further appeal proceedings in cases when an extraordinary legal remedy is lodged. Detailed reasoning of the decisions of the Commission and the court, with particular consideration of arguments and evidence presented by the parties to the proceedings, is of considerable importance for establishing judiciary oversight of the Commission's work. Otherwise, the Commission would be in a position to misuse its powers and independence.

Calculation of penalties

The method of determining penalties is characterized by inconsistency and unpredictability in the application of the Law. For example, a substantial part of the existing guidelines is not in compliance with the law, the methodology for determining coefficients for individual factors in meting out the penalty is unclear, the Commission's decisions often do not include an overview of the established coefficients for individual factors nor proper reasoning, and total revenues of the party to proceedings is taken as a basis for the calculation of the fine, instead of calculating the fine based on revenues derived from only the relevant market where competition was infringed. In the last version of the draft Competition Law, it was provided that penalties will

be calculated based on the relevant turnover, i.e. turnover generated on the relevant market on which the competition infringement was made, which is significant progress with regards to the previous situation and which is also in line with the EU rules.

A clear and consistent methodology for calculating fines is essential to ensure fairness, transparency, and effective enforcement of competition law, especially considering that fines under competition law can be significant. Non-compliant guidelines, unclear coefficient determination, lack of reasoning, and the use of total revenues instead of relevant market turnover, can all lead to legal uncertainty and undermine the credibility of the enforcement process.

Improvement of economic analysis

Although the Commission has made serious efforts to improve the quality of economic analyses, it is necessary to consistently apply economic analyses in all proceedings before the Commission, taking into account the specifics of each particular case, and further work is needed in improving the quality of reasoning behind the Commission's decisions. In the previous period, it was evident that the Commission has issued contradictory decisions with regard to its previous practice in certain cases, without proper reasoning for doing so.

Lack of clarity in the application of merger control rules

Some legal uncertainty is also caused by a lack of clarity in the application of merger control rules to transactions that involve the acquisition of control over parts of undertakings, as well as the acquisition of control on a short-term basis. These problems often arise in the interpretation of the term "independent business unit", usually related to the acquisition of control over real estate, where the business community needs clear and timely guidance from the Commission in respect of future practices, which still do not exist, i.e. are not published.

Leniency severely underused in practice

As for the leniency programme, the Commission did not publish any decision on the implementation of this programme, so it is unknown whether this institute is used in the practice and to which extent.

It is concerning to see that the leniency program is not being effectively utilized in practice. The leniency program is a vital tool in antitrust enforcement, designed to encourage companies to come forward and report their involvement in anti-competitive activities in exchange for reduced penalties or immunity. Its successful implementation can lead to the detection and deterrence of cartels and other anti-competitive behaviour while, at the same time, building trust between the business community and the Commission.

Further digitalisation

The need for further digitalisation of the process and work of the Commission has become evident during the COVID-19 pandemic and remains an issue up to date. The Commission should apply more resources to digitalisation which would ease and simplify their work in the given situation (e.g. holding meetings of the Council electronically, holding meetings with the parties electronically even when it is not possible to meet in person etc.).

New Competition Law and the relevant by-laws

Finally, it appears that the work on the preparation of the new Competition Law has been on hold since 2019. The Foreign Investors Council has been an active member of the Working Group for preparation of the new Competition Law and believes that the whole process of preparation and adoption of the new Law should be continued, as the draft of the new Competition Law provides various legal institutes which already exists within the EU acquis communautaire and which could be beneficial for the purpose of strengthening of the legal certainty in the Serbian competition law framework, such as negative clearance, calculation of fines on the basis of the relevant turnover, etc.

Also, a number of by-laws (e.g. on vertical and horizontal agreements) are severely out of date and need to be amended in order to reflect the economic reality and developed practice on the local and the EU level.

FIC RECOMMENDATIONS

- Adoption of the new Competition Law and relevant bylaws as soon as possible.
- In order to enhance transparency and legal certainty, the Commission should issue clear guidelines and instructions containing the manner of application of certain provisions of the Law, with the involvement of interested parties in commenting proposed documents.
- The Commission must decide in all competition cases efficiently and timely. Lack of a clear legal deadline in certain instances must not be an excuse for an inefficient review e.g. in Phase I merger case and individual exemption cases.
- The fees in the Tariff Rules should be decreased to a reasonable sum, especially in the merger control area.
- The Commission should publish decisions on individual exemptions within the shortest possible period from their issuance, i.e. to altogether improve transparency and predictability of decisions.
- The Commission should issue publications of the relevant definitions of product markets grouped by industries every six months, with the aim of harmonizing practice.
- Sector inquiries should contain more precise findings related to possible infringements of competition and competitive concerns to enable market participants to immediately comply behaviour in accordance with the findings of the Commission.
- Judges of the Administrative Court should complete advanced training in both competition law and economics. All rulings of the Administrative Court and the Supreme Court of Cassation should be made publicly available and explained in detail in terms of the substantive issues of the Commission's decisions.
- The Commission's practice should be consistent with respect to all market players with detailed reasoning in relation to exceptions from the previous practice and the EU practice. In merger control cases, requests for additional information must be related to the assessment of the concentration having in mind the broad discretionary powers of the Commission. Considering the penal nature of decisions in the area of competition protection and the significant powers of the Commission, predictability, as well as consistency and legal certainty, are of crucial importance for all market players.

STATE AID 1.71

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Transparency of the procedure - introduction of the registry of state aid and effective control of the compliance with the obligation to report to the aid grantors.	2021		√	
Continuous and effective control of compliance with the law– utilizing different mechanisms envisaged in the Law in order to monitor granted state aid and also impose measures for incompatible state aid.	2021		√	

CURRENT SITUATION

The legal framework regulating the granting of state aid in the Republic of Serbia consists of the Law on State Aid Control from October 2019 (the "Law"), which entered into force on 1 January 2020, and the relevant bylaws.

There are no data on state aid granted in 2022 because the annual report is not available yet but only information from the annual report for 2021. The total absolute amount of state aid granted in 2021 amounted to RSD 221,876 million (EUR 1.6 billion) while its share in gross domestic product was 3.5% which is less compared to 2020 when the account of state aid in the GDP was 4.96%. The state aid without aid for agriculture accounted for 2.9% in 2021, compared to 4.1% in 2020.

In 2021, the agricultural sector was granted state aid in the absolute amount of RSD 40,897 million (approximately EUR 347.8 million), which is approximately the same amount as in 2020. State aid was granted to the industry and services sector in 2021 in the absolute amount of RSD 117,401 million (approximately EUR 999 million). Compared to 2020, this state aid represents an increase (in 2021 it was 52.9% while in 2020 it was 30.2%) The most common instrument for granting state aid in 2021 were subsidies, with a share of 62.1% in total state aid, followed by tax incentives with a share of 19.2%.

POSITIVE DEVELOPMENTS

Under the Law, the Commission for State Aid Control ("CSAC") functions as an independent body and is accountable to the National Assembly, ensuring independence from the executive power from a formal-legal point of view. In the previous period, there have been improvements in the financial independence and personnel capacities of the CSAC.

A precondition for legal certainty is the assurance of transparency of CSAC's work. The CSAC has a duty to publish its decisions on its website and to maintain a registry of granted aid, including a separate de minimis aid registry. The registry of granted aid is still waiting to be deployed.

Many bylaws have meanwhile been adopted. The most important are the decrees on regional and horizontal state aid, granting of state aid in the fields of culture and information, and state aid for recovery and restructuring of market participants in difficulties.

REMAINING ISSUES

In the last report on Serbia's progress in the EU accession process for the year 2022, European Commission indicated that despite a solid legal framework on state aid control, consistent implementation of these policies remains weak. The core obstacles to the further harmonization of national legislation with the European acquis:

- the lack of list of state aid schemes and of an action plan for their harmonization, especially of fiscal state aid schemes established in accordance with the Law on Corporate Income Tax,
- the lack of regional maps,
- the lack of a register of granted state aid,
- notification and the standstill obligations are still not be-

ing systematically respected and state aid is occasionally provided to economic operators, particularly foreign investors, without prior approval by the CSAC, and

- lack of strict enforcement with respect to agreements concluded with third countries.

In 2022, the CSAC adopted 109 decisions (according to the data available on the website of CSAC), of which 97 ascertain the existence of state aid and assess the compliance of state aid without any ex post procedure being commenced or recovery decision being taken. There are 5 binding opinions on draft regulations adopted of which 2 opinions indicate that the state aid was partially compliant. Also, CSAC adopted 7 notifications with binding instructions on how to comply aid with the applicable rules.

State aid policy must be predictable and consistent and primarily based on grantor schemes, while individual aid should be the exception. It is necessary to adopt clear plans and programs based on which companies and the public can be informed about that policy in a timely manner, and not from the decisions of the CSAC.

Attracting investment in underdeveloped regions, as well as defining a clear government strategy on investment areas (digitalization and green energy) with full respect for state aid rules, are key starting points for achieving a clear and cost-effective state aid allocation.

With the new law and bylaws in force, the CSAC must actively work on developing the awareness of all relevant parties about these rules, especially state aid grantors and beneficiaries whose knowledge is limited. The stated is a precondition for the involvement of the economy and the general public in the drafting of state aid policy, targeting vulnerable categories or sectors of the economy, so that specific, predictable, and effective solutions can be reached jointly.

It is necessary to raise awareness and capacity of state aid grantors, thus increasing the legal certainty of state aid beneficiaries when allocating funds.

FIC RECOMMENDATIONS

- Transparency of the procedure - introduction of the registry of state aid and effective control of the compliance with the obligation to report to the aid grantors.
- Continuous and effective control of compliance with the law– utilizing different mechanisms envisaged in the Law in order to monitor granted state aid and also impose measures for incompatible state aid.

CONSUMER PROTECTION 2.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Improving and strengthening the system of out-of-court settlement of consumer disputes.	2022		√	
Promoting the protection of consumer rights and interests at the local level.	2013		√	
Ongoing work on consumer education and implementation of topics in the field of consumer protection in primary and secondary education curricula.	2014		√	

CURRENT SITUATION

The National Assembly of the Republic of Serbia adopted a new Law on Consumer Protection in 2021, which, while retaining some earlier solutions, provides for a lot of innovation with the aim of improving consumer protection and position in relation to previous solutions. The Law entered into force on 19 September 2021, and its application starts after the expiration of three months from the day of entry into force (except for the provisions of Articles 149 to 169, which apply from 20 March 2022).

In addition to referring to the provisions of the Constitution of the Republic of Serbia, the reasoning of the Law also refers to Article 78 of the Stabilization and Association Agreement, which stipulates that the parties will encourage and ensure a policy of active consumer protection in accordance with Community Law and the harmonization of the Consumer protection legislation in Serbia with the protection which is already in force in the EU community. When it comes to strategic planning in this area, the Consumer Protection Strategy for the period 2019-2024 envisages legislative measures in order to improve the consumer protection system in accordance with new challenges on the world market and more complete protection in accordance with EU best practice.

One of the most significant innovations brought by the new Law is the significant improvement of the mechanism of out-of-court settlement of consumer disputes (which does not exclude and does not affect the exercise of the right to judicial protection). The new solution defines out-of-court settlement of consumer disputes as a way of resolving disputes between consumers and traders before the body for out-of-court settlement of consumer disputes entered in the List of bodies for out-of-court settlement of consumer disputes. Proceedings before the body can be initiated by the consumer only if they have previously raised a complaint or objection to the trader and the trader is now obliged to participate in the out-of-court settlement of consumer disputes proceedings before the body. The fine for those who refuse to participate in mediation or do not publish a notice that the buyer has the right to an out-of-court settlement of the dispute is RSD 50,000 (Approximately EUR 425). Although this way of resolving disputes has existed before, so far, traders in practice avoided participating in the process, they only rejected complaints on goods and referred dissatisfied customers to court, and those consumers often opted not to pursue the matter to court. The Law introduces an obligation for the competent courts for resolving consumer disputes to keep records of these disputes and to submit data from the records to the Ministry of Justice.

The Law also introduced the so-called "Do not call" register of telephone numbers of consumers who do not want receive calls of traders who offer goods / services by telephone which is kept by the regulatory body responsible for electronic communications, which should prevent or reduce aggressive business practices that exist through multiple telephone calls to consumers. Namely, the consumer who wants his telephone number to be found in the register, fills in the form and submits it to the operator whose network he uses, and the operator forwards the data on the telephone number to RATEL (The Regulatory Agency for Electronic Communications and Postal Services).

The new Law also improved and more precisely defined the complaint procedure (after two years from the purchase, the complaint is declared to the issuer of the guarantee and the Law introduces the obligation to receive the complaint for the seller addressing previous problems in practice related to the rejection of complaints by the seller), the obligation to prepare a calculation and specifications of the sale price of the service (for value of services

greater than RSD 5,000 approximately EUR 42). the necessary parts of the invoice issued for services of general economic interest is prescribed, and the prohibition of unfair business practices covers all phases of purchase (this legal specifying is very important, considering that it provides room for more comprehensive implementation of inspection supervision).

The implementation of the new Law provides greater protection for consumers in exercising the rights under the travel contract. One significant novelty is the binding nature of pre-contract information, which stipulates that passengers must be provided with information of other expenses, which are not included in the single sale price of a tourist trip, therefore the passenger will not be obliged to bear them unless they are informed.

The Law now introduces the possibility of issuing misdemeanour warrants in the domain of traders' liability, i.e., it prescribes a fixed fine in the amount of RSD 50,000, (Approximately EUR 425) for legal entities and RSD 30,000 (Approximately EUR 255) for entrepreneurs, for certain misdemeanours. Longer statutes of limitations are also prescribed, so misdemeanour proceedings cannot be initiated or conducted if two years have elapsed from the day when the misdemeanour was committed (previously, the one-year statute of limitations established by the Law on Misdemeanours was applied).

Work on amendments to the Law on Consumer Protection is ongoing in order to improve regulations and harmonize with European regulation.

POSITIVE DEVELOPMENTS

Although the previous Law presented a significant step forward in terms of ensuring a high level of consumer protection, during the implementation of the previous Law certain shortcomings were observed which affected the unsatisfactory level of consumer protection, which the new Law, with its numerous improvements, should take to a higher level.

One example of the improvement is the introduction of an out-of-court settlement obligation, an attempt to ease pressure on the courts, as well as to stimulate consumers to continue the process of exercising their rights at no additional cost, which in the past has been the reason consumers have given up on court proceedings.

Significant advances are also established restrictions on direct advertising, so the Law foresees a ban on direct advertising by phone, fax or e-mail and other means of long-distance communication, without the prior consent of the consumer.

One of the major innovations and improvements is the introduction of the "Do Not Call" registry, which will serve as a consumer database for those who have expressed their preference not to receive promotional calls and/or messages for the promotion and/or sale of specific goods or services. A consumer who does not wish to be contacted by merchants or agencies engaged in promotion or research will contact their electronic communications operator, with whom they have a contract, and request to be included in the registry. It is the obligation of merchants or promoters to check the registry before contacting consumers to ensure that a specific phone number is not on the list of numbers not to be called.

Also observed is the higher engagement of the Consumer protection association through educations of consumers on their rights, organizing round tables during which significant topics in this area were discussed as well as testing consumer products and informing consumers on perceived irregularities etc. The Law itself provides additional obligations for consumer protection associations as well as service providers of general economic interest, and they apply to complaints commissions and advisory bodies.

Collaboration has been established between the association (counselling center) and other institutions, primarily with the inspection authorities (market inspection). According to reports from the association (counselling center) in 2022, regional consumer counselling centers have forwarded a total of 1,157 complaints to the inspection authorities.

Positive improvements have also been visible on the at the level of local administrative units and competent state institutions (including primarily ministries, inspection departments and courts), where, various types of education on consumer protection were organized, such as trainings for employees, conferences and round tables, all with the aim of raising the level of their expertise and implementation of EU standards, as well as government activities to improve the framework for e-commerce development. According to the research of the Serbian Chamber of Commerce, e-commerce has doubled during

the state of emergency compared to the time before the COVID-19 pandemic, and the growth of online commerce is expected in the coming period.

The new Law should, as previously announced, give greater protections to passengers in tourism, and it is planned to harmonize the consumer rights of Serbian citizens with the new regulations of the European Union on travel in package deals and related travel arrangements.

REMAINING ISSUES

Although the Law formally establishes a greater balance in the relations between traders and consumers, the results in practice still attest to the fact that this relationship is still far from equal. Data from the Ministry of Trade and the National Consumer Complaints Registry Report indicate that the situation regarding this matter is almost identical to last year. In regional consumer counselling centers, a total of 22.869 complaints were recorded during the period of -2022 which is nearly the same number of complaints as last year. Data on consumer complaints by place of purchase show that the majority of consumers still make purchases in a traditional manner, at retail stores, in 90.59% of cases. Online purchases accounted for 7.01% of cases, door-to-door purchases for 1. 18% of cases, while phone purchases, promotion purchases, catalogue purchases, and TV shopping accounted for less than 1% of the total number of consumer complaints by place of purchase.

Regarding out-of-court resolution of consumer disputes, there has been a noticeable shift since the adoption of the new law. This is evidenced by the fact that in 2021, when there was no obligation for traders to participate in out-of-court dispute resolution, there were only seven proceedings compared to 779 proposals for initiating proceedings since July 2022 when the IT platform for out-of-court consumer dispute resolution was activated. Given that out-of-court resolution of consumer disputes has been in practice for about a year, it may still be too early to provide a final assessment of the effectiveness of the process.

Although the new law was enacted in 2021, compliance with it and the establishment of the "Do Not Call" registry have not yet been implemented. It is expected that the "Do Not Call" registry will be established in the near future, with a deadline for the completion of the user database set for September 2023.

Consumer Protection Associations insist that insufficient information of consumers is another cause of consumer problems and occurs as a result of a lack of notification of consumers prior to the conclusion of the contract as a legal obligation of the trader, which is necessary for a reasonable selection of offered goods or services. It is necessary to strengthen competition across the supply of goods and services on the market and continue to carry out activities to raise consumer awareness of their rights and mechanisms for achieving them, so that consumers make rational economic decisions about buying goods or services.

Efforts should be made to enable associations to become independent in their work, and one way to achieve this is by empowering them through networking and cooperation with local government.

Although there have been noticeable improvements in terms of educating and informing consumers about their rights, it is necessary to actively continue campaigns throughout Serbia in order to balance consumer information in all regions of Serbia.

FIC RECOMMENDATIONS

- Improving and strengthening the system of out-of-court settlement of consumer disputes.
- Promoting the protection of consumer rights and interests at the local level.
- Ongoing work on consumer education and implementation of topics in the field of consumer protection in primary and secondary education curricula;

PROTECTION OF USERS OF FINANCIAL SERVICES

2.11

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Further educating financial services consumers on their rights, as well as insurance service users	2014		√	
Educating judicial officers on banking operations and insurance sector.	2020			√
Permanent resolving disputes initiated by loan processing fees.	2021	√		
Amendments to the Law on Conversion in terms of specifying norms that would clearly define the the currency clause and rights of clients and banks.	2021			√
Permitting the electronic issue of bills of exchange for individuals	2019		√	
Regular workshops and seminars are proposed in cooperation with the NBS and insurance companies, and for the purpose of constructive discussions, exchange of opinions and obtaining instructions and guidelines in the field of finding the best solutions in the field of protection of rights and interests of insurance users.	2020	√		
Continuous exchange of opinions and constructive discussions with insurance companies regarding the implementation of rules on insurance distribution, ie regulatory requirements regarding market behaviour.	2021	√		
Increasing the limit stipulated in Article 3, paragraph 3 of the Law on the Protection of Financial Services Consumers in Distance Contracts, that is, enabling the conclusion of a contract through two-factor authentication or an IT solution that would enable the security without the use of an electronic qualified signature	2021		√	
Promoting mediation as way of resolving litigations between banks and financial services consumers and amending the Law on Mediation would be important in that regard.	2022		√	

CURRENT SITUATION

The rights of users of financial services provided by banks, financial leasing providers, and merchants, as well as the conditions and manner of using and protecting such rights, are regulated by the Law on the Protection of Users of Financial Services (hereinafter: the Law), with the latest amendments that have been in force since 2015. The Law in question has created a legal framework for regulating the position of users of financial services (natural persons, entrepreneurs, as well as farmers) in relation to banks, insurance companies, and other providers of financial services. What is indisputable is that the Law has introduced legal certainty and clarity in the relations between users of financial services and their providers. Namely, rights and obligations are much more clearly and precisely regulated than was the case before the adoption of the named law.

In addition to the aforementioned Law, due to the increasing importance of electronic contract conclusion in the overall digitization process, the Law on the Protection of Users of Financial Services in Distance Contracting was adopted and implemented from September 2018. By adopting the named Law, the regulator recognized the importance of the development of digitization in the process of concluding contracts, i.e., the clear regulation of rights and obligations when concluding contracts at a distance.

In order to provide a uniform solution to the problem of loans indexed in Swiss francs, the Law on the Conversion of Housing Loans Indexed in Swiss Francs was adopted and entered into force in May 2019. The law applies exclusively to natural persons who have concluded contracts with the bank on housing loans indexed in Swiss francs (CHF), while those who have already converted their debt into euros,

according to one of the earlier models, are not covered by this law. The main intention of the legislator was to try to solve the problem with the loans in question in a clear and simple way, both in the interest of natural persons and in the interest of the financial and judicial system. What still remains a problem in practice is the application of the relevant law by the acting courts, as well as the coverage of categories of clients. The number of disputes has been significantly reduced, but even with the adoption of this law, it has not been completely resolved.

In order for the rights and obligations of users and providers of financial services to be regulated in a clear and comprehensive manner, the National Bank of Serbia (hereinafter: NBS) has adopted a set of decisions regulating the area of the protection of users of financial services. The decision on closer conditions for advertising financial services, adopted in 2019, clearly stipulates that financial services must be advertised in a way that is clear and understandable to the average person, thereby providing additional protection, primarily to natural persons as users of financial services. With the latest changes from 2021, clients are enabled to know precisely the way and procedure to protect their rights in relation to financial service providers if they believe that they have been violated.

To enable natural persons to have an account necessary for daily life activities, in August 2022, the Decision on the salary account with basic services was adopted. Based on this decision, all citizens are enabled to receive a set of essential financial services necessary for everyone in modern society at an appropriate cost. The aforementioned decisions, along with others made by the National Bank of Serbia, round off the entire system that regulates the relations between users of financial services and their providers, which is very important because legal certainty brings legal confidence.

On the other hand, the method of protecting the rights and interests of the insured, policyholder, insurance beneficiary, and third-party injured parties is regulated by the Decision on the method of protection of the rights and interests of insurance users, which has been in force since November 2015. Additionally, the protection of users of insurance services is regulated by the Insurance Law of 2014.

To conclude this introductory part, we would also like to point out that the National Bank of Serbia has been accepted as a full member of the International Organization for the Protection of Users of Financial Services (FinCoNet). This membership enables the exchange of information, experiences, and regulatory and supervisory practices with foreign organizations in the field of the protection of users of financial services and can represent a significant contribution to the protection of domestic users.

POSITIVE DEVELOPMENTS

In terms of recommendations from last year, improvements have been made to the following extent:

- Further education of users of financial services about their rights, as well as users of insurance services

Regarding this recommendation, it's worth noting that there has been some progress, as indicated by the increased number of justified complaints. However, it is undeniable that there is still a considerable number of unfounded complaints from users of financial services. What is indisputable is that the National Bank of Serbia places a strong emphasis on ensuring a fair relationship and the protection of users of financial services.

Specifically, in the area of educating users of financial services, the National Bank of Serbia has dedicated a special section of its website to inform users. In addition to offering quick and easy access to relevant regulations, the NBS has provided answers to some of the most common and important questions users encounter in practice. It's worth noting that this section of the National Bank of Serbia's website is highly user-friendly, as the relevant texts and articles are not written in complicated bureaucratic language that can be a barrier for the average user. Furthermore, the text is often accompanied by helpful video clips.

However, the National Bank of Serbia's 2022 report reveals that users are still not fully aware of their legal rights and obligations. In 2022, out of a total of 1061 complaints about the performance of banks, only 376 were found to be valid. A similar pattern exists with complaints about the operations of insurance companies during the same period, with 218 of the complaints found to be valid out of a total of 828 complaints. While these data undoubtedly reflect progress compared to the situation in 2019 when the percentage of valid complaints was less than 15%, it's clear that there is still a long way to go before users are adequately informed about the scope of their rights and obligations.

Therefore, we believe that the conditions for user education are in place, and users themselves can learn about their rights and obligations in a clear and straightforward manner if they wish. Additional promotion and outreach to users through a public information service may be necessary.

– Permanent solution for disputes regarding loan processing fees in the manner described above –

Some progress has been observed in the resolution of loan processing disputes. Specifically, there has been a significant decrease in the number of new lawsuits filed. Certain courts correctly interpret the legal position of the Supreme Court of Cassation regarding the permissibility of contracting loan processing costs. However, on the other hand, some courts introduce legal uncertainty in this area by taking a more liberal interpretation of the Supreme Court of Cassation's position.

Overall, judicial practices still vary in this matter and depend on the specific court where the claim is filed. This variability continues to pose legal and financial risks for both clients and financial service providers.

– Facilitating the electronic issuance of bills of exchange for natural persons

We believe that there has been some progress. However, this progress does not imply actual implementation of the recommendation in question. Instead, it reflects the clear stance of the National Bank of Serbia that, in the future, the Central Register of e-bills will also be extended to natural persons who do not engage in business activities.

– Promoting mediation as a way of resolving disputes between banks and users of financial services.

Regarding this recommendation, we wish to emphasize the significant contribution of the National Bank of Serbia to the peaceful resolution of disputes between clients and banks. Through the National Bank of Serbia's website, clients can easily and simply find information on how to initiate the mediation procedure, which is voluntary and free of charge and can be also submitted electronically.

Finally, it's worth emphasizing that in early September 2023, the National Bank of Serbia issued a Decision on temporary measures for banks, specifically related to housing loans for natural persons in amounts up to €200,000. The primary aim of this Decision is to curb the sudden surge in interest rates. In line with this, the National Bank of Serbia has capped the nominal interest rate for housing loans. This Decision not only reduced interest rates on previously approved loans but also established limits on interest rates for housing loans approved after its enactment. The significance of such action, particularly during a period of rising interest rates, cannot be overstated. It has led to a reduction in loan installments for individual users, typically ranging from 10% to 25%, and in some cases, the reduction may be even higher. However, it's important to note that since the Decision has a limited timeframe, and its measures are temporary, the full impact on long-term housing loans and the situation of users of financial services burdened with high-interest rates can only be assessed at a later date.

REMAINING ISSUES

I. **Further education of users of financial services about their rights, as well as users of insurance services**

As previously mentioned, we have observed some improvement in this aspect. Our recommendation is that, primarily, natural persons as users of financial services should be educated about their rights and obligations through various information channels within the public media service. While we acknowledge that everyone has the opportunity to learn about their rights and obligations in the area of financial services, particularly through the National Bank of Serbia's website, educating clients through a variety of broadcast formats would significantly enhance the development of financial awareness among citizens.

2. **Education of holders of judicial functions in the banking business and in the field of insurance**

We believe that the lack of understanding of the banking, insurance, and leasing industries by those in judicial roles is one of the major issues affecting the stability of the financial system. The justifications of numerous court rulings regarding loan processing fees indicate that individuals in judicial positions often lack the necessary knowledge to make informed legal decisions within the banking sector. Similarly, the inconsistent jurisprudence, particularly in cases involving insurance for accidents, points to a similar issue in the insurance sector. In this regard, we believe that ongoing training for individuals in judicial roles is essential, with the goal of enhancing their understanding and famil-

iarity with regulations in the banking and financial sectors. While we may not propose a specific training method, we are confident that the High Council of the Judiciary, the Supreme Court, the National Bank of Serbia, and other relevant bodies working in collaboration with the financial sector can make a significant contribution to improving the performance of individuals in judicial roles concerning financial services.

3. **Enabling the electronic issuance of promissory notes for natural persons**

The National Bank of Serbia has announced that it is in the final phase of developing an IT solution for implementing electronic promissory notes for legal entities and entrepreneurs. The Central Register of e-bills is expected to become operational shortly, catering to legal entities and entrepreneurs.

Given technological advancements and the widespread use of promissory notes as a means of securing credit contracts, it's in the interest of natural persons who use financial services to also have the capability to issue e-promissory notes. Positive regulations have made it possible to conclude loan agreements using both two-factor authentication and a qualified electronic signature, which is a significant benefit. However, the current requirement for the loan beneficiary to physically visit a bank branch to issue a promissory note as a means of securing the loan somewhat diminishes the convenience and advantages of this solution.

Our proposal for this year aims to strike a compromise that benefits all participants in the financial services market. It is unquestionable that the Central Registrar of e-bills is closely linked to the forced collection of such bills without the need to initiate judicial enforcement proceedings. We understand that allowing this for natural persons at this moment could expose them to additional risks if a promissory note issued by a natural person could be enforced without judicial scrutiny.

Therefore, our proposal is to allow natural persons to issue an e-promissory note through the Central Register of e-promissory notes, but with a crucial restriction. The note would only be activatable by the creditor after submitting an execution proposal to the competent court and delivering a certificate issued by the Central Register of e-promissory notes confirming its issuance and registration.

Regulating e-bills for natural persons in this manner would make financial services more accessible, while also safeguarding the position of natural persons as users of these services.

4. **Permanent solution for disputes regarding loan processing fees and amendments to Article 368, paragraph 1 of the Law on Civil Procedure**

As we stated, the situation regarding loan processing disputes is significantly better than it was during 2021 and at the beginning of 2022. However, it has not yet been resolved and significantly burdens the country's financial and judicial system. Additionally, a significant increase in enforcement procedures based on first-instance judgments in connection with loan processing fees is noticeable. In accordance with Article 368 of the Civil Procedure Act, which stipulates that an appeal against a first-instance judgment ordering a legal entity to pay claims whose principal does not exceed the amount of EUR 1,000.00 in dinar equivalent at the middle exchange rate of the National Bank of Serbia on the day the decision was made, does not delay execution. Namely, by submitting a proposal for execution based on a non-legally binding judgment, lawyers expose their clients to a significant risk if, by decision of the court, the judgment is changed. In such a situation, if the client's claim against the bank was collected on the basis of a first-instance judgment, which was changed or abolished, the bank has the right to claim from the client the entire collected claim increased by the costs of the enforcement procedure, as well as the costs that the bank will incur in the counter-execution procedure.

The aforementioned puts clients, especially natural persons, in an unfavorable financial position due to the irresponsible actions of their lawyers. It is often the case that the clients were not even informed by the lawyers of the fact that such a possibility exists. In order to completely relieve the financial system of disputes regarding loan processing fees, it is first of all necessary to consider the adoption of an additional legal position by the Supreme Court of Cassation or the adoption of a special law that would regulate this area. In addition, regardless of the final decision, what is more than urgent is the amendment of Article 368 of the Law on Civil Procedure and the abolition of the possibility of enforcement based on an invalid judgment. Namely, this provision, due to the combination of circumstances, is now a new significant danger for financial stability because the banks' claims

against clients, and after the modification of the first-instance decisions, are increasing every day.

5. **Amendments to the Law on Conversion in terms of specifying norms that would clearly define the currency clause as well as the rights of clients and banks, all with the aim of relieving the judicial authorities**

Since the Law on the Conversion of Home Loans Indexed in Swiss Francs did not cover all categories of loan users indexed in Swiss Francs, disputes against banks persist, particularly among users who repaid their obligations before the law came into effect or chose not to accept the conversion. However, the extent of these disputes is significantly reduced. Therefore, it is necessary to amend the Law on the Conversion of Housing Loans Indexed in Swiss Francs to address all uncertainties that are the subject of court disputes.

6. **Increasing the limit from Article 3, Paragraph 3 of the Law on the Protection of Users of Financial Services in Distance Contracting**

The Law on the Protection of Users of Financial Services in Distance Contracting provides for the possibility of concluding distance contracts, in which a written form with the use of a qualified electronic signature is mandatory. However, the legislator recognized that a significant number, especially natural persons, do not possess a certificate for a qualified electronic signature. It is stipulated that the user can enter into a long-distance contract "worth up to 600,000 dinars without using a qualified electronic signature, provided that the user consents to the contract's conclusion by employing at least two elements to confirm the user's identity (authentication) or by using electronic identification schemes of a high level of reliability.

In practice, over the past few years of law enforcement, financial service providers, particularly banks, have increasingly enabled the conclusion of contracts at a distance, especially for loans, using a two-factor authentication procedure. As we mentioned, the primary reason is that a large number of citizens do not possess a qualified electronic signature. While we believe that a qualified electronic signature is something every citizen of Serbia should have, at this moment, we think that the digitization of financial services, on the one hand, and the fact that a significant percentage of natural persons do not have a qualified electronic signature, necessitate an increase in the specified limit. Regarding the amount itself, we leave it to the regulator to assess, but in any case, we believe that the risk would not significantly increase if the limit were raised to 1,200,000 dinars.

7. **Issuance of a legal opinion by the Supreme Court of Cassation regarding the proof of contracts concluded at a distance**

Considering the experience gained from numerous disputes that have burdened both the financial system and the country's judicial system in recent years, we believe that special attention should be given to a particular issue, which has the potential to become a future problem if not addressed promptly. The widespread practice of concluding contracts at a distance using two elements to confirm the user's identity (authentication) leads us to a situation where, at some point, there will be a need to prove that the contract was indeed executed. As simple and convenient as the process of contract conclusion may be, we consider the procedure for proving that the contract has been concluded to be rather complex. Consequently, it is necessary for either the Supreme Court of Cassation to issue a legal opinion on the requirements for financial service providers to provide as evidence that the contract was concluded when initiating a judicial collection procedure, or for the regulator to issue an authoritative interpretation that offers a detailed clarification on this matter. This step is crucial for ensuring complete legal certainty and clarity.

8. **Continuous exchange of opinions and constructive discussions with insurance companies regarding the implementation of the rules on insurance distribution, i.e. regulatory requirements regarding market behavior**

In the insurance sector, we would like to highlight the following issues encountered in the previous year: an increase in the number of reported claims and objections filed by lawyers, primarily based on material and immaterial damages from liability insurance due to motor vehicle usage, has been observed. This has led to an increase in the costs incurred by insurers, particularly in terms of settling attorney's fees. Additionally, some lawyers handling compensation claims and objections lack professional knowledge in the insurance field. In certain cases, they submit objections to both insurance companies and the National Bank of Serbia (NBS), even when it's evident that their claims are unfounded. There have been instances where they refuse

to submit the special power of attorney, as mandated by the Decision on the Procedure for Complaints by Users of Insurance Services from 2021. This often results in dissatisfied individuals contacting the NBS.

Insurers frequently face premature objections, particularly concerning the amount of future compensation from insurance, while the processing of compensation requests is still ongoing, and no initial decision has been reached. Furthermore, there is a growing trend of lawyers, when representing insurance service users, submitting incomplete compensation requests. Subsequently, when the insurance company requests additional information, as it is unable to make a decision based on the available documentation, these individuals initiate court cases. Although these disputes are typically resolved quickly once the requested information is provided, they contribute to an increase in the number of court cases and overall costs for both insurance companies and policyholders. This situation erodes trust in the insurance industry and is primarily driven by individuals seeking quick and easy profits.

The insufficient knowledge of insurance matters, both by lawyers and judges, coupled with lengthy legal procedures, leads to extended waiting times for verdicts. These verdicts may not align with the evolving trends in the insurance market and the views of the NBS.

Regarding regulations governing market behavior in the insurance sector, as substantial improvements are planned for the existing regulations in this field, continuous and constructive communication between the industry and the NBS before implementing and prescribing new obligations would be beneficial. This approach can help in properly assessing the level of market development and the current level of user protection achieved through existing regulations and rules that impact various aspects of insurance companies' operations, from supervision and product management to product placement and distribution.

9. **Implementation of the Open Banking model, that is, banking identity**

Bank authentication represents the highest level of client verification. Once a client undergoes the identification process with one bank, there is no need to repeat the same procedure with other banks.

Currently, banks are obligated to facilitate the transfer of a payment account in the same currency and provide all the necessary information when a client opens an account in a new bank, based on authorization. This existing mechanism can be extended so that when a client already has an account with one bank and wishes to open an account with another, the new bank can automatically access all the required client identification data from the bank where the client already holds an account. A similar mechanism is already in use by eAdministration in collaboration with specific banks in the domestic market for issuing credentials.

The introduction of the Open Banking model in this manner would foster increased competition within the banking industry, with a primary focus on delivering high-quality services to the citizens of Serbia. This aligns with the vision of the regulator and the Law on Payment Services.

Enhancing the user identification process builds upon the existing framework of the Law on Payment Services, particularly by leveraging the potential for implementing and expanding the Change of Payment Account model (as outlined in Article 73 of the Law on Payment Services). This doesn't require changes to regulations but instead calls for a consistent interpretation and application of the Law on Payment Services through the establishment of a unified mechanism for data exchange between banks, under the oversight of the National Bank of Serbia.

Additionally, another tool to boost competition among banks could be the establishment of a centralized database on earnings, hosted by the National Bank of Serbia. Instead of clients obtaining and submitting their employers' certificates to the bank, banks would have the option to automatically retrieve the necessary data from this centralized database.

In this manner, we are progressing toward true open banking and further digitization while upholding the principles of safety and security.

FIC RECOMMENDATIONS

- Further education of users of financial services and insurance services about their rights and obligations, as well as users of insurance services.
- Education of holders of judicial functions in the banking business and in the field of insurance, and in this sense, the introduction of specialized subjects from these areas at the Judicial Academy.
- Facilitating the electronic issuance of promissory notes for natural persons.
- Permanent solution for disputes regarding loan processing fees in the manner described above and amendment of Article 368, paragraph 1 of the Law on Civil Procedure.
- Amendments to the Law on Conversion in terms of specifying the norms that would clearly define the currency clause as well as the rights of clients and banks, all with the aim of relieving the judicial authorities
- Increasing the limit from Article 3, Paragraph 3 of the Law on the Protection of Users of Financial Services in Distance Contracting
- Issuance of a legal opinion by the Supreme Court of Cassation regarding the proof of contracts concluded at a distance
- Continuous exchange of opinions and constructive discussions with insurance companies regarding the implementation of rules on insurance distribution, ie regulatory requirements regarding market behavior.
- Implementation of the open banking model, that is, the introduction of a banking identity
- Promoting mediation as a way of resolving disputes between banks/insurance companies, both among themselves and with users of financial services, would be important, and in this sense, amendments to the Law on Mediation.

PUBLIC PROCUREMENT

1.33

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Improving the administrative and expert capacity of the Commission for protection of rights in public procurement procedures and the State Audit Institution so that they can effectively monitor the planning and execution of public procurement	2013			√
Establish closer co-operation between, on the one hand, the Public Procurement Authority and the Republic Commission for protection of rights in public procurement procedures and the Administrative Court in order to exchange knowledge and information.	2022			√
Contracting exemptions from the implementation of the Law on Public Procurement in international agreements with third countries should be significantly reduced.	2022		√	

CURRENT SITUATION

On December 23rd 2019, the Serbian Parliament adopted the Law Public Procurement Law (RS Official Gazette No 91/2019), hereinafter: the Law). The Law entered into force on January 1, 2020 and started to be applied as of July 1 2020. The law is to a significant extent harmonized with EU acquis, notably Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC and Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport, and postal services sectors and repealing Directive 2004/17/EC.

On October 26, 2023, the Serbian Parliament adopted amendments to the Law on Public Procurement. The changes will enter into force on January 1, 2024, and, in the opinion of the Foreign Investors Council, they represent a step forward in improving the transparency, legality, and efficiency of public procurements. Namely, the obligation of public procurement officials to participate in procedures whose value exceeds certain thresholds is introduced, whereas contracting becomes more transparent. Progress is also being made in appeals procedures. The quality of contracting for certain services seems to become a priority because the price is no longer the decisive award criterion (e.g., architectural services, IT services, etc.). Finally, for the first time, a significant place is also given to environmental protection, which now the contracting authorities must consider when planning and implementing public procurement.

POSITIVE DEVELOPMENTS

The public procurement market in the Republic of Serbia in 2022 accounted for 9.34% of GDP, which is higher compared to 2021, when it was 8.93%. The average number of bids per tender remained at a stable 2.5, but that is still lower than 2017 when the average number of offers per procedure was 3.5. The number of contracts awarded to foreign bidders remained at low level of 1% .

When it comes to contracts awarded in the negotiation procedures without prior notice their values accounted for 1.29% which represents a substantial decrease increase compared to previous year.

The value of public procurements, that are exempt from the implementation of the Law on Public Procurement, amounted to approx. 4.4 billion euros, of which the highest percentage (27.69%) represents are procurement of public contracting authorities intended for processing and sale, further resale or leasing to third persons in the market.

REMAINING ISSUES

In the previous year, limited progress was made in the field of fight against corruption and integrity in the field of public procurement.

Furthermore, intergovernmental agreements with third countries continue to violate the principle of equal treatment of bidders, the prohibition of discrimination, transparency and the protection of competition. The implemen-

tation of these agreements is often inconsistent with the adopted solutions in both domestic and EU law. in 2023, the Law on linear infrastructure projects was repealed, which enchased discretionary decision-making, which is good news.

The capacities of the Commission for protection of rights in public procurement procedures and Public Procurement Authority remain limited. Also, the professional capacity of the Administrative Court to decide in complex and numerous cases remains low due to the lack of adequate training.

FIC RECOMMENDATIONS

- Improving the administrative and expert capacity of the Commission for protection of rights in public procurement procedures and the State Audit Institution so that they can effectively monitor the planning and execution of public procurement.
- Establish closer co-operation between, on the one hand, the Public Procurement Authority and the Republic Commission for protection of rights in public procurement procedures and the Administrative Court in order to exchange knowledge and information.
- Contracting exemptions from the implementation of the Law on Public Procurement in international agreements with third countries should be significantly reduced.

PUBLIC-PRIVATE PARTNERSHIP

1.08

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Systemic and organizational changes in the management of capital investments are necessary to assure an efficient implementation of public investments, irrespective of the model of provision. This issue has been recognized and certain efforts have been made by the Ministry of Finance, although with delays in implementation. Through the way they are structured, PPPs could resolve a number of issues, including a more efficient provision of public services and a higher level of transparency in the procurement process. In particular:				
Better coordination among institutions dealing with PPP (better coordination and streamlined cooperation of all relevant PPP institutions with project initiators at all levels of government).	2020			√
Institutional support to small local autonomies in demand of PPP projects of smaller scale and value which autonomies lack the funds to engage multidisciplinary experts.	2020			√
Avoiding practice of having the same International Financial Institutions (IFIs) being engaged in support to public partner in preparation of PPP project and later procuring the financing to project company.	2020		√	
Raising PPP awareness (PPP promotion campaign illustrating its advantages and potential, possible inclusion of PPP in universities curriculum to enhance fairness, transparency and competition, increasing the average number of participants to a single tender to at least 3, to avoid the risk of cartels being formed and competition being restricted).	2020			√
Raising the awareness of public partner of the importance of proper, fair and justifiable risk allocation and its embedding into PPP contract.	2020			√
The institutional capacities of the PPP Commission have to be further improved and strengthened for more consistent project reviews, including an increase of its competences (to include project preparation and monitoring) and capacities (to have more people with sector-specific expertise).	2012			√
Promote available and officially approved contract templates developed in accordance with the best international practice but in full compliance with Serbian law applicable to PPP contract, as well as investing resources in training public sector partners to successfully navigate a PPP project from inception to realization.	2017			√
Amending the rules of the LGAP so as to exclude or limit the applicability of its provisions relating to "administrative contracts" to PPP contracts. Further amendments to key legislation to align with legislation of the EU. And the legal framework has to be amended in order to eliminate identified deficiencies in relation to the self-initiated proposal and consequently, in order to make room for more pro-active approach of the private sector in initiating PPPs.	2017			√
Practical implementation of the rules relevant for determining the project value that are PPP-specific needs to be improved and the capacities of the public sector strengthened to fully delineate such projects from purely public procurement projects.	2017			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Take advantage of the International Financial Institutions' (IFI) support for project preparation and their knowhow on PPPs. Resources from the European Investment Bank's (EIB) European PPP Expertise Centre (EPEC), the International Finance Corporation's (IFC) advisory services in PPPs or the European Bank for Reconstruction and Development's (EBRD) Infrastructure Project Preparation Facility (IPPF) can be used for project preparation.	2017			√
Due attention be given to supervening events in future PPPs and the way in which parties will chose to deal with their consequences, as well as properly assessing the right risk allocation for such events.	2020			√
Institutional capacity building and development that should be aimed at preparing the public sector for project implementation once the PPP contract is signed.	2020			√

CURRENT SITUATION

Despite the Law on Public Private Partnerships and Concessions (the "PPP Law") having been adopted in 2011 and amended twice in 2016, its practical implementation has mostly been seen in the past several years, in relation to which it is noted that the Public Private Partnership Commission has to date approved 259[1] public private partnerships.

POSITIVE DEVELOPMENTS

The appeal of PPP projects has over the past several years appeared to have subsided, despite there being a number of newly approved PPP projects, whose realisation and trajectory is yet to be seen. Despite the negative consequences of Covid-19 pandemic and the subsequent war in Ukraine and other global developments affecting overall investment appetite, it appears that 2023 holds some promise for further PPPs, including certain larger scale projects in the domain of water transport.

REMAINING ISSUES

Achieving progress in several aspects that are outlined below would highly contribute to the further development of PPPs.

A definitive goal towards Serbia should progress is increasing the level of legal certainty in the application of legislation, as well as improving the legal framework. On one hand, the PPP Law is ripe for an amendment, at a minimum in respect of aligning with that of the EU legislation that instils in it what international best practice has become. Furthermore, due to the relatively new nature of the PPP Law in Serbia, there is much room for improvement in understanding the relevant legislation in order to properly apply it, both by public and private stakeholders. Overall, further regulatory harmonisation in aspects related to PPPs would bode positively on the perception of the legal environment in Serbia for this type of investment.

Accounting for the fact that launching a PPP project requires large resources as well as specific know-how to successfully launch, tender and deliver, focus should be drawn to the methodology development related to preparation of a PPP project, approving a PPP project proposal and equipping the public sector with the required know how. Currently the legislative framework is lacking in this respect, and the public sector is not sufficiently experienced to apply a tool set to identify which PPP project proposal provides for the best "value for money." It is crucial that the public sector is entirely familiar with the preconditions for the project to be realized pursuant to a PPP model, project implementation requirements and that a designated team is assigned this task on behalf of the public partner at very early stage.

Due to the lack of sufficient market practice in implementing PPP projects in different sectors, there is no agreed outline of key contracting principles that could be used as a starting point for any PPP project.

1 List of approved public private partnership projects available on the website of the Public Private Partnership Commission of the Republic of Serbia at: http://jpp.gov.rs/koncesijevesti/spisak

A PPP will involve a public debt provisioning to a larger or smaller extent depending on the size of the specific PPP project, which currently is not properly accounted for under Serbian budgetary and public debt legislation. Recognising the long-term nature and financial implications of a PPP (whichever way structured), further legislative fine tuning should be considered to ensure proper financial planning on the side of the public partner. This is of crucial importance in setting up the notion of bankability for any PPP project and providing comfort to any potential private partner, and by extension financiers wishing to participate in the delivery of a PPP project which will rarely be implemented without heavy external financing.

Lastly, an equally challenging phase of a PPP project is its implementation and contract management, which presupposes that both public and private partners have dedicated teams that will cover all aspects of the delivery of the PPP project, i.e. operational, technical, legal and financial. Progress should be made in this regard and overall strengthening the public sector capacity in this respect.

FIC RECOMMENDATIONS

Systemic and organizational changes in the management of capital investments are necessary to assure an efficient implementation of public investments, irrespective of the model of provision. This issue has been recognized and certain efforts have been made by the Ministry of Finance, although with delays in implementation. Through the way they are structured, PPPs could resolve a number of issues, including a more efficient provision of public services and a higher level of transparency in the procurement process.

In particular:

- Better coordination among institutions dealing with PPP (better coordination and streamlined cooperation of all relevant PPP institutions with project initiators at all levels of government).
- Institutional support to small local autonomies in demand of PPP projects of smaller scale and value which autonomies lack the funds to engage multidisciplinary experts.
- Avoiding practice of having the same International Financial Institutions (IFIs) being engaged in support to public partner in preparation of PPP project and later procuring the financing to project company.
- Raising PPP awareness (PPP promotion campaign illustrating its advantages and potential, possible inclusion of PPP in universities curriculum to enhance fairness, transparency and competition, increasing the average number of participants to a single tender to at least 3, to avoid the risk of cartels being formed and competition being restricted).
- Raising the awareness of public partner of the importance of proper, fair and justifiable risk allocation and its embedding into PPP contract.
- The institutional capacities of the PPP Commission have to be further improved and strengthened for more consistent project reviews, including an increase of its competences (to include project preparation and monitoring) and capacities (to have more people with sector-specific expertise).
- Promote available and officially approved contract templates developed in accordance with the best international practice but in full compliance with Serbian law applicable to PPP contract, as well as investing resources in training public sector partners to successfully navigate a PPP project from inception to realization.

- Amending the rules of the LGAP so as to exclude or limit the applicability of its provisions relating to "administrative contracts" to PPP contracts. Further amendments to key legislation to align with legislation of the EU. And the legal framework has to be amended in order to eliminate identified deficiencies in relation to the self-initiated proposal and consequently, in order to make room for more pro-active approach of the private sector in initiating PPPs.

- Practical implementation of the rules relevant for determining the project value that are PPP-specific needs to be improved and the capacities of the public sector strengthened to fully delineate such projects from purely public procurement projects.

- Take advantage of the International Financial Institutions' (IFI) support for project preparation and their know-how on PPPs. Resources from the European Investment Bank's (EIB) European PPP Expertise Centre (EPEC), the International Finance Corporation's (IFC) advisory services in PPPs or the European Bank for Reconstruction and Development's (EBRD) Infrastructure Project Preparation Facility (IPPF) can be used for project preparation.

- Due attention be given to supervening events in future PPPs and the way in which parties will chose to deal with their consequences, as well as properly assessing the right risk allocation for such events.

- Institutional capacity building and development that should be aimed at preparing the public sector for project implementation once the PPP contract is signed.

TRADE LAW

1.67

CURRENT SITUATION

The Law on Trade (Zakon o trgovini, Official Gazette of the RoS, no. 52/2019) (the "Law on Trade") currently in force, which occupies a central place among the regulations governing the trade of goods and services, has been applicable since 30 July 2019. On the same date the Amendments to the Law on Electronic Trade (Official Gazette of the RoS, no. 52/2019) entered into force.

The amendments introduced by the cited laws were primarily aimed at additional regulation of contracts in electronic form, electronic trade and internet sales, which are widely represented nowadays, and until then insufficiently regulated - which resulted in numerous abuses. For this purpose, new terms -such as electronic platform and electronic store - were defined. The increasingly present forms of electronic commerce, such as "web-shop" and "drop-shipping", were also recognized and defined.

The key novelties of the Law on Trade, which are aimed at improving legal certainty and the entire economic ecosystem, are reflected in the following:

1. **Better definition of the sale incentives**

Main forms of reduced-price trade are finally defined, followed with the special rules for each of them. These forms are: seasonal discount, action sale and clearance sale.

2. **Introduction of the definitions of types of distance trade**

For the first time, electronic platform and electronic store are defined, whereas the distance trade is now split to e-commerce and other distance trade. Moreover, specific forms of e-commerce are defined: web shop, electronic platform, and drop-shipping.

3. **Labeling requirements**

The Law on Trade imposes obligation of distance trader to make mandatory labeling data directly and permanently available.

4. **Lifting the obligation of publishing the retail format**

The Law on Trade lifts the obligation of publishing retail format valid until then, so that the traders can now freely decide whether to publish retail format or not.

5. **Concealed shopping as new authorization in supervisory procedure**

A trade inspector now has the authority to conduct concealed purchase of goods/service, in accordance with regulations related to the supervisory procedure, in order to achieve more efficient detection of illegal trade.

Amendments to the Law on Electronic Trade improved already adopted solutions in the basic law, specified and redefined terms and created a better legal framework for electronic trade, continuing the process of harmonization in accordance with European legislation, i.e. the Directive on Electronic Commerce (Directive 2000/31/EZ).

POSITIVE DEVELOPMENTS

Positive steps were taken by adopting the cited laws.

Before the entry into force of the Law on Trade, sales incentives were generally defined, which caused certain ambiguities in their application. Different terms are used that do not inform consumers in the right way. This often caused consumers to make decisions they would not otherwise have made. There was a need to specify the basic forms of discount and define clear rules for each of them.

The Law on Trade introduced the concept of electronic store and electronic platform, which until then had not been recognized in the domestic legislation. This is significant from the consumer rights protection point of view - because it should be clear to the buyer from whom he buys goods, with whom he enters into a contractual relationship, and whom he should refer to in the event of a complaint.

A clear distinction is made between the seller of goods - the web shop, and the link between the consumer and the trader – i.e., the platform as an "intermediary". This does not exclude the possibility that a merchant who owns a platform is also a seller of goods.

An important innovation is the possibility to display product prices in foreign currencies as well. This makes it even easier for domestic traders to open their offer to foreign markets, primarily to the markets of countries in the region, but also to other developed markets.

In 2021, merchants who organize and advertise sales incentives in electronic commerce are controlled for the first time. In 120 inspections, violations were found, and 40 requests were submitted for the initiation of misdemeanour proceedings.

Among those who engage in fraud, the majority are those who sell goods through social networks, particularly Facebook and Instagram, and the National Consumer Organization of Serbia (NOPS) published a blacklist of traders on these networks based on consumer reports.

In addition to legal instruments, education and raising public awareness about smart and safe online shopping are key to strengthening consumer awareness. In this regard, the relevant Ministry makes media campaigns aimed at consumer education, together with the introduction and implementation of new legal solutions.

REMAINING ISSUES

The last few years have seen a significant increase in e-commerce traffic. The growth was certainly influenced by the increase in the number of merchants engaged in online commerce. On the other hand, there are also frequent abuses associated with this type of trade (including, among other things, sales carried out by entities that do not have the status of a trader (legal subjectivity, prominent company, etc.), and which, accordingly, do not provide customers with guarantees in the domain of regulations on product safety, consumer protection, advertising, etc.)

The Law on Trade has laid the foundations and greatly improved legal solutions regarding the circulation of goods and services, but there is still room for additional improvement and filling in the gaps.

The work on the draft of the new Law on Trade is underway, and we believe that this is the right moment to improve certain solutions for the benefit of the entire Serbian economy.

Firstly, there is the existence of a legal gap due to the absence of a definition of a trader – i.e. subject that performs trade activities and to which this law primarily applies.

Also, there is a need to introduce a definition of related traders - primarily in the context of disabling the avoidance of liability for unfair market competition when these actions are carried out by affiliated company of a trader that is active on a market where its competitor (against whom the actions of unfair market competition are aimed) is not active.

To suppress the gray economy, it is necessary that the goods that are placed on the market, transported or used for the provision of services, at the time of inspection, are accompanied by prescribed documents that are directly related to their production, procurement, sale and transportation.

The need to extend the allowed duration of promotional sales to two months is identified - we believe that such a step forward would benefit both consumers and merchants.

It is also particularly important to harmonize the relevant provisions of the Law on Trade (primarily Article 34) with the Law on Food Safety and by-laws.

Finally, further improvement and simplification of import procedures is needed.

FIC RECOMMENDATIONS

- Elimination of legal gaps in the regulatory framework, including, without limitation, by introducing above proposed amendments (defining the merchant, related merchants, extending the duration of the promotional sale).
- Harmonize Article 34 of the Law on Trade with the Food Safety Law and by-laws.
- Devote attention to by-laws.
- Harmonization with EU regulations and standards is further needed.
- Simplification of the importation procedures.

ILLICIT TRADE AND INSPECTION CONTROL

2.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Adopting the Program for the Suppression of the Grey Economy for the period 2022-2025 and the accompanying Action Plan for the implementation of this program for the period 2022-2023.	2021	√		
Continuing with capacity building of republic inspections by employing new inspectors, and by improving working conditions, including material status for inspectors.	2021		√	
With the aim of increasing the efficiency of the illicit trade penal system, introducing specialization of judges for misdemeanor offences in the field of suppression of the grey economy.	2019		√	
Improving the system of fiscal burden for companies operating in the Republic of Serbia by creating a register of applicable fees, in order to further control parafiscal levies.	2018			√
Establishing a system of reporting on the measures and effects of Action Plans (flowcharts), while communicating the results of controls to stakeholders from the economy.	2021		√	
Establishing and implementing a fast and efficient procedure for regulating the storage of seized goods between the public and private sectors.	2021			√
Developing a system of advanced analytical methods for the use of data obtained from e-Fiscalization, and regularly publishing the results of the processed data.	2022		√	
Supporting the full implementation of the Law on Electronic Invoicing and related by-laws in accordance with the planned dynamics.	2022	√		
Maintaining the continuity of the process of improving import and export procedures.	2021		√	

CURRENT SITUATION

Instead of a full recovery after the end of the two-year global crisis caused by the 2020 pandemic, 2022 was marked by a new global crisis that arose as a result of the conflict in Ukraine. Growing uncertainty, inflation and the energy crisis have placed the focus of the state authorities on preserving economic activity and standards of living of citizens.

As a result of the changed global circumstances and the adjusted economic policy priorities, as well as the long period of functioning of the Government in the technical mandate during the last year, activities related to the adoption of the new Programme for Suppressing Grey Economy in 2023-2025, which was adopted in very March 2023, were postponed, and at the beginning of June 2023, the accompanying Action Plan for the Implementation of the Programme for Suppressing Grey Economy in 2023-2024 was adopted.

POSITIVE DEVELOPMENTS

In December 2022, a new convocation of the Coordination Body for Suppressing Grey Economy was formed, which was first established in 2015 with the task of coordinating the work of all state administration authorities and directing activities related to the preparation, revision and implementation of the Programme for Suppressing Grey Economy, with the accompanying Action Plan. As in the previous convocation, a new composition of the Expert Group was formed within the Coordination Body for Suppressing Grey Economy, which provides expert support to the Coordination Body in the preparation of the Programme with the accompanying Action Plan, monitors and coordinates the implementation of measures and activities from the Action Plan. At the same time, in December 2022, a new convocation of the Coordination Commission for Harmonizing i.e. Coordinating Inspection Supervision was formed.

After a short delay, in March 2023, the Government of the

Republic of Serbia adopted the Programme for Suppressing Grey Economy in 2023-2025, which has been in the process of drafting, harmonizing and adopting since May 2021. The new Programme sets out 23 measures to achieve three priority goals – (1) strengthening the capacity of inspections and misdemeanour courts, (2) improving the tax supervision and tax return process and (3) fiscal and administrative relief of legal operations. After the adoption of the new Programme, in June 2023, the Action Plan for the Implementation of the Programme for Suppressing the Grey Economy in 2023-2024 was adopted, with the precisely defined measures that will be implemented by the end of 2024 in order to meet the set goals. The idea is that by applying all the measures from the Programme for Suppressing Grey Economy and the accompanying Action Plan, the share of grey economy in economic activity in Serbia, which, according to the recent surveys in the previous five years, has fallen from 14.9% to 11.7% of GDP, will be reduced to 10% of GDP by 2025.

The Coordination Commission for Harmonizing i.e. Coordinating Inspection Supervision of the Ministry of Public Administration and Local Self-Government has continued with regular activities in order to improve inspection controls. The Decision on the establishment of a new convocation of the Coordination Committee from December 2022 more precisely defines its tasks in order to perform more comprehensive and effective inspection supervision and avoid overlapping and unnecessary repetition of supervision.

The work of most inspections of the Republic is carried out through the information system e-Inspector, which was expanded by two more inspections in 2022 and currently includes 36 out of a total of 43 inspections of the Republic. The number of performed inspections through the e-Inspector in 2022 was led by the Market Inspection, which achieved as much as 42.3% of the total number of the performed inspections. Updated checklists and forms in accordance with which inspection supervision is performed are regularly published on the website www.inspektor.gov.rs, which provides the opportunity for businesses to easily familiarize themselves with the conditions for doing business in accordance with the regulations.

Further expansion of the functionality of the Single Contact Centre for reporting irregularities to the inspections of the Republic continued, which has been in use since March 2020 as a single contact point for submitting petitions in the field of inspection supervision and complaints about the work of inspection officials. Since its establishment, the Contact Centre has had numerous improvements and extensions of functionality, it is connected with the local self-government inspections and the information system e-Inspector, which all significantly simplifies the procedure for reporting irregularities.

After the delay and the transition period, the implementation of the new fiscalization system began on 1 May 2022, at the same time as the mandatory application of electronic invoicing within the public sector (G2G) and from the private sector to the public sector (B2G) began. The system for electronic exchange of invoices (e-invoices) has been in full use since 1 January 2023, when the obligation to issue and store electronic invoices also in the transactions between private sector entities (B2B) began. The application of e-fiscalization and e-invoices, as important tools in the combating grey economy, envisage the use of modern technologies for the purpose of digitization of the trade recording, electronic exchange of invoices and simpler and more efficient control of the state authorities.

In terms of activities on the improvement of import and export procedures, since 2019, the World Bank "Western Balkans Trade and Transport Facilitation Project Using the Multiphase Programmatic Approach" has been implemented, where we would like to highlight the sub-component of the project "National Single Electronic Window System Development and Implementation". The implementation of the National Single Electronic Window System stipulates that businesses will be able to electronically submit and receive all the documents required by the state authorities to perform foreign trade activities through a single portal, which will enable faster and more efficient foreign trade operations. It is expected that the information system for the National Single Electronic Window System will be fully operational in December 2025.

REMAINING ISSUES

As part of further improving the functionality of the information system e-Inspector, we would like to emphasize the importance of connecting all the inspections and the necessity of establishing a functionality for the exchange of information between the system of the Tax Administration and the Customs Administration with the system e-Inspector. Also, it is necessary to amend the Law on Misdemeanours in order to create a legal basis for the exchange

of cases in electronic form between the system e-Inspector and the misdemeanour court system (SIPRES), which would significantly increase the efficiency of work on the proceedings.

After the regular session held in March 2023, the members of the Coordination Commission for Inspection Supervision noted that the situation in the inspection services of Serbia was alarming, which was why it was agreed with the Government of the Republic of Serbia to amend the provisions of the Law on Inspection Supervision in the next term, which would solve a large part of the existing problems. The biggest problem in the inspection services is still the unfavourable age structure, since the average age of inspectors in Serbia is 59. Another big problem is the insufficient number of inspectors, taking into account the fact that the occupancy of the state inspection jobs ranges between 30% and 70%. Insufficient occupancy of inspection capacities is further aggravated by the fact that more than 160 inspectors of the Republic will be retired during 2023. The previous Action Plan for employing new inspectors at the state level in 2019-2021 was realized at the level of only 50%, due to the complex and long-lasting employment procedures and insufficient attractiveness of inspection jobs. In this regard, the activities to ensure an adequate number of the new inspectors and the necessary equipment, as well as the improvement of the performance evaluation system in order to increase the efficiency and hiring of inspectors should still remain at the top of the priorities.

The public electronic register and portal with the applicable fees and charges after many years of delay has not been established, and it is necessary as one of the significant elements of predictability of business conditions and disincentives to illegal trade activities.

The system of reporting on the results of the implementation of adopted hodograms for the control of illegal trade in certain sectors/goods has not yet been finalized, and the stakeholders do not have data on the achieved control results.

One of the most significant preventive measures is an adequate system of penalties for illegal trade, and it is still necessary to improve the efficiency of the mutual communication between the control authorities and courts, as well as to specialize judges for misdemeanor offences in the field of suppressing grey economy and to monitor the work of misdemeanour courts in these processes.

An efficient system for storing the confiscated goods was not prescribed in the previous period. Due to insufficient storage capacities in state ownership and the lack of procedures for the use of privately-owned capacities for the storage of the confiscated goods, the activities of inspection authorities are limited.

FIC RECOMMENDATIONS

- Consistently implement the Programme for Suppressing Grey Economy in 2023-2025, with the accompanying Action Plan for the Implementation of the Programme for Suppressing Grey Economy in 2023-2024.
- Continue to build the capacity of the Republic inspections by employing new inspectors, as well as by improving both the working conditions and the material compensation of inspectors.
- In order to increase the efficiency of the penal system towards illegal trade, in accordance with the Action Plan for the Implementation of the Programme for Suppressing Grey Economy in 2023-2024, introduce the specialization of judges for misdemeanor offences in the field of suppressing grey economy and monitoring the work of misdemeanour courts in this process.
- Improve the system of the fiscal burden for companies operating in the Republic of Serbia by creating a public, electronic register of applicable fees and charges, in order to control parafiscal levies and increase business transparency.
- Establish a system of reporting on the measures and effects of the Activity Plans (hodograms), and communicate

the control results with the stakeholders engaged in economy, in accordance with the Action Plan for the Implementation of the Programme for Suppressing Grey Economy in 2023-2024.

- Prescribe and implement the fast and efficient procedure for regulating the storage of the confiscated goods between the public and private sectors.
- Maintain the continuity of the process of improving import and export procedures.

CUSTOMS

2.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
The FIC proposes the following improvements of the efficiency and transparency of the customs clearance procedure:				
Transparently communicate the planned liberalization of customs preferences with the interested industries and ensure the industry's consent at least 12 months prior to the commencement of the preference.	2018			√
We propose the following changes to customs declarations: (1) the date of issue of the customs invoice - it is recommended that the date of issue of the customs invoice should be the final date of clearance of goods and not the date of the acceptance of a declaration; 2) allow the use of a comprehensive guarantee with a reduced reference amount for several customs procedures, as well as relief from the obligation to provide the guarantee, in the manner prescribed for the transit procedure.	2018	√		
A significant number of legal provisions require a further specification through by-laws as well as compliance with other relevant laws, such as: (1) alignment of customs procedure with VAT Law, regarding the treatment of a foreign legal entity in a customs procedure; (2) decrease the frequency of sample-taking for core products and accept the analysis of accredited foreign laboratories; (3) adopt new Explanations of the Customs Administration related to the inward processing procedure. The opinions of the Customs Administration should contain an interpretation, and not just a citation of regulations; (4) specify the procedure for determining and changing the customs value in the event of a goods' price change; (5) by adopting an appropriate Explanation from the CA, change the interpretation that the implementation of temporary export requires the approval of the customs authority, as this is contrary to the legislation or harmonize the regulations; (6) adoption of an act of the CA which would explain the procedure for determining and changing the customs value in case of transfer prices; (7) ensure the full applicability for "new" rules of origin on trade with PAN-EU members; (8) improve efficiency for issuing "BTI" documents.	2021	√		
Increase the efficiency at all levels of administration: efficient handling of requests that are in the administrative procedure; a better on-line information system available to all parties involved in customs process; introducing a simplified correction of a customs document based on the correction of the quantity of goods cleared, improve the risk analysis system according to which goods and / or importer type would be identified for an accelerated or simplified import procedure.	2018		√	
Align the Decree on Customs Procedures and Customs Formalities with the new Customs Law, in such a way that the additional costs of the laboratory analysis are not borne by the applicant for the issuance of a binding information and abolish the fee for using customs terminals.	2019			√

CURRENT SITUATION

The general rules and procedures that apply to goods brought into and out of the customs territory of the Republic of Serbia (later "RS") are regulated by the Customs Law ("Official Gazette of the RS No. 95/2018, 91/2019, 144/2020, 118/ 2021, 138/2022) and other bylaws; The customs tariff, which is harmonized with the Combined Nomenclature of the European Union once a year; then international free trade agreements signed with members of the following agreements: CEFTA, EFTA, EU, Turkey, Eurasian Economic Union and Great Britain; as well as the application of various customs procedures: NCTS, NCTS-P5, AEO, as well as other procedures regulated by the Customs Law.

Continuous amendments to the Customs Law and by-laws significantly facilitate and simplify the application of customs procedures for legal entities operating on the territory of the RS. However, a very important role is played by international agreements on free trade, since their implementation increases the competitiveness of products on the regional and international markets.

The Republic of Serbia recognized the importance of expanding business cooperation with the EU and during 2022 accepted and ensured the effective application of new, i.e. transitional rules on the preferential origin of goods that are under the umbrella of the Regional Convention on the Pan-Euro-Mediterranean Union (PEM Convention). The new rules introduced significant simplifications when proving the origin for goods produced in countries that are signatories to the PEM Convention.

With the aim of improving technical functionality, we support investing in the "National One-Stop System" project, which will connect all participants in foreign trade, both state authorities and the business community, and enable faster and more efficient exchange of data and documents. The project was initially presented in 2020, and the completion of the project is expected in 2025.

POSITIVE DEVELOPMENTS

Regarding previous White Book edition, the following positive developments have been identified that affect legal entities daily operations:

- During 2022, the adoption and harmonization with EU regulations and acceptance of more flexible rules on the origin of goods between the Republic of Serbia, CEFTA countries and PAN-EU members, which is very significant for the wider application of bilateral preferential trade agreements.

- Custom policy in the area of concessions adopted by the Government was aimed at supporting the growth of production, exports and investments in the Republic of Serbia.

- During 2023, the Customs Administration published documents that significantly clarified the application of the new Law on Value Added Tax (especially with regard to the application of the amended Article 10a, which regulates the absence of the obligation to register a foreign person in the VAT system if he trades goods that are customs warehousing procedure). Also, the interpretations issued by the Customs Administration were significantly more precise and detailed compared to the previous ones, especially with regard to the manner of conducting customs procedures.

Certain improvements in work efficiency are noticeable of the Customs Administration, and to the greatest extent it has been reflected in:

- In terms of more efficient resolution of requests in administrative proceedings, issuing decisions in misdemeanour proceedings and making conclusions.

- Wide application of the online system "New Application Platform (NAP)" in foreign trade, and that the share of customs declarations submitted electronically exceeded the number of customs declarations submitted in paper form.

- A partial improvement was noted in the process of approving simplification (domestic customs clearance), considering the circumstances in which business entities operate are taken into account, and that financial indicators are not necessarily insisted upon.

REMAINING ISSUES

General Comments of the Council

- Liberalization of customs preferences for import significantly affects existing operations of legal entities in terms of planning and making future business decisions. In order to ensure the continuity of operations of existing legal entities, it is very important that planned preferences are timely and transparently communicated, as well as to ensure an agreement with the affected industry regard-

ing the abolishment or reduction of import duties.

- In 2015 a significant customs duty relief was abolished for the import of new equipment not produced in the country for the purpose of expanding and modernizing existing production. We believe that duties for equipment, prescribed by the Law on Customs Tariff should be revised and reduced or abolished for products which are not produced in Serbia. Generally, duty relief can be a crucial driver for business expansion and further investments.

- The Decree on Customs Procedures and Customs Formalities prescribes that when considering a request for a binding information, if it is necessary to carry out the examination of goods that cannot be performed in the competent customs laboratory, the Customs Administration (CA) will obtain the offer of the organization or the person who will perform the analyses, and the person who submitted the request is obliged to pay the costs of those analyses. Considering that in accordance with the new Customs Law, the administrative fee for the analyses service should be payed to the CA, it would be appropriate that the applicant should pay only the statutory administrative fee, while the fee for the service of the authorized laboratory should be paid by the CA.

Application of legislation

- The Customs Law prescribes a regular maturity of the customs debt of 8 days, but also the possibility that the total amount of import duties related to all goods released to a legal entity during the period (max. 31 days) determined by the customs authority, can be included in one collective posting of by the customs authorities at the end of that period. On the basis of which the invoice for the given period would be issued, and in this way, there would be a reduction in administrative errors during the realization of a larger number of customs declarations for the majority of importers with a larger volume. It was noticed that this possibility is not applied in practice and thus the process was not improved.

- The Customs Law excludes the possibility of rectifying customs documents if, following customs clearance, based on the inventory stock count of goods at the receiving dock, the receiver identifies a discrepancy in the inventory relative to the quantity reflected in the customs documents. Such omissions are mainly unintentional and occur during the loading or delivery of goods, but they result in legal violations on the part of the legal entity, even when the declarant self-declares the omission.

- Quality control inspections are regular at each importation of goods but are slowing down the customs clearance process even for the regularly imported goods that have been inspected by foreign accredited laboratories. Even though there were attempts for salving problems more efficiently, there is still one of the operations that significantly slows down the custom process, even when it comes to the goods regularly imported and inspected by accredited laboratories.

- The regulation on customs procedures and customs formalities foresees that until the day of the introduction of electronic systems, the movement of goods between temporary warehouses will be carried out using the transit procedure. This reduces the rights of AEO authorization holders and an exemption should be introduced.

- The following deviations have been noted in practice: I) decisions on the request to amend the customs declaration are made after the prescribed deadlines; II) full implementation of Article 158 of the Law is not allowed, declarations are still forwarded electronically, although the Law allows the holder of the approval to submit a declaration in the form of recording in business books, III) restrictive approach is still applied when it comes to discounts and still insists on submitting contracts in writing although it is no longer necessary.

- Customs Authority has provided the official Explanation on how the duties are calculated and the customs value is determined for finished products that are exported to the territory of Serbia outside the zone, and which are produced in the free zone from materials for which exemption from customs duties was applied. The application of the Explanation has been delayed few times and still it is not adopted.

- Customs regulations do not define temporary export as a special customs procedure, which means that the temporary export of goods does not require the approval of the customs authority, but to apply the provisions relating to the export of goods. However, the customs authorities require temporary export to be applied for and an authorization issued, which unnecessarily slows down and complicates the implementation of the export procedure.

- The problem was noticed that in the case of the need to

change a large number of declarations related to a longer period of time, the changes would be made for each declaration individually. Although the introduction of NAP significantly facilitated users to communicate with competent customs offices through the exchange of electronic customs declarations for certain customs procedures (for example, for import and export), it seems that the complete automation of customs procedures would be of great importance for legal faces. Namely, it would imply further simplification of the process, as well as a significant saving of costs and resources in direct communication with customs offices. In addition to the above, NAP users often face a delayed procedure for registering an electronic customs declaration, since the system is often overloaded and the application itself is still unable to process a large number of customs declarations.

- Since the procedure for issuing invoices is digitized to a significant extent, we believe that the customs authorities should contribute to the additional digitization of the procedure for exercising the right to tax exemption from Article 24 of the VAT Law.

FIC RECOMMENDATIONS

The FIC proposes the following improvements of the efficiency and transparency of the customs clearance procedure:

- Transparently communicate the planned liberalization of customs preferences with the interested industries and ensure the industry's consent at least 12 months prior to the commencement of the preference.
- We propose the following changes to customs declarations: 1) allow the use of a comprehensive guarantee with a reduced reference amount for several customs procedures, as well as relief from the obligation to provide the guarantee, in the manner prescribed for the transit procedure, 2) It is necessary to prescribe a simplified procedure that defines the process of correction of the customs value of previously imported/exported goods for a longer period of time.
- A significant number of legal provisions require a further specification through by-laws as well as compliance with other relevant laws, such as: (1) alignment of customs procedure with VAT Law, regarding the treatment of a foreign legal entity in a customs procedure; (2) decrease the frequency of sample-taking for core products and accept the analysis of accredited foreign laboratories; (3) specify the procedure for temporary export in order to customs authority approval is not required and regular export procedures can be applied in practise; (4) adoption of an act of the CA which would explain the procedure for determining and changing the customs value in case of transfer prices, and to specify the procedure for determining and changing the customs value in the event of a change in the price of goods ; (5) introduce an exemption from conducting misdemeanor proceedings for a person who only requests to change the data on the quantity of goods in the customs declaration after the end of the procedure and after determining the actual quantity of delivered goods; (6) consider the introduction of customs relief for the import of new equipment that is not produced in the country.
- Increase efficiency at all levels of administration: continue to improve the online information system so that it is accessible to all parties involved in the customs process; introducing a simplified correction of the customs document based on the correction of the quantity of goods that have been cleared; improve the system of risk analysis on the basis of which the type of goods and/or the importer for which an accelerated or simplified import procedure can be approved would be identified. We propose to consider the additional involvement of customs authorities during the verification of electronic invoices in such a way as to enable the sending of electronic invoices in their integral form, and that traffic participants do not print external representations of them.
- Align the Decree on Customs Procedures and Customs Formalities with the new Customs Law, in such a way that the additional costs of the laboratory analysis are not borne by the applicant for the issuance of a binding information and abolish the fee for using customs terminals.

PAYMENT SERVICES

1.40

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Automating the video identification process	2022		√	
Establishing an interrelated (joint) bank platform for information exchange in the payment account switching process	2022			√
Introducing e-bills of exchange for natural persons	2022		√	
Amendment to Article 9, paragraph 2 of the Law on Multilateral Interchange Fees and Special Operating Rules for Card-Based Payment Transactions in the section on the existence of special client requests	2022			√
"Amendment to the law in the section referring to documentation submitted to the client when opening a current account"	2022			√

CURRENT SITUATION

In 2022, a new decision was adopted by the National Bank of Serbia which further regulates the payment services system in the Republic of Serbia – the Decision on the Payment Account with Basic Features. The Decision on Risk Management by Banks was also amended to regulate the process of how banks are to render or amend their bylaws governing the provision of payment services. Adopting the Decision on the Payment Account with Basic Features enables citizens to have an account that is necessary for them to carry out their daily life activities while protecting their standard of living, given that the maintenance cost of this package is limited to RSD 150.00/month. Amendments to the Decision on Risk Management by Banks have ensured that the National Bank is informed in a timely manner of any planned bank price list changes. This was achieved by introducing a rule whereby banks planning to introduce new fees are obliged to notify the National Bank of Serbia of said changes and to include an analysis of planned fee changes at least 45 days prior to their enforcement. Furthermore, an agreement was made with all banks that had changed their price lists starting from 1 January 2021 to reduce these new fees by 30% or to reduce them to their prior amounts. The aim of all of these activities was to protect the public during a time of significant price pressure on a global scale.

As we had already mentioned in last year's report, the period following 2021 is a period of stabilisation in terms of payment services regulation as much had already been accomplished in the period following 2014 to 2021. Once the Law on Payment Services was adopted at the end of 2014, we had a period of considerable regulatory activity with the aim of creating a modern, digitalised system through which to offer payment services. At the same time, we are not only referring to the Law on Payment Services and the bylaw adopted under said Law, we are also referring to the entire set of other regulations adopted by the National Assembly of the Republic of Serbia and other regulatory bodies (Law on Electronic Documents, Electronic Identification and Electronic Trust Services of 2017, the Law on the Protection of Financial Service Consumers in Distance Contracts of 2018, Decision on General Rules on Instant Credit Transfers of 2017 with amendments, Decision on Conditions and Manner of Establishing and Verifying Identity of a Natural Person through Means of Electronic Communication and the like). The entire group of these and other documents supports the implementation of both the 2020-2024 Strategy for Digital Skills Development of the Republic of Serbia and the Strategy for the Development of the Information Society and Information Security for the 2021-2026, documents adopted by the Government of the Republic of Serbia, as umbrella documents serving to modernise and digitalise the entire society. In line with the above, it is clear that much has been done in recent times to advance, digitalise, make available and improve payment services customer protection relative to payment and other corresponding services.

In line with said, this text aims to analyse the results of the previous recommendations, as well as to propose what additional steps need to be taken to improve payment services in the Republic of Serbia.

POSITIVE DEVELOPMENTS

As far as recommendations from the previous year are concerned, there have been improvements in the following scope:

Automation of the video identification process – Building on the previous year's recommendations, we would like to highlight here that improvements have been made in this area in terms of automation of the video ID process. Namely, representatives of the National Bank of Serbia have made public statements that openly and clearly express their opinions relative to the automation of the video ID process. Even more important is their constructive proposal to come to a compromise, and considering this area we believe there has been progress and, in the future, we will have a fully automated video identification process with the application of full measures preventing potential fraud.

Introduction of e-bills of exchange for natural persons - We believe there has been some progress in this area given that the National Bank of Serbia has expressed the view that in the next phase of developing the Central Registry of e-Bills of Exchange will include natural persons who are not issuers of e-bills of exchange. In particular, we fully understand the need for regulators to safely determine the functionality and quality of the work of the registry relative to legal entities and entrepreneurs, and that at some later stage of its development, natural persons who do not carry out an activity should also be included.

REMAINING ISSUES

1. **Automating the video identification process**

As in previous years, this year we want to emphasise the importance of automating the video identification process in the process of opening a client account, for reasons of risk awareness, we sincerely believe that the automation of this process would bring significant benefits to clients and PSPs. One benefit that is greater than the risk of fraud associated with video identification process automation. In expressing satisfaction with the introduction of the video identification process in previous years thus enabling the people and companies to open accounts much easier, we believe it suitable to reconsider the possible exclusion of the presence of a taxpayer representative, who conducts the video identification process on behalf of the taxpayer i.e., for verification to be carried out by software. Namely, the existing process, which has truly made account opening much easier, still has a number of technical limitations regarding the client's environment (sound, light), internet signal strength, understanding of instructions provided by the agent (visual display of the personal ID document, rotating it, covering it with a finger, etc.). We believe that by identifying clients using biometric data (facial recognition) the mentioned technical limitations would be overcome, the process itself would be accelerated, and security would not be compromised. In this regard, our proposal is to allow for video identification to be performed by using various software solutions which use biometric data to identify clients. Namely, as much as we support the position that the 'spoken word' is sometimes necessary to verify all data, in a modern society where technological advances are being made every day, it is our stance that we should have confidence in said technology. In addition, we emphasise that we support any form of pilot project relative to this area, and any proposals that would make it possible to further simplify client account opening (for example, video identification begin performed by another government authority, and allowing the banks to download the data).

2. **Issuance of a certificate for a qualified electronic signature without the need for the PI to be physically present**

On the one hand, this recommendation does not directly relate to the provision of payment services, but on the other hand, it can significantly facilitate the process of establishing a business relationship with clients. That is to say, according to the current solution, in order for a PI to receive a qualified electronic certificate, they are required to visit a certification authority in person (JP Pošta Srbije [Postal Services], Chamber of Commerce of Serbia, MUP RS, etc.). We are of the opinion that regulating the procedure in this way is one of the main reasons why the issuing of certificates themselves has not taken root in practice and why many of them have not been issued thus far. In accordance with the above, we believe that regulations governing how certificates are issued should be amended. Specifically, it is our view that it is necessary to permit the issuance of qualified electronic certificates without natural persons needing to physically visit the offices of the issuing authority. More precisely, we recommend that the regulator allow for qualified electronic certificates to be issued through the video identification process by the certifying authority or through the biometric client data verification process. This is linked to payment services in that the banks could then be able to open a client account without the need for video identification, using the fact that the client has already been identified by the certification authority. Further, this type of client would already have a qualified electronic signature and would be eligible to receive any bank product, without having to visit a branch in person. This would bring the distance contracting process

full circle and allow for the unhindered processing of various products for online clients.

3. **Establishing a joint platform for the banks to exchange information during the process of payment account switching (Switching Service)**

A joint platform for banks to work together during client loan refinancing was launched in 2022 and according the banks' experiences, the process functions exceptionally well. More specifically, this platform has facilitated communication and the loan refinancing process for both retail clients and for the banks. Amendments were made to payment services regulations adopted in 2018 to define the payment account switching procedure, with an attempt to facilitate said procedure for payment service users. Current observations indicate that the process has not taken root significantly in practice and that exchanging data via e-mail may create issues where the processes of monitoring and actively reacting to applications/requests are concerned. In order for the payment account switching process to take root in practice, the authors of this text believe it necessary to introduce a user payment account switching platform (according to the same principle which applied to the refinancing procedure platform) that would be managed by the PSP. Introducing this type of platform would not only speed up the account switching process, but would also make it easier for banks to communicate back and forth during the process itself. To conclude, we believe this would additionally contribute to the further development of competition in the banking sector, which may have a positive effect on clients as payment service users.

4. **Introducing electronic bills of exchange for natural persons**

In accordance with the fact that the Central Registry of e-Bills of Exchange for legal entities and entrepreneurs is expected to start working soon, the authors of the text are of the opinion that enabling physical persons to issue e-bills would be another step in the comprehensive process of digitalization of payment services. Namely, natural persons, as users of various banking products are very often obligated to issue bills of exchange when concluding agreements. In line with the above, it would be easier for both banks and clients alike if e-bills of exchange could be issued by natural persons. Primarily because banks are more often allowing for the conclusion of distance loan agreements, in line with the provisions of the Law on the Protection of Financial Service Customers concerning distance contracting. From a legal standpoint, these agreements are uncollateralised, because more often than not, nothing is taken from the client, not even bills of exchange. Namely, if a distance agreement is concluded, it is not expedient to ask the client to visit the bank's premises in order to issue bills of exchange. Given the fact that natural persons are a significantly more vulnerable payment service user category in comparison to LEs and entrepreneurs and that they require additional protection, we believe that relative to natural persons, a compromise would be the right solution. The fact is that the function of the Central Registry of e-Bills of Exchange is to enable the forced realisation of the bill of exchange without the need to submit a motion for execution with the competent court. It is indisputable that at this moment enabling the same in relation to natural persons would expose this category to the increased risk of enforced collection. In accordance with the above, we propose to enable natural persons to issue e-bills of exchange via the Central Register of e-Bills of Exchange; however, to withhold permission to the creditor to activate said bills of exchange before the creditor has submitted a motion for execution with the competent court. A bill of exchange issued in this way can only be collected upon with the submittal of a motion for execution with the competent court and with confirmation provided by the Central Registry of e-Bills of Exchange that said bill of exchange was in fact duly issued and registered. We believe that the proposed regulation of e-bills of exchange issued by natural persons would facilitate access to loans and other bank products without putting this client category at risk of activation without an official order/ruling rendered by a competent court.

5. **Amendment to Article 9, paragraph 2 of the Law on Multilateral Interchange Fees and Special Operating Rules for Card-Based Payment Transactions in the section on the existence of special client requests**

In this area, we believe it is necessary to provide the same recommendation from the previous year in the same content, for the reason that there have been no changes in its implementation. We propose the amendment of the Law on Multilateral Interchange Fees and Special Operating Rules for Card-Based Payment Transactions, such that the issue of cards, where in domestic payment transactions, the processing, netting and settlement of transfer orders issued based on its use are NOT performed in the Republic of Serbia, are not conditioned by the previously mentioned special request of the payment services user.

The authors of the text are fully aware of the significance of the existence of the provisions of Article 9, paragraph 2 of the Law on Multilateral Interchange Fees and Special Operating Rules for Card-based Payment Transactions. We would once again like to propose here that within the aforementioned paragraph, the section which states that the card for which processing, netting and settlement of transfer orders issued on the basis of its use in domestic payment transactions are not carried out in the Republic of Serbia, can only be issued at the special request of the payment service user, given in writing.

We propose Article 9, paragraph 2 of the Law be worded as follows:

"A payment card which may be used to initiate current account payment transactions, where the operations stipulated in paragraph 1 of this Article are not performed in the Republic of Serbia – can only be issued to the user to initiate payment transactions from said current account if he/she has already been issued or will be issued the payment card referred to in paragraph 1 of this Article."

Namely, the proposed amendment in no way jeopardises the meaning or reason for introducing the mentioned provisions into our legal system. On the other hand, by excluding the need for a special request in written form, unnecessary administration is reduced for the Bank, by introducing the need to generate and sign additional documentation for the issuance of a payment card, necessary for payment service users to perform transactions at points of sale or online stores abroad.

6. **Amendments to the laws in the section referring to documents submitted to clients when opening a current account**

Within this recommendation, we would like to once again emphasise the necessity to reconsider the need to have a large number of documents delivered to clients when opening a current account. More specifically, the large number of documents that are delivered to clients in the pre-contractual phase and the contractual phase, and on the occasion of opening an account, really is an issue for clients themselves in that it is difficult for them to understand which documents/information are of importance to them. Practice has shown that the clients themselves complain, as they don't understand the need for such a large set of documentation. In line with the aforementioned, and aiming to protect and provide comprehensive information to the client, it would be desirable and more efficient to review regulations in this area so as to ensure full disclosure to clients while reducing the amount of documentation PSPs are required to provide clients. Given that in the previous year's document we provided certain recommendations, we find it imperative to repeat said here as well.

We propose that the section of the documentation provided to clients excludes the obligation to provide the Offer, in that the submittal of the Draft Opening an Account Agreement together with the General Business Regulations and the Price List of the PSP could be considered the Offer.

Further, a key amendment which would allow for full client disclosure is to introduce a new document to replace the document entitled: Overview of Services and Fees. Namely, a set of approx. 5-10 most common services should be prescribed, which are taken as assessment criteria for all banks for the observed period of one month and to allow banks to download this document from the NBS's website, with the obligation that said document be submitted to the client in the pre-agreement phase. The idea behind this document is to provide the average client with a one-page document that shows the total monthly fees for that particular set of services for every bank operating in Serbia. We believe that this would satisfy the regulator's desire for full disclosure to the client. An obstacle to this proposal is that the banks all have various package accounts available, however, in this modern technological age, it would be easy to set up the application to recognise which package is most favourable for the client, and which includes a particular set of chosen services.

We further recommend that a specific type of working group is formed relative to this area that would include representatives of the National Bank of Serbia as well as bank representatives. The main task of this working group would be to once again review the entire account opening process through mutual discussion and analysis and to make any potential amendments to regulations governing the volume of documentation that is required to be submitted.

FIC RECOMMENDATIONS

- Automating the video identification process
- Issuing a qualified electronic certificate to natural persons without the need for them to do so in person
- Establishing an interrelated (joint) bank platform for information exchange in the payment account switching process
- Introducing e-bills of exchange for natural persons
- Amendment to Article 9, paragraph 2 of the Law on Multilateral Interchange Fees and Special Operating Rules for Card-Based Payment Transactions in the section on the existence of special client requests
- Amendment to the law in the section referring to documentation submitted to the client when opening a current account

FOREIGN EXCHANGE OPERATIONS

1.33

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Adapt the wording of the Law and interpretation in practice so that prohibited operations are explicitly prescribed as such, whereas all other activities are considered permitted.	2017			√
Further relaxation of administrative requirements (e.g. delivering of documentation via e-mail instead in hard copy), and particularly switching to ex post reporting of cross-border financial loans. Enable foreign inflows without prior notification to the bank, as currently envisaged by by-laws governing cash inflow and outflow with abroad, subject to condition (if necessary) for such notification to be made subsequently and electronically at certain time intervals, if possible, directly from the companies and not through commercial banks (e.g., monthly, quarterly, etc.) For natural persons, enable automatic distribution of all inflows from abroad, i.e., without exceptions regarding the notification of the Bank on certain bases of inflow.	2021		√	
Continue the practice of publishing of opinions of state authorities in charge of forex operations, in particular NBS, for the consistency in application of regulations by all participants.	2021	√		
Reconsider the wide scope of NBS' discretion to restrict a resident from granting securities or guarantees in relation to foreign loans, especially in relation to regular foreign loans and further regulate the procedure in accordance with Article 23 of the Law and relevant bylaws. Additionally, the clear instructions are required regarding the type of securities for receivables collection that are to be obtained from non-residents in case of granting loans to a non-resident or providing guarantees and other type of securities under credit operations between non-residents.	2021			√
Simplify the set-off rules from the Article 6 of the Law (and relevant by-laws) for all types of current and capital transactions and allow cash pooling between affiliated parties.	2012			√
Reconsider Articles 7, 20 and 33 of the Law so that the transfer, payment and collection of receivables and debts are resolved adequately for all types of current and capital transactions.	2013			√
Further liberalisation of foreign deposit transactions of residents, especially for companies subject to project financing by foreign banks and international financial institutions.	2018			√
Clearly regulate the treatment of inflows and outflows of cross-border donations, grants and other nonrefundable givings whereby domestic business entities participate, either as recipients or donors.	2018			√
Re Articles 32 and 34 of the Law, enable the direct collection of claims of non-residents in foreign currency to their accounts abroad in judicial and extrajudicial enforcement proceedings and bankruptcy proceedings to make the proceedings more efficient.	2022			√

CURRENT SITUATION

During last year, there were no significant changes in the field of foreign exchange regulations.

Since the last edition of the White Book, several by-laws to the Law on Foreign Exchange Operations (Official Gazette of RS Nos. 62/2006, 31/2011, 119/2012, 139/2014 and 30/2018) (Law)have been adopted and amended. Generally, the changes were related to the regulation of exchange transactions, and types of foreign currencies that can be sold and bought on the foreign exchange market, while there were no changes to the regulations to which the Council's recommendations refer.

POSITIVE DEVELOPMENTS

During the last year there have been no material changes of the Law and/or the bylaws, and thus significant positive developments in this area have not been made.

Positive trend introduced by the National Bank of Serbia (NBS) by publishing its responses on frequently asked forex questions on its website should be continued as it significantly contributes to legal certainty. Although clear on the basis of this document that the NBS maintains a positive approach to interpretation of the Law, in the sense that only explicitly prescribed operations in the Law are considered allowed, the public availability of these opinions significantly contributes to the planning of transactions.

REMAINING ISSUES

Despite the partial liberalisation in the field of forex operations, the current legislation remains restrictive, with the aim of protecting and preserving the macroeconomic stability.

Recognising the position of the regulator regarding the necessity to preserve macroeconomic and financial stability, we believe that there is still a need to adapt the wording of the Law and the interpretation in practice to the approach in which prohibited operations are explicitly prescribed as such, while all other activities should be considered permitted. Engagement of the NBS in interpretation of the provisions of the Law through questions / answers published on the official website is very welcome, however it would be beneficial to commence with the implementation of standpoints of the NBS into the provisions of the Law and also make those sufficiently flexible for practical application without the need for additional interpretation with the aim to satisfy the needs of the market that is continuously evolving.

In similar manner, the needs of the groups of related persons seeking to simplify financial relations within the group could be addressed by prescribing the conditions by the NBS. i.e., by enabling, under the certain conditions, broadening the scope of the bank products, e.g., cash management, cash pooling and similar packages.

Certain practical difficulties in conducting cross-border loan transactions arise from the ex-ante reporting to the NBS of financial loans, which is a precondition for utilization of funds by resident companies. Due to purely statistical purpose of reporting, further simplification of the said procedure is needed, e.g., by introducing the obligation of ex-post aggregate reporting by e-mail, with a reduced volume of documentation or in a similar manner, as already introduced for certain other types of credit transactions. This would be in line with the previously expressed readiness of the NBS to continue with the activities with the goal to simplify procedure and decrease the reporting costs. We emphasize that the need to further solve issues of transfer, payment and collection of receivables based on current and capital transactions remains, as only Article 33 sets the rule for all types of permitted current and capital operations, but only for transfers between two non-residents. Articles 7 and 20 regulate transfers in 'realised' foreign trade and credit transactions, while similar rules are missing for all other types of transactions - e.g., for receivables arising out of direct investment, guarantees, real estate, etc. Also, the provisions on obtaining the approval of the Government for certain operations, in particular Articles 7, 20 and 33, need to be re-examined as they appear to be unnecessarily broad and restrictive, especially for the assignment of non-resident's receivables. Additionally, the term "state-owned company" used in these articles is not clear and should be clarified so as not to include companies with indirect state capital or minority state capital. We understand that in this regard the NBS, together with the Ministry of Finance, expressed readiness to explore the possibility to address recommendations from FIC. Implementation of the already published standpoints of the NBS on the official website would benefit the legal certainty, especially in relation to appli-

cation of Articles 7, 20 and 33 related to transfer of payment and collection of the receivables.

Also, in relation to the Article 6 of the Law and the relevant by-laws, it remains necessary to liberalize the cross-border set-off of mutual receivables and debts as the current set-off rules are defined only for certain types of operations, while there is a gap for other operations (e.g., real estate operations) and the interpretation in practice that these are unpermitted. Also, necessity in practice remains to further liberalise foreign deposit operations of residents, especially for companies that are the subject of project financing by foreign banks and international financial institutions.

Furthermore, the by-laws regarding foreign cash inflows do not fully allow the automation of international payment transactions. In order for a resident to realise foreign cash inflow, it must first provide the bank with information for statistical purposes regarding the basis for collection and in certain situations documentation for justification of the basis of collection. Only certain types of inflows of up to 1,000 euros have been exempt from the procedure as part of the gradual liberalisation process. In addition, as of 1 April 2021, the implementation of the amended provisions of the Guidelines for Implementing the Decision on Terms and Conditions of Performing Foreign Payment Transactions (amendments from July 2020) has begun, which prescribes the obligation to enter data on invoice in payment/collection order in accordance with the single customs document for operations of import and export of goods. The change required significant changes in bank systems and adds an administrative burden in carrying out international payment transactions.

It also remains unclear why the possibilities of providing guarantees i.e., collaterals by residents are limited only to credit operations between non-residents, and not other types of transactions pursuant to Article 26 of the Law regulating guarantees.

Also, the efforts should be aimed at relaxation of provisions regulating provision of financial loans by the residents and provision of the guarantees and other collateral for credit transactions abroad / with abroad, as well as other guarantee transactions which would enable companies operating in the region to participate in the transactions abroad together with consortiums of non-residents where they could undertake obligation to obtain guarantees for advance payment, good performance of works, etc. Particularly, there is the need to know in advance which collateral is deemed adequate for ensuring collection under the credit transactions.

Similarly, in the context of the on-going integration processes in the region it is suggested to consider gradual liberalisation of the regime within Open Balkan area, at least at the same level as awarded in relations with the non-residents from the EU.

Furthermore, Article 32 of the Law allows legal entities and entrepreneurs to perform cross-border payments through a payment institution and the public postal operator. At the same time, however, the Law on Payment Transactions of Legal Entities, Entrepreneurs, and Individuals Not Engaged in Business Activity ("Official Gazette of RS" no. 68/2015) prescribes the obligation for legal entities and entrepreneurs to make payments through a current account opened with a bank or the Treasury Department (indirectly indicating that payment institutions and the public postal operator are not authorised to conduct international payment operations). For this reason, it is necessary to harmonise the aforementioned law and the law regulating payment services with the Law in order to fully enable legal entities and entrepreneurs to perform cross-border payments through a payment institution and the public postal operator.

Also, it is necessary to regulate the treatment of inflows and outflows of cross-border donations, grants and other non-refundable givings whereby domestic business entities participate, either as recipients or donors. Currently, such payments are not regarded as current nor capital transactions defined by the Law, hence, their legal treatment is not clear. Detailed regulation in this regard is needed, especially for start-up companies in the IT and other sectors which require such funding in the initial stages of the development.

Finally, we would raise the systemic issue of more efficient collection of claims of non-residents arising from judicial and executive proceedings, execution of extra-judicial mortgages and bankruptcy proceedings. Currently, under the laws governing these procedures, non-resident account is required at the time of submission of the proposal for execution and/or collection in dinars, making the collection procedure for non-residents ineffective, as the opening of non-resident bank

accounts can take months. This issue needs to be systematically resolved through changes/interpretations of all relevant laws regulating these procedures and in coordination with competent authorities. As per the Law, it would be useful to amend or interpret Articles 32 and 34 of the Law to enable payment in foreign currency directly to the account of non-residents abroad in such cases. Where the laws governing these procedures prescribe the collection or denomination of receivables in dinars, possibility of introducing an exception for payments to non-residents in foreign currency directly to an account abroad should be considered.

Generally, the forex policy should be directed towards the further liberalisation of current and capital transactions to harmonise the applicable Serbian legislation with EU rules and international standards in this area. Application and interpretation of the laws by the competent authorities should be accompanied by adequate amendments.

FIC RECOMMENDATIONS

- Amend the Law to implement already published interpretations by the NBS with relaxation of positivistic manner of setting Law provisions. In addition, in the context of the on-going integration processes in the region the regime within Open Balkan area should be gradually liberalised, at least at the same level as awarded in relations with the non-residents from the EU, especially as statistically the highest number of mother companies are seated in the Republic of Serbia which enables easier control important for macroeconomic monitoring.

- Further relaxation of administrative requirements (e.g., delivering of documentation via e-mail instead in hard copy), and particularly switching to ex post reporting of cross-border financial loans. Enable foreign inflows without prior notification to the bank, as currently envisaged by by-laws governing cash inflow and outflow with abroad, subject to condition (if necessary) for such notification to be made subsequently and electronically at certain time intervals, if possible, directly from the companies and not through commercial banks (e.g., monthly, quarterly, etc.). For natural persons, enable automatic distribution of all inflows from abroad, i.e., without exceptions regarding the notification of the bank on certain bases of inflow.

- Continue the practice of publishing of opinions of state authorities in charge of forex operations, in particular NBS, for the consistency in application of regulations by all participants, whereby, as noted – currently published standpoints may serve as the basis for further improvements of the Law.

- Reconsider restrictions for a resident to grant securities or guarantees in relation to foreign loans, especially in relation to regular foreign loans and regulate in detail restrictions in accordance with Article 23 of the Law and relevant bylaws. Additionally, clarifying type of collateral for receivables collection to be obtained from non-residents for the purpose of advance determining of their acceptability in case of granting loans to a non-resident or providing guarantees and other type of securities under credit operations between non-residents is required.

- Simplify the set-off rules from the Article 6 of the Law (and relevant by-laws) for all types of current and capital transactions and allow, with prescribing adequate conditions, cash pooling between affiliated parties.

- Reconsider Articles 7, 20 and 33 of the Law so that the transfer, payment and collection of receivables and debts are resolved for all types of current and capital transactions.

- Further liberalisation of foreign deposit transactions of residents, especially for companies subject to project financing by foreign banks and international financial institutions.

- Clearly regulate the treatment of inflows and outflows of cross-border donations, grants and other non-refundable givings whereby domestic business entities participate, either as recipients or donors.
- Re Articles 32 and 34 of the Law, enable the direct collection of claims of non-residents in foreign currency to their accounts abroad in judicial and extrajudicial enforcement proceedings and bankruptcy proceedings to make the proceedings more efficient.

PREVENTION OF MONEY LAUNDERING AND FINANCING OF TERRORISM

1.50

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Develop a system that would enable better cooperation between the Administration, supervisory bodies and obliged entities, with the aim of better implementation of regulations with emphasis on prevention of money laundering and funding of terrorism and not burdening obliged entities with numerous formalities e.g., establishing a Task Force that would meet regularly to monitor the implementation of regulations with the participation of representatives of the competent authorities.	2009		√	
Create an analysis of new changes to the regulations in this area and recommend a meeting with the Government of RS to further improve the legal framework.	2020			√
Accept and adopt initiatives of professional associations to exempt certain business relationships from obligations prescribed by law (e.g., risk insurance).	2019			√
Continue organizing adequate seminars and workshops with the purpose of conducting certain training for the persons to whom the New Law with the purpose of increasing the efficiency of its applicability.	2011		√	

CURRENT SITUATION

During the final stage of the preparation of the White Book, the National Assembly adopted the Law on Amendments to the Law on Prevention of Money Laundering and Financing of Terrorism (Off. Gazette of RS Nos. 113/2017, 91/2019, 153/2020 and 92/2023), with the aim of introducing a new obligee - the Central Registry, Securities Depository and Clearing, in order to further improve and secure the system effective supervision over the implementation of the Law by the Securities Commission.

The previous amendments were introduced in 2020 to enable harmonization with the Law on Digital Property (Off. Gazette of RS, No. 153/2020) and full compliance with FATF Recommendation 15 and, to a large extent, with the EU Fifth Directive.

On the other hand, on 12 May 2022, Securities Commission adopted the Guidelines for the assessment of risk of money laundering and financing of terrorism and the application of the law on the prevention of money laundering and financing of terrorism for obliged entities under the jurisdiction of the Securities Commission, the purpose of which is to instruct the obliged entities on how to conduct a general risk assessment of money laundering and financing of terrorism in relation to their business, as well as to conduct an analysis and risk assessment on a case to case bases i.e. based of the person with whom the business relationship is established.

Additionally, on 28 December 2022, the Administration for Prevention of Money Laundering adopted Recommendations for reporting suspicious activities, which aims to make it easier on the obliged entities to identify, process, prevent and report activities and persons suspected of being linked to money laundering or terrorist financing.

Moreover, on 30 June 2022, the director of the Administration for Prevention of Money Laundering adopted Indicators for recognizing grounds for suspicion of money laundering or financing of terrorism for accountants, while the governor of the National Bank of Serbia on 14 June 2023 adopted the List of indicators for recognizing grounds for suspicion of money laundering or financing of terrorism in the case of service providers related to virtual currencies.

Furthermore, the Administration for Prevention of Money Laundering has starting from 1 January 2023 made it possible for the obliged entities to perform their obligation from the Art. 47 of the Law through an online app called TMIS.

In order to improve international cooperation when it comes to money laundering, on 2 February 2023, the representatives of the Administration for Prevention of Money Laundering and representatives of the UAE Financial Intelligence Unit have concluded an Agreement on mutual cooperation.

POSITIVE DEVELOPMENTS

As of October 2022, Serbia is considered to be a country with a medium level of risk for money laundering and financing of terrorism, which is a significant improvement compared to previous years when it was among countries with a higher risk level. The International Centre for Asset Recovery at the Basel Institute on Governance (Basel AML Index) has ranked Serbia in 78th place on the list of countries with the highest risk of money laundering and financing of terrorism, which is a significant improvement compared to the ranking of the previous year, when Serbia was in 46th place.

Amended Law in force and the other enacted regulations are almost fully harmonized with the relevant EU directives and international standards and conventions in this field, which is of special relevance to foreign investors.

FIC supports the initiative to continue the promotion of not just the legal framework, but also to keep intensive monitoring on the application of all new regulations and cooperation with all competent state bodies with the hope that these new regulations will bring forth the much-needed legal certainty, considering the specificities of the legal framework.

Finally, in the past year, competent authorities have been active in hosting several workshops and seminars intended for both obliged entities, members of supervisory authorities and the judiciary on the topic of improving the capacity of supervisory authorities in fulfilling their obligations and reporting suspicious transactions, as well as implementing the Law.

REMAINING ISSUES

Although the new regulations are adopted without a sufficiently open public debate, FIC emphasizes that it is necessary to achieve good cooperation between all competent state bodies and investors, companies, professional associations, and business organizations in order for the Law to be successful.

The application of the Law, above all, depends on the activities of the Administration and other competent bodies.Standards and rules established in EU countries are largely accepted and incorporated into the new text of the Law and the next step would be to find mechanisms for their implementation in cooperation with business entities.

In addition to the relative compliance of legislation with EU rules, it is necessary to make further changes to laws and regulations based on the MONEYVAL report, which was published in December 2021, in order to fully comply with European standards.

The remaining problems are the existence of several supervisory bodies with often different views in terms of application of regulations, imprecision of certain legal provisions, legal solutions that are sometimes stricter than the requirements of relevant foreign and EU regulations but also the regulations of neighbouring countries - such as obligation of licensing of authorized persons and their deputies as well as obligation to obtain excerpts from commercial registries for all companies in ownership chain of the client, frequent and unclear requests for additional information from the side of supervisory bodies, which consume time and personnel of the obliged entities, and the tendency of the supervisory authorities not to deal with essential issues which are important for the prevention of money laundering and funding of terrorism but with punishing obliged entities for certain formal omissions.

FIC RECOMMENDATIONS

- Develop a system that would enable better cooperation between the Administration, supervisory bodies and obliged entities, with the aim of better implementation of regulations with emphasis on prevention of money laundering and funding of terrorism and not burdening obliged entities with numerous formalities e.g., establishing a Task Force that would meet regularly to monitor the implementation of regulations with the participation of representatives of the competent authorities.
- Create an analysis of new changes to the regulations in this area and recommend a meeting with the Government

of RS to further improve the legal framework.

- Continue work on harmonizing domestic regulations and laws with European standards and requirements.
- Accept and adopt initiatives of professional associations to exempt certain business relationships from obligations prescribed by law (e.g., risk insurance).
- Continue organizing adequate seminars and workshops with the purpose of conducting certain training for the persons to whom the New Law with the purpose of increasing the efficiency of its applicability.

LAW ON THE CENTRAL REGISTER OF BENEFICIAL OWNERS

1.33

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
The procedure for electronic registration should be further developed, and the indirect registration of the establishment of the Registered entities should be facilitated.	2022		√	
The foreign public joint stock companies listed on the reputable stock exchange should be excluded.	2022			√
The sanctions prescribed by the Law should be reduced.	2019			√

CURRENT SITUATION

The Law on Central Register of Beneficial Owners ("Official Gazette of the Republic of Serbia", No. 41/2018,91/2019,105/2021 and 17/2023) (hereinafter: **the Law**) came into force on 8 June 2018.

In accordance with the Law, two rulebooks have been adopted which regulate this matter in more detail: Rulebook on the Content of Central Register of Beneficial Owners for Purpose of Registration of Ultimate Beneficial Owners of Registered Entity and Rulebook on Manner and Conditions for Electronic Exchange of Data between Business Registers Agency (hereinafter: **SBRA**), other State Authorities and the National Bank of Serbia in order to register Beneficial Owners.

The Central Register was established on 31 December 2018 and is a public, unique, electronic, and centralized database of natural persons who are beneficial owners (hereinafter: **UBO**) of a legal entity or another entity registered in the Republic of Serbia, including companies, except for public joint stock companies, business associations and associations, foundations, endowments and other legal entities (hereinafter: **Registered entity**).

Business companies and institutions in which the Republic of Serbia, an autonomous province, or a local self-government unit, is the sole member or founder are exempted from the application of the Law.

The amendments which came into force on 1 January 2020, prescribe that the supervision over the registration, accuracy and updating of registered data and storage of data and documents is performed by the SBRA, the National Bank of Serbia, competent state bodies –Tax Administration, Administration for Prevention of Money Laundering, market inspection, as well as that in case of determining irregularities, they can initiate misdemeanor proceedings against the Registered entity and the responsible person in the Registered entity - legal entity. Supervision over the implementation of the Law and supervision over the work of SBRA in connection with the Central Register is performed by the ministry in charge of economic affairs.

The amendments from 16 November 2021 and whose application began in May 2023 (except for the provisions whose application will begin on 1 October 2023), envisage several important changes.

The Law expands the concept of an authorized person and it now includes the founder in the process of establishment of the Registered entity electronically, as well as the person who is a legal representative of the Registered entity in all other cases.

Regarding the way of keeping records, it is envisaged that the registration of the establishment of a Registered entity in the SBRA can be done indirectly, using an application for receiving electronic applications for the establishment of Registered entities. This helps in overcoming the previous issue of the need for a foreign person to come to Serbia to be able to register the establishment of a Registered Entity.

The amendments to the Law expand the circle of persons who bear misdemeanor responsibility in the event that they do not record data about the Registered entity or the UBO. A fine of 50,000 to 150,000 dinars is now imposed on to the person responsible for the misdemeanor, that is, the person who is authorized for representation in the Registered entity in all cases except in the procedure of establishment by electronic means.

The latest amendments to the Law, which entered into force on 10 March 2023, postpone the application of the provisions of the Law that enable the simultaneous establishment of a Registered entity and the recording of the UBO through an electronic system. The reason for the postponement are technical issues in the development of the new software of the SBRA that would enable their application.

As of 1 December 2021, 146,202 Registered entities have registered their UBOs which represents a little over than 85% of Registered entities[1].

POSITIVE DEVELOPMENTS

Although the implementation of certain amendments from 2021 has been postponed, these amendments are the last significant amendments to the Law.

The aim of expanding the concept of an authorized person with the possibility of data registration also indirectly and electronically is to eliminate the previously existing obstacles and problems for potential investors in registration of data when the basis of registration is the establishment of the Registered entity. Before implementation of the amendments to the Law in 2021, the potential investors were easily demotivated in cases when the authorized person for the legal representation performing the registration was a foreign citizen. Due to the previous obligation to register data by mandatory usage of the certificate of an authorized person, that authorized person who is foreign citizen was required to visit Serbia since the takeover of the certificate from an authorized body must be done exclusively in person.

REMAINING ISSUES

The above-mentioned introduction of indirect registration only applies during the process of establishing Registered entities - it seems as it might be necessary to facilitate the registration process after the Registered entity has been established. This refers especially to the situations when the legal representative of the Registered entity is registered as the UBO (which is not uncommon), but there is a change of the legal representative, so that the new legal representative is a foreign citizen (who often does not have a residence in Serbia). Considering that this change would have to be registered not later than 15 days upon the change, the legal representative is required to visit Serbia in a short period because the above-mentioned certificate must be obtained exclusively in person by the legal representative, which may represent an additional logistical challenge.

It is necessary to state that the Law does not " exclude" foreign public joint stock companies (as is the case with the Law on the Prevention of Money Laundering and Financing of Terrorism). That means that if in the ownership structure of the Registered entity there is a foreign listed joint stock company, it is necessary to examine the ownership structure of the listed company, which in most cases is not possible and is not a reasonable approach.

The last remaining issue are the strict sanctions prescribed for failure to comply with the provisions of the Law, which are completely disproportionate to the actions and consequences of the sanctioned action.

1 https://www.apr.gov.rs/infografike.4320.html?infoId=109

FIC RECOMMENDATIONS

- The procedure for electronic registration should be further developed, and the indirect registration of the establishment of the Registered entities should be facilitated.
- The foreign public joint stock companies listed on the reputable stock exchange should be excluded.
- The sanctions prescribed by the Law should be reduced.

LAW ON PERSONAL DATA PROTECTION

1.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Provide the Commissioner with better working conditions, equipment and staff to ensure an effective implementation of the new Law.	2009			√
Harmonize all laws with the Personal Data Protection Law.	2022			√
Enact/amend laws regulating special forms of personal data processing, such as video surveillance, employees' personal data processing and processing for scientific and historical research and statistical purposes.	2019			√
Amendments to the Personal Data Protection Law should provide for the recognition of the validity of binding business policies approved by the body responsible for the protection of personal data in the EU and recognize the validity of the Personal Data Processing Agreement concluded by the controller with the processor from abroad using standard contractual clauses published by the European Commission. This would provide the same degree of protection and there would be no negative consequences for the protection of personal data of citizens of the Republic of Serbia, bearing in mind that the controller would still be liable under the domestic law.	2022			√
Article 65, paragraph 2, item 2 of the new Law should be amended in accordance with Article 46, paragraph 2, item c of the GDPR, judgment of the European Court (case C-311/18) and the new standard contract clauses under the GDPR for transfer of data from controllers or processors in the EU/EEA to controllers or processors based outside the EU/EEA issued by the European Commission on June 4, 2021, providing for the possibility of transferring personal data from the controllers to the controllers and from the controllers to the processors registered in third countries without the authorization of the Commissioner and in the internal market based on standard contractual clauses drafted by the Commissioner, based on the best European practice;	2021			√
Article 77 of the new Law should be amended and it should be provided for the obligation of the Commissioner to draft standard contractual clauses for the transfer of personal data between joint controllers, applying the best European practice;	2019			√
More active adoption of guidelines by the Commissioner in order to facilitate the enforcement and interpretation of the Law:	2020			√
Adopt guidelines on the implementation of Articles 41 and 50 of the new Law;	2021			√
Amend the Decision on the List of States, Part of their Territories or One or More Sectors of Certain Activities in Such States and International Organizations Considered to Provide an Adequate Personal Data Protection Level and delete the wording "United States (limited to Privacy Shield.")	2020			√
Enact conditions for issuing licenses to certification bodies by the Commissioner.	2020			√
Eliminate ambiguities from Article 60 of the new Law regarding the competence of competent bodies for accreditation of legal entities that supervise the implementation of the code of conduct.	2021			√

CURRENT SITUATION

On November 13, 2018, the National Assembly of the Republic of Serbia adopted a new Personal Data Protection Law (Official Gazette of the RS No. 87/2018), (hereinafter-referred to as: "new Law"). The new Law entered into force on November 21, 2018 and its implementation commenced after the expiration of nine months from the date of entry into force, i.e. from August 21, 2019. The new Law is, to a considerable extent, a translation of the General Data Protection Regulation 2016/679 (GDPR), without its recitals and with minor specificities reflecting the features of the legal system of the Republic of Serbia. Although the new Law has been assessed as a robust document, which does not take into account the specificities of the Serbia's legal system, FIC believes that it may serve as a solid legal basis for the promotion of European values in Serbia.

The legal solutions in the new Law clarify the ambiguities that existed in the previous Personal Data Protection Law, such as the method of providing assent for the processing of personal data, introducing legitimate interest as the basis for data processing, recognizing the new rights of data subjects (right on data portability, right to object, right not to be subject to automated processing) or improving the content recognized by the old Personal Data Protection Law. The controllers are now obliged to implement additional measures to protect the rights of data subjects: when processing is likely to result in a high risk to the rights and freedoms of data subjects, controllers are obliged to carry out a data protection impact assessment and cooperate with the supervisory authority in the event that the organizational and technical measures proposed in the data protection impact assessment are not able to mitigate the risks to the rights and freedoms of data subjects to an acceptable level. The most important innovation is the fact that the controller is obliged to implement the appropriate technical, organizational and personnel measures to ensure that the processing is carried out in accordance with this law and be able to demonstrate this, taking into account the nature, scope, circumstances and purpose of the processing, as well as the probability of risk occurrence and the level of risk to the rights and freedoms of data subjects. Furthermore, the controllers shall demonstrate that they implement the appropriate organizational and technical measures. Controllers shall be obliged to report data breaches to the supervisory authority and notify the data subjects, in certain cases. In addition, the controller must enter into written agreements on data processing with the processors defining the subject and nature of the processing, data being processed, relationship with the sub-processors, applied organizational and technical measures, method of verification of their implementation by the controllers and the obligations of the contractual parties regarding data protection impact assessments and data breach, etc. The law introduces obligations for controllers and processors to appoint a personal data protection officer in certain cases and to establish and keep records of processing activities.

The legal regime applicable to the transfer of personal data is now more liberal. Personal data may be transferred to countries that have not ratified the Council of Europe Convention on the Protection of Individuals with regard to Automatic Processing of Personal Data and to countries not considered by the European Union (EU) to ensure an adequate level of personal data protection (third countries) based on the Standard Contractual clauses approved by the Commissioner for Information of Public Importance and Personal Data Protection (hereinafter referred to as: the Commissioner). The new lawful basis for the transfer of personal data to third countries are codes of conduct and certificates issued by certification bodies. Furthermore, personal data may be transferred to companies owned by multinational companies and having registered offices on the territory of third countries, based on binding business policies. The new Law introduces the possibility of establishing certification bodies authorized to verify the degree of compliance with the new Law and issue certificates of compliance.

POSITIVE DEVELOPMENTS

The Commissioner has continued to take an active part in expert meetings related to the enforcement of the Law and public appearances with regard to highlighting the importance of privacy and data protection for citizens and controllers and processors and published excerpts from his opinions on the enforcement of the Law on his website. Certain explanations and a legitimate interest assessment model have been published related to the application of legitimate interest as a lawful basis for personal data processing. The number of staff members with the Commissioner has increased by 15 full-time employees.

The commissioner takes part in the implementation of the short study program "Training of managers for the protection of personal data" implemented by the Faculty of Security of the University of Belgrade, as well as in the imple-

mentation of the short program "Legal data protection and access to information" implemented by the Faculty of Law of the University of Kragujevac. The implementation of these study programs contributes to the education and training of personal data protection officers within the higher education system of the Republic of Serbia.

REMAINING ISSUES

The new Law does not regulate special forms of processing of personal data, such as video surveillance, processing of employees' personal data and processing for the purpose of scientific and historical research, or for statistical purposes. The absence of regulations creates legal uncertainty for controllers, which will significantly hinder their ability to carry out operations. The provision provided for in Article 100 of the Law has not been implemented, the provisions of other laws relating to the processing of personal data should have been harmonized with the provisions of this Law by the end of 2020. The formation of a working group to develop a strategy for the protection of personal data is only a small step in the implementation of much-needed steps to resolve issues in this area.

An important question is whether and to what extent the government intends to promote the values proclaimed by the new Law. In addition to the Commissioner, the government should put in much more effort in raising the awareness of data subjects about the importance of the above-mentioned values by organizing public debates or public conferences where data subjects can learn more about their rights contained in the new Law. The Commissioner is not the only state authority obliged to promote the enforcement of the new Law. Additionally, state authorities should put in more efforts in the implementation of the new Law. The lack of enforcement of the law by state authorities creates an atmosphere that other entities to which the new law applies are not obliged to implement it either. Despite the official warnings of the Commissioner that most controllers have not appointed data protection officers, many of them have not fulfilled this obligation yet.

With regard to the implementation of Articles 41 and 50 of the Law, which refer to the implementation of appropriate technical, personnel and organizational measures, for the purpose of more efficient implementation and better understanding of these provisions by the economy and the public sector, we believe that guidelines could be published by the Commissioner, based on the best European practice, in order to facilitate the application of these provisions and thus improve data security.

A deficiency in the new Law regarding the authority of the Commissioner to enact standard contractual clauses in order to enable the data transfer to controllers located in countries that do not provide adequate protection of personal data, prevents the transfer in these situations, i.e. enables the transfer of personal data without the appropriate protection measures. Making the instrument for data transfer on the territory of Serbia and to countries with adequate protection of personal data equivalent with the instruments for transfer to third countries is inadequate. The Ministry of Justice must consider the content of the new standard contractual clauses under the GDPR for the transfer of data from controllers or processors in the EU/EEA to controllers or processors based outside the EU/EEA issued by the European Commission on June 4, 2021.

It is necessary to intensify activities on the adoption of the guidelines by the Commissioner in order to facilitate the enforcement and interpretation of the Law.

By the time this edition of the White Book was closed, the Commissioner has not yet exercised his authority to prescribe conditions for the issuance of licenses to certification bodies. In addition, the ambiguities in Article 60 of the new Law regarding the accreditation of the legal entity that supervises the implementation of the code of conduct and the competence of the Commissioner make it impossible to supervise the implementation of the code of conduct.

The Council expects the Government of the Republic of Serbia , to express its position regarding the US-EU Adequacy decision for the EU-US Data Privacy Framework issued on July 10, 2023, and the Council also expects the Government of the Republic of Serbia to amend its Decision on the List of States, Part of their Territories or One or More Sectors of Certain Activities in Such States and International Organizations Considered to Provide an Adequate Personal Data Protection Level.

FIC RECOMMENDATIONS

- Provide the Commissioner with better working conditions, equipment and staff to ensure an effective implementation of the new Law.
- Harmonize all laws with the Personal Data Protection Law.
- Enact/amend laws regulating special forms of personal data processing, such as video surveillance, employees' personal data processing and processing for scientific and historical research and statistical purposes.
- Amendments to the Personal Data Protection Law are necessary to: 1) provide for the recognition of the validity of binding business policies approved by the body responsible for the protection of personal data in the EU, 2) recognize the validity of the Personal Data Processing Agreement concluded by the controller with the processor from abroad using standard contractual clauses published by the European Commission and 3) recognize the validity of the Data Processing Agreement concluded in accordance with the GDPR in all respects. This would provide the same degree of protection and there would be no negative consequences for the protection of personal data of citizens of the Republic of Serbia, bearing in mind that the controller would still be liable under the domestic law.
- Article 65, paragraph 2, item 2 of the new Law should be amended in accordance with Article 46, paragraph 2, item c of the GDPR, judgment of the European Court (case C-311/18) and the new standard contract clauses under the GDPR for transfer of data from controllers or processors in the EU/EEA to controllers or processors based outside the EU/EEA issued by the European Commission on June 4, 2021, providing for the possibility of transferring personal data from the controllers to the controllers and from the controllers to the processors, as well as from a processor to a sub-processor, registered in third countries without the authorization of the Commissioner and in the internal market based on standard contractual clauses drafted by the Commissioner, based on the best European practice.
- Article 77 of the new Law should be amended and it should be provided for the obligation of the Commissioner to draft standard contractual clauses for the transfer of personal data between joint controllers, processors and controllers, as well as processors and sub-processors, applying the best European practice.
- More active adoption of guidelines by the Commissioner in order to facilitate the enforcement and interpretation of the Law, taking into account the practice of the Court of Justice of the European Union, competent data protection authorities of the European Union, and the guidelines of the European Data Protection Board.
- Adopt guidelines on the implementation of Articles 41 and 50 of the new Law;
- Adopt guidelines on the implementation of Article 53 of the Law (in which cases there is a high risk to the rights and freedoms of individuals).
- Amend the Decision on the List of States, Part of their Territories or One or More Sectors of Certain Activities in Such States and International Organizations Considered to Provide an Adequate Personal Data Protection Level and modification ofthe wording "United States (limited to Privacy Shield") and indicate the application of the Trans-Atlantic Data Privacy Framework.

- Enact conditions for issuing licenses to certification bodies by the Commissioner.
- Eliminate ambiguities from Article 60 of the new Law regarding the competence of competent bodies for accreditation of legal entities that supervise the implementation of the code of conduct.
- Active participation of the Commissioner in international cooperation and exchange of information with relevant data protection authorities in the European Union. This would enable Serbia to adhere to best practices and current standards regarding data protection, which is crucial for companies operating across borders.
- Adopt the Proposal for a Personal Data Protection Strategy for the period 2023-2030 and its accompanying action plan.

LAW ON THE CENTRAL REGISTER OF TEMPORARY RESTRICTION OF RIGHTS

1.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Significant changes and clarification of certain provisions are necessary (as elaborated in the Remaining Issues above) in order to minimize, to the extent possible, the chances of Law being applied to business entities and their members/bodies acting bona fide.	2015			√
It is necessary to regulate liability for entering incorrect data into the Central Register.	2016			√

CURRENT SITUATION

Law on the Central Register of Temporary Restriction of Rights of Entities Registered in the Business Registers Agency ("Official Gazette of the Republic of Serbia", No. 112/2015) (hereinafter: the Law) came into force on 4 January 2016 and is applicable as of 1 June 2016.

The Law established a Central Register of Temporary Restriction of Rights of Entities Registered in the Business Registers Agency (hereinafter: Central Register), i.e., an electronic database, that contains information on business entities, their owners, directors, representatives, and members of their bodies, whose business has been subject to criminal, misdemeanour, or administrative sanctions.

Temporary measures of injunctions, restrictions or precautionary measures with respect to carrying on registered business activities or operations, injunctions preventing the disposal of money, injunctions or restrictions with respect to the disposal of shares and other measures in accordance with the law may be imposed on founders, management, directors, legal representatives, and other bodies of a company.

A temporary restriction of rights is imposed on the basis of and is the legal consequence of acts of the state or other relevant authority containing legal facts or actions required by law in the form of a legally binding or enforceable judgment, decision, or other formal act submitted to the Business Registers Agency for filing in the Central Register.

The intention to introduce stricter discipline in the operations of business entities in the Republic of Serbia and to minimize the possibility of malpractices and damages to third parties, that is, the introduction of sanctions for those who abuse their position in business entities – is a highly positive goal and is fully supported by the FIC, which has been advocating that same goal ever since its establishment.

The coordination of various authorities (such as, for example, the National Bank of Serbia and the Ministry of Interior) takes place ex officio, in the sense of a timely exchange of data on business entities and their shareholders and bodies, resulting in an increase in the number of entities registered in the Central Register.

There were only several dozens of these entities when the Central Register was established, but in time this number grew to several tens of thousands. According to the latest records, 404,684 active measures against 79,093 entities are currently registered in the Central Register of Temporary Restrictions of Rights.

We remind that, according to Article 20 of the Law, the data from the central records pertaining to individuals to whom bans and security measures in judicial proceedings have been imposed, may not be made public and may be disclosed only in accordance with the rules governing criminal records. The Business Registers Agency's website has a special procedure for access to certain data, requesting users to submit a qualified digital certificate.

Registered data provide a complete overview of the business reliability of an individual business entity, including details of any restrictions imposed on the business entity and its shareholders, members of its governing bodies and authorized representatives, which should eliminate the possibility of any business entity acting in violation of the restrictions imposed on them, while at the same time increasing business transparency and security of legal transactions.

In accordance with Article 29 of the aforesaid Law, the Business Registers Agency cannot approve and register any requests for strike off or corporate changes before the Tax Administration has sent notification on the completion of the tax control procedure or the return of the Tax Identification Number to a company that was registered in the Central Register on any of the aforementioned grounds.

Since January 2017, the Central Register contains information on enforced collection provided by the National Bank of Serbia, which has contributed to the fact that the largest number of registered temporary restrictions relates to resident and foreign legal entities and individuals was taken from the National Bank of Serbia's records.

Therefore, the largest number of measures refers to the prohibition on the disposal of money, which were registered based on the Decisions of administrative bodies and courts, then prohibition issued based on the regulations governing the tax procedure and tax administration.

POSITIVE DEVELOPMENTS

There was no improvement in the previous year, as there were no relevant normative changes in this period.

REMAINING ISSUES

Article 3 of the Law prescribes grounds for temporary restriction, listing specified measures. Consequently, no other grounds for temporary restriction, except those listed, may be the ground for a temporary restriction.

The aforesaid grounds are not always necessarily a consequence of abuse of rights by the party/person whose rights would be restricted. In fact, there are numerous cases of business entities having their accounts blocked, or undergoing bankruptcy proceedings, where such account blockade or bankruptcy are not the consequence of any fraudulent activity; i.e., both members and bodies of business entities have acted bona fide. As an example, we point out the case of business entities that are in such a situation because the state or local authorities have failed to pay their debt to these entities, as well as the case of a supplier chain (notably in the construction industry) where account blockade or bankruptcy over one of the entities in the chain triggered a domino effect for other members in the chain below.

Some provisions of the Law are too general and imprecise and, as such, can produce a variety of negative consequences in practice.

In addition, we are of the opinion that the scope of persons encompassed by the Law is too wide, and that only persons who undertook actions or supported actions that led to abuse should be made subject to the restrictions imposed by the Law (members/shareholders and members of bodies).

It is necessary to additionally define legal consequences of temporary restriction since Article 5 only prescribes that they last during the validation period in the manner prescribed in Article 3 of the Law.

The Law should contain appropriate solutions regarding the liability for entering incorrect data, especially in a situation where there was no fraudulent intent. We emphasize this, keeping in mind the automated registration process, the public registry, and the weight of potential consequences resulting from the application of the provisions stipulated by the Law.

One of the issues, which existed during the drafting and adoption of the Law, is a situation where an over-indebted business entity opens a new company to which the business is transferred, without discharging obligations of the previous company. The idea was to submit those companies to the Central Register as well, but the Register never put this into practice, because it contains business entities over which the Tax Administration carries out tax control, while a smaller number of business entities and/or persons are registered based on court decisions and judgments.

FIC RECOMMENDATIONS

- Significant changes and clarification of certain provisions are necessary (as elaborated in the Remaining Issues above) in order to minimize, to the extent possible, the chances of Law being applied to business entities and their members/bodies acting bona fide.
- It is necessary to regulate liability for entering incorrect data into the Central Register.

LAW ON WHISTLEBLOWERS

1.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
The concept of "authorized body" and the relationship between internal and external whistleblowing should be specified.	2015			√
Criminal offences in connection with whistleblowing, as well as any special penal responsibility for the grave violations of the rights of whistleblowers should be appropriately envisaged.	2015			√
Introduce rules on remuneration of whistleblowers to effectuate the purposes of this Law.	2017			√

CURRENT SITUATION

The Law on the Protection of Whistleblowers (hereinafter: the Law) entered into force on 4 December 2014 and has been in application since 5 June 2015.

The Law regulates whistleblowing, the whistleblowing procedure, the rights of whistleblowers, the obligations of the state and other bodies and organizations, and legal entities and individuals in connection with whistleblowing, as well as other issues of importance for whistleblowing and the protection of whistleblowers.

The Law prohibits retaliation against whistleblowing and protects all persons in work engagement. Besides whistleblowers, under certain conditions, the Law also protects persons connected to the whistleblower, as well as any person wrongly labelled as a whistleblower, holders of public office, and persons seeking information regarding a specific whistleblowing case. The Law also envisages the protection of the whistleblowers' personal data. Abuse of whistleblowing is prohibited.

Whistleblowing can be internal (disclosure to the employer), external (disclosure to an authorized body) or public (disclosure of information to the media, through the Internet, at public meetings, or in any other manner in which information can be made available to the public). The employer and the authorized body are also obliged to act based on anonymous tips regarding the disclosed information, within their authority.

The Law requires employers to notify all employees in writing about their rights under the Law, and to appoint a person authorized to receive information from whistleblowers and conduct proceedings in connection with whistleblowing. On the other hand, employers with more than ten employees are required to regulate an internal whistleblowing procedure by means of a general act and to display it in a visible location, as well as on the employer's website, if technically possible.

The Law regulates the general procedure for internal whistleblowing initiated by disclosing the information to the employer. Employers are obliged to act upon the information without delay and no later than 15 days of the receipt of the information. They are obliged to inform the whistleblower about the outcome thereof, within 15 days after the completion of the procedure.

External whistleblowing starts with disclosing information to an authorized body, but the Law does not specify which body.

The Law envisages judicial protection of whistleblowers. A claim must be filed within six months of the date of learning of the undertaken adverse action (subjective term), and within three years from the date when the adverse action toward the whistleblower was taken (objective term).

The Ministry of Justice has adopted two by-laws in this field. The By-law on the Programme for the Acquisition of Specialized Knowledge Concerning the Protection of Whistleblowers to ensure that judges receive additional theoretical and practical knowledge in the area of whistleblowing and the protection of whistleblowers, and acquire the skills required for professional and efficient proceedings relating to the protection of whistleblowers. The other one is the By-Law on the method of internal whistleblowing, the method of assigning the employer's authorized person, and on other issues of importance for internal whistleblowing in the workplace when the employer has more than ten employees.

POSITIVE DEVELOPMENTS

There were no improvements compared to previous recommendations.

However, since the enactment of the Law, there has been an increase in the number of filed lawsuits and reports, while courts have been issuing interim measures significantly faster than the prescribed legal time limit. Also, the first final verdicts in this field have been delivered, and two verdicts of the Supreme Court of Cassation, as an extraordinary legal remedy. One of the most significant first verdicts is the verdict of the Court of Appeals in Novi Sad no. Gž Uz 7/2017 (2) from Jun 20th, 2017 and the judgment of the Supreme Court of Cassation no. Rev2 Uz 1/2018 from July 5th, 2018, who awarded the whistleblowers compensation for non-pecuniary damage for mental anguish for offended reputation and honour and for fear suffered. Today we have more and more court proceedings. The foregoing shows that judges and other responsible persons understand the importance of enforcing the Law and of the urgency of action. It is obvious that progress has been made in the education of judges, attorneys, prosecutors and individuals subject to the Law and that they are familiar with their rights and obligations.

REMAINING ISSUES

While the adoption of this Law was an important step for Serbia, the assessment so far is that some of its provisions are contradictory or incomprehensible, so the Law should be more specific in some segments.

The Law does not specify in more detail the nature and function of the authorized body, and fails to define the relationship between internal and external whistleblowing. The Law remains powerless in cases of reprisals against whistleblowers by a third party who is not the employer. In addition, the Law does not envisage criminal offences in connection with whistleblowing, or specific offences in cases of serious violations of the rights of whistleblowers and other persons entitled to the same protection. Furthermore, the Criminal Code has not been amended, as an alternative to the aforementioned option, to include the prescription of such criminal offences. We believe that this can be extremely important, especially in whistleblowing related to corruption and threats to the environment and human health.

The Law does not provide any rules on the remuneration of or the explicit right of whistleblowers to claim fair compensation instead of the annulment of the act constituting adverse action. The right of whistleblowers to fair compensation, coupled with the already incriminated abuse of whistleblowing, would yield far better results in the implementation of this Law.

However, to date, there have been no changes in the legislative framework in this area, including by-laws.

FIC RECOMMENDATIONS

- The concept of "authorized body" and the relationship between internal and external whistleblowing should be specified.
- Criminal offences in connection with whistleblowing, as well as any special penal responsibility for the grave violations of the rights of whistleblowers should be appropriately envisaged.
- Introduce rules on remuneration of whistleblowers to effectuate the purposes of this Law.

TAX

1.29

Modernisation of the Tax Administration – new electronic systems for data collection and processing

Previous year in the area of taxation was marked by successful implementation of the new electronic systems of the Tax Administration for data collection and processing, and which had significant impact of businesses in terms of the need to adjust their own information systems and business processes. New model of fiscalization achieved a comprehensive collection of data on supplies of goods and services by businesses to end consumers – individuals, while the introduction of the electronic invoicing system enabled collection of very detailed information about transactions in business-to-business relations among taxpayers registered for VAT. These electronic systems give to the Tax Administration precise and very timely insights in business activities of taxpayers on one hand, and also represent the basis for complex risk analyses, data processing and control procedures on the other hand. They are a segment of the modernization of IT systems and digitalization of operations of the Tax Administration, as a part of the ongoing multi-year program of transformation, modernization and digitalization of the Tax Administration.

From a taxpayer perspective, these novelties required detailed and complex preparations and mofications of the accounting and business information systems, as well as changes in business processes with regards to recording of the business transactions and creation, flows and storing of documentation in a company. This resulted in various costs of implementation of new systems and training of the staff to use them. However, it is to be expected that these changes will bring long term benefits in terms of less paper documentation, lower costs of its storing and manipulation, faster and more reliable exchange of information and higher efficiency. Taxpayers encountered a number of uncertainties and problems in the course of preparation, implementation and initial go-live period. Some of these issues are still awaiting response and resolution from the Tax Administration and the Ministry of Finance. Tax Committee of the Foreign Investors Council has communicated to the respective Government bodies on these issues and made constructive suggestions for improvement.

Unfortunately, there were no significant improvements in tax legislation with regards to tax issues that the Foreign Investors Council raised in prior years. We still do not see the willingness and openness for dialogue on the side of the Government. The Working Group tasked for implementing the recommendations contained in the FIC White Book was not active in the area of taxation neither. Notwithstanding that, FIC will continue to fight for continuation of the dialogue and improvement of the tax legislation and practice, along with higher transparency and timely public presenting of planned amendments of the tax laws. We will continue to fight for resolving as soon as possible the most important problems from prior periods, such as changes of the Property Taxes Law, corporate income tax treatment of property measured at fair value etc.

A. CORPORATE INCOME TAX (CIT)

1.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Cancel or amend the controversial opinions of the Ministry of Finance on the tax treatment and documenting of reimbursement of employees' commuting expenses.	2019			√
Supplement the CIT Law with provisions to regulate taxation of company restructuring, treatment of liquidation or bankruptcy remainder that is below the threshold of invested capital, and through by-laws, provide guidelines on taxation of permanent establishments. Consistent interpretation and application of the domestic tax law and provisions of the international tax treaties on transactions with a foreign element should be ensured.	2010			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Aligning domestic practices with respect to withholding tax with the best international practices and definitions applied in the relevant international treaties, (especially with respect to the treatment of proprietary software licensing). Introduce monthly, quarterly or annual filing of tax returns for withholding tax on services, in accordance with customary international practices, instead of filing a tax return for each taxable transaction separately. Also, confirmation on paid withholding tax should be automatically generated in the Tax Administration's system and obtained upon filing and payment of withholding tax, rather than through a separate procedure.	2012			√
Revisit the currently applicable rule that only paid taxes are recognized as an expense in the tax balance sheet and align the above provision with the IFRS rules that do not impose the payment of taxes as a condition for their recognition as an expense in the Profit and Loss Account.	2010			√
Introduce tax incentives for investments in fixed assets amounting to less than RSD 1 billion in the form of a tax credit or reduced corporate income tax rate over a certain period, and in proportion to the amount invested.	2014			√
"Introduce detailed tax depreciation rules which will allow for the proper classification and depreciation of specific assets such as windmills, oil rigs etc. in accordance with their economic and useful life. Revise the CIT Law and Rulebook governing regulations on the classification of fixed assets by groups and the manner of determining depreciation for tax purposes to resolve the following issues: 1) Tax depreciation expenses should be recognized for fixed assets acquired before 2013 (present in the accounting records on 1 January 2013) whose individual value at the time of purchase did not exceed the amount of the average gross salary of an employee in Serbia. We suggest that this change be implemented in the Rulebook governing regulations on the classification of fixed assets by groups and the manner of determining depreciation for tax purposes. 2) Further clarify the method of calculation and recognition of tax depreciation costs for the first group of fixed assets, as at 31 December 2003 that caused numerous dilemmas and controversial interpretations in practice. 3) In case of acquisition of a bankruptcy debtor as a legal entity, tax depreciation should be calculated based on a proportionate share of the purchase price allocated to relevant assets."	2015			√
Prescribe that the historical cost model should apply for taxation purposes to assets for which the IFRS provides a free choice between historical cost and fair value accounting, irrespective of the chosen accounting method, to ensure the uniform and equitable tax treatment of taxpayers. However, if the intention is to allow application of the fair value model for taxation purposes, amend the rules relating to tax deductibility of impairment expenses, so that it is clear that decreases in the fair value of assets accounted for under the fair value model are not a non-deductible impairment, and so that fair value increases and decreases are treated equitably.	2017			√
Properly regulate the application of the tax credit for banks defined by the Law on the Conversion of Housing Loans Indexed in Swiss Francs. Avoid introducing tax incentives in regulations that do not constitute tax regulations.	2020			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Since the corporate income tax application and accompanying forms are submitted through the eTaxes portal, taxpayers should be allowed to submit transfer pricing reports in the same way. In this way, the cost of printing and storing reports in paper form would be avoided, the quality of data related to the determination of tax liability would be improved, and the reports would be more easily accessible.	2022			√

CURRENT SITUATION

The taxation of companies in Serbia is governed by the Law on Corporate Income Tax (hereinafter: the CIT Law) and ratified international agreements. The implementation of certain provisions of the CIT Law is regulated by several by-laws.

The CIT Law was last amended in late 2021 (RS Official Gazette No 118/2021). As for international treaties, on January 1, 2023, the Double Taxation Agreement with Morocco became applicable, which entered into force on April 19 2022. Additionally, on 27 July 2023, the National Assembly of Serbia adopted the proposal to amend the Law on the Ratification of the Multilateral Convention for the Implementation of Measures with the aim of preventing the erosion of the tax base and profit shifting, refer to tax treaties (MLI), which specify the reservations that the Republic Serbia took the position regarding the application of the provisions of the MLI, as well as the scope of the application of the MLI within the existing network of agreements on the avoidance of double taxation of the Republic of Serbia.

POSITIVE DEVELOPMENTS

There were no changes to the Corporate Income Tax Law and related bylaws and hence no progress was made with respect to previously identified problems and issues.

REMAINING ISSUES

- In 2019, the Ministry of Finance issued a few opinions on the tax treatment and documentation of reimbursement of employees' commuting expenses that caused a negative backlash from the business community and legal uncertainty among taxpayers. The opinions introduce cumbersome requirements for documenting these expenses, which is contrary to labour and tax laws, to the stance taken by the Supreme Court of Cassation and some previous opinions of the Ministry of Finance. As such, these opinions should be cancelled or amended without further delay.

- The lack of regulations or their vagueness with respect to certain situations and issues lead to different interpretations consequently causing problems for taxpayers in practice. Specifically, the provisions governing the taxation of a permanent establishment are still incomplete and insufficiently clear; the CIT Law does not contain provisions regulating the taxation of company restructuring or provisions governing the treatment of losses arising from the liquidation or bankruptcy estate surplus. Consistent interpretation and application of the domestic tax law to transactions with a foreign element and of double tax treaties is increasingly important considering the ratification of the Multilateral Convention.

- Occasionally, interpretations by the Ministry of Finance pertaining to withholding tax differ from provisions of the relevant double tax treaties and best international practices, especially in cases of proprietary software licensing. This leads to legal uncertainty and increases the tax burden for taxpayers, contrary to the rights provided in the relevant double tax treaties. Also, filing separate tax returns for withholding tax on services for each taxable payment of income subject to withholding tax is an administrative burden for businesses. Finally, the procedure for obtaining confirmation of paid withholding tax should be simplified and streamlined. In addition, taxpayers are faced with disproportionately long resolving tax issues procedures, such as making a decision on the (non) existence obligation to pay capital gains tax with an element of foreignness. Consequently, this puts taxpayers in a situation where the realized funds, received through a non-resident account, cannot be taken out of the Republic of Serbia due to the slow action of the tax authorities, which again has the consequence of creating an unfavourable business climate.

- New rules on tax depreciation were introduced for new-

ly acquired non-current assets from 1 January 2019. However, tax depreciation rules applicable to non-current assets acquired before 2019 remained largely unchanged since 2004, and their application in the contemporary business environment causes many difficulties and problems. Also, properly regulating the classification and depreciation of specific assets (e.g. windmills, oil rigs etc.) is particularly important.

- Provisions of the law pertaining to the method for calculating tax depreciation for assets acquired before 2019 continuously create discrepancies and permanently unrecognized expenses in the tax balance sheet in cases where, at the moment of disposal of an asset, the current accounting value is lower than the current tax value of that asset, as well as in cases where a fixed asset is being disposed of, where that asset was not previously depreciated for tax purposes, as its cost value at the moment of purchase was lower than the average salary in Serbia. The Ministry of Finance issued an opinion in 2017 which gave rise to additional dilemmas about the cessation of tax depreciation for written-off assets.

- Tax depreciation is not calculated on fixed assets purchased before changes to the CIT Law from the beginning of 2013, and whose individual value was below the average gross salary at that time.

- During 2015 and the first half of 2016, the Ministry of Finance published opinions regarding the method of calculation of the cost and recognition of tax depreciation for the first group of fixed assets on 31 December 2003, causing numerous dilemmas and controversial interpretations in practice.

- The Ministry of Finance issued an opinion in 2017 regarding the method of calculation of tax depreciation of assets in case of acquiring a bankruptcy debtor as a legal entity, and took the position that tax depreciation should be calculated in the same way as before the filing of a bankruptcy petition. We are of the view that this is a debatable interpretation and that it would be more appropriate to calculate tax depreciation on the basis of a proportionate share of the purchase price allocated to relevant assets.

- Accounting regulations, i.e. International Financial Reporting Standards (IFRS), provide for the possibility to either opt for the cost model or the fair value model for certain types of assets (investment property, biological assets, and financial assets). The CIT Law does not have clear rules regarding assets measured at fair value. Unrealized gains from the increase of fair value of assets are taxed before the asset is disposed of, i.e. before the gain is realized.

- The CIT Law does not clearly distinguish between impairment of assets and decrease of fair value of assets (e.g. investment property), for which the IFRS prescribes different rules and treatment. As a result, the decrease of fair value of assets is interpreted as an impairment expense which is non-deductible until such assets are sold. On the other hand, every increase of fair value of assets is immediately taxable. This results in an unfair increase of taxable income for taxpayers.

- Due to the application of IFRS 9 which is mandatory since 2020, taxpayers are obligated to write-off receivables that have been outstanding for less than 60 days and therefore, in accordance with the CIT law, an unrecognized tax expense occurs in the period in which the write-off is made. As a result, this leads to continuous temporary differences between accounting and tax values due to misalignment of the law with the new IFRS.

FIC RECOMMENDATIONS

- Cancel or amend the controversial opinions of the Ministry of Finance on the tax treatment and documenting of reimbursement of employees' commuting expenses.

- Supplement the CIT Law with provisions to regulate taxation of company restructuring, treatment of liquidation or bankruptcy remainder that is below the threshold of invested capital, and through by-laws, provide guidelines on taxation of permanent establishments. Consistent interpretation and application of the domestic tax law and

provisions of the international tax treaties on transactions with a foreign element should be ensured.

- Aligning domestic practices with respect to withholding tax with the best international practices and definitions applied in the relevant international treaties, (especially with respect to the treatment of proprietary software licensing). Introduce monthly, quarterly or annual filing of tax returns for withholding tax on services, in accordance with customary international practices, instead of filing a tax return for each taxable transaction separately. Also, confirmation on paid withholding tax should be automatically generated in the Tax Administration's system and obtained upon filing and payment of withholding tax, rather than through a separate procedure.

- Revisit the currently applicable rule that only paid taxes are recognized as an expense in the tax balance sheet and align the above provision with the IFRS rules that do not impose the payment of taxes as a condition for their recognition as an expense in the Profit and Loss Account.

- Introduce tax incentives for investments in fixed assets amounting to less than RSD 1 billion in the form of a tax credit or reduced corporate income tax rate over a certain period, and in proportion to the amount invested.

- Introduce detailed tax depreciation rules which will allow for the proper classification and depreciation of specific assets such as windmills, oil rigs etc. in accordance with their economic and useful life. Revise the CIT Law and Rulebook governing regulations on the classification of fixed assets by groups and the manner of determining depreciation for tax purposes to resolve the following issues:
  - Tax depreciation expenses should be recognized for fixed assets acquired before 2013 (present in the accounting records on 1 January 2013) whose individual value at the time of purchase did not exceed the amount of the average gross salary of an employee in Serbia. We suggest that this change be implemented in the Rulebook governing regulations on the classification of fixed assets by groups and the manner of determining depreciation for tax purposes.
  - Further clarify the method of calculation and recognition of tax depreciation costs for the first group of fixed assets, as at 31 December 2003 that caused numerous dilemmas and controversial interpretations in practice.
  - In case of acquisition of a bankruptcy debtor as a legal entity, tax depreciation should be calculated based on a proportionate share of the purchase price allocated to relevant assets.

- Prescribe that the historical cost model should apply for taxation purposes to assets for which the IFRS provides a free choice between historical cost and fair value accounting, irrespective of the chosen accounting method, to ensure the uniform and equitable tax treatment of taxpayers. However, if the intention is to allow application of the fair value model for taxation purposes, amend the rules relating to tax deductibility of impairment expenses, so that it is clear that decreases in the fair value of assets accounted for under the fair value model are not a non-deductible impairment, and so that fair value increases and decreases are treated equitably.

- Align the CIT law with accounting requirements set by new standards, including IFRS 9.

- Since the corporate income tax application and accompanying forms are submitted through the eTaxes portal, taxpayers should be allowed to submit transfer pricing reports in the same way. In this way, the cost of printing and storing reports in paper form would be avoided, the quality of data related to the determination of tax liability would be improved, and the reports would be more easily accessible.

B. PERSONAL INCOME TAX 1.20

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Repeal or amend the disputed opinion of the Ministry of Finance regarding tax treatment and documentation required for the reimbursement of commuting costs of employees to and from work and amend the Law so that the documentation requirement is revoked or harmonized with the earlier judgment of the Supreme Court of Cassation.	2020			√
The application of schedular personal income taxation is still in force and this remains a problem of the Serbian system of taxation of personal income. Therefore, the Government of Serbia should consider the introduction of a synthetic taxation system, which is present in many advanced tax systems.	2008			√
The recommendation refers to the timely adoption of an appropriate bylaw that will regulate in detail the issue of per diems for business trips and reimbursement of expenses.	2017			√
The recommendation is that the Ministry of Finance should take a clear position regarding the tax treatment of interest-free loans (i.e., loans with interest rates below market ones) and publish their position in the form of an official opinion that would lead to greater legal certainty in this respect.	2017			√
We believe that cooperation should be established between the Ministry of Finance and the Ministry of Labour, Employment, Veterans and Social Affairs to ensure the proper application of relevant regulations, i.e., to treat compensation for unused leave as compensation (as recognized by the Labour Law) and not as salary.	2017			√
Considering that social security rights are among the basic social and economic rights of workers, we would like to stress the importance of harmonizing provisions of regulations to allow foreign nationals seconded to work in Serbia (without entering employment) and Serbian nationals employed with foreign employers in Serbia to register for mandatory social insurance. Additionally, we note that Serbia needs to expand the network of international agreements regulating the issue of social security, to avoid double payment of contributions.	2017			√
It is necessary that annual personal income tax return form be aligned with Article 12 of the PIT Law (the right to tax credit) and agreements on the avoidance of double taxation, i.e., the taxpayer should be allowed the right to use the tax credit.	2019			√
While some progress has been made in terms of electronic communication, we believe that there is significant room for improving the functionality of the E-porezi platform, as well as the communication between taxpayers and the Tax Administration via e-mail. The number of tasks that can be carried out through the E-porezi platform should be expanded and digital profiles of taxpayers should be introduced.	2020			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Types of income should be clearly differentiated according to their intrinsic nature and adequate taxation methods should be applied to income of persons working for foreign employers under other types of contracts (as remuneration for work performed along with eligible standardized costs of 20%) as well as of persons who work for foreign employers under employment contracts (as salary). We believe that, in this case, it is necessary to amend not only the tax laws, but also the regulation governing the field of labour and compulsory social insurance, in order to have this issue regulated properly.	2021		√	
In order to eliminate discrimination against taxpayers on the basis of whether the entity paying their income is a domestic or foreign entity, we propose to either amend the provisions governing the calculation of the tax base for the remuneration for work performed, on which the tax is paid by self-assessment, or define the categories of taxpayers that are considered freelancers because of whom this provision was introduced in the first place, while other taxpayers, specifically, domestic experts paid by a foreign entity for their work, receiving regular and higher payments, should have equal tax treatment as taxpayers whose remuneration is paid by domestic entities.	2021		√	

CURRENT SITUATION

Taxation of personal income in Serbia is based on the schedular income tax system which has been abandoned by many advanced tax jurisdictions as unclear and unfair.

The Personal Income Tax (PIT) Law as the key regulatory instrument recognizes several categories of taxable income. Depending on each individual case, personal income tax is paid: (I) as withholding tax, (II) based on the decision of the relevant tax authority or (III) by self-assessment.

We would like to highlight in particular amendments to the PIT Law, adopted in late 2022: I) a new, detailed, and significantly fairer method of taxing freelancers, i.e. individuals who receive contractual compensation for copyright and related rights or perform work in exchange for contractual compensation, and this compensation is received from entities that are not income payers according to the Law, replacing the previous transitional method of taxing these individuals, which was applicable to income earned until December 31, 2022; II) The method of determining and collecting annual personal income tax has been changed, and this tax is now determined through self-assessment.

POSITIVE DEVELOPMENTS

PIT Law amendments from the end of 2022 and its implementing by-laws have led to some positive developments:

- With the amendments to the Law from the end of 2022, a special method of taxing internet workers, known as freelancers, has been prescribed. Freelancers will be taxed based on self-assessment on a quarterly basis for their income earned from January 1, 2023, in accordance with 2 models (hereinafter referred to as Model A and Model B). The law allows the taxpayer to freely choose either Model A or Model B on a quarterly basis without any restrictions. Under Model A, the taxable base consists of the gross income earned in the calendar year quarter, reduced by the predetermined fixed normative costs in the absolute amount of 96,000 RSD. This determined taxable income is subject to personal income tax at a rate of 20%. Under Model B, the taxable base consists of the gross income earned in the calendar year quarter, reduced by variable normative costs, composed of fixed costs in the absolute amount of 57,900 RSD increased by relative costs in the amount of 34% of the gross income earned in the respective quarter. This determined taxable income is subject to personal income tax at a rate of 10%. Regardless of the chosen model, the earned income is subject to the obligation to calculate and pay contributions for mandatory social insurance, specifically contributions for pension and disability insurance, as well as contributions for health insurance - if the taxpayer is not already insured on another basis.

- With the newly prescribed method of determining annual personal income tax, the practice of determining this tax based on the decision of the Tax Administration has ceased, and self-assessment has been introduced. It should be noted that, in accordance with the amendments to the Law, the Tax Administration is obliged to prepare a preliminary tax return for the taxpayer, which is published on the eTaxes portal no later than April 1 of the year in which this tax is determined. This significantly simplifies the process of determining and collecting this tax form. Furthermore, progress in digitization is evident as the Tax Administration prepares the preliminary tax return based on official records. Finally, with the amendments to the bylaws governing the completion and submission of the tax return for annual personal income tax, it is provided that if no taxable income is determined due to the application of tax relief for individuals under the age of 40, those individuals are not obliged to submit a tax return - which was not the case in the previous year.

REMAINING ISSUES

- Amendments to the Law from the end of the 2022 have stipulated that transportation costs for commuting to and from work must be documented in order for their reimbursement to be non-taxable up to a certain amount, but it is not specified what constitutes documented expenses. This has deepened the problem that arose from the issuance of the controversial opinion of the Ministry of Finance in 2019, which has caused negative reactions from the economy, different approaches in practice, and has imposed unnecessarily complicated requirements on taxpayers regarding the documentation of such expenses.

- In the field of reimbursement of expenses for business trips abroad, there have been no advancements. This area is still not regulated in an appropriate manner, nor have there been any amendments to the Law that would help solve this problem. The same controversial provisions are still in force, which indicate that the amount of per diem is determined in accordance with the decision of a state authority, which creates uncertainties regarding which acts of state authorities it refers to. As a result, tax inspectors often use the provisions of the Regulation on Compensation of Costs and Severance Pay for State Officials and Employees, even though it exclusively regulates the public sector.

- Furthermore, the latest amendments to the Law do not mention the tax treatment of interest-free loans, i.e. loans with interest rates lower than market rates, provided by employers to employees. It remains unclear whether the granting of such a loan is considered a benefit or not.

- Compensation for damages related to unused annual leave, which is paid to an employee who has not used their annual leave during their employment, is still treated as income. The reasons why the Ministry of Finance has decided on this tax treatment remain unclear, considering that the Labour Law states that this payment is compensation for damages, not income. This clearly implies that a satisfactory level of cooperation between these two competent ministries has not yet been achieved, at least regarding the mentioned tax treatment.

- Due to the introduction of point 18 in Article 85, paragraph 1, stating that income from contracted remuneration for performed work, subject to self-taxation, is taxed as other income, the opinions of the Ministry of Finance no. 011-00-689/2021-04 of July 23, 2021, and no. 011-00-511/2022-04 of July 11, 2022, give the impression that all income from abroad related to work will be taxed as other income. In practice, there is a certain number of tax residents of Serbia who have a contractual relationship that could indicate an employment contract with foreign companies, even though the Ministry of Labour does not recognize these contracts as employment contracts because foreign companies cannot conclude an employment contract in Serbia without the existence of a permanent business unit. These individuals are effectively in an employment relationship, have their employer who determines their working hours, vacations, provides professional training, and similar. With this provision, their income, which is effectively a salary, will be unfairly treated as other income and subject to a higher tax rate, and consequently subject to mandatory social security contributions without the possibility of applying the maximum monthly base. Additionally, these individuals are discriminated against compared to foreign individuals seconded to the Republic of Serbia, whose income from abroad is treated as salary for tax purposes.

- The law does not clearly define how qualified newly employed individuals, once they lose the right to this tax relief with their current employer, can regain the same right. Namely, the individual is the holder of the tax relief, and according to the opinion of the Ministry of Finance no. 011-00-59/2020-04 of February 11, 2020, a qualified newly employed individual, when terminat-

ing an employment relationship with one employer and establishing it with another, can still apply the tax relief, but in a situation when this right is lost with the same employer, it is not possible to regain it. The law should clarify this part so that taxpayers are not misled into thinking that once lost, the right can be regained.

- The tax treatment of individuals based on Contracts on Rights and Obligations of Directors outside of an employment relationship, when the representative of the company is in an employment relationship with another employer, or when the representative of the company is a non-resident individual and does not receive compensation for work in the company, causes certain uncertainties and divided interpretations in practice. The Labour Law does not prescribe the obligation of a contracted remuneration for directors, the payment schedule, and does not define the criterion for determining the amount or assessing the adequacy of the remuneration (the Ministry of Finance introduces the concept of adequate remuneration - Opinion no. 011-00-1137/2018-04). The minimum amount of remuneration for the work of directors has not been determined by legislation, i.e. there are no minimum amounts prescribed by law, as is the case with salaries. It is necessary to clearly specify whether remuneration is a mandatory element of the Contract on Rights and Obligations of Directors who are not in an employment relationship with the employer and, according to the decision of the company's founders' assembly, do not receive compensation for work.

- Certain income type codes defined by the Regulation on Tax Return for Withholding Tax are not adapted to the method of calculating taxes and contributions in accordance with the Law on Personal Income Tax and the Law on Contributions when it comes to Contracts outside of an employment relationship and cannot be applied in practice.

FIC RECOMMENDATIONS

- Repeal or amend the disputed opinion of the Ministry of Finance regarding tax treatment and documentation required for the reimbursement of commuting costs of employees to and from work and amend the Law so that the documentation requirement is revoked or harmonized with the earlier judgment of the Supreme Court of Cassation.

- The application of schedular personal income taxation is still in force and this remains a problem of the Serbian system of taxation of personal income. Therefore, the Government of Serbia should consider the introduction of a synthetic taxation system, which is present in many advanced tax systems.

- The recommendation refers to the timely adoption of an appropriate bylaw that will regulate in detail the issue of per diems for business trips and reimbursement of expenses.

- The recommendation is to clearly define and specify the stance on the tax treatment of interest-free loans (i.e. loans with interest rates lower than market rates) granted by employers to employees through amendments to the Law, and to express this stance through an official explanation that would provide greater legal certainty in this regard.

- We believe it is necessary to establish cooperation between the Ministry of Finance and the Ministry of Labour, Employment, Veterans' Affairs, and Social Affairs in order to ensure the proper implementation of relevant regulations, specifically treating compensation for unused annual leave as compensation for damages (as recognized by the Labour Law) rather than as income.

- Recognizing that social security rights represent one of the fundamental social and economic rights of employees or engaged individuals, we emphasize the importance of harmonizing certain provisions of regulations to enable foreign individuals seconded to work in Serbia (without establishing an employment relationship) and domestic citizens employed by foreign employers to be registered for mandatory social security. Additionally, we note that

the Republic of Serbia should expand the network of international agreements regulating social security in order to avoid double payment of contributions.

- Although progress has been made in terms of electronic communication, we believe there is significant room for increasing the functionality of the E-tax platform, as well as communication between taxpayers and the Tax Administration via email. It is necessary to expand the range of actions that can be carried out through the E-tax platform and introduce digital profiles for taxpayers.

- In addition to the progress made in taxing freelancers and aligning the fiscal burden they face with that of taxpayers who have received the same types of income from payers under the Law, it is necessary to continue with further positive development of regulations, both in tax and labour law, in order to adequately regulate the position of individuals who have valid employment contracts with foreign employers in accordance with the regulations of the jurisdiction of the entity that engaged them. It is necessary to clearly define and specify in which cases and whether there is an obligation to calculate and pay taxes and contributions based on the lowest base according to the Contract on Rights and Obligations of Directors when directors do not receive compensation for work in the company and when they are employed by another employer, or when non-resident individuals are involved. The recommendation is to clearly specify whether there is an obligation to determine compensation in these cases, and if so, to establish a minimum amount of compensation (e.g. minimum contribution bases) for Directors of companies who have concluded contracts outside of an employment relationship and do not receive compensation for work in the company.

- The recommendation is for the Tax Administration to review and align the codes for types of income for income of individuals outside of an employment relationship in accordance with the Law on Social Contributions.

C. VALUE ADDED TAX 1.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
With respect to the application of the reverse charge mechanism, it should be specified that for supplies by a foreign entity, the obligation of the recipient of goods and services to account for the VAT due should occur either at the moment when: 1) an invoice is received for goods or services provided by the foreign entity; or 2) when an advance payment is made to the foreign entity, whichever of these two events occurs earlier. Also, the introduction of an annual VAT return (monthly/quarterly returns would be treated as advance payments) should be considered, which would be submitted by March of the current year for the previous year, and through which taxpayers could make all the necessary changes, including changes related to transactions from abroad for which the recipient of goods or services is obliged to calculate VAT as a tax debtor.	2013			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
The Law should specify that the obligation to account for VAT lies with the transferee of goods and services in the following instances: 1) in the case of in-kind contributions, when the supply of goods and services as an in-kind contribution is subject to VAT; and 2) in the case of a change in status, when the supply of goods and services is subject to VAT.	2015			√
VAT legislation should provide that a credit note may be issued either by the supplier or recipient of goods/services. This practice is in line with VAT rules in other countries and a common business practice. This cannot jeopardize VAT collection in any way. On the other hand, this would help companies decrease their administrative costs. Additionally, it is necessary to specify clearly that in the case of mistaken delivery of goods in a smaller quantity than was previously invoiced, the taxpayer may either issue a new invoice or credit note. This practice also corresponds to a customary business practice. Insisting on exclusively one approach imposes additional costs, whereas from the VAT collection point of view, there is no reason why both approaches cannot be applied. With respect to above, in case of return of goods, it is also necessary to define that irrespective of the expiration date, the supplier can issue a credit note or the buyer can issue an invoice/debit note in accordance with their mutual agreement. This approach can not jeopardize VAT collection since the same VAT rate is applied irrespective of who issues the credit note.	2022			√
In the first place, it is necessary to harmonize the VAT regulations of Serbia with the regulations in force in the EU regarding the calculation of VAT for transactions in the field of construction. Namely, in EU countries, the recipient is a tax debtor for sales in the field of construction due to the prevention of evasion and fraud in the calculation of VAT, whereby the relevant, special rules are applied when sales are made by a subcontractor to a contractor, but not when sales are made by a contractor to an investor. We emphasize that the greatest number of problems in practice occur precisely in the transaction between the contractor and the investor, since the "investor" in this case can also be a person who procures, for example, ongoing facility maintenance services and the like (ie, the "investor" does not have to be active in the field of construction at all). Bearing in mind this motive for defining the recipient as a tax debtor, there is no reason to prevent the provider from calculating and paying VAT, nor for any of them to be penalized, because the general rule of taxation was applied, and not a special rule according to which the recipient is a tax payer. debtor. This approach would also be more favorable for the state, from the perspective of cash flows (by applying the "reverse charge" mechanism, the state consciously "renounces short-term financing", in order to avoid tax evasion). It is necessary to specify that in the case of supplies in the field of construction, parties may choose taxation in line with the general principle – that is, VAT charged by supplier. Also, in the case when a supplier calculated and paid VAT, and the tax authority considers that the recipient should have calculated VAT, as the tax debtor, the recommendation is for the supplier's invoice to be considered the correct invoice, and that administrative proceedings should not be initiated against either the supplier or the recipient.	2022			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
With respect to VAT records and the preparation of VAT calculation reviews, we believe it is necessary that the adopted Rulebook and User manual be reconsidered, and especially the requirements with regard to the POPDV form contents and the method for presenting certain transactions, such as the final invoice and invoice for advance payment.	2015			√
The processing of requests for refunds reported in VAT returns should be harmonized with the VAT Law and the Law on Tax Procedure and Tax Administration, meaning that the initiation of a tax audit cannot constitute grounds for delaying a VAT refund. The Ministry of Finance needs to issue a binding explanation in line with the VAT Law and the Law on Tax Procedure and Tax Administration, and the Tax Administration should comply with it.	2017			√
We suggest that in Article 10a, paragraph 6 of the Law on Value Added Tax, the words: "issuance of invoices ".	2020			√

CURRENT SITUATION

The value added tax is governed by the Law on Value Added Tax (RS Official Gazette No 84/2004, 86/04 – correction, 61/05, 61/07, 93/12 and 108/13, 142/2014, 83/2015, 108/2016, 7/2017, 113/2017, 13/2018, 30/2018, 4/2019, 72/2019, 8/2020 and 153/2020, 138/2022; hereinafter: the "VAT Law") an by the VAT Rulebook (RS Official Gazette No 37/2021, 64/2021, 127/2021, 49/2022, 59/2022, 7/2023, 15/2023 i 60/2023; hereinafter: VAT Rulebook).

VAT Law was amended in December 2022, implementation started January 1, 2023.

In accordance with amendments following was implemented:

- The circle of foreign persons who do not have the obligation to register for VAT (that is, appoint a tax representative in Serbia) has been expanded to include persons who trade in goods that are in customs storage.
- It is stipulated that in the case of the electricity transfer, as well as in the case of the transfer of services of taking electricity into the energy system, to which the rules of the relevant European associations of transmission system operators are applied in accordance with the law governing the energy sector, the transfer is considered to have been performed, that is, the service is considered to have been provided on the day of issuing the invoice.
- The concept of market value is defined. The market value represents the total amount that the buyer of goods, that is, the recipient of services would pay at the time of the sale of those goods, that is, services to an independent supplier for sale in Serbia.
- The concept of related parties is defined. Related persons are considered to be related persons in accordance with the Law on the Profit Tax of Legal Entities, persons with whom there are family or other personal ties, management, ownership, membership, financial or legal ties, including the relationship between the employer and the employee, i.e. members of the employee's family household.
- In the case of turnover of goods or services for a fee between related parties when the fee is lower than the market value and the acquirer does not have the right to deduct the previous tax in full, the tax base is the market value of those goods or services, excluding VAT.
- It is stipulated that the right to deduct previous VAT can be exercised on the basis of an electronic invoice that is considered accepted in accordance with the law governing electronic invoicing.
- It is stipulated that the right to deduct previous tax based on an accepted electronic invoice can be exercised at the earliest for the tax period in which the tax liability arose, regardless of whether the electronic invoice was issued on the day the tax liability arose or after that day.

Along with the above, VAT Rulebook was changed 3 times, mainly for the purpose of harmonizing with the amendments to the VAT Law, but also with the new regulations on electronic invoicing and fiscalization.

In accordance with the relevant amendments to the Rulebook, among other things, the following is foreseen/specified:

- It is specified that if the turnover of services is performed

without compensation by a foreign person who is not a registered VAT payer in the Republic of Serbia, the recipient of the service has the obligation to calculate VAT as a tax debtor, regardless of whether the foreign person provided the service for business or non-business purposes.

- Changes were made to the rules regarding the change of tax debtor after advance payment.
- What is considered the market value on the basis of which the VAT base is determined has been specified, and the concept of an independent supplier, similar goods and services and total costs of turnover of goods and services is additionally regulated.
- It is specified that the change of the VAT base in the case of subsequent fulfillment of the conditions for achieving tax exemption with the right to deduct the previous tax occurs only in the case of the turnover of goods that are sent or shipped abroad and the turnover of goods that foreign travelers ship abroad in their personal luggage With myself.
- Numerous changes and additions have been made that relate to the realization of tax exemptions with the right to deduct the previous tax. Among other things, the following is prescribed:
  - the customs declaration in electronic form can serve as evidence for obtaining tax exemptions,
  - the customs authority can certify a printed copy of the e-invoice, which is confirmed by the signature of the person who issued it,
  - a copy of the e-invoice certified by the competent customs authority can also be used as evidence for obtaining tax exemptions,
  - new Form SNPDV and Form LNPDV are prescribed.
- Numerous novelties and clarifications have been prescribed in the part governing the issuing of invoices. Inter alia:
  - It is specified that the obligation to issue a VAT invoice does not exist for the sale of goods and services to natural persons, with the exception of entrepreneurs, who are not liable for VAT, except for sales for which a fiscal invoice is issued in accordance with the regulations governing fiscalization.
  - It is specified that in the case of turnover of goods and services for which a tax exemption is prescribed without the right to deduct previous tax, there is no obligation to issue an invoice, except for turnover for which there is an obligation to issue an electronic invoice (e-invoice) or a fiscal invoice.
  - It is specified that there is an obligation to issue an invoice based on the received advance payment for transactions made in the same tax period in relation to the received advance payment, in the case where there is an obligation to issue a fiscal invoice or e-invoice for such transactions.
  - It is prescribed that when creating an e-invoice, in the e-invoice for sales based on which it is considered that the tax liability arose on the date for which the date of VAT liability is the date of the invoice, the date of issue of the e-invoice is stated as the date of sale.
  - It is specified that the e-invoice contains information about the transaction date, even in the case when the e-invoice issue date and the transaction date are the same day.
  - In situations where the VAT payer claims funds that do not represent compensation for the sale of goods and services and when the VAT payer transfers a multi-purpose value voucher, it is necessary to issue a VAT invoice, (that is, an e-invoice) if there is an obligation to issue an e-invoice for that situation.
- It is stipulated that an e-invoice issued for several individual deliveries made to one person can be issued within 15 days from the end of the calendar month for which it is issued. The last day of the calendar month for which it is issued is stated as data on the transaction date on such an e-invoice.
- The concept of corporate card is defined as an instrument issued by the supplier of goods, that is, the provider of services, which serves to determine the financial obligations of the recipient of goods, that is, services towards the supplier. This has been harmonized with the regulations in the field of fiscalization.
- The obligation to issue a book approval is prescribed in the case when the charged advance for which the advance invoice was issued ceases to be considered as an advance for the sale of goods and services. An exception to the obligation exists when the charged advance or part of the advance becomes a fee or part of the fee for the transaction.
- The obligation to draw up an internal invoice has been extended for all cases when the VAT payer as a tax debtor calculates VAT for the turnover made to him. Additionally, the content of the internal account that the tax debtor is obliged to prepare for the turnover of another person is prescribed.
- In the case of submitting a document that is an attachment to an invoice, it is prescribed that such a document is not considered an invoice on the basis of which a tax liability arises or the right to deduct previous tax.

The previous period was certainly most marked by the start

of implementation of regulations on fiscalization and electronic invoicing, as well as further harmonization of VAT regulations with regulations on fiscalization and electronic invoicing, and the changes in question are directed in that direction. In addition, during the year, changes were made to regulations on fiscalization and electronic invoicing in order to harmonize these regulations with VAT regulations.

The regulations on fiscalization and electronic invoicing are analysed in a separate document where certain recommendations are given that are also important for the application of VAT regulations.

POSITIVE DEVELOPMENTS

With the latest amendments to the VAT regulations, certain useful clarifications were made to the existing rules and certain situations were more precisely regulated (for example defining the concept of related parties or market value).

In addition to the amendments to the VAT Rulebook, provisions were made to harmonize the VAT regulations with the regulations on electronic invoicing and fiscalization. This is, for example, the case with a corporate card defining concept or defining special rules in the case when an electronic invoice is issued for a transaction, especially in the part that concerns the issuing of invoices. This eliminated part of the mismatch between VAT regulations and regulations on fiscalization and electronic invoicing.

However, the problems addressed in the previous period were not in the focus of the regulator.

REMAINING ISSUES

VAT is accounted for by the recipient of goods and services performed by a foreign supplier (applying the so-called reverse charge mechanism) at the moment when the supply takes place or at the moment when advance payment is made, depending on which occurs earlier. In case there is no advance payment, VAT should be accounted for at the moment the service is rendered, something often unfeasible in practice, especially in the case of services for which the price in the contract was not specified as a fixed amount, but rather depends on a contractually specified calculation. At the moment of supply, or up to the deadline for filing a tax return, the VAT payer frequently does not have the supplier's invoice or information on the amount of the compensation, and so cannot know what the taxable amount is.

VAT legislation provides that in cases where taxable amount has changed after the supply of goods and services has taken place (e.g. subsequently approved discounts), the supplier should issue a document containing certain obligatory items. VAT legislation does not provide the possibility for the recipient of goods/services to issue this document, as is the business practice in other countries. Because of this, additional costs are imposed on companies since they have to change their business practices due to Serbian VAT rules.

In practice, there is an issue with VAT treatment of in-kind contribution of goods and services and status changes. Specifically, in such instances the VAT accounted for by the transferor of assets is income for the transferor and an expense for the transferee, and consequently in-kind contribution and status changes are not neutral from the perspective of the income statement, as they should be, essentially. For this reason, in such instances, the transferee should be the one to account for the VAT (applying the so-called reverse charge rule).

The VAT Law defines new rules regarding the assessment of VAT in the case of supplies in the field of construction. The rules relate to the classification of business activities, which results in numerous questions and uncertainties in practice, because, in substance, the classification was not drafted for tax purposes. Consequently, taxpayers have to deal with legal uncertainty due to the different interpretation of regulations by taxpayers and by Tax Administration alike. Due to diverging interpretations, taxpayers face the risk that Tax Administration will hold the supplier accountable for output VAT, although the recipient as the taxpayer accounted for the VAT, or that the recipient who accounted for the output VAT is denied his right to input VAT deduction because tax authorities deem that the obligation to assess VAT is on the side of the supplier, even though none of these two approaches is to the detriment of the state budget.

The Rulebook prescribes the method of keeping VAT records and preparation of VAT calculation review (POPDV Form). Since the harmonization of accounting programmes with new requirements is financially and time-demanding, a significant share of VAT payers is preparing VAT records and POPDV Forms manually. This considerably increases the VAT payers' costs. In addition, due to significant number of categories, the risk of error in categorizing invoices is high (even if VAT treatment is correctly determined), giving rise to the question of the informative value of this data for the Tax Administration. Having in mind the limited value of

data provided in particular fields of the POPDV form and the significant expenses of VAT payers related to preparation of the POPDV form, it is recommendable to reconsider simplifying the POPDV form and its filling procedure (presentation of certain types of transactions). The user manual published on the website of the Tax Administration succeeded in facilitating the application of the new rules by providing a number of examples and clarifications. On the other side, it introduced some additional requests that are difficult to implement in practice, e.g. displaying the final invoice issued after the advance payment invoice so that the final invoice state the full amount of the VAT base and the difference in VAT stated on the final and advance payment invoice. Generating data from the accounting records in this manner is extremely demanding so that, as a rule, even those VAT payers who have adjusted their accounting programs to the new method of keeping VAT records, generate/enter these data manually. In addition, the informative value of showing the full amount of the base and the difference of VAT for the Tax Administration is questionable since it is not possible to reconcile the advance payment invoice with the final invoice from the POPDV form.

The Law specifies that a VAT refund shall be made within 45 days of the deadline for filing the tax return, or within 15 days for predominant exporters. It has been noted that in practice the Tax Administration is late in making VAT refunds. Also, it has been noted that VAT is not refunded because a tax audit has been initiated. Neither does the VAT Law, nor the Law on Tax Procedure and Tax Administration specify that VAT shall not be refunded for the duration of the tax control. In addition, VAT refund audit is not prescribed as precondition for VAT refund, the Tax Administration has a right to audit VAT regardless on executed VAT refund until expiration of period of limitation. Moreover, the Law on Tax Procedure and Tax Administration specifies that if no refund is made to the VAT payer within the deadline specified by the VAT Law, interest shall be accrued as of the next day after the expiry of such a deadline. We emphasize that a VAT refund is not the result of error or oversight on the part of the taxpayer, but a key mechanism for the functioning of this form of taxation. All delays in VAT refunds directly impact the liquidity of companies that are required to make payments that include VAT to their suppliers by statutory deadlines, and on which depends the ability of their suppliers to regularly settle their tax liabilities.

Article 10a paragraph 6 of the Law on VAT stipulates that the tax representative of a foreign person in the name and on behalf of a foreign person registered for VAT performs all tasks related to fulfilling obligations and exercising the rights that a foreign person has as a VAT payer . We believe that the relevant wording of Article 10a paragraph 6 of the Law on VAT "invoicing" should be deleted, because the provision in question is not precise, it creates a bang in which customers receive two invoices (one commercial issued by a foreign person) and the other VAT invoice to submit a VAT proxy and create unnecessary additional administration and legal uncertainty. The VAT representative is certainly jointly and severally liable for the obligations of a foreign person who is registered as a VAT payer through him.

Furthermore, bearing in mind that the VAT Rulebook is additionally harmonized with the regulations governing electronic invoicing, as well as the tendency for tax regulations to be digitized, we believe that an amendment to Article 95a of the VAT Rulebook should be considered. Namely, in accordance with the mentioned article, the tax exemption from Article 24 of the VAT Law can be achieved if the competent customs authority certifies the printed copy of the e-invoice (external display) which has been previously confirmed by the signature or seal of the issuer. We believe that this provision creates an additional burden on taxpayers, since it significantly complicates the fulfilment of the conditions for tax exemption, as well as that its wording is not in the spirit of the Law on Electronic Invoicing, which promotes digitalization of the invoice issuance process.

FIC RECOMMENDATIONS

- With respect to the application of the reverse charge mechanism, it should be specified that for supplies by a foreign entity, the obligation of the recipient of goods and services to account for the VAT due should occur either at the moment when: 1) an invoice is received for goods or services provided by the foreign entity; or 2) when an advance payment is made to the foreign entity, whichever of these two events occurs earlier. Also, the introduction of an annual VAT return (monthly/quarterly returns would be treated as advance payments) should

be considered, which would be submitted by March of the current year for the previous year, and through which taxpayers could make all the necessary changes, including changes related to transactions from abroad for which the recipient of goods or services is obliged to calculate VAT as a tax debtor.

- VAT legislation should provide that a credit note may be issued either by the supplier or recipient of goods/services. This practice is in line with VAT rules in other countries and a common business practice. This cannot jeopardize VAT collection in any way. On the other hand, this would help companies decrease their administrative costs. Additionally, it is necessary to specify clearly that in the case of mistaken delivery of goods in a smaller quantity than was previously invoiced, the taxpayer may either issue a new invoice or credit note. This practice also corresponds to a customary business practice. Insisting on exclusively one approach imposes additional costs, whereas from the VAT collection point of view, there is no reason why both approaches cannot be applied. With respect to above, in case of return of goods, it is also necessary to define that irrespective of the expiration date, the supplier can issue a credit note or the buyer can issue an invoice/debit note in accordance with their mutual agreement. This approach can not jeopardize VAT collection since the same VAT rate is applied irrespective of who issues the credit note.

- The Law should specify that the obligation to account for VAT lies with the transferee of goods and services in the following instances: 1) in the case of in-kind contributions, when the supply of goods and services as an in-kind contribution is subject to VAT; and 2) in the case of a change in status, when the supply of goods and services is subject to VAT. In the first place, it is necessary to harmonize the VAT regulations of Serbia with the regulations in force in the EU regarding the calculation of VAT for transactions in the field of construction. Namely, in EU countries, the recipient is a tax debtor for sales in the field of construction due to the prevention of evasion and fraud in the calculation of VAT, whereby the relevant, special rules are applied when sales are made by a subcontractor to a contractor, but not when sales are made by a contractor to an investor. We emphasize that the greatest number of problems in practice occur precisely in the transaction between the contractor and the investor, since the "investor" in this case can also be a person who procures, for example, ongoing facility maintenance services and the like (ie, the "investor" does not have to be active in the field of construction at all). Bearing in mind this motive for defining the recipient as a tax debtor, there is no reason to prevent the provider from calculating and paying VAT, nor for any of them to be penalized, because the general rule of taxation was applied, and not a special rule according to which the recipient is a tax payer debtor. This approach would also be more favourable for the state, from the perspective of cash flows (by applying the "reverse charge" mechanism, the state consciously "renounces short-term financing", in order to avoid tax evasion).

- It is necessary to specify that in the case of supplies in the field of construction, parties may choose taxation in line with the general principle – that is, VAT charged by supplier. Also, in the case when a supplier calculated and paid VAT, and the tax authority considers that the recipient should have calculated VAT, as the tax debtor, the recommendation is for the supplier's invoice to be considered the correct invoice, and that administrative proceedings should not be initiated against either the supplier or the recipient.

- With respect to VAT records and the preparation of VAT calculation reviews, we believe it is necessary that the adopted Rulebook and User manual be reconsidered, and especially the requirements with regard to the POPDV form contents and the method for presenting certain transactions, such as the final invoice and invoice for advance payment.

- The processing of requests for refunds reported in VAT returns should be harmonized with the VAT Law and the Law on Tax Procedure and Tax Administration, meaning that the initiation of a tax audit cannot constitute grounds for delaying a VAT refund. The Ministry of Finance needs to issue a binding explanation in line with the

VAT Law and the Law on Tax Procedure and Tax Administration, and the Tax Administration should comply with it.

- We suggest that in Article 10a, paragraph 6 of the Law on Value Added Tax, deletes the words: "issuance of invoices".
- We propose to consider the amendment of Article 95a of the VAT Rulebook, since it does not reflect the goal of the Law on Electronic Invoicing, and as such does not facilitate the possibility of achieving the tax exemption from Article 24 of the VAT Law. In this regard, we believe that it should be possible to send e-invoices to the competent customs authority in their integral form, that is, that the customs authorities should be involved in this procedure in such a way that taxpayers do not print and verify external representations of them. The aforementioned results from the fact that such invoices have already been created, posted and sent through the eInvoice portal, which certainly appreciates their validity.

D. PROPERTY TAX 1.20

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
It is recommended that the provisions of Article 7 of the Law should specify that the fair value is the property tax base for entities applying the fair value measurement according to the IAS/IFRS for SMEs and accounting policies.	2015			√
To ensure the adequate calculation of the market value of immovable property, it is necessary to: harmonize the zoning criteria of local municipalities; prescribe corrective factors to differentiate between immovable properties in terms of quality, year of construction, purpose and characteristics; consider the adequacy of the methodology used for calculating the average prices of immovable property.	2014			√
It is advisable that the property tax return form and supporting documents be simplified by linking the Portal with the Cadaster and storing of such data enabled. Also, it should be possible to list more than one cadastral parcel in a single municipality in Annex 1 on the territory of a specific local municipality, then automate the following data entries: a) all facilities of the same type (e.g. all taxpayer's warehouses in the territory of a particular local municipality); b) calculation of quarterly installments (e.g. based on Sub-Annexes); and c) amended tax returns. In line with the above, make appropriate technical adjustments after which, it would be possible, based on the data saved from the Cadaster, to automatically fill in the appropriate forms (PPI-1, Annex 1, sub-annex), for the purpose of filing property tax returns for each year.	2018		√	

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Rephrasing provisions regulating exemptions from the absolute rights transfer tax, so that it is understood that the exemption applies to the transfer and acquisition of absolute rights that are subject to VAT, not to those for which VAT is paid.	2021			√
Enable public access to data used by the tax authorities to determine whether the contractual price of an absolute rights transfer is in line with the market price.	2018			√

CURRENT SITUATION

Having in mind FIC recommendations in 2022, we consider that the amendments to the Law on Property Taxes (hereinafter: "the Law") that are in effect from January 1, 2023, generally, did not resolve the important issues (recommendations) that we pointed out in the previous edition of the White Book:

- In accordance with the current version of the Law, companies that keep accounting records determine the tax base for property tax based on the real estate's market value (except in special cases prescribed by the Law). The market value of a real estate represents the fair value stated in the accounting records, for taxpayers using the fair value method according to the International Accounting Standards (IAS), the International Financial Reporting Standards (IFRS), and their accounting policy.
- The introduction of the concept of market value as the property tax base caused different interpretations over the years as to which taxpayers can apply this concept and due to the fact that the legislation did not regulate this issue in a sufficiently precise way. Opinions of the Ministry of Finance that have been issued over the years expressed in the unequivocal stand regarding the possibility for small and medium-sized enterprises ("SMEs") to determine the property tax base using the fair value of immovable property recorded, in accordance with IFRS for SMEs. However, according to our experience from practice, the opinions in question increased the level of legal uncertainty in terms of whether these would be applied by the Tax Authorities and whether their application would be binding only for future tax liabilities or retroactive.

On the other hand, amendments to the Law have introduced new rules and certain clarifications , thus below we would refer to some of them that we consider to be the most significant:

- The property tax base for the taxpayers that keep accounting books established in the tax year, shall not be the fair value in accordance with IAS, IFRS and the adopted accounting policy on the last day of the taxpayer's business year in the year preceding the tax year. The tax base should be determined by applying the usable area and the average price per square meter of the corresponding real estate in the relevant zone.
- When the taxpayer does not record in the business books the land on which (or under which) the object recorded in its business books is located, for the purpose of property tax taxation, such land should be considered as recorded. The tax base should be determined by applying the usable area and the average price per square meter of the corresponding real estate in the relevant zone.
- In a situation where the taxpayer has recorded in the business books the combined value of the building and the associated land and at the same time the municipality has not published either the average price per square meter of the relevant buildings or the average price per square meter of relevant land (neither in the zone nor in the most equipped zone), the tax base should be the book value of the land (or building), which contains the value of the building (or land), stated on the last day of the taxpayer's business year in the current year, depending on whether the average price for the building or land is published.
- For the purpose of classifying immovable property, the term business facility has been replaced by the term business building and other (above-ground and underground) building that serves for the performance of business activities, whereby it is defined that this term also includes a garage in which registered business activities would be performed (at all or mostly).
- It is defined that in the case when the subject of the con-

tract is the transfer of immovable property as a future thing, the tax liability arises on the earlier of the following days: the day of registration of the acquired right in the relevant cadaster or by handing over, i.e. taking possession of the immovable property. Therefore, the date of the tax liability could be considered the day of registration of the acquired right in the relevant cadaster, if that day precedes the day of handover, i.e. the day of possession.
- absolute rights transfer tax should be paid in the case of the transfer with compensation of the right to permanently use a parking space in an open residential block or residential complex.
- municipalities (local tax administrations) will exclusively determine, collect and audit tax on gift and inheritance and absolute rights transfer tax starting from January 1, 2025 (amendment is in effect from January 1, 2024).
- beside the standard exemption on transfer of property rights for diplomatic-consular office, starting from January 1, 2024, absolute rights transfer tax should not be paid when a foreign country acquires real estate for the needs of its diplomatic-consular office, under the condition of reciprocity (amendment in effect from January 1, 2024).

POSITIVE DEVELOPMENTS

FIC supports the amendments to the Law, which have specified the way of proceeding in the previously mentioned cases where there were dilemmas in practice, and in this way the potential legal uncertainty regarding their application has been removed.

Bearing in mind the recommendations from last year, we believe that in the meantime there have been no significant improvements as a result of the implemented recommendations from the past.

REMAINING ISSUES

We would like to point out the inconsistent implementation of the concept of market value of the property, as well as certain gaps related to the determination of the tax base for entities that apply fair value appraisal in accordance with IFRS for SMEs (instead of IAS/IFRS fair value for real estate assets for accounting purposes).

Law on Accounting prescribes that IFRS for small and medium-sized enterprises (hereinafter: IFRS for SMEs) can be applied by small and medium enterprises, while micro legal entities may opt to apply stated standards, and article 7. of the Law does not explicitly state whether it also applies to legal entities that apply IFRS for SMEs. The issued Opinions of the Ministry of Finance are of a rigid stand that there are no legal grounds for legal entities applying IFRS for SMEs to determine the property tax base based on the fair value method. However, in order to completely remove doubts on this issue it would be advisable to additionally clarify provisions of Article 7.

When determining the property tax base by applying the average prices published by local tax authorities, one of the basic parameters is the zone in which the property is located, determined by local municipalities based on the criteria of how public areas are developed. However, the procedure of assessing a public area's development level is insufficiently transparent. Also, no criteria for value adjustments are envisaged regarding the quality/age and/or purpose and size of the property, which in practice may lead to that tax base of a newly built real estate and one that is significantly older, can be the same. Due to the above, market values of properties assessed by certified appraisers significantly differ from their market values calculated by using the average prices published by local tax authorities, which puts in an unequal position taxpayers who evaluate real estate in their business records at fair value and those who use some other method of evaluation.

Particular administrative difficulties are caused by the Rulebook on property tax return forms for determining property tax, according to which taxpayers are obliged to file data to the LPA Portal every fiscal year, even when there were no changes compared to the previous year. The taxpayer fills a tax return form for each municipality where it has property rights that are subject to tax, annexes for each cadastral parcel and sub-annexes for each building on a cadastral parcel on territory of that municipality, as well as for the land itself. FIC members concluded that although electronic tax return is technically improved and it is possible to copy data from previous tax years, still one data must be recorded on all related forms which leads to double data entry which often causes errors, especially for the taxpayers owning properties in different local municipalities, which can lead to filing hundreds of tax returns in electronic form.

The tax authorities have been given exclusive rights to determine the property transfer tax base. In practice, the tax base is determined in accordance with internally determined market prices on territories of specific unit of local

municipality (so called parities), unknown to taxpayers, so in most cases, it remains unclear whether or not the contractual price is equal to the market price.

As for the provision of the Law which defines exemptions from the absolute rights transfer tax, and in accordance with which the absolute rights transfers on which VAT is paid are exempt from the payment of absolute rights transfer tax, we consider the term ''paid'' is not appropriate, because VAT is calculated and reported in the VAT return, where certain transactions subject to VAT may be exempted from VAT for reasons prescribed by this Law.

FIC RECOMMENDATIONS

- It is recommended that the provisions of Article 7. of the Law should specify that the fair value is the property tax base for entities applying the fair value measurement according to the IAS/IFRS for SMEs and accounting policies.
- To ensure the adequate calculation of the market value of immovable property, it is necessary to: harmonize the zoning criteria of local municipalities; prescribe corrective factors to differentiate between immovable properties in terms of quality, year of construction, purpose and characteristics; consider the adequacy of the methodology used for calculating the average prices of immovable property, simplify the method of calculating property taxes, if, for example, the storage area, the administrative building and the land represent one unit.
- It is advisable that the property tax return form and supporting documents be simplified by linking the Portal with the Cadaster and storing of such data enabled. Also, it should be possible to list more than one cadastral parcel in a single municipality in Annex 1 on the territory of a specific local municipality, then automate the following data entries: a) all facilities of the same type (e.g. all taxpayer's warehouses in the territory of a particular local municipality); b) calculation of quarterly installments (e.g. based on Sub-Annexes); c) amended tax returns and d) automate the mathematical sequence (e.g. after entering market or accounting parameters). In line with the above, make appropriate technical adjustments after which, it would be possible, based on the data saved from the Cadaster (based on the plot number and property description, enter the zone and the average value per square meter), to automatically fill in the appropriate forms (PPI-1, Annex 1, sub-annex), for the purpose of filing property tax returns for each year.
- Rephrasing provisions regulating exemptions from the absolute rights transfer tax, so that it is understood that the exemption applies to the transfer and acquisition of absolute rights that are subject to VAT, not to those for which VAT is paid.
- Enable public access to data used by the tax authorities to determine whether the contractual price of an absolute rights transfer is in line with the market price.

E. TAX PROCEDURE 1.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
The electronic services of the Tax Administration should be further improved and developed in a way to enable the taxpayer to download all tax returns in a form customized to user, as well as to enable all taxpayers to electronically obtain TIN and all tax certificates. Propose an amendment to the Rulebook on the allocation of TIN, so that it is prescribed that the Tax Administration delivers the confirmation of the TIN allocation to the taxpayer in e-form.	2014			√
Regulating the provisions of the Criminal Code concerning tax crimes in more detail and taking into account the size of the legal entity and the volume of taxable activities.	2014			√
The introduction of a statutory deadline for tax audit duration (or adopt the provision of Article 38 of the Law on Inspection according to which the control procedure is suspended after 8 days have passed from the date of submission of the taxpayer's request for the end of the control in a situation where the inspector does not make a decision after the end of the day of the end of the control after the end of the day of the end of the inspection supervision specified in inspection order), and a tacit acceptance procedure in the case of a failure by the Tax Administration to issue its decision within the deadline, both for the Tax Administration and the Ministry of Finance.	2011			√
Introduction of a time limit duration of the TIN temporary revocation.	2022			√
Establishing the function of administrative supervision within the Ministry of Finance that will provide an effective mechanism for controlling legal compliance of the work of the Tax Administration's organizational units. The PTA Law should envisage offenses of employees in the Tax Administration who do not act in accordance with regulations (or decisions of immediate higher instances) during their work, especially in cases when they do not act within the deadlines prescribed by the PTA Law and in case of non-execution of the second instance body's decision in line with guidelines and understandings set forth therein. The PTA Law should be further aligned with provisions of the LIO. The LIO provides that inspectors are required to act not only to detect illegal activities and penalize entities violating the law, but also to prevent irregularities and provide advice to controlled entities to minimize risks from illegal acts.	2019			√
Introduction of the obligation in the PTA Law of the second-instance authority of the Ministry of Finance to resolve the administrative matter by itself, instead of the first instance authority, if the first-instance authority does not act according to its order and does not issue a decision within the deadline, as stipulated in Art. 173 st. 3 GAP Law. In this way, the multi-year duration of tax proceedings would be resolved, where often the first-instance authority does not act according to the order of the second-instance authority, as well as the first-instance authority does not issue a decision in the re-procedure within the time prescribed by law, which jeopardizes the legal security of taxpayers and violates the principle of legality of the tax procedure.	2022			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Amending Article 147(1) of the PTA Law, so as to read that an appeal suspends the enforcement of the decision.	2016			√
Eliminate legal uncertainty in the process of issuing of opinions of the Ministry of Finance by amending Article 80 of the Law on State Administration with regard to whether the ministry's opinions are legally binding if so prescribed by a separate law; amending the PTA Law to prescribe that the ministry's opinions are binding only if they are published or available to all parties in a public-legal relationship; defining a 30-day deadline for issuing an opinion defining the consequences in a situation where previously issued opinions are changed or disregarded; amending the PTA Law to prescribe that opinions of the Tax Administration sent by email are binding for the Tax Administration, and introducing provisions to the PTA Law to govern the liability of authorized officers and adequate penalties for failure to issue a binding opinion within the 30-day deadline.	2017			√
Abolishing the provision of the PTA Law which prohibits the SBRA from erasing a taxpayer from the register, registering status changes, or amending information for the duration of a tax audit or procedures undertaken by the Tax Police.	2014			√
Abolishing the provision of the PTA Law which prohibits the SBRA from registering acquisition of shares in legal entities as well as establishment of new legal entities in cases when the founder of such entity is a legal entity or entrepreneur over whom tax audit or any other action performed by the competent tax authorities has been registered.	2021			√
Strengthen the capacity of the Administrative Court in terms of expertise, specialization and speed in resolving tax disputes.	2020			√
Adopt Ministry of Finance binding opinion the for the actions of the Tax Administration in the domain of termination of tax liability by statute of limitations, for which termination of tax liability is prescribed that the Tax Administration issues a decision on the termination of tax liability ex officio and that the same one is in accordance with Art. 163 PTA Law transfers to off-balance sheet tax accounting. In the opinion in question, it is necessary for the Ministry of Finance to clearly state that this is a tax-legal relationship as a relationship of public law and that any tax paid in which the statute of limitations has expired does not represent a natural obligation.	2022			√

CURRENT SITUATION

The regulatory framework for the tax procedure in Serbia is shaped by four principal laws:

- The Law on Tax Procedure and Tax Administration, (PTA Law);
- The Law on General Administrative Procedure (GAP Law);
- The Law on Administrative Disputes, (AD Law);
- The Law on Inspection Oversight, (LIO Law).

The tax procedure is a special type of administrative procedure governed primarily by the PTA Law (lex specialis), which regulates in detail the organization and functioning of the Tax Administration, as well as the procedures for the assessment, control, and collection of taxes. The PTA Law comprehensively regulates all tax misdemeanours. The general rules of the GAP Law apply to the tax procedure where a certain issue is not regulated by the PTA Law, while the rules of the LIO Law further specify the activities of the Tax Administration regarding inspections. The AD Law regulates the judicial review of administrative decisions issued by the Tax Administration as an additional taxpayer pro-

tection system (e.g. deciding on actions against second-instance decisions of the Ministry of Finance).

The most important amendments of the PTA Law from 2022 relate to:

- Specifying procedural measures of The Tax Administration in case of tax-related criminal offences.
- Specifying that the Annual income tax returns are submitted exclusively in electronic form.
- Exclusion of the provisions of the law stipulating that if the taxpayer timely submits a request for rescheduling a tax payment referred to in Articles 73, 74a, or Article 74b of this law, the Tax Administration shall not pass a decision on enforced tax collection, until this request is decided on.
- Tightening of measures of temporary ban on performance of business activity in the course of tax audit:
  a) The time period of the temporary ban is increased;
  b) The tax auditor is able to order measures of temporary ban on the performance of business activity in the course of tax audit by way of verbal decision, when he believes that the collection of tax may be jeopardised.
- Specifying the internal control procedure.
- Introducing new tax-related criminal offences / the offences are introduced in respect of unlawful production and circulation of fiscal devices and accounting software used for false turnover reporting and tax evasion purposes.

In the beginning of 2023 the GAP Law was also amended. The changes to the law were based on the decision of the Serbian Constitutional Court which deemed the time limit of five years for submitting a request for repeating the administrative procedure unconstitutional.

POSITIVE DEVELOPMENTS

The newest PTA Law amendments focused on harmonising the provisions of the Criminal Procedure Code regarding tax-related criminal offences with the PTA Law by specifying procedural measures for tax crimes punishable by a term of imprisonment of eight years or more. Additionally the introduction of two tax-related criminal offences was carried out as a means of coordination between the provisions of the Law on Fiscalization and the PTA Law. Additionally, the amendments pushed for further digitalisation of the Tax Administration by prescribing that the submission of annual income tax return is carried out exclusively in the electronic form, potentially shortening the overall tax procedure and improving the cost-reduction. First steps towards regulating the internal control procedure of the Tax Administration have been made with the amendments which stipulate that a legal act dealing with the procedure of internal control of the Tax Administration is to be introduced no later than one year after the amendments of this Law take effect.

The latest changes in the GAP Law put the interested party in a more favourable position by cancelling the five year time limit for submitting a request for repeating the administrative procedure. In line with this the taxpayer is no longer obligated by the five year time limit starting from the moment that the taxpayer has been notified that the final decision has been made, in order to submit a request for repeating the tax procedure.

Nevertheless, significant progress regarding earlier recommendations is yet to be made. The previous inadequacies of the Tax Administration when it comes to providing tax services and client relationship affirmation still remain.

REMAINING ISSUES

- The existing regulatory framework governing the tax procedure still does not provide sufficient protection for taxpayers against discretionary decisions of tax authorities. Additionally, the lack of capacity and competences jeopardizes the protection of legality in the control procedure, as well as in the appellate and court proceedings.
- Rules on tax-related criminal offences still do not take into consideration the size and volume of taxable activities of taxpayers and apply the same threshold to both small businesses and large corporations in Serbia.
- More often than not, tax inspectors do not apply the "substance over form" principle in good faith. This regularly leads to highly unfavourable decisions for taxpayers, which are practically impossible to change.
- Tax authorities routinely fail to comply with the deadlines for the issuance of decisions based on submitted appeals.
- The existing rules regarding delayed execution of tax administrative acts via requests submitted to the second-instance authority do not provide for clear conditions for delaying execution, providing the second-instance authority with a very broad-set discretionary right.

- Rules that relate to the possibility of a tax refund in the event of the existence of matured tax liabilities in another respect are unclear and restrictive and do not take into account whether such tax liabilities are deferred or disputed (e.g. an appeal against a tax assessment issued by the Tax Administration). As a result of the foregoing, taxpayers are in a situation wherein uncollectible tax liabilities result in a complete discontinuation of the tax refund.
- The statutory 30-day deadline for issuing and publishing binding opinions upon request of taxpayers is not observed, so, in practice, taxpayers wait for opinions for more than a year. Such uncertainties are additionally aggravated by binding opinions that the Tax Administration applies but fails to publicly disclose despite its legal obligation to publish them on its own website and the website of the Ministry of Finance. Therefore, these opinions are unavailable to taxpayers, i.e. to all parties in a public-legal relationship.
- Limiting the filing of amended tax returns to two times is not justified. In fact, in most cases mistakes are made unintentionally, or are technical, especially in the case of large taxpayers who have large-scale and complex internal organization systems. Given that a taxpayer cannot amend a tax return in the event of a tax audit for a specific period, abolishing this restriction would not create an additional burden for the Tax Administration. Quite the contrary, it would help increase the efficiency of tax collection and encourage taxpayers' co-operation, consequently reducing the scope of tax audits.
- During a tax audit, as well as during the period in which a taxpayer's TIN is temporarily withdrawn, and until it is reinstated, the SBRA cannot erase a taxpayer from the register, register status changes, or change any of the registered data. In addition, tax liabilities become due regardless of whether or not a company is actually doing business (e.g. mandatory social security contributions, municipal taxes). Due to the vagueness and restrictiveness of this provision, the initiation of a tax audit may preclude the company from closing down business, which will lead to additional tax liabilities for the company, regardless of the outcome of the audit, thus de facto arbitrarily punishing the taxpayer for no reason. Additionally, taxpayers are unable to register changes that may even enable tax payment (capital increase, registration of a change of legal representative, etc.).
- Prohibiting SBRA to register the acquisition of shares in legal entities or establishment of new legal entities in cases when the founder of such entity is a legal entity or entrepreneur over whom tax audit or any other action performed by the competent tax authorities has been registered. The restrictiveness of this provision leads to the business limitations of taxpayers, which de facto taxpayer represent a punishment for a taxpayer without any grounds.
- The PTA amendments introduced the possibility for the Tax Administration to secure the collection of a tax liability that is not due, but for which an audit procedure has been initiated, even though criteria or conditions for the implementation of this measure have not been prescribed, which is not in line with the legality principle. As a consequence, tax resolutions that impose the measure do not contain valid reasons why the Tax Administration considers that there is risk in tax collection.
- Amendments to the PTA Law abolished the function of administrative supervision within the Tax Administration. According to the amended text of the PTA Law, the Tax Administration has exclusive competencies to perform the function of internal control. The Ministry of Finance has not established supervision as a separate function, from the moment of the abolition of the function of administrative supervision within the Tax Administration.
- The Serbian Administrative Court, as the final instance for tax disputes, does not have a sufficient level of specialization and expertise to adjudicate on tax matters. A court decision will typically take more than one year. Considering that the procedure before the court does not postpone a tax liability, i.e. the taxpayer still has to settle the previously disputed tax, even if he eventually does win the case, incurred costs for the taxpayer usually result in taxpayers receiving refunds of lower value in real terms. In addition, courts almost never decide on the merits of a case.
- In its actions, the Tax Administration, despite the normative regulation of the termination of tax obligations due to statute of limitations, transfers them to off-balance sheet tax accounting and those obligations are still considered the taxpayer's debt, and in those cases they do not issue certificates to taxpayers that they do not owe tax, which is in conflict with by provision of Art. 23 PTA Law.
- There is no prescribed length of time for the temporary confiscation of PIB by the Tax Administration, which in practice equates to the permanent confiscation of TIN and preventing taxpayers from performing their activities, as they cannot perform any payment transaction except paying taxes.

FIC RECOMMENDATIONS

- The electronic services of the Tax Administration should be further improved and developed in a way to enable the taxpayer to download all tax returns in a form customized to user, as well as to enable all taxpayers to electronically obtain TIN and all tax certificates. Propose an amendment to the Rulebook on the allocation of TIN, so that it is prescribed that the Tax Administration delivers the confirmation of the TIN allocation to the taxpayer in e-form.

- Regulating the provisions of the Criminal Code concerning tax crimes in more detail and taking into account the size of the legal entity and the volume of taxable activities.

- The introduction of a statutory deadline for tax audit duration (or adopt the provision of Article 38 of the Law on Inspection according to which the control procedure is suspended after 8 days have passed from the date of submission of the taxpayer's request for the end of the control in a situation where the inspector does not make a decision after the end of the day of the end of the control after the end of the day of the end of the inspection supervision specified in inspection order), and a tacit acceptance procedure in the case of a failure by the Tax Administration to issue its decision within the deadline, both for the Tax Administration and the Ministry of Finance.

- Introduction of a time limit duration of the TIN temporary revocation.

- Establishing the function of administrative supervision within the Ministry of Finance that will provide an effective mechanism for controlling legal compliance of the work of the Tax Administration's organizational units. The PTA Law should envisage offenses of employees in the Tax Administration who do not act in accordance with regulations (or decisions of immediate higher instances) during their work, especially in cases when they do not act within the deadlines prescribed by the PTA Law and in case of non-execution of the second instance body's decision in line with guidelines and understandings set forth therein. The PTA Law should be further aligned with provisions of the LIO. The LIO provides that inspectors are required to act not only to detect illegal activities and penalize entities violating the law, but also to prevent irregularities and provide advice to controlled entities to minimize risks from illegal acts.

- Introduction of the obligation in the PTA Law of the second-instance authority of the Ministry of Finance to resolve the administrative matter by itself, instead of the first-instance authority, if the first-instance authority does not act according to its order and does not issue a decision within the deadline, as stipulated in Art. 173 st. 3 GAP Law. In this way, the multi-year duration of tax proceedings would be resolved, where often the first-instance authority does not act according to the order of the second-instance authority, as well as the first-instance authority does not issue a decision in the re-procedure within the time prescribed by law, which jeopardizes the legal security of taxpayers and violates the principle of legality of the tax procedure.

- Amending Article 147(1) of the PTA Law, so as to read that an appeal suspends the enforcement of the decision.

- Eliminate legal uncertainty in the process of issuing of opinions of the Ministry of Finance by amending Article 80 of the Law on State Administration with regard to whether the ministry's opinions are legally binding if so prescribed by a separate law; amending the PTA Law to prescribe that the ministry's opinions are binding only if they are published or available to all parties in a public-legal relationship; defining a 30-day deadline for issuing an opinion defining the consequences in a situation where previously issued opinions are changed or disregarded; amending the PTA Law to prescribe that opinions of the Tax Administration sent by email are binding for the Tax Administration, and introducing provisions to the PTA Law to govern the liability of authorized officers and

adequate penalties for failure to issue a binding opinion within the 30-day deadline. Introduce the obligation to publish a redacted request with the issued opinion.

- Abolishing the provision of the PTA Law which prohibits the SBRA from erasing a taxpayer from the register, registering status changes, or amending information for the duration of a tax audit or procedures undertaken by the Tax Police.
- Abolishing the provision of the PTA Law which prohibits the SBRA from registering acquisition of shares in legal entities as well as establishment of new legal entities in cases when the founder of such entity is a legal entity or entrepreneur over whom tax audit or any other action performed by the competent tax authorities has been registered.
- Strengthen the capacity of the Administrative Court in terms of expertise, specialization and speed in resolving tax disputes.
- Adopt Ministry of Finance binding opinion the for the actions of the Tax Administration in the domain of termination of tax liability by statute of limitations, for which termination of tax liability is prescribed that the Tax Administration issues a decision on the termination of tax liability ex officio and that the same one is in accordance with Art. 163 PTA Law transfers to off-balance sheet tax accounting. In the opinion in question, it is necessary for the Ministry of Finance to clearly state that this is a tax-legal relationship as a relationship of public law and that any tax paid in which the statute of limitations has expired does not represent a natural obligation.

F. E-FISCALIZATION 2.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
We recommend the introduction of a consolidated instruction for the implementation and recording of e-invoices, modeled on the User Instructions on Reporting Data in the POPDV form.	2022	√		
We recommend the following amendments or clarifications of the Law on Electronic Invoicing;				
a. Enable a simple and transparent access to the "European and Serbian electronic invoicing standard";	2022			√
b. Postpone the application of Art. 18 – 21 of the EI Law for six months, i.e., until the establishment of the regular business process by most business entities;	2022			√
c. We recommend to postpone the application of Art. 10 of the EI Law for at least six months, i.e., until the relevant facts are established in practice and thus the deadline for accepting or rejecting e-invoices is adequately regulated. Additionally, it is necessary to specify the consequences in case an invoice is rejected (in the case of active or passive rejection) and the payment has been performed;	2022			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
d. Further harmonize the terminology of VAT and EI laws, especially with Article 42 of the VAT Law;	2022		√	
e. Make it possible for foreign entities registered for VAT through a tax proxy to electronically record the value added tax calculation from Art. 4 of the EI Law collectively in the case of transactions with natural persons.	2022	√		
f. We suggest to exempt transactions in the construction industry from the EIL regulations, as well as other transactions for which exemptions are stipulated under Art.164-169 of the VAT Rulebook.	2022	√		
g. Align E-Invoicing Law with VAT regulations, further specify the concept of transaction date stated on the e-Invoice for transactions involving services of copyright and related rights regulated by Art. 167 of the VAT Law Rulebook.	2022	√		
h. We propose to develop in the SEF and specify by the E-Invoicing Law the digital signing of cancelled documents as proof of correction of the previous VAT.	2022			√
The implementation of digitalization is expected to bring the streamlining of processes and time-savings in this respect and we are asking for further development of the SEF in terms of digital verification of the formal correctness of e-Invoice elements such as e.g., logical and mathematical checks of e-Invoice correctness as well as error reporting.	2022			√
We recommend that the recording of transactions of positioning of advertising articles should be exempted from the Law on Fiscalization and that these transactions should be recorded on the e Invoice.	2022	√		

CURRENT SITUATION

E-commerce in the Republic of Serbia implies a comprehensive change in business operations of the public and private sector and its implementation first started in 2017, with the passing of the Law on Electronic Document, additionally amended in 2021, and from January 1, 2023 Law on Electronic Invoicing came into force, regulating in the domain of fiscalization, electronic document/invoice, electronic identification and electronic data exchange in the public and private sector. In this way, the Republic of Serbia took a step further in legally regulating and implementing e-commerce and in following the developments in information technologies based on solutions enshrined in international practice, regulations and standards of the European Union.

Members of the Foreign Investors Council support the introduction and modernization of e-commerce, whose aim is to stimulate more efficient in business entities' operations, contribute to a decrease in grey economy and develop a trusted market, make citizens' access to the services of public authorities easier and safer, while the introduction of electronic archiving is expected to simplify the access to financial documents.

Electronic business has been regulated by following legislation:

- Law on Fiscalization entered into force on May 1, 2022 regulating new fiscalization model, entering new fiscalization model making fiscal invoice visible to the Tax Administration in real time, as opposed to the previous method of data transfer at the end of the day. Fiscal invoice is being tracked by generated unique QR code/ hyperlink, that is a part of each fiscal invoice. Taxpayers are obliged to register for each retail point of sale, unless exempted on the basis of the Law on Fiscalization, an electronic fiscal device, in addition to a cash register, can be a computer, tablet, or mobile phone and the QR code on each slip enables customers, i.e., users of services, to check the validity of the bill by a simple code scanning.

- Law on Electronic Invoicing ("RS Official Gazette", no. 44/2021, 129/2021, 138/2022 and 92/2023"), hereinafter "EI Law")is fully implemented since January 1, 2023, EI Law regulates which subjects are obliged to issue electronic invoices; introduces a special obligation to electronically record VAT tax calculations in the electronic invoicing system; regulates the way of using the system of electronic invoices; provides basic instructions for handling electronic invoices, how to accept/reject an electronic invoice, as well as other relevant instructions.
- Rulebook on Electronic Invoicing („RS Official Gazette", no. 47/2023"), hereinafter "EI Rulebook ") is unified rulebook, that substitutes 3 previous rulebooks. It regulates manner of accessing and using the e-Invoicing System (SEF), method of application of the e-invoice standard; e-invoice elements and attachments; method and procedure of electronic recording of VAT calculation in SEF; action in the event of a temporary interruption in the work of the SEF; use of data from SEF; way of acting of the Central Information Intermediary.
- Of great importance is the Internal Technical Instruction published by the Ministry of Finance of the Republic of Serbia.

The e-Invoicing System ("SEF") has been introduced as an information technology solution for sending, receiving, recording, processing and storing e-Invoices, which is managed by the central information intermediary. In addition, recording of VAT calculation is also done in the SEF for public and private sector entities, as well as of VAT for the legal proxies of foreign entities registered for VAT in the Republic of Serbia who are required to provide technical capacities and timely implementation in line with the EI Law.

The implementation of e-commerce and issuance of invoices in electronic form is the biggest change since the introduction of VAT and, even with the new regulations, implies further harmonization with other relevant laws, mainly with the VAT Law and the Law on Accounting, especially in terms of specifying more precisely the content and manner of issuing invoices.

POSITIVE DEVELOPMENTS

FIC timely communicated clarification proposals of the EI Law regulation as well as the functioning of the information system, which largely had a positive response from the working group of the Ministry of Finance in charge of establishing the e-invoice system. We list the most important:

a. the introduction of a unified Rulebook, (FIC recommendation in "White Book 2022"), which introduced certain clarifications regarding the method of issuing electronic invoices in SEF and the method and procedure of electronic recording of VAT calculations in SEF, in connection with which there were the most doubts in the previous period due to the fact that certain issues were not precisely regulated, and some were not regulated at all.

b. technical settings of the SEF, and the following had the most significant impact: search by different categories, tax rates, categories are linked to the relevant article of the law, four decimal places were introduced for the price per unit measure of the product, and the like.

REMAINING ISSUES

I. We will point out remaining doubts regarding the interpretation of the E-Invoicing Law and information system functioning:

   a) The terms of the European and Serbian standard on electronic invoicing that have not yet been applied in business are listed, and with the aim of better understanding and adequate application, legal entities have researched the legal regulations, but it is not easy to find complete explanations, and even the standard itself is not publicly available. We believe that for a better understanding of the rights and obligations of the private sector entity, it is important that the standards are transparent and publicly available.
   b) Certain concepts in the VAT and E-Invoicing Law are still terminologically incoherent, especially when it comes to the implementation of Article 42 of the VAT Law. Some examples include the concepts of "bill" and "e-Invoice", "transaction date", etc.
   c) In reference to Article 44 of the Law on VAT, a person who made a value correction or canceled an invoice, must have a notification from the invoice recipient in paper form that he did not use the calculated VAT as previous tax, i.e., that he made a correction of deduction of previous tax. It is expected that the digitalization of invoicing also refers to these documents, but the corresponding technical option has not been created in the SEF.
   d) In practice, the concept of a request for payment is still unclear, as well as whether a pro-invoice to a public sector entity is considered a request for pay-

ment and, if so, what type of document is selected in SEF.

II. The SEF functionality will be fully implemented from 1 January 2023 and FIC has communicated its recommendations for its technical upgrading on several occasions. With the further development of e-commerce, it would be important to introduce automated data checks.

III. The latest amendments to the EI Law stipulate a deadline of 10 days after the end of the tax period for electronic recording of VAT calculations, i.e. previous tax, which creates an unnecessary additional obligation for taxpayers, as well as additional costs and administration. Also, this provision moves and shortens the deadline for submitting the VAT return, which is already established and provided for by the VAT Law.

IV. The latest amendments to the EI Law provide for the obligation to electronically record the previous tax paid when importing goods, which further burdens taxpayers, bearing in mind that these taxes are already available in other systems of competent authorities.

V. EI Rulebook regulates the recording of VAT calculations in different situations. Also, on the e-Invoice website, instructions have been published regarding the electronic recording of VAT calculations. However, the regulations and the aforementioned instructions still do not define sufficiently precisely when individual and collective accounting records are made, as well as how to record in one of the records in certain situations.

FIC RECOMMENDATIONS

- We recommend the following amendments or clarifications of the Law on Electronic Invoicing;
  a) Enable a simple and transparent access to the "European and Serbian electronic invoicing standard";
  b) Further harmonize the terminology of VAT and EI laws, especially with Article 42 of the VAT Law;
  c) We suggest that the SEF develop and specify the digital signing of the cancellation document as proof of the correction of the previous VAT with the E-Invoicing regulation.
  d) We suggest specifying whether the request for payment refers/does not refer to the pro-invoice issued to the public sector.

- The implementation of digitalization is expected to bring the streamlining of processes and time-savings in this respect and we are asking for further development of the SEF in terms of digital verification of the formal correctness of e-Invoice elements such as e.g., logical and mathematical checks of e-Invoice correctness as well as error reporting.

- Harmonize the date of electronic recording of the VAT calculation, i.e. previous tax with the date for submitting the VAT return (by the 15th of the current month for the previous month);

- Amend paragraph 1 in Article 4a of the Law on Electronic Invoicing, ie delete: "regarding paid upon importation of goods".

- We propose a more detailed regulation of the way of recording VAT calculations in aggregate and individual records, for already prescribed situations in which records are made, as well as more detailed definition of other situations in which individual and collective records of VAT calculations are made.

G. LATEST DEVELOPMENTS IN THE SERBIAN TAX SYSTEM (PARAFISCAL CHARGES)

1.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Continuation of the reform of the non-tax revenue system, by eliminating all parafiscal charges that do not provide corresponding benefits in return, in terms of specific rights, services, or resources, while at the same time ensuring a consistent application of the Law on the Budget System, which regulates the basic principles of introducing and collecting non-tax public revenues.	2015			√
Adoption of the Law on Fees that should regulate all fees paid for a public service, while setting their level in line with Methodology and a new Law on the Financing of Local Governments, preceded by a comprehensive analysis of and alignment with solutions and tendencies of sectoral laws.	2014			√
Any new tax burden, or increase to an existing one, should be pre-announced to taxpayers and introduced through tax laws drafted by the Ministry of Finance, not by funds, agencies, or other ministries.	2013			√
Apply the business signage tax ceiling to the obligation of a single taxpayer, regardless of the number of facilities with displayed business signs that they have in the territory of any one municipality or whether they have more business facilities in other municipalities in Serbia (banks, insurance companies, telecom companies, etc.).	2014			√
Change the methodology and manner of determining the fee for the environment protection and improvement so that the fee is paid exclusively by taxpayers whose activities affect environmental pollution and use the funds to mitigate the negative consequences of these activities.	2020			√
Judicial protection of taxpayers' rights should be significantly improved through a reform of the Administrative Court, specialization of judges in tax matters, or the establishment of a special department within the Administrative Court with the sole jurisdiction to handle tax disputes.	2016			√

CURRENT SITUATION

There are numerous parafiscal charges in Serbia that exist in parallel with taxes, increasing the effective burden on the economy under conditions that are often non-transparent and unfair. As a kind of public levy, parafiscal charges actually impose an obligation that does not provide (at all or in an adequate proportion) a specific service, right, or good in return.

The authorities recognize this fact, which is why a parafiscal reform was carried out in late 2012, abolishing 138 parafiscal levies. The reform continued in 2013, with a first draft of the Law on Fees for the Use of Public Resources and the adoption of the final version of the Law at the end of 2018, but also by imposing new parafiscal levies such as a mandatory membership fee for the Serbian Chamber of Commerce in 2018. The reform process is still ongoing, which is especially reflected in the large number of changes that have been made to the regulations governing the manner of determining and reporting compensation for the protection and improvement of the environment.

POSITIVE DEVELOPMENTS

During the previous year no significant improvements occurred in respect to FIC recommendations given earlier.

REMAINING ISSUES

The reform of non-tax revenues has not been completed yet. The remaining issue is related to fees that should be paid for a public service proportionally to the costs of its provision. Currently, only a part of the fees are regulated by the Law on State Administrative Fees, while numerous laws and by-laws have introduced levies that are by their fiscal nature fees, but which come under different names (charge, compensation, etc.). In addition, it is questionable whether the Rulebook on Methodology for Determining Costs of Public Service (Methodology) was applied when setting the levels of all these fees.

A particular problem that we deem should be highlighted concerns the local utility tax for displaying business signs (business signage tax). Business signage tax costs for remaining taxpayers has significantly increased since the regime for the payment of the business signage tax was changed. The overall liability of a business entity for business signage has reached significant amounts, inter alia, due to diverse practices amongst local governments.

To additionally point out, during 2019, the determining the fee method for the environment protection and improvement was changed on two occasions. The methodology initially established by the Law on Fees for the Use of Public Goods and accompanied by provided bylaws, inter alia, defined the fee to be paid according to the amount of pollutants emitted and the hazardous waste produced and disposed of. However, although the method of determining the fee was intended to be paid by legal entities and entrepreneurs who perform activities that negatively affect the environment, the calculating fee methodology was too complicated, which resulted in a very small number of applications fees for environment protection and improvement by taxpayers.

At the end of December 2019, the manner of determining the compensation for the environment protection and improvement was changed again by the bylaws amendments. The new methodology simplifies the calculating fee method and it envisages that the fee is paid in a fixed annual amount depending on the size of the legal entity in accordance with accounting regulations and the degree of environmental impact of the predominant activity performed in accordance with the prescribed classification. However, in this way, the obligation to pay compensation was imposed on almost all legal entities and entrepreneurs in Serbia, regardless of whether their predominant activities really have a negative impact on the environment. The current methodology for determining the amount of compensation is contrary to the provisions of the Law on Fees for the Use of Public Goods, which, among other things, stipulates that the basis of compensation for environmental protection and improvement is the amount of pollution, i.e. the degree of negative impact on the environment.

At the beginning of 2023, a new amendment to the Law on Fees for the Use of Public Goods were proposed. Certain changes to the provisions regulating compensation for the environment protection and improvement have been proposed. However, the amendments to the law would not affect the methodology in which the amount of compensation is determined.

The FIC reiterates that the introduction of new taxes and duties, or increasing existing ones, during the fiscal year, without prior notice to taxpayers that would enable them to adapt their business to the new fiscal burden, adversely affects the predictability of the business environment and the operating results of companies.

The judicial protection of taxpayers' rights is ineffective. The proceedings before the Administrative Court are very lengthy and the Court usually simply confirms the decision of the Tax Administration, without providing an adequate statement of reasons for such a ruling. Alternatively, in exceptional cases, the disputed decision is annulled, and the case remanded back to the second-instance Tax Authority, without going into the merits of the case, which further protracts the entire process of the protection of taxpayers' rights. The Court almost never schedules any hearing where a taxpayer could explain its arguments before the Court or present its objections to the findings of the Tax Administration.

FIC RECOMMENDATIONS

- Continuation of the reform of the non-tax revenue system, by eliminating all parafiscal charges that do not provide corresponding benefits in return, in terms of specific rights, services, or resources, while at the same time ensuring a consistent application of the Law on the Budget System, which regulates the basic principles of introducing and collecting non-tax public revenues.

- Adoption of the Law on Fees that should regulate all fees paid for a public service, while setting their level in line with Methodology and a new Law on the Financing of Local Governments, preceded by a comprehensive analysis of and alignment with solutions and tendencies of sectoral laws.

- Any new tax burden, or increase to an existing one, should be pre-announced to taxpayers and introduced through tax laws drafted by the Ministry of Finance, not by funds, agencies, or other ministries.

- Apply the business signage tax ceiling to the obligation of a single taxpayer, regardless of the number of facilities with displayed business signs that they have in the territory of any one municipality or whether they have more business facilities in other municipalities in Serbia (banks, insurance companies, telecom companies, etc.)

- Change the methodology and manner of determining the fee for the environment protection and improvement so that the fee is paid exclusively by taxpayers whose activities affect environmental pollution and use the funds to mitigate the negative consequences of these activities.

- Judicial protection of taxpayers' rights should be significantly improved through a reform of the Administrative Court, specialization of judges in tax matters, or the establishment of a special department within the Administrative Court with the sole jurisdiction to handle tax disputes.

* Law on Fees for the Use of Public Goods was amended at the end of October 2023, impact will be noted in the next WB edition.

ENVIRONMENTAL REGULATIONS

1.25

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Adopt the missing strategic documents (including Air Protection Strategy and Waste Management strategy) and accompanying planning documents and start implementing them. Continue with the transposition and implementation of regulations in this area;	2021		√	
Responsible actors for air quality monitoring should ensure quality maintenance of measurement systems and data availability as well as financing the smooth operation of air quality monitoring networks;	2021			√
Create an economic model that will motivate local governments to dispose of waste in sanitary landfills and to accelerate the process of closing and remediation of landfills - garbage dumps. Provide preconditions for the application of the principles of the waste management hierarchy with an emphasis on waste prevention, reuse and waste recycling;	2021			√
Ensure further application of the "polluter pays" principle;	2022			√
Adopt a Regulation on appropriate assessment, which will establish the necessary standards for the approval of plans and projects that may have an impact on the ecological network;	2021			√
Ensure adequate and purposeful financing of nature protection from the Green Fund (determine priorities and criteria for allocation of funds). Continue activities on the establishment of the ecological network of the Republic of Serbia and the NATURA 2000 network. Allocate more funds for the practical protection of species and habitats;	2021			√
Accelerate the transposition and implementation of regulations related to climate change as well as the strategic framework for this area, which is the most neglected in terms of legislation and implementation and therefore needs special attention;	2021		√	
Through a more rigid interpretation or change of regulations, find a balance between the right of the interested public to challenge projects if they consider that they infringe the right to a healthy environment, and the interest of investors to conduct projects in an atmosphere of legal certainty and time efficiency, without the ecological acceptability of the project being attacked on every step, which consequently creates, sometimes perennial, time delays and significant costs.	2022			√

CURRENT SITUATION

Although there have been advances in the sphere of environmental protection, it is evident that some processes have slowed down, leading to the conclusion that environmental protection has somewhat lost its position as a strategic priority.

In the last report of the European Commission related to Chapter 27, which addresses environmental protection and climate change issues, no major developments in this area were observed. A significant increase in budget funds earmarked for environmental protection improvements is noticeable, which somewhat compensates for the reduction in the budget for environmental protection due to the 2022 rebalance.

At the beginning of 2022, a public debate was held on the Draft Law on Environmental Impact Assessment and the Draft Law on Strategic Environmental Impact Assessment. However, for more than a year, there was no further progress in this area until October 2023 when the Government of the Republic of Serbia adopted the proposed regulations. If these drafts become laws, it is expected that the timeframes for obtaining consent for environmental impact assessment studies for mandatory projects or mak-

ing decisions for projects where the study is not mandatory, but may be required, will significantly increase.

In September 2022, the drafting of the Environmental Protection Strategy with the Action Plan commenced. In October 2022, the Ministry of Environmental Protection initiated consultations on the working version of the Strategy for the Implementation of the Aarhus Convention and its Action Plan.

It remains to be seen what results will emerge from the work on these documents.

For wastewater treatment, a large number of wastewater treatment plants (WWTP) are planned throughout Serbia, contributing to the resolution of one of the country's significant environmental problems.

In October 2023, numerous amendments to the Law on Fees for the Use of Public Goods were adopted, the effects of which have yet to be seen. One of the most significant changes is the large reduction of the fee for water pollution - while on the one hand this certainly represents relief for those liable for that fee, it remains unclear how this reduction will affect water purification activities.

Air pollution remains a pressing issue. In the 2022 Environmental Performance Index, which assesses air quality, Serbia is ranked 116th out of 180 countries. Among comparable nations, only Montenegro, Albania, Bosnia and Herzegovina, and North Macedonia rank lower, indicating unsatisfactory air quality, especially in urban areas.

According to data from the Environmental Protection Agency, Serbia produced approximately 11.8 million tons of waste in 2021, with nearly 3 million tons being municipal waste. Currently, there are no facilities for the thermal treatment of hazardous waste in the country, leading to the export of hazardous waste for treatment, primarily to other European nations. Due to obligations under the Basel Convention, which significantly restricts the export of hazardous waste, Serbia must find a viable solution for the disposal of hazardous waste generated within its borders. This necessitates the construction of facilities for the thermal treatment of such waste. Regarding municipal waste, many municipalities lack recycling facilities, an adequate number of waste containers, and source waste collection systems. Despite the adoption of the "polluter pays" principle promoted in various legal documents, the fee for waste removal is determined based on the square meter used by individuals or businesses, rather than the amount of waste generated. This approach disincentivizes waste reduction efforts, such as waste prevention, reuse, repairs and recycling, as it provides no financial motivation for citizens and businesses to reduce waste generation. This fee calculation method, combined with weak or nonexistent penalties, has led to an estimated 3,500 illegal landfills across Serbia. Even when some of these landfills are cleared, they tend to reappear in previously cleaned areas. These challenges underscore the need for a change in waste management practices, especially in fee collection, alongside strict enforcement of legal regulations and improvements in the performance of public administration bodies responsible for waste management.

There are noticeable initiatives in the direction of utilizing waste as an energy source, particularly in the development of a 'waste to energy' plant at the Vinča landfill in Belgrade. Additionally, the Electric Power Company of Serbia (Elektroprivreda Srbije) has taken initial steps towards the potential co-combustion of coal and municipal waste in thermal power plants, starting with boilers in TENT and later TEKO B. While these initiatives represent a positive step forward, it's crucial to ensure the separation of hazardous and municipal waste before utilizing waste as an energy source. This underscores the continued importance of effective waste management classification.

The Flood Risk Management Plan is being worked on (a Decision was made on the development of a strategic assessment of the impact of this plan on the environment).

The Law on Climate Change was enacted in March 2021, as the first of itskind in the fight against climate change. It serves as the foundation for the development of essential by-laws required to initiate the green transition. Furthermore, the adoption of the Integrated National Energy and Climate Plan, which covers the period up to 2030 (with projections up to 2050,) and public discussions are currently underway. Preparations for the Adaptation Program to address changing climatic conditions, along with an associated action plan, have commenced.

The initial by-laws required for conducting greenhouse gas (GHG) emissions inventory work have been enacted, with further significant steps yet to be taken in this field.

The primary challenge lies in the insufficient administrative

capacity of public bodies at both, the local and national levels to address all aspects of environmental issues. On one hand, there is a lack of personnel within public administration dedicated to environmental protection. On the other hand, the environmental problems in this area are very complex, demanding expertise, experience, and often quick resolution. The deficiencies in environmental regulations, their inconsistent application, inadequate oversight by the competent authorities, and a general lack of public awareness regarding these issues are evident.

In 2022, a unit dedicated to combating environmental crime and environmental protection was established within the Police Administration of the Ministry of Internal Affairs. This development represents a positive step towards addressing the responsibilities of this unit. We are eagerly awaiting the unit's full contribution to the fight against environmental crime.

The management of investments related to environmental in Serbia lacks a clear strategic framework. Therefore, there is a need to enhance general strategic planning, project management and transparency in processes.

POSITIVE DEVELOPMENTS

Amendments to the Law on Waste Management were recently adopted to provide further elaboration and specification on certain issues and to better align the Law with EU regulations. Notably, these amendments improve the regulation of waste management (areas of construction and demolition waste, as well as waste sludge from municipal and industrial wastewater treatment plants and similar facilities). Recognizing the need to address the challenge of sludge management, the Ministry of Environmental Protection initiated the development of a sludge management strategy in early 2023, taking into account the relevant EU directives.

We welcome the adoption of the Low Carbon Development Strategy for the period from 2023 to 2030, with projections up to 2050, which was adopted by the Government of the Republic of Serbia on June 1, 2023, although it remains to be seen what effects this strategy will bring.

In December 2022, the Government of the Republic of Serbia adopted the Air Protection Program for the period 2022 to 2030 with an action plan, which defined measures and activities for the next period.

Among the strategic documents in this area, the adoption of the Circular Economy Development Program for the period 2022-2024 should be mentioned, which represents the first strategic document with set goals in the transition to the circular economy.

In April 2023, the Water Management Plan on the territory of the Republic of Serbia for the period from 2021 to 2027 was adopted as the basic instrument implementing the principles of the Water Framework Directive.

In the previous period, numerous wastewater treatment plant (WWTP) projects were initiated, with the majority of these projects funded by the EU. Several wastewater treatment systems reached the final stages of construction, and the preparation of projects or commencement of construction in several locations has been announced. Water protection has seen the most activity in terms of projects, design documentation and construction, establishing it as a top priority in environmental protection in Serbia. Despite the substantial financial resources required for these projects, notable progress is evident in this area, not only related to legal regulations.

REMAINING ISSUES

In February 2020, the Republic of Serbia adopted the National Plan for the reduction of emissions of major pollutants originating from old large combustion plants (NERP). Some of these facilities to a certain extent do not fulfill the obligations under the NERP, in terms of the permitted emitted quantities of polluting substances, so additional efforts will be necessary to comply with the NERP.

Air pollution, as one of the key problems in the field of environmental protection, and to some extent, passivity in this field, have led to the displeasure of part of the public in Serbia.

Based on the National Waste Management Strategy from 2009, the closure and recultivation of existing landfills and the construction of 24 regional centres for waste management are foreseen. These expectations were not met. The objectives of the previous strategy envisaged a large coverage of the waste collection system. The program from 2022 estimates that coverage is currently around 82%, but at the same time it is stated that only 10 sanitary landfills in Serbia meet EU standards, which means that a huge part of the population is still not covered by the system of collection and adequate sanitary disposal. The remaining landfills

and rubbish dumps are not only potential environmental pollutants, but also are a danger of the spread of infections. Leachates and fires are a particular problem of landfills, which lead to air, soil and water pollution.

Investments in the field of wastewater treatment are evident, but their implementation and effects have yet to be seen.

The strategic framework for combating climate change is still not at a satisfactory level. In the near future, it is necessary to adopt a CO2 emission taxation mechanism, in synchronization with the introduction of the CBAM mechanism (Carbon Border Adjustment Mechanism) by the EU. The absence of this mechanism currently gives Serbia a comparative advantage in relation to the EU market, which will be completely lost when CBAM is introduced in the EU. This will have an impact not only on electricity exported to the EU, but also on products originating from industries with high GHG emissions. In the first phase of application of the mechanism, it will be the sectors of cement production, iron and steel, aluminium and fertilizers for agriculture. Climate change will in the future, with the increasing number of regulations governing the fight for climate stability and adaptation to changes, represent one of the biggest challenges for the Republic of Serbia, among other things, due to the delay in the transposition of regulations. In addition, it is necessary to work on raising awareness about climate change.

In the area of nature protection, Serbia needs to continue aligning its regulations, particularly in compliance with the Directive on habitats and birds. Harmonization of domestic legislation governing the areas of hunting and fishing with EU standards and the above-mentioned directives is forthcoming, as well as the continuation of work on establishing the Natura 2000 network, which is mainly being carried out with the help of European Union funds, although a serious lack of institutional capacity at the national level is still noticeable and especially at the local level in this area.

The broad interpretation of the right to justice, as stipulated in Article 81a of the Law on Environmental Protection, can lead to extended delays not only in projects that may impact the environment, but also in those aimed at environmental improvement. Such an interpretation allows individual stakeholders from the interested public to contest various projects, instead of defending the right to a healthy environment solely within the context of assessing a project's environmental impact. This can result in challenges through public discussions, objections, appeals, and administrative disputes on every administrative act required for a project, such as a building permit, energy permit, consent for impact assessment, water permit, and more.

On the other hand, there's a need to enhance public notification and involvement in decision-making processes related to environmental administrative matters to ensure proper transparency in procedure implementation. By doing so, conditions would be established for the public to react promptly within the legal timeframes of specific procedures of interest, mitigating public dissatisfaction. Public input has, in the past, influenced the reconsideration of certain decisions, such as the prohibition on constructing small hydroelectric power plants in protected areas and the revocation of the Special Purpose Spatial Plan for the Jadar project.

FIC RECOMMENDATIONS

- Permanent and proactive improvement of the regulatory framework concerning environmental protection - adopt the missing strategic documents (including the Environmental Protection Strategy and Waste Sludge Management Strategy) and accompanying planning documents, and start their implementation. Continue with the transposition and implementation of regulations in this area;
- Continuous education and systematic training for personnel in all state institutions and local self-governments responsible for addressing these issues with active participation of the civil sector, and particular emphasis should be placed on enhancing the effectiveness of prosecutor's offices and judicial authorities.
- Actors responsible for air quality monitoring must ensure quality maintenance of the measurement system and availability of data that represent information of public importance, as well as financing the smooth operation of

the air quality monitoring network;

- Create an economic model to motivate local governments to use sanitary landfills and expedite the closure and rehabilitation of illegal landfills - rubbish dumps. Secure the implementation of the "polluter pays" principle by calculating a municipal waste tax based on the quantity of waste generated and/or the frequency of collection. Additionally, establish the necessary conditions for applying waste management hierarchy principles, with a focus on waste prevention, reuse, and recycling.

- Adopt the Decree on Acceptability Assessment, which will establish the necessary standards for approving plans and projects that may have an impact on the ecological network, including NATURA 2000;

- Provide adequate and purposeful financing of nature protection from the Green Fund, with criteria for determining priorities for the allocation of funds. Continue activities to establish the ecological network of the Republic of Serbia and NATURA 2000. Allocate more funds for the practical protection of species and habitats;

- Accelerate the transposition and implementation of regulations related to climate change, including the strengthening of the strategic framework for this area, so that it is as well covered as possible, in terms of legal regulations and implementation, and therefore it needs special attention;

- Find a balance between the right of the interested public to participate in decision-making in environmental administrative matters and the interests of investors to carry out projects within a framework of legal certainty and timely assurance. This implies that the environmental acceptability of a project should not be challenged without valid arguments, which can lead to multi-year delays and significant costs. This recommendation should be implemented through the interpretation of existing regulations and/or their amendments, as well as the creation of new subordinate acts

- Passing regulations for the implementation of GHG inventory, reporting and verification of emissions with the greenhouse effect.

- Preparation of a feasibility study in order to implement effective measures that will enable a high rate of recycling of metal, plastic, glass, paper and cardboard in order to achieve a resource-efficient economy based on the circular economy model.

- Enable business entities to organize the collection of small e-waste, such as batteries, mobile phones, chargers, etc., more easily and handed over to an authorized legal entity for further processing.

SECTOR SPECIFIC

top

FOOD AND AGRICULTURE

1.00

Agriculture and food industry are recognized as strategically important for local and national economic development. Therefore it is expected that in this area work will be done rapidly on the improvement of institutions, legislation and of the business environment in general.

Recent ago pandemic crisis and ongoing economic and political events in Europe had a great impact on the functioning of many economic sectors, primarily on the unavailability of raw materials, but also on the price increase of the goods, as well as transport. And in such conditions, agriculture and food production must not stop, what's more, they must function faster and more efficiently. In the context of such circumstances, the conclusion is that there are no significant developments in the functioning of the local food safety system, bearing in mind the fact that official controls are carried out with the same dynamics.

The exchange of documentation with the authorities is done physically, which is an obstacle to the efficient functioning of the food sector. A transparent and comprehensive risk analysis system would make the flow of goods more efficient. With the reorganization of existing resources, focus on high-risk products and food business operators, the control of those who are really risky would be increased, which is of crucial importance in such circumstances.

Harmonization with EU regulations is not proceeding at the expected speed. It also happens that there is a conflict of jurisdiction, where the Ministry of Agriculture harmonizes the area of food legislation, and the Ministry of Trade issues a law that cancels the harmonized rules. Implementation in practice is a big challenge, because the authority of institutions regarding the interpretation of regulations is unclear. Part of the legislative acts is harmonized. Due to the national regulations, which are unique, it is not possible to harmonize the application in practice with the practices in the EU and the region. Such circumstances are an obstacle to free trade and the cause of limiting domestic producers in the application of innovative processes and product development. The tendency must be to modernize outdated regulations, in order to eliminate restrictions, and focus on the protection of local and traditional products. The transposition of EU regulations is further complicated by the existence of administrative obstacles and methodological rules for drafting regulations.

The report on the work of the Expert Council for Risk Assessment, established in June 2017, as well as the activities of the Council, are still not known to the interested public.

There is room for improvement. Both in the improvement of the regulatory framework, which would ensure high standards in food quality control, and in the application of a uniform approach to the control of all food business operators, both importers and local producers. It is extremely important to simplify the examination procedure, strengthen transparency while enabling the predictability of the retention of goods. Strengthening the capacity of control bodies and improving the approach based on risk analysis, which is key to further strengthening the food safety management system. It would be extremely important to facilitate the exchange of data and documentation between state institutions and the economy, electronically.

It is also very important to look at regenerative agriculture, because the fact is that in our country these practices are still not known to the general public, although they are key to preserving our land and ensuring food supply for generations to come. The fact that there is an increasing awareness of the importance of regenerative agriculture and that there are companies and producers that have started implementing this key practice for our soil is pleasing. In addition to preserving our land and ensuring its use, it is important to emphasize that in the EU, more and more attention is being paid to the use of raw materials from renewable sources. This is a very important fact for producers who want to export to the EU, because it will be a limiting factor in competitiveness on the EU market if the raw materials are not produced using regenerative agriculture practices. The key here is state support and subsidies for the purchase of equipment and the education of farmers, in order to raise awareness that investing in this practice is not something short-term, but should become a new way of working that should remain a permanent practice. We are pleased with the fact that in September of this year, in cooperation with the EBRD, we held a conference on the topic of regenerative agriculture, where we had the opportunity to bring to the general public the importance and benefits that agricultural producers can have by applying regenerative agricultural practices. We hope and expect that this conference initiates further ideas for implementation as well as to encourage agricultural producers to think in that direction, but, no less important, also state authorities and ministries whose help in further implementation of Regenerative agricultural practices necessary.

1. FOOD SAFETY LAW 1.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Align the Law on Food Safety and all accompanying bylaws with EU regulations (178/2002 / EC and accompanying bylaws).	2017			√
Establish a transparent and comprehensive risk analysis system (combination of product, country of origin, manufacturer, destination and importer risk) by all inspection services, with the establishment of a functional IT system and digitization of supervision.	2015			√
Establish uniform rules in the procedures of inspection services in terms of costs, deadlines, field work mechanisms, taking the number of samples, determining the type and number of analyzes during official controls.	2014			√
To harmonize the criteria of the laboratory during control analyzes, with a clearly defined responsibility of the laboratory regarding the interpretation of regulations.	2020			√
Establish a national Food Safety Agency following the example of EU member states and neighboring countries and create conditions for the National Reference Laboratory to perform all tasks provided by law, in order to strengthen the capacity of the food safety system.	2018			√
Create legal conditions for food business operators to place new foods on the market from the list, according to a simplified procedure, and keep the approval procedure for novel foods that are not on the list in Annex 1, according to the EU model.	2020			√
Enable electronic exchange of data between state institutions and the economy.	2020			√

CURRENT SITUATION

The Law on Food Safety (hereinafter: the Law) adopted in 2009 has not been fully implemented so far, nor have all the envisaged bylaws been adopted.

Amendments to the Law reorganized the division of inspection responsibilities between the competent inspections of the Ministry of Agriculture and the Ministry of Health.

The National Reference Laboratory was opened in 2015. 2019 amendments to the Law define its competence and introduce the term Reference Laboratories, which should entrust part of the work performed by the National Reference Laboratory. It is envisaged that the Ministries will select reference laboratories through a competition, and that the list of reference laboratories will be published in the "Official Gazette of the Republic of Serbia".

A working group for milk was formed within the Ministry of Agriculture in 2015, but by the middle of 2023, there was no harmonization of the current legislation in the part related to milk safety. By extending the application of the maximum permitted content of aflatoxin M1 in raw milk of 0.25 µg/kg, milk producers in the territory of the Republic of Serbia are being helped, but on the other hand, current measures allow the import of milk from neighboring countries and the EU with aflatoxin content exceeds the limit of 0.05 µg/kg, prescribed in the EU. Due to all the above, and primarily due to food safety, it is necessary to focus activities on the application of measures to reduce the presence of aflatoxins in animal feed.

The Expert Council for Risk Assessment was officially formed in April 2017.

Rulebook on maximum concentrations of certain contaminants in food (SG 81/2019) is annually aligned with EU, for certain types of food, which are under the jurisdiction of the Ministry of Agriculture. This Rulebook also takes over the provisions of EU Regulation 2017/2158, which prescribes mitigation measures to reduce the presence of acrylamide in certain categories of food. Due to the fact that the area of children's food is exempted from this regulation, as it is under the jurisdiction of the Ministry of Health, harmonization with (1881/2006/EC) and EU 2017/2158 is not implemented at the same speed for all food categories and has not yet been achieved.

POSITIVE DEVELOPMENTS

Amendments to the Rulebook on Maximum Concentrations of Certain Contaminants in Food, included food categories that are under Ministry of Health (children food), which is a certain advance in the efforts of both Ministries to completely harmonize this area, so it is expected that uniform rules for ensuring food safety in the area of contaminants with the EU and neighboring countries will soon be achieved.

REMAINING ISSUES

Inconsistency of the Law on Food Safety and certain bylaws with EU Regulations.

a. The current provisions of the Law limit the possibilities for full harmonization (e.g. food categorization does not follow the EU categorization (e.g. food with modified nutritional composition, etc.)

b. Rulebook on Maximum Concentrations of Certain Contaminants in Food (Annex 1) partially contains the provisions of EC 1881/2006, food for babies and children are still not alligned,; The Rulebook on the Coffee Products Quality, in addition to the provisions of Directive 1999/4 / EC, also prescribes requirements for categories of coffee products that are not prescribed at the EU level; The Rulebook on Fruit Juices, in addition to the requirements of Directive 2012/12 / EU, prescribes additional requirements regarding the quality of fruit juices. Thus, domestic entities in the food business are placed in a less favorable position compared to entities operating outside the borders of Serbia.

c. There is a room for different inspection interpretations.

d. Slow transposition of the latest amendments to the regulations in the field of food additives into national legislation.

Lack of a comprehensive risk assessment system by inspection services. No improvement and coordination in the application of risk analysis and assessment methods was observed:

a. With the formation of the Expert Council for Risk Assessment, progress was expected in performing the risk analysis provided by the Law, but this did not happen. The activities of the council are not known to the interested public even after 5 years from its establishment.

b. Risk analysis would enable the classification of food business entities into low-risk and high-risk, which would speed up the process of customs clearance and release of low-risk goods. Importers assessed as low-risk could realize savings in money and time by faster receipt of documents and reduced number of sampling at import.

c. Risk analysis would reduce the scope of inspections and relieve them of limited resources as resources would be focused on testing high-risk products.

d. The publication of the Rulebook on special elements of risk assessment within the scope of sanitary inspection and within the scope of agricultural inspection at the end of 2018, created a framework for starting the risk assessment process, but there is still no uniformity in terms of application between different inspections.

Unpredictable business conditions during the procurement of raw materials for food production:

a. Uniform rules do not apply in the procedures of inspection services in terms of costs, deadlines, field work mechanisms, number of samples, determination of type and number of analyzes in laboratory processes,

b. Application of different criteria by laboratories in control analyzes, and vaguely defined responsibility of laboratories in terms of interpretation of regulations.

Unclear procedure for placing novel food on the market:

a. Irrespective of the fact that the Rulebook on Novel foods (SG 88-2018) takes over the list of novel foods that are freely placed on the EU market, the Rulebook prescribes an additional procedure by which the Ministry of Health issues permits for placing novel foods on the market for the first time.

b. The Rulebook stipulates that the Ministry gives approval based on the Opinion of the Expert Council. It is still not clear why the Expert Council gives each operator an opinion on food for which there is already a relevant scientific opinion from an internationally recognized institution (EFSA), and which has already been taken over from the list in Annex 1 to this Rulebook.

The exchange of documentation with the competent authorities is still mostly done physically, which complicates the work of companies and significantly slows down the flow of goods.

FIC RECOMMENDATIONS

- Align the Law on Food Safety and all accompanying bylaws with EU regulations (178/2002 / EC and accompanying bylaws).
- Establish a transparent and comprehensive risk analysis system by all inspection services, with the establishment of a functional IT system and digitization of supervision.
- Establish uniform rules in the procedures of inspection services in terms of costs, deadlines, field work mechanisms, taking the number of samples, determining the type and number of analyses during official controls.
- To harmonize the criteria of the laboratory during control analyses, with a clearly defined responsibility of the laboratory regarding the interpretation of regulations.
- Establish a national Food Safety Agency following the example of EU member states and neighbouring countries and create conditions for the National Reference Laboratory to perform all tasks provided by law, in order to strengthen the capacity of the food safety system.
- Create legal conditions for food business operators to place new foods on the market from the list, according to a simplified procedure, and keep the approval procedure for novel foods that are not on the list in Annex 1, according to the EU model.
- Enable electronic exchange of data between state institutions and the economy.

2. SANITARY AND PHYTOSANITARY INSPECTIONS 1.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Adopt the new Law on Sanitary Supervision and executive regulations on the work of sanitary and phytosanitary inspection harmonized with the Law on Inspection Supervision and EU regulations, as well as the Law on Official Controls based on Regulation (EU) 2017/625 and executive regulations on the conducting official controls manner. This would ensure the consistent application of uniform rules of the inspection services procedures.	2017			√
Modify the Decisions of the competent inspections so as to allow the use of raw materials in production, without the right to release the finished product until obtaining a decision on the release of raw materials.	2017			√
Clearly define the time period required for import procedures for all types of food.	2018			√
Enable electronic data exchange between state institutions and the economy.	2020			√

CURRENT SITUATION

The Law on Food Safety amendments from 2019 reorganized the division of inspection supervision responsibilities between the competent inspections of the Ministry of Agriculture and the Ministry of Health.

The work of inspections is also regulated by the Law on Inspection Supervision, which has been in force since April 2016. Some inspections are developing models for the application of the Law on Inspection Supervision, but the full harmonization of sectoral regulations with this Law has not yet been completed.

Since 2016, the Ministry of Health has been in the process of passing the Law on Sanitary Supervision, which would regulate the affairs of sanitary supervision in more detail.

POSITIVE DEVELOPMENTS

No improvements have been noticed in this area.

REMAINING ISSUES

The Law on Sanitary Supervision and executive regulations on the work of sanitary and phytosanitary inspection in accordance with the Law on Inspection Supervision and EU regulations have not been adopted yet, even though they have been announced years ago.

Executive regulations are missing, such as: Rulebook on the manner and methods of conducting official control, the system of approval and certification, the manner of cooperation with the customs authority and the competent authorities of EU member states and third countries, the manner of inspection, the manner of taking samples, the criteria for determining the deadlines for implementation official controls, as well as reporting on the implemented official controls and the Rulebook on food sampling and testing methods in the official control procedure, etc.

The competent inspections do not allow the use of raw materials in production before obtaining the Decision on release for placing on the market, which leads to a loss of time and money.

The period required for food import procedures is not clearly defined.

The exchange of documentation with the competent bodies is still mostly done physically, which complicates the work of companies and significantly slows down the flow of goods.

FIC RECOMMENDATIONS

- Adopt the new Law on Sanitary Supervision and executive regulations on the work of sanitary and phytosanitary inspection harmonized with the Law on Inspection Supervision and EU regulations, as well as the Law on Official Controls based on Regulation (EU) 2017/625 and executive regulations on the conducting official controls manner. This would ensure the consistent application of uniform rules of the inspection services procedures.
- Modify the Decisions of the competent inspections so as to allow the use of raw materials in production, without the right to release the finished product until obtaining a decision on the release of raw materials.
- Clearly define the time period required for import procedures for all types of food.
- Enable electronic data exchange between state institutions and the economy.

3. QUALITY ASSURANCE, DECLARATIONS ON FOOD PRODUCTS, NUTRITION AND HEALTH CLAIMS 1.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Define the competence of institutions regarding the interpretation of regulations in the field of food safety and ensure the obligation to apply the official positions of the Ministry to all participants in the chain; ensure uniform interpretation and application of the Rulebook and Guidelines adopted by competent Ministry, adopt Rulebook on conditions and manner of production and placing on the market of food for which quality conditions are not prescribed.	2016			√
Enact the Rulebook on the Conditions and Manner of Production and Placing the Food on the Market for which Quality Conditions are Not Prescribed.	2022			√
Adopt executive regulations arising from the Law on Food Safety and harmonize them with EU.	2017			√
Adopt Amendments to Article 34 of the Law on Trade in terms of clearly defining that the provisions of this Article do not apply to products to which the provisions of the Law on Food Safety apply, and bylaws prescribing the declaration and labelling of food.	2020			√

CURRENT SITUATION

From June 2018. The Regulation on Declaring, Labelling and Advertising of Food which is largely in line with the relevant EU regulations, is in force. In September 2020, amendments were made to the Regulation, which refer to the labelling of the country of origin of the main ingredient, (harmonization with EU regulations 2018/775 and (EU) 1155/2013) with Regulation enforcement from January 1, 2023. Additional provisions were made at the beginning of 2022, that more closely prescribe the appearance of graphic symbols "Origin from Serbia" for meat and meat products, thereby providing support for informing consumers about the placement of local products.

A number of regulations prescribing the quality of certain food categories are not fully harmonized with the EU, are outdated or there are no regulations in the EU that define the quality of these food categories. Such vertical legislation puts food business operators at a disadvantage compared to producers in the countries of the region and the European Union. Due to the obsolescence of regulations, the appropriate raw material is often difficult to find and has a higher price. The situation is similar with finished products that do not fit into the categorization of the mentioned regulations.

The Law on Trade, published in the middle of 2019, prescribed the obligation to obligatorily mark the country of production on the labelling of goods in retail trade. Although it was considered that this requirement does not apply to the labelling of food for which the Law on Food Safety (Lex Specialis) and Regulation on Declaration, Labelling and Advertising of Food are in force and which Article 26 prescribes mandatory indication of the country of origin only for certain categories of food, while in the case of voluntary indication, it prescribes an additional obligation to indicate the country of origin of the main ingredient. Regarding the regulations harmonization, different ministries have different approaches for the same area, so the competence for the area of harmonization of regulations from Chapter XII is unclear. Due to the conflict of competences, as well as uneven interpretation by the inspection and subjects in the food business, in practice it still leads to uncertainty in business and difficulties in foreign trade exchange with the EU and neighbouring countries.

POSITIVE DEVELOPMENTS

In order to overcome the application limitation of the of local regulations in relation to the food market placing for which quality conditions are not prescribed, in April 2023, the Rulebook on Amendments to the Rulebook on the Quality of Minced Meat, Meat Semi-Products and Meat Products was published, which made it possible to use dehydrated meat in production, as well as dehydrated and lyophilized mechanically separated meat.

REMAINING ISSUES

The current legal framework does not define the competence and responsibility for the interpretation of regulations in the field of food safety, and over time the practice has been created on the market for laboratories to interpret regulations:

a. Regardless of the fact that the legal assessment, ie. Determining certain illegalities in business in the exclusive competence of the inspector in accordance with Article 37 of the Law on Inspection Supervision, the inspector, as the competent body, is exclusively guided by the conclusion made by the laboratory, which is often not in line with the official position of the Ministry. This is especially reflected in the interpretation of regulations in the field of labelling, where, despite the existence of the Guide, there are different approaches and interpretations of its provisions.

b. The official position of the competent Ministry is not a binding act for inspection services.

c. This practice contributes to the difficult functioning of food business operators, and to the great limitations of long-term planning.

d. A bylaw has not yet been adopted by Minister of Health, in accordance with the division of competencies referred to in Article 12 of the Law. This bylaw should prescribe in more detail the conditions and manner of production and marketing of food for which quality requirements are not prescribed, which is provided by Article 55 of the Law.

Non harmonised regulations prescribing product quality with EU regulations:

a. Most of the national regulations, which prescribe the certain categories of food quality, date back to the 80s and 90s of the last century. Some of the regula-

tions, such as the Rulebook on the Fruit and Vegetable Products Quality and the Rulebook on the Quality of Raw Coffee, Coffee Products, Coffee Substitutes, as well as Related Products, although more recent, are entirely national in nature, and are therefore not subject to harmonization with the EU legislation, nor are there requirements for them at the EU level, except for instant coffee products and instant coffee substitutes. With the latest amendment to the Rulebook on the Fruit and Vegetable Products Quality, from the end of 2021, no progress in harmonization was made. By adopting such national regulations, the Quality Group of the Ministry of Agriculture shows a sense of the needs of domestic producers, to define quality parameters for certain product categories, as well as traditional products and reduce the possibility of abuse. On the one hand, the way of doing business in the internal market is harmonized in the case of products that are clearly categorized, on the other hand, food business subjects are limited, because it further complicates the way of working in the case of no categorized products within Rulebook, especially with related products, there is room for different interpretations. These situations can be overcome by amending the regulations, but these are solutions that require a longer period of time and do not contribute to efficiency.

b. The Rulebook on Fruit Juices, although harmonized with EC Regulation 2012/12, still has additional requirements regarding the quality of fruit juices, taken from the standards of the European Association of Fruit Juice Producers, which as such in the EU countries have voluntary and not legally binding application, which puts domestic entities in the food business in a less favourable position in relation to entities that operate outside the borders of Serbia.

c. The Rulebook on Dietary Supplements retains the process of registering products in the Ministry's database, as it existed in the Rulebook on the Healthiness of Dietary Products, which, unlike the notification process in EU countries, involves the procedure of obtaining confirmation from several institutions before entering the Ministry of Health's database

Inconsistency of the requirements of the Law on Trade and the Rulebook on Labelling, in case of stating the country of origin on the product declaration, prescribe the obligation to state the country of origin of the main ingredient, create a framework for additional problems in practice.

FIC RECOMMENDATIONS

- Define the competence of institutions regarding the interpretation of regulations in the field of food safety and ensure the obligation to apply the official positions of the Ministry to all participants in the chain. Establish the competent Ministry for the area of declaring food and ensure uniform interpretations and application of the Rulebooks, Guides and Instructions it has carried out competent ministry.
- Adopt the Rulebook on the Conditions and Manner of Production and Food Market Placing for which Quality Conditions are not Prescribed.
- Adopt executive regulations arising from the Law on Food Safety and harmonize them with EU.
- Adopt Amendments to Article 34 of the Law on Trade in terms of clearly defining that the provisions of this Article do not apply to products to which the provisions of the Law on Food Safety apply, and bylaws prescribing the declaration and labelling of food.

INSURANCE SECTOR

1.04

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
INSURANCE CONTRACT LAW				
The enactment of a special Insurance Contract Law that would consolidate the provisions of the contractual insurance law. Creation of a working group of prominent lawyers in this field (distinguished professors, experts, people from the insurance industry, lawyers specialized in insurance law, etc.) who know both theory and practice, but also tendencies in the European countries and who would make a significant contribution to the development of the insurance market in our country. A good basis can be the Draft Insurance Contract Law prepared by the UOS which fully protects the rights and interests of insurance service consumers in line with the highest EU standards.	2022			√
MEDIATION AS A MANDATORY STEP BEFORE THE INSURANCE COURT DISPUTE				
Stipulate insurance mediation as a mandatory step before proceeding to litigation.	2022			√
LIFE INSURANCE – EXEMPTION FROM TAXABLE INCOME OF PERSONAL INSURANCE FEES				
Amendment of Article 9, paragraph 1, items 6) and 7) of the Law on Personal Income Tax which stipulate the exemption from taxable income the earnings of natural persons in respect of certain types of insurance benefits, extending the application of the stipulated exemption from taxation of all benefits from personal insurance and the deletion of Article 84, related to the taxation of a natural person's income generated from personal insurance, as follows: - In Article 9, paragraph 1, item 6) after the wording "except salary compensation", the following wording should be added "benefits from property insurance and benefits from personal insurance in accordance with the law regulating voluntary insurance;" - Article 9, paragraph 1, item 7) – to be deleted. - Article 84 – to be deleted.	2021			√
ELIMINATION OF DOUBLE TAXATION FOR UNIT LINK PRODUCTS AND INVESTING IN INVESTMENT FUNDS				
Since the insurance company only has formal ownership of the investment fund units, i.e. cannot freely dispose of them and the payment of insurance benefit to a natural person (difference between the insured sum obtained from the sale of the fund units by the insurance company and paid premiums) represents a taxable income of a natural person, the Law on Corporate Profit Tax should be amended in a way that would exempt the income generated by the sale of investment units linked to life insurance from the calculation of capital gains in the tax balance sheet of the insurance company. In this way, double taxation is not completely eliminated, but the income generated from the sale of this type of investment units is only excluded from the calculation of capital gains, but it is nevertheless included in the insurance company's taxable profit as its "regular income".	2021			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
The Corporate Profit Tax Law should be amended as follows: - in Article 27, paragraph 1, item 4), after the wording "in accordance with the law regulating investment funds", the following wording should be added "except in the case of purchase of investment units to which life insurance is linked in accordance with the law regulating voluntary insurance".	2021			√
LAW ON PREVENTION OF MONEY LAUNDERING AND FINANCING OF TERRORISM				
Article 4 of the Law by adding a new paragraph 4 after paragraph 3 should be amended to read: "Notwithstanding the provisions of paragraph 1, item 6) of this Article, insurance companies that have a license to engage in life insurance, insurance brokerage companies when performing life insurance brokerage activities, insurance agencies, insurance agents and banks that have a license to perform the activities of life insurance shall not be considered entities liable for due diligence under this Law with regard to life insurance contracts that do not have a savings component (do not cover the risk of pure endowment)."	2021			√
Article 8 of the Law should be supplemented by adding a new paragraph 3 after paragraph 2 which reads: "Notwithstanding paragraph 1 of this Article, the liable entity from Article 4, paragraph 1, item 6) of this Law is not required to perform the measures from Article 7 of this Law when concluding a new life insurance contract when the insurance premium is paid from the insured amount or mathematical reserve or its part, based on expiration or surrender of the existing life insurance contract during the conclusion of which the liable entity has already performed the actions and measures of customer due diligence in accordance with the Law, provided that under the new insurance contract, the policyholder and beneficiary do not change."	2021			√
Article 18 of the Law should be amended in order to define the conditions for establishing customer identity via qualified electronic signature which are technically feasible in practice.	2020			√
AUTO INSURANCE MARKET				
Allow the possibility of issuing the compulsory auto liability insurance policy in electronic form as an e-Document.	2019			√
LAW ON ROAD TRAFFIC SAFETY				
Article 7 of the Law on Road Traffic Safety should be amended to include a definition of electric scooters in paragraph 1, item 34a: „an electric scooter is a motor vehicle with two wheels, with its own electric drive".	2021		√	
Obligation of third-party liability insurance should be introduced for electric scooter owners.	2021			√
LAW ON TRANSPORTATION OF CARGO IN ROAD TRAFFIC				
Article 7 of the Law on Transport of Cargo in Road Traffic should be amended to stipulate insurance policy of the carrier's professional liability as a mandatory requirement for obtaining a transport license.	2021			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
HEALTHCARE LAW				
Enable health care providers by the Healthcare Law to diagnose or prescribe treatment by telephone or online consultations.	2021			√
LAW ON HEALTH INSURANCE				
Amendment to the Law on Health Insurance so that:	2021			
a) the text of the current Article 179 should be amended to read: "The contract on voluntary health insurance shall be concluded based on a previous offer for concluding a contract on voluntary health insurance (hereinafter: the Offer) given by an insurer to the person wishing to conclude a contract on voluntary health insurance. The offer referred to in paragraph 1 of this Article shall contain relevant information on voluntary health insurance policyholders, insurance start date, insurance waiting period, as well as the insurance end date, amount and deadlines for payment of insurance premium, maximum contracted amounts per coverage risks and other elements of importance for insurance contracting."				√
Relevant information on the voluntary health insurance policyholders from paragraph 2 of this Article shall be: 1. name and surname, 2. Personal identification number, or registration number for foreign citizens. In the case of collective insurance, an insurer may submit a single consolidated offer containing the data from the previous paragraph of this article on each individual to be covered by collective insurance. The offer referred to in paragraph 1 of this Article, as well as the consolidated offer from paragraph 4 of this Article shall also contain as relevant the data on previous health condition of the voluntary health insurance policyholder which are necessary for the insurer to ass the insurance risk. Notwithstanding the provisions of this Article, when the insurance company concludes with a policyholder a contract on collective voluntary health insurance of employees, where the insured persons are entitled to the payment of insurance indemnity directly from the insurance company and where the paid indemnity does not cover treatment costs, the insurance contract can be concluded based on official records of employed insurance policyholders.				√
b) the text of the existing paragraph 1 of Article 182 should be amended to read: „An insurer shall issue a voluntary health insurance document to any voluntary health insurance policyholder who does not use his insurance rights directly at the insurer on the date of issuing the policy and no later than 60 days from the date of issuing the policy.“				√
Amend the Law on Insurance – introduce penalty clauses for all persons engaged in insurance activities or underwriting activities against a fee without a prior permission obtained from the competent authorities.	2022			√
If the NBS considers the existing penalty clauses sufficient, introduce reinforced control of compliance with these clauses and their implementation if it is established that a person not holding a relevant permit is engaged in the insurance activities or underwriting activities.	2022			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
LAW ON INJURIES AT WORK				
Occupational Safety and Health Directorate should propose the adoption of the Law on Insurance against Occupational Injuries, Occupational Diseases and Diseases Related to Work.	2022			√
LAW ON PUBLIC PROCUREMENT ("RS OFF. GAZETTE", NO. 91/2019) AND PUBLIC PROCUREMENT PORTAL				
The following provisions of the Law on Public Procurement should be amended/supplemented: Article 114, Article 116 and Article 132 as follows:	2022			√
In Article 114, a new paragraph 6 should be added after paragraph 5, which would read: "Economic entities that perform activities that is the subject of public procurement on the basis of a special permit (license) of the competent authority on the territory of the Republic of Serbia shall be considered to meet all criteria for the selection of economic entities from paragraph 1 of this Article and the contracting authority for the public procurement of such services may not set special criteria when drafting public invitations and tender documents".				√
In Article 114, a new paragraph 7 should be added after paragraph 6, which would read: "If special regulations for certain areas stipulate conditions that business entities should meet, the contracting authority may not set special requirements from these areas as selection criteria."				√
In Article 116, a new paragraph 8 should be added after paragraph 7: "Financial and economic capacity shall only be assessed on the basis of financial and economic criteria of economic entities and not some other indicators and parameters that are unrelated to the financial and economic domain. "				√
In Article 132, a new paragraph 3 should be added after paragraph 2 which would read: "If a special law for some services and works stipulates a deadline for the performance of a service and/or works, the Client shall not set the deadline for the performance of such service and/or works as a criterion for determining the most economically advantageous offer".				√
DATA ON COMPLAINTS AGAINST THE WORK OF INSURANCE COMPANIES AND VOLUNTARY PENSION FUNDS MANAGEMENT COMPANIES				
Given that insurance companies are required to provide the NBS on a quarterly basis with data on the number of complaints received in the previous quarter, NBS already has this data and, in our opinion, they could very easily and without much additional effort publish this data in the above-mentioned report so that they would also be available to the public.	2022			√

OVERVIEW OF THE INSURANCE MARKET 1.00

CURRENT SITUATION

There are 20 insurance companies in Serbia. Sixteen companies exclusively engage in insurance business, while four companies are involved in reinsurance. Among insurance companies, there are four specializing in life insurance, while six companies offer non-life insurance, including both life and non-life coverage.

The market remains highly concentrated: i) the market leader, Dunav, holds a 26.43% market share. ii) the three largest insurers collectively control 57.76% of the market. iii) the top five insurance companies possess a 75.8% market share.

Companies with majority foreign ownership (15 out of 20) undoubtedly dominate the market, accounting for 73.42.3% of assets (60.05.9% in non-life insurance premium and 87.18.3% in life insurance premium).

The insurance market had a premium of 133,9 billion dinars (approximately 1.1 billion euros), which represents a 12.2% increase compared to the same period in the previous year (year-end).

Concluding from the comparative indicators for 2022 and the previous year, several noteworthy changes in the observed year include:

- The balance sheet of the insurance sector experienced a slight increase of 0.8%, reaching 336.6 billion dinars.
- Capital decreased by 11.2%, primarily due to changes in unrealized gains and losses, resulting in a total capital of 72.0 billion dinars.
- Technical reserves saw a growth of 4.8%, amounting to 229.7 billion dinars, with the entire amount of technical reserves invested in prescribed forms of property.
- The total premium increased by 12.2%, reaching 133.9 billion dinars.
- Non-life insurance continues to dominate, representing 78.6% of the total premium. Non-life insurance premium experienced a growth of 14.0%, while insurances with significant participation, such as liability insurance due to motor vehicle use and property insurance, recorded nominal increases but also real decreases.
- The share of life insurance decreased, mainly due to the higher growth of non-life insurance premiums compared to the growth of life insurance premiums.

The establishment of insurance companies and their activities are mainly regulated by the Insurance Law (Official Gazzette RS, 139/2014 and 44/2021), and by the relevant by-laws of the National Bank of Serbia (NBS).

Other significant legal sources include the Law on Mandatory Traffic Insurance, the Law on Health Insurance, the Law on the Protection of Financial Service Consumers in Distance Contracts and the Law on Contracts and Torts (Law on Obligations). The lateral relevant legal source is the Law on Road Traffic Safety.

A large number of insurance companies and other insurance market participants try to adapt their services to the digital world. However, besides technical, cultural and other barriers, regulations are also an important limiting factor. Although in recent years, huge strides have been made towards creating conditions for digital business, there is still room for improvement. This primarily refers to the vehicle liability market where policies still have to be issued according to the law on predefined forms printed by the Institute for Production of Banknotes and Coins – Topčider, which practically renders digital business impossible. Also, regulations in the area of prevention of money laundering and terrorism financing are an important limiting factor, as it does not recognize the exceptions previously recommended, which would contribute to the sale of life insurance through digital channels on the market of the Republic of Serbia taking hold in practice.

The impact of the COVID – 19 virus pandemic is certainly not to be underestimated. However, remote business activities and work from home have contributed to the faster expansion of digital sale channels, as well as to an increasing level of digitalization of the insurance companies' business operations.

INSURANCE CONTRACT LAW 1.00

CURRENT SITUATION

Insurance contract law is regulated by the provisions of the Law on Contracts and Torts ("SFRY Off. Gazette", no. 29/78, 39/85, 45/89 – CCY decision and 57/89, "FRY Off. Gazette", no. 31/93, "SCG Off. Gazette", no. 1/2003 – Constitutional Charter and "RS Off. Gazette", no. 18/2020) from 1978 last amended 19 years ago.

POSITIVE DEVELOPMENTS

None.

REMAINING ISSUES

The Law on Contracts and Torts was passed more than forty years ago and was last amended nineteen years ago. Although it is one of the better laws that was taken over in all neighboring countries after the breakup of the old state, some segments simply do not correspond to the present time.

There are several reasons for passing a special Insurance Law:

- Alignment with the changed circumstances and market needs

As mentioned before, the Law on Contracts and Torts was passed and subsequently amended a long time ago. At the time, the insurance market was not as developed in our country as it is today, and the same goes for the awareness of individuals about the importance of insurance. Furthermore, some provisions of the Law on Contracts and Torts which regulated the subject matter of insurance are in some ways outdated and do not follow the needs of the market, or practice in the European Union, to which Serbia also aspires, because they do not adequately protect the rights of beneficiaries. This was also recognized by the NBS, so these provisions were included in the status Insurance Law and NBS by-laws;

- Faster and easier passing of laws and simpler amendments

We are aware that work on the new Civil Code of Serbia is currently in progress and that the idea is to also integrate the provisions of insurance contract law in the Code. However, the fact is that the passing of the Code has been ongoing for years and it is still uncertain when it will be adopted. The needs of the insurance market, both of the insurer and the insured, require the fastest possible response by the regulator and legislator so that adequate regulations could make a good basis for the further market development. Also, changes in this legal matter require a faster response and, in our opinion, a difficult process of amending regulations should not be an obstacle to market development. During the pandemic, we witnessed a higher need for the issuance of insurance certificates instead of policies, for a higher volume of distance contracts, etc. Since the Civil Code will incorporate a larger scope of different types of civil law, it is not realistic to expect that it will be amended whenever a need for a single contract arises. We are therefore of the opinion that the subject matter of contractual insurance law should be included in a separate law.

- Harmonization with the law of the European countries

A separate Insurance Contract Law is present in legislations world-wide (it exists in Germany, France, Italy, Spain, Belgium and a number of other developed countries) and has proven to be a good solution. The tendency of our country is to follow European standards and to aspire towards the European Union, so the passing of a special Insurance Contract Law would be another step forward in that direction. In this way, we would be the first state in the region to follow developed European countries in that area. The tendency in the European Union to regulate the subject matter of insurance contracts separately is a sufficient indicator that there should also be a special law in our country regulating only the insurance contract.

- Consolidation of the matter of contractual insurance law

Certain provisions of insurance contract law can be found in other regulations and laws, and not only in the Law on Contracts and Torts (in Insurance Law as a status law, in the NBS secondary legal acts, in the Law on Consumer Protection, the Law on Health Insurance, in the Law on Mandatory Traffic Insurance and in other regulations). In our opinion, it would be good to systematize and consolidate them into one regulation. The consolidation of the subject matter of insurance contract law would make this area more accessible, while at the same time minimizing the possibility of the lack of knowledge about the regulations. The comprehensive inclusion of this subject matter in a single law would certainly minimize the possibility of legal gaps arising in practice in the future.

– The importance of insurance contract

Last, but not least, the legal and economic importance of insurance in the modern world, including our country, should not be ignored. This area is very specific, but at the same time also complex, so it should preferably be regulated by a separate lex specialis, which would regulate the insurance contract in a consolidated way and ensure a higher certainty of legal transactions, reducing the possibility of legal gaps to a minimum. Furthermore, regulation of the matter of insurance contract law in one place would improve the citizens' knowledge and raise awareness on the importance of insurance precisely because the state gave it importance by passing a special law.

FIC RECOMMENDATIONS

- The enactment of a special Insurance Contract Law that would consolidate the provisions of the contractual insurance law. Creation of a working group of prominent lawyers in this field (distinguished professors, experts, people from the insurance industry, lawyers specialized in insurance law, etc.) who know both theory and practice, but also tendencies in the European countries and who would make a significant contribution to the development of the insurance market in our country. A good basis can be the Draft Insurance Contract Law prepared by the UOS which fully protects the rights and interests of insurance service consumers in line with the highest EU standards.

MEDIATION AS A MANDATORY STEP BEFORE THE INSURANCE COURT DISPUTE

CURRENT SITUATION

The provisions of Article 15, paragraph 1 of the Insurance Law stipulate that the National Bank of Serbia mediates in the settlement of a compensation claim in order to prevent disputes arising from insurance, acts upon complaints of insurance service consumers regarding the work of insurance companies and protects the rights and interests of these persons. The provisions of Article 2 stipulate that the insurance service consumer has the right to complain and protect his rights and interests before the National Bank of Serbia in relation to the work of insurance brokerage companies, companies for representation in insurance, insurance agents and legal entities from Article 98, paragraph 2 of this Law, while Article 4 prescribes that the National Bank of Serbia prescribes more precisely the manner of brokerage in handling compensation claims and filing of complaints by insurance service consumers, as well as acting on these complaints.

The NBS Decision on the procedure regarding complaints of insurance service consumers stipulates that, if the insurance service consumer is dissatisfied with the response of the insurance service provider to his complaint or the response was not submitted within the deadline specified in the NBS Decision, the dispute between the insurance service consumer and insurance service provider may be resolved through mediation of the National Bank of Serbia. In addition, the Decision prescribes that the mediation procedure handled by the National Bank of Serbia is not subject to the provisions of the law regulating mediation in dispute resolution.

POSITIVE DEVELOPMENTS

There hasn't been any improvement in terms of amending the law. However, a noticeable improvement can be observed in the market, as some insurance companies have recognized mediation as an effective method for resolving disputes. In all cases where they are actively legitimized, they initiate mediation proceedings before pursuing court actions. Additionally, there is a noticeable intention among insurance companies to resolve their disputes through the mediation process.

REMAINING ISSUES

Provisions on mediation are contained in the article of the Insurance Law stipulating protection of the rights and interests of insurance service consumers which primarily concern complaints. Also, the NBS Decision regulating brokerage services in insurance is in fact the Decision on acting on complaints filed by insurance service consumers. Mediation as such is not given the importance it could have in this matter.

In addition to the above, the NBS Decision stipulates mediation as an option, not an obligation. Insurance service consumer may reach out to NBS before initiating a court dispute, but are not obliged to do so.

Also, the provisions of Article 149 of the Law on Consumer Protection stipulate that out-of-court settlement of consumer disputes, in terms of this Law, does not apply to consumer disputes that are the subject matter of this Law, if the out-of-court dispute settlement is regulated by a separate law, especially in the field of providing electronic communication services, postal services, financial services, except for financial arrangements, travel services.

Accordingly, as far as the out-of-court settlement of consumer disputes is concerned, the Law on Consumer Protection does not apply to insurance (regulated by a separate law, NBS Decision, and it is also a financial service).

An increasing number of attorneys representing insurance service consumers file incomplete compensation/damage claims and when the insurance company requests a supplement because it is objectively unable to make a decision based on available documentation, they file a court case. These disputes often end quickly because the attorney provides in the court case the information that the insurance company requested as a supplement. This increases the number of court cases and costs for both insurance companies and insurance service users and creates mistrust in the insurance industry, all because of individuals who see it as an opportunity for quick and easy profit.

FIC RECOMMENDATIONS

- Stipulate insurance mediation as a mandatory step before proceeding to litigation and amend the regulation accordingly.

LIFE INSURANCE – INTRODUCTION OF TAX RELIEF FOR LIFE INSURANCE

CURRENT SITUATION

The current Law on Personal Income Tax stipulates that a collective life insurance premium in case of death of employee due to illness which is paid by the employer for all employees shall not be considered as salary salary/wage. This legal solution is insufficient as an incentive for life insurance, given that life insurance has a social function – it provides stability and security to natural persons, ensures long-term savings for maintaining life standard in old age, while in this way, a natural person can ensure that, in the case of unforeseen life circumstances, he or the persons close to him are materially provided for.

POSITIVE DEVELOPMENTS

None.

REMAINING ISSUES

The proposed amendments to the Law on Personal Income Tax should encourage the citizens of the Republic of Serbia to independently provide funds for the future during their working age by setting aside part of their funds that are paid to insurance companies in the form of insurance premiums.

In addition to the benefits for natural persons who enter into insurance contracts, there are also numerous benefits for the state, as the growth of investment in life insurance would lead to an increase in tax revenues, since insurance premiums are subject to taxation as insurance companies' profit tax. On the other hand, the payment of life insurance would lead to an improvement in the standard of living of insurance beneficiaries, an increase in income in turn leads to an increase in consumption and therefore to an increase in collection of indirect taxes (value added tax, excise duty, customs duty). This leads to an inflow of funds into the budget of the Republic of Serbia which can be used for the achievement of budget goals.

The growth of life insurance premium payments has a direct impact on the development of the insurance market as an important factor of a country's economic growth. The more developed the insurance market, the faster and greater the economic growth that a country will experience. Namely, due to increased demand for life insurance products, new jobs are created in the insurance industry (besides unemployment reduction, the positive effect is also in the growth of funds collected in respect of income tax and contributions for mandatory social insurance). The industry's development leads to an increase in the number of insurance companies as important institutional investors on the market. Namely, insurance companies would invest the premium collected in government bonds, i.e., by issuing long-term government securities that reflect the long-term nature of life insurance contracts, while the Republic of Serbia would collect significant funds it could use to finance infrastructure and other projects of general importance for economic development. Collecting of insurance premiums achieves a mobilization of savings, which allows the reallocation of funds to projects that can generate higher returns. Likewise, raising citizens' awareness to enter into life insurance contracts and encouraging them to do so through proposed changes would also serve as a relief of social insurance funds.

There is a tendency around the world to introduce various tax incentives when it comes to taxation of insurance income.

FIC RECOMMENDATIONS

- Introduction of tax relief for life insurance in the Law on Personal Income Tax.

ELIMINATION OF DOUBLE TAXATION FOR UNIT LINK PRODUCTS AND INVESTING IN INVESTMENT FUNDS

CURRENT SITUATION

Article 8, paragraph 1 of the Insurance Law ("RS Official Gazette", no. 139/2014 and 44/2021) defines classes of life insurance, specifying life insurance as a separate class of insurance linked to investment fund units. The specificity of life insurance contracts linked to investment fund units is that the insurance contract obliges the policyholder to pay the insurance premium whose savings component is used to purchase investment units of selected investment funds. Namely, when concluding an insurance contract, the policyholder chooses a combination of investment funds from the insurance company's offer (the structure of investing of the investment premium in investment funds is defined in the offer).

At the request of the insurance contract holder, the insurance company is obliged to pay the policy surrender value if the specific contract period for which insurance premium were paid from the beginning of insurance has elapsed. The number and value of investment units are established on the day of submission of request for the payment of surrender value.

When withdrawing funds, the insurance company actually submits a request for the purchase of investment units that the open investment fund is obliged to purchase from it. Under the currently applicable provisions of the Law, when the units are purchased by the investment fund, a capital gain (loss) arises for the insurance company, determined in accordance with Articles 27-29 of the Law, which is included in the base for the calculation of the insurance company's profit tax. Capital gain is determined as the difference between the sale price paid by the investment fund for the units and the purchase price determined as the net value of the open investment fund's assets per investment unit on the date of payment, increased by the purchase fee if such fee is charged by the company managing the fund.

Also, when the insured sum is paid to the insured person, a taxable income that is subject to personal income tax arises pursuant to the currently applicable Article 84, paragraph 2 of the Law on Personal Income Tax (LPIT). Namely, under Article 84, paragraph 2 of the LPIT, taxable income from personal insurance would represent the difference between the amount of benefit paid from personal insurance and the amount paid in respect of insurance premiums. In this particular case, if the result of multiplying the number of investment units and their value on the date of occurrence of the insured event or on the date of submission of the request for purchase in the event of termination of the contract would be higher than the sum of the paid insurance premiums, the difference between these two amounts would be subject to taxation by personal income tax at the rate of 15%.

POSITIVE DEVELOPMENTS

None.

FIC RECOMMENDATIONS

- Since the insurance company only has formal ownership of the investment fund units, i.e. cannot freely dispose of them and the payment of insurance benefit to a natural person (difference between the insured sum obtained from the sale of the fund units by the insurance company and paid premiums) represents a taxable income of a natural person, the Law on Corporate Profit Tax should be amended in a way that would exempt the income generated by the sale of investment units linked to life insurance from the calculation of capital gains in the tax balance sheet of the insurance company. In this way, double taxation is not completely eliminated, but the income generated from the sale of this type of investment units is only excluded from the calculation of capital gains, but it is nevertheless included in the insurance company's taxable profit as its "regular income".

- The Corporate Income Tax Law should be amended as follows:
  - in Article 27, paragraph 1, item 4), after the wording "in accordance with the law regulating investment funds", the following wording should be added "except in the case of purchase of investment units to which life insurance is linked in accordance with the law regulating voluntary insurance".

LAW ON PREVENTION OF MONEY LAUNDERING AND FINANCING OF TERRORISM

CURRENT SITUATION

The Law on Prevention of Money Laundering and Terrorist financing began to apply on 1 April 2018, and has serious implications for the operation of insurance companies selling life insurance.

Article 8 of the Law does not recognize life insurance contracts (the so-called "risk insurance") as exceptions from the obligation to conduct actions and measures of customer due diligence, as defined in the previous Law.

There is a significant disparity between the complex administrative procedures stipulated by the law and by-laws, on one side and the insurance company's essential role, on the other side, in preventing the abuse of business relationships for money laundering and terrorist financing, particularly in the context of collective death insurance (group risk insurance).

Collective life insurance in the event of death is a type of insurance where the policyholder (often an employer, association, or bank) secures a life insurance policy for a large group of individuals in the event of death.

Within the realm of collective life insurance, specific products serve distinct purposes and business relationships:

- Employee insurance - serves a pronounced social function, protecting employees in the event of death, with the employer covering the premium for all employees. The insurance serves as a benefit for employees, and the employer cannot be a beneficiary under the policy.

- Pensioner insurance - allows pensioners to pay a premium to ensure the coverage of essential expenses for their family in the event of their death or disability, entailing a percentage of disability payment.

- Insurance for loan beneficiaries - serves as a security instrument for banks exclusively in the event of the loan beneficiary's death. The product lacks a redemption value, and the insured amount can only be claimed in the event of death. In this case, the insurance safeguards the bank's interests in case of the loan beneficiary's demise."

POSITIVE DEVELOPMENTS

None.

REMAINING ISSUES

Insurance companies have previously had initiatives regarding the adequacy of actions and measures to know and monitor the customer when it comes to insurance risk, and a new initiative has been prepared that indicates that. With this initiative, the companies point to a principle based on risk, which they want to implement exclusively in the segment of group risk insurance in order to reduce the pronounced unnecessary spending of resources in this type of insurance, where there is an insignificant risk of the possibility of abuse for the purpose of money laundering and terrorist financing, and in order to resources directed where the risk is greater.

This initiative provides arguments for considering the simplification of prescribed actions and measures in the part of determining the real owner of the party when contracting this type of insurance.

The most important characteristics of collective life insurance, and at the same time the factors that contribute to reducing the risk of money laundering and terrorist financing are:

1. Life insurance in the event of death refers to the coverage of biometric risk only - the risk of death with the possibility of contracting supplementary insurance and coverage of the biometric risk of disability

2. There is no possibility of contracting the payment of the insured sum in the event of the expiration of the insurance, but the contracted insured sum is paid exclusively to the beneficiaries of the insurance in the event of death

3. Life insurance in the event of death does not contain a savings component, and therefore there is no possibility of accumulation of funds, nor are premium allocations linked to units of investment funds

4. Failure to meet the obligations of the policyholder regarding the payment of the premium results in the termination of the contract, without the obligation of the insurer to return the funds paid in the name of the premium

5. There is no possibility of capitalization of funds, i.e. reduction of the insured sum due to the cessation of premium payment, bearing in mind that the only consequence of non-payment of the premium is the termination of the contract

6. There is no possibility of earlier "withdrawal" of funds during the duration of the insurance contract, i.e. there is no possibility of premature termination of the contract in order to pay the funds earlier in the name of the policy's redemption value, which is a typical right of the policyholder before the occurrence of the insured event in the case of life insurance products with savings component due to the accumulation of funds.

7. There is no possibility of payment of funds during the term of the insurance contract in the name of an advance, which is also a typical right of the policyholder before the occurrence of the insured event in life insurance products with a savings component due to the accumulation of funds.

In the segment related to employee insurance and credit user insurance, premium payment is made through banks, i.e. premium payment is made through an account opened by the party with a bank in the Republic of Serbia.

In the case of collective insurance of pensioners, premium payment is carried out through the Pension and Disability Insurance Fund, which implements the suspension of the premium amount for life insurance from the pension based on the consent of the pensioner.

The extremely low amount of the premium, which is typical for life insurance in the event of death in our country, indicates in a practical sense the necessity of special treatment of this type of insurance from the point of view of preventing money laundering and terrorist financing.

FIC RECOMMENDATIONS

- Based on the above, and with the aim of simplifying the measures, we suggest adding paragraph (4) to Article 6 of the Rulebook on the Methodology for Conducting Business in Compliance with the Law on Prevention of Money Laundering and Financing of Terrorism, which reads: "Exceptionally, in the case of collective life insurance in the event of death, the determination of the true owner of the party (the policyholder) is sufficient based on the party's statement and verification of the data in the Central Register of True Owners, irrespective of other defined actions and measures."

AUTO INSURANCE MARKET 1.25

CURRENT SITUATION

Auto Insurance (AI) is by far the most important segment of the insurance market (accounting for 29,1% of the total insurance premium in 2022) in Serbia, and the technical inspection facilities performing the mandatory annual inspection of all motor vehicles are definitely the most important distribution channels for these insurance policies. Articles 44 and 45 of the Law on Compulsory Traffic Insurance prohibit the payment of any commission to these technical inspection facilities – directly and/or through affiliated entities – which exceeds 5% of the gross insurance premium.

POSITIVE DEVELOPMENTS

Increased market surveillance by the National Bank of Serbia, which resulted in the fact that insurance companies have largely adjusted their operations to the laws and by-laws in this area.

FIC RECOMMENDATIONS

- Allow the possibility of issuing the compulsory auto liability insurance policy in electronic form as an e-Document.

LAW ON ROAD TRAFFIC SAFETY

CURRENT SITUATION

With the latest amendments to the Law on Road Traffic Safety (published in the 'Official Gazette of the RS' under numbers 41/2009, 53/2010, 101/2011, 32/2013 - US decision, 55/2014, 96/2015 - other law, 9/2016 - US decision, 24/2018, 41/2018, 41/2018 - other laws, 87/2018, 23/2019, 128/2020 - other laws, and 76/2023), light electric vehicles are now defined as motor vehicles with at least two wheels, mechanical steering, without a seat, a permanent rated electric motor power not exceeding 0.6 kW, a maximum design speed not exceeding 25 km/h, and a curb weight not exceeding 35 kg. The amendments also regulate the use of bicycle paths and lanes by light electric vehicles, their movement in groups, driver conduct, infrastructure usage restrictions, and the prohibition of transporting other persons on a light electric vehicle. Additionally, the law mandates the use of a protective bicycle helmet for the driver, a light-reflective vest for visibility on the road and prohibits driving a light electric vehicle when crossing the road, except at designated bicycle or pedestrian-bicycle path crossings.

These changes aim to enhance safety for both light electric vehicle operators and others on the road. However, it's important to note that the law still does not require owners of light electric vehicles to have compulsory insurance contracts for third-party damage.

REMAINING ISSUES

Although the use of light electric vehicles is largely regulated by the latest amendments to the Law on Road Traffic Safety, there is still a problem in practice in the event that their use causes damage to third parties. If the owner of person operating the vehicle for any reason fails to pay the damage cause, the injured persons remain deprived of any compensation. Thus, they get into an unequal position compared to persons who sustained damages from any other means of transport for which it is obligatory to contract compulsory third-party liability insurance (motorcycle, passenger car, bus).

FIC RECOMMENDATIONS

- Obligation of third-party liability insurance should be introduced for electric scooter owners.

LAW ON TRANSPORTATION OF CARGO IN ROAD TRAFFIC

CURRENT SITUATION

The Law on Transportation of Cargo in Road Traffic does not stipulate an obligation of the carrier to have a professional liability insurance policy of the carrier, as is the case in other countries.

REMAINING ISSUES

Carriers often do not have this insurance contracted, so the

customers of transportation services cannot charge damages if caused by the carrier. This may lead to large-scale damage for transportation service customers as the entire load may be destroyed in transportation.

FIC RECOMMENDATIONS

- Article 7 of the Law on Transport of Cargo in Road Traffic should be amended to stipulate insurance policy of the carrier's professional liability as a mandatory requirement for obtaining a transport license.

VOLUNTARY HEALTH INSURANCE 1.00

1. HEALTHCARE LAW

CURRENT SITUATION

The current Healthcare Law does not provide for the possibility for health care providers to diagnose or prescribe treatment by telephone or through online consultation. The Rulebook on the nomenclature of health services at the primary level of health care stipulates only provision of advice in the telephone and Internet counseling service. This way of health care service provision has proved necessary, especially in the circumstances of the pandemic. Additionally, the development of technology that enables a health care worker and patient to also have visual contact and to exchange documents electronically, supports the idea that this type of treatment should be made available.

POSITIVE DEVELOPMENTS

None.

REMAINING ISSUES

Patients, holders of both mandatory and voluntary health insurance do not have the option to receive treatment or to be diagnosed by telephone or online consultations. Therefore, they must go to health care institutions in person.

This involves additional time and costs (transportation) for the health insurance holders. In circumstances of the pandemic, there is an additional risk from infection and concern regarding this risk.

For voluntary health insurance providers this means higher costs. An insured person must first visit the doctor to be prescribed which diagnostic procedures he should perform. If telephone or online consultations were permitted, the insured person could only get in touch with the health worker in that way. In this way, the cost for the insurer would also be lower because these services are less expensive than visits in person. In addition, they provide additional convenience and more user satisfaction to the insured persons.

FIC RECOMMENDATIONS

- Enable health care providers by the Law on Health Care to diagnose or prescribe treatment by telephone or online consultations.

2. LAW ON HEALTH INSURANCE

CURRENT SITUATION

The application of Article 179 of the Law on Health Insurance ("Official Gazette of the Republic of Serbia", no. 25/2019) is an obstacle to insurance companies in their daily work, primarily in the part referring to important data on the contracting parties, or holders of voluntary health insurance. The consequence is an increase in administrative costs for both insurance policyholders and insurance companies and, on the other hand, there are cases that do not meet the needs of policyholders with regard to persons whose employment was terminated or persons who entered into an employment contract during the term of the insurance contract.

Article 182 of the Law stipulates that an insurer issues a document on voluntary health insurance based on which the rights from voluntary health insurance are exercised. The issuing of the document makes sense only if the insured person exercises his/her rights from the contract directly at the health care provider in terms of coverage of the costs of treatment. In the case when an insured person is entitled to a lump sum payment from an insurer (as in the case of serious illnesses and surgical interventions), the document on voluntary health insurance is not required by an insurer as proof that the person is insured, which has been defined by the Law in the following way:

- "In the case when rights from the voluntary health insurance are exercised directly with an insurer, they are exercised based on the policy and the cover note".

It follows from the above that it is not logical to issue a document on voluntary health insurance to insured persons who do not use it to exercise their rights under the insurance contract, but the obligation to issue the document is nevertheless prescribed by the Law.

In addition to the above, the current Law on Health Insurance defines that the insurer of voluntary health insurance is the Republic Fund and the insurance company, but there are no penalty clauses for legal entities – health institutions involved in activities of voluntary health insurance taking the morbidity risks for a fee, although they are not registered for that in accordance with the regulations of the Republic of Serbia.

POSITIVE DEVELOPMENTS

None.

REMAINING ISSUES

The Law has also determined as important data, and thus mandatory data, the following personal data that are absolutely irrelevant for this type of insurance at the time of concluding the contract: date of birth, address of permanent or temporary residence in the Republic of Serbia (street name and number, place and municipality), contact information (phone number or email address). In the context of regulations governing the subject matter of personal data protection and especially the provision of Article 5, paragraph 1, item 3 of the Law on Personal Data Protection (Official Gazette of the Republic of Serbia number 87/2018), which as one of the principles prescribes that personal data must be "appropriate, relevant and limited to what is necessary with regard to the purpose of processing ("data minimization")", we believe that there is a justified basis for amending Article 179 of the Law on Health Insurance.

Also, in some situations, the insurance company concludes a contract with employers on collective voluntary insurance of employees, where the insured persons are entitled to insurance indemnity payment directly from the insurance company and where the indemnity paid does not cover the costs of treatment, but satisfaction. Before the entry into force of the Law, this type of insurance was concluded without compiling a list of insured persons because the coverage was contracted based on official records of employees of the insurance policy holder. In this manner, automatic coverage was provided efficiently for all persons who met the criteria for the status of insured persons (who have concluded an employment contract with the employer), without the need to register for insurance separately, while coverage automatically ceased for all persons who lost the status of the insured person during the term of the insurance contract (persons whose employment contract ceased to be valid), also without the need to deregister from the insurance separately. The current Article 179 does not allow such a possibility and, in addition to the issue described in the previous paragraph related to Article 5, paragraph 1, item 3 of the Law on Personal Data Protection ("Official Gazette of the Republic of Serbia" number 87/2018) leads to the following problems:

- increase in administrative costs both for the insurance policyholder and for the insurance company due to the

need to update the lists of insured persons during the insurance period (registration and deregistration from insurance must be made in writing);
- Occurrence of cases that absolutely do not meet the needs of insurance policyholder that a person whose employment contract has been terminated still has the status of an insured person if a policyholder has not sent the deregistration request to the insurance company, or that a person who has concluded an employment contract does not have the status of an insured person if the policyholder has not sent the registration application to the insurance company on time.

FIC RECOMMENDATIONS

- Amendment to the Law on Health Insurance so that:

- the text of the current Article 179 should be amended to read:
"The contract on voluntary health insurance shall be concluded based on a previous offer for concluding a contract on voluntary health insurance (hereinafter: the Offer) given by an insurer to the person wishing to conclude a contract on voluntary health insurance.

The offer referred to in paragraph 1 of this Article shall contain relevant information on voluntary health insurance policyholders, insurance start date, insurance waiting period, as well as the insurance end date, amount and deadlines for payment of insurance premium, maximum contracted amounts per coverage risks and other elements of importance for insurance contracting.

Relevant information on the voluntary health insurance policyholders from paragraph 2 of this Article shall be:
1. name and surname,
2. Personal identification number, or registration number for foreign citizens.

In the case of collective insurance, an insurer may submit a single consolidated offer containing the data from the previous paragraph of this article on each individual to be covered by collective insurance.

The offer referred to in paragraph 1 of this Article, as well as the consolidated offer from paragraph 4 of this Article shall also contain as relevant the data on previous health condition of the voluntary health insurance policyholder which are necessary for the insurer to ass the insurance risk.

Notwithstanding the provisions of this Article, when the insurance company concludes with a policyholder a contract on collective voluntary health insurance of employees, where the insured persons are entitled to the payment of insurance indemnity directly from the insurance company and where the paid indemnity does not cover treatment costs, the insurance contract can be concluded based on official records of employed insurance policyholders."

- the text of the existing paragraph 1 of Article 182 should be amended to read:
„An insurer shall issue a voluntary health insurance document to any voluntary health insurance policyholder who does not use his insurance rights directly at the insurer on the date of issuing the policy and no later than 60 days from the date of issuing the policy."

- Amend the Law on Insurance – introduce penalty clauses for all persons engaged in insurance activities or underwriting activities against a fee without a prior permission obtained from the competent authorities.

INSURANCE OF EMPLOYEES AGAINST WORK INJURIES AND PROFESSIONAL DISEASES

CURRENT SITUATION

Article 67 of the new Law on Occupational Safety and Health, published in the 'Official Gazette of RS' under number 35/2023 (hereinafter: the Law), states the following: "The employer is obligated to provide insurance for employees in case of work-related injuries and occupational diseases to ensure compensation for damages. The financial resources for this insurance, as specified in paragraph 1 of this article, are the responsibility of the employer. The conditions and procedures for insuring employees against work-related injuries and occupational diseases are regulated by law."

Additionally, the same Law includes punitive provisions for employers who fail to insure their employees in cases of work-related injuries and occupational diseases to ensure compensation for damages.

From the above, it is evident that insurance against work-related injuries and occupational diseases for employees is mandatory. However, the Law does not prescribe a minimum insured sum for such cases. This leaves the determination of the insured sum as an independent decision for the employer, which is part of the insurance contract against work-related injuries and occupational diseases.

In this scenario, questions arise regarding whether this method of contracting insurance, where a minimum insured amount is not defined, relieves the employer of their responsibilities in the event of an employee suffering a work-related injury or contracting an occupational disease. Additionally, concerns arise about whether employees are adequately protected in accordance with this Law.

POSITIVE DEVELOPMENTS

None.

REMAINING ISSUES

Neither a law nor a by-law has been passed that would properly regulate mandatory insurance against work injuries and occupational diseases.

Article 67 of the Law on Safety and Health at Work does not define whether the employer's obligation stated in paragraph 1 of this article exists in the period until the passing of the law that will regulate the conditions and procedures of insurance for occupational injuries and occupational diseases. It seems that it would be expedient in this sense to amend Article 67 of the Law in the direction that the obligation of employers is not tied to the adoption of a new Law, but that it always exists. Of course, the amount of the insurance and other important elements of the insurance, until the passing of the law that would regulate this matter, would be determined by the employer himself.

FIC RECOMMENDATIONS

- The Administration for Safety and Health at Work to propose the adoption of the Law on Insurance Against Occupational Injuries and Occupational Diseases or a by-law that would define the minimum insured sums depending on the severity of the occupational injury or occupational disease, as well as to regulate in detail the conditions and insurance procedures against occupational injuries and occupational diseases. Additionally, clearly and unambiguously specify the provision of Article 67 of the Law on Safety and Health at Work in such a way that the employer's obligation to contract this insurance for employees exists even before the adoption of the Law on Insurance against Work Injuries

LAW ON PUBLIC PROCUREMENT AND PUBLIC PROCUREMENT PORTAL

CURRENT SITUATION

By abusing the legal concept of selection of a business entity in public procurement procedures whose subject are insurance services, the contracting authorities distort competition and prevent the participation of insurance companies that can adequately provide the insurance service which is the subject of public procurement in these procedures. Given the fact that insurance companies perform their activities based on the license issued by the National Bank or Serbia as a supervisory authority and that insurance companies are under the constant supervision of the National Bank of Serbia as a supervisory authority, they are deemed capable of providing any insurance service on the territory of Serbia. It is especially important to underline that the Law on Insurance very strictly prescribes all requirements for the performance of insurance activities, notably: minimum capital, business policy acts, organizational, staffing and technical capacities of such companies, technical reserves, solvency margin, retention, etc.

In addition, sometimes the Contracting Authorities distort competition by setting stricter requirements as criteria in certain areas defined by special regulations (laws or by-laws – e.g., confidentiality, IT system adequacy, professional and organizational staff, environmental protection) than the regulations require which is absolutely unjustified.

We believe that it is necessary to specify that economic and financial capacity can only be assessed based on the parameters confirming economic and financial capacity and not some other business indicators. In practice, contracting authorities define as financial capacity the criteria that have no relation to the financial capacity of insurance companies.

In the case of insurance services, it is specific that the time limits for settling claims involving the payment of insurance indemnities are defined by the Law on Contracts and Torts and by the Law on Compulsory insurance in Traffic and they are quite short, so that defining longer time limits for the performance of the service would be contrary to the regulations, and defining shorter deadlines would be inexpedient and inapplicable, since the time limit for settling a claim depends on the submission of adequate documentation and reporting of the insured event.

POSITIVE DEVELOPMENTS

None.

FIC RECOMMENDATIONS

The following provisions of the Law on Public Procurement should be amended/supplemented: Article 114, Article 116 and Article 132 as follows:

- In Article 114, a new paragraph 6 should be added after paragraph 5, which would read:
  "Economic entities that perform activities that is the subject of public procurement on the basis of a special permit (license) of the competent authority on the territory of the Republic of Serbia shall be considered to meet all criteria for the selection of economic entities from paragraph 1 of this Article and the contracting authority for the public procurement of such services may not set special criteria when drafting public invitations and tender documents".

- In Article 114, a new paragraph 7 should be added after paragraph 6, which would read:
  "If special regulations for certain areas stipulate conditions that business entities should meet, the contracting authority may not set special requirements from these areas as selection criteria."

- In Article 116, a new paragraph 8 should be added after paragraph 7:
"Financial and economic capacity shall only be assessed on the basis of financial and economic criteria of economic entities and not some other indicators and parameters that are unrelated to the financial and economic domain. "

- In Article 132, a new paragraph 3 should be added after paragraph 2 which would read:
"If a special law for some services and works stipulates a deadline for the performance of a service and/or works, the Client shall not set the deadline for the performance of such service and/or works as a criterion for determining the most economically advantageous offer".

DATA ON COMPLAINTS AGAINST THE WORK OF INSURANCE COMPANIES AND VOLUNTARY PENSION FUNDS MANAGEMENT COMPANIES

CURRENT SITUATION

The National Bank of Serbia publishes data on complaints against the work of insurance companies and voluntary pension funds management companies on a quarterly basis. The report contains the total number of complaints filed to the NBS, but does not include the total number of complaints filed to insurance companies.

POSITIVE DEVELOPMENTS

None.

FIC RECOMMENDATIONS

- Given that insurance companies are required to provide the NBS on a quarterly basis with data on the number of complaints received in the previous quarter, NBS already has this data and, in our opinion, they could very easily and without much additional effort publish this data in the above-mentioned report so that they would also be available to the public.

CONTRACTING CASH LOANS FROM BANKS THROUGH INSURANCE COMPANIES

CURRENT SITUATION

Bank services are available to citizens within the network of branches, while through employees in charge of field work to a significantly lesser extent.

Insurance companies now do not have the possibility, in the role of bank intermediaries/representatives, to provide citizens and legal entities with certain banking services that could be realized in whole, or in part, by insurance companies. An example is the conclusion of an agreement on cash loans. This practice is already present in some European countries and is known as "insurance banking".

POSITIVE DEVELOPMENTS

None.

REMAINING ISSUES

Unlike most insurance companies, banks generally do not have a significant number of salespeople responsible for fieldwork (outside branches). Moreover, certain banks do not possess an extensive distribution network, so their offerings are absent in some parts of the territory, depriving a certain number of citizens and legal entities of the opportunity to directly acquaint themselves with the terms and conditions for using a specific banking product and to conclude a contract for its use. Cash loans are one example of such products, and they have a mass character and significance for both the banking sector and clients.

If regulatory opportunities were provided, insurance companies could act as intermediaries/representatives on behalf of banks in the conclusion of cash loans. Through their branch network and their sales personnel, insurance companies could have a positive impact on the financial market and its participants:

- Additional availability of banking services in the market would be achieved, primarily significant for mass-market banking services such as cash loans. Through collaboration with insurance companies, banks without their own branches in areas covered by insurance company employees would make their services accessible to these citizens, entrepreneurs, and small to medium-sized enterprises. This would enhance competitiveness in the market, providing clients with the opportunity to consider a broader range of cash loan offerings and select the bank whose service best suits their needs;

- In this way, clients would not have to travel outside their place of residence/business location to the bank's branch for contract conclusion. It would lead to better client awareness of banking service offerings. All information would be provided through employees at insurance companies, after which clients would be able to finalize contracts. This would reduce the time required for clients to complete these tasks, and travel costs would be eliminated since they would receive the service on the spot;

- Clients could receive information directly from employees of the insurance company, even outside the usual banking branch working hours, i.e., during clients' free time. The already recognizable positive practice of providing information about insurance products and concluding them could be applied to the conclusion of cash loan agreements, thanks to the noticeable flexibility of insurance employees who primarily carry out activities in the field;

- Insurance employees could access bank web applications for calculations and generating informative offers via mobile electronic devices (phones, tablets, laptops) through the internet. This way, they could provide clients with all the necessary data about the banking service they are interested in, on the spot. This would be particularly beneficial for clients who are not inclined to obtain such information through the internet or by visiting bank websites and who do not prefer or are not proficient in using digital technology for financial services information;

- Existing clients of insurance companies - policyholders, would have access to another financial service through insurance companies, which would further facilitate their information and contracting of these financial products. This would also contribute to the enhancement of financial education and financial literacy among users of financial services;

- The additional engagement of insurance sales personnel would contribute to the cost-effectiveness of insurance companies' operations, as well as the profitability of their existing branch network.

- When selling certain insurance products with relatively higher premiums (e.g., crop insurance, etc.), it would enable quicker and more efficient approval of cash loans for the payment of insurance premiums. This would make this form of property protection even more accessible to policyholders;

- Expanding the engagement of sales employees in insurance companies and the opportunity for additional earnings would subsequently contribute to increasing the attractiveness of the insurance sector for employment and, ultimately, increasing the overall number of employees in insurance sales roles.

- Banks that expand their distribution channels through

collaboration with insurance companies would gain an additional competitive advantage in certain market segments, lower distribution costs compared to some traditional channels, and a positive market image.

The positive practice where some financial services that were traditionally exclusive to banks have become available through other financial institutions confirms the expected contribution of including insurance companies in the expansion of banking distribution channels. One example is payment services such as money transfers, which are accessible not only in banks but also through some other financial institutions.

On the other hand, banks are already allowed to engage in insurance agency services, known as bancassurance. This contributes to the accessibility of insurance services, making the loan contracting process easier for clients. In one place - at the bank's branch, and in some cases through web and mobile applications, clients can arrange certain life or non-life insurance policies intended to secure loan repayment. In this way, through the collaboration between banks and insurance companies, citizens receive comprehensive services, reducing the time required for contracting, which represents a good practice present for many years, including in Serbia.

FIC RECOMMENDATIONS

To allow insurance companies to enable their sales employees to represent or act as intermediaries in the conclusion of cash loan agreements, the following regulatory changes could be implemented:

- Amendment to the Insurance Law:
  Add a provision to Article 24 of the Insurance Law stating that, in addition to insurance-related activities and other tasks specified therein, an insurance company may engage in representing/mediating cash loan agreements, subject to approval from the National Bank of Serbia.

- By-laws of the National Bank of Serbia:
  It is necessary to amend the Decision on the Implementation of the Insurance Law, specifically concerning the issuance of licenses for insurance/reinsurance activities and certain approvals from the National Bank of Serbia. These changes should establish the conditions under which an insurance company could engage in these activities.

SUBSIDY FOR MANDATORY POLLUTION INSURANCE OF POLLUTERS WHOSE FACILITIES OR ACTIVITIES POSE A HIGH DEGREE OF RISK TO HUMAN HEALTH AND THE ENVIRONMENT IN CASE OF HARM CAUSED TO THIRD PARTIES DUE TO ACCIDENTS

CURRENT SITUATION

According to the Environmental Protection Law, Article 106, it is mandated that a Polluter must obtain liability insurance in case of damage caused to third parties due to accidents if their facility or activity poses a high degree of risk to human health and the environment. Under this law, an accident is defined as a sudden and uncontrolled event that occurs through the release, discharge, or dispersion of hazardous substances, in activities related to production, use, processing, storage, disposal, or long-term inadequate containment.

The same Law also stipulates that a legal entity will be subject to a fine ranging from 1,500,000 to 3,000,000 dinars if it fails to secure insurance for damage caused to third parties. Furthermore, for the responsible individual within a legal entity for the same economic offense, a fine ranging from 100,000 to 200,000 dinars is prescribed.

POSITIVE DEVELOPMENTS

None

REMAINING ISSUES

The Law on Environmental Protection stipulates the obligation for the Polluter to have a liability insurance policy, as well as sanctions if he does not have one. However, the Law did not provide for the minimum amount of insurance under these policies. Bearing in mind that the legislator linked the obligation of insurance to "activity that represents a high degree of danger to human health and the environment", it is evident that the consequences of these damages can be high and that they can cause damage to a large number of people at the same time. In this sense, it seems that it is necessary to define the minimum total amount of insurance or the minimum amount of insurance per harmful event, in order to really achieve the purpose of protection provided for in Article 106 of the Law.

On the other hand, if the minimum amount of insurance is not prescribed, we come to a situation where the obligation from Article 106 of the Law can be fulfilled by concluding a liability insurance policy with any amount of insurance (e.g. 1,000.00 euros, which fulfills the form prescribed by the Law, but not the essence of the legal provision, since these damages can be, and most often are, far greater).

Additionally, the Law on Environmental Protection does not foresee the possibility of subsidizing this type of insurance by the state, although the state's interest is, among other things, the protection of human health and the environment. The introduction of a subsidy for this type of insurance would enable the state to better control the fulfillment of the obligation from Article 106 of the Law, and it would be an additional incentive for polluters to contract liability insurance for larger amounts of insurance.

FIC RECOMMENDATIONS

- Amend Article 106 of the Law on Environmental Protection in such a way as to determine the minimum sum insured under liability insurance policies for damage caused to third parties as a result of an accident. By-laws define the possibility of subsidization for insurance from Article 106 of the Law on Environmental Protection, the conditions and amount of the subsidy.

SUBSIDY FOR COMPREHENSIVE VEHICLE INSURANCE FOR ELECTRICALLY POWERED VEHICLES, AS WELL AS VEHICLES THAT UTILIZE INTERNAL COMBUSTION ENGINE AND ELECTRIC PROPULSION (HYBRID DRIVE)

CURRENT SITUATION

In order to encourage an environmentally friendly form of transport, the Regulation on the conditions and method of implementing the subsidized purchase of new vehicles with an exclusively electric drive, as well as vehicles with a hybrid drive, was adopted, which regulates the conditions and method of implementing the subsidized purchase of these vehicles. Through this Regulation, the State has given incentives to legal entities, entrepreneurs and natural persons to choose types of vehicles that contribute to cleaner air (because they do not release harmful substances into the environment - CO2, ozone, lead...) when purchasing new vehicles, and thus help preserve environment.

POSITIVE DEVELOPMENTS

None.

REMAINING ISSUES

Although the State provides incentives for the purchase of electric and hybrid vehicles, no subsidy is prescribed when contracting comprehensive insurance for these vehicles. Bearing in mind that these are vehicles that are not produced in the Republic of Serbia, that the number of authorized service centers that repair these vehicles is limited, and that the number of alternative services is also limited, as well as that any damage to such a vehicle can be very high, the introduction of a subsidy for comprehensive insurance of these vehicles, along with the already given purchase incentive, would contribute to people opting for an electric or hybrid car when buying new cars.

FIC RECOMMENDATIONS

- The Regulation on the conditions and method of implementing the subsidized purchase of new vehicles that have an exclusively electric drive, as well as vehicles that have a hybrid drive, foresee the possibility of subsidization for comprehensive insurance in order to further encourage these environmentally friendly means of transport.

SUBSIDY FOR INSURING APARTMENTS AND BUSINESS PREMISES IN BUILDINGS WITH ENERGY PASSPORT, AS WELL AS FOR INSURING HOUSES WITH SOLAR PANELS

CURRENT SITUATION

An energy passport is a certificate on the energy properties of a building that contains calculated values of energy consumption within a certain category of buildings, energy class and recommendations for improving the energy properties of the building. All new buildings, as well as existing buildings that are reconstructed, adapted, rehabilitated or energetically rehabilitated, must have an energy passport, except for buildings exempted from the obligation of energy certification by the Rulebook on the conditions, content and manner of issuing certificates on the energy

properties of buildings.

The improvement of energy efficiency in buildings contributes to environmental protection and the reduction of greenhouse gas emissions resulting from the combustion of energy sources for heating, i.e. space cooling, preparation of sanitary hot water.

In addition, the state's activity in co-financing the installation of solar panels for the production of electrical energy in family houses is noticeable. The state in a generous way encourages the use of non-polluting and renewable sources of energy and other resources.

POSITIVE DEVELOPMENTS

None.

REMAINING ISSUES

Although the State, through recent activities aimed at determining energy efficiency and co-financing for the installation of solar panels, contributes to environmental protection and the reduction of greenhouse gas emissions, it seems that the awareness of the importance of such activities in society is still lacking. Primarily, due to insufficient information, and later due to the fact that any investments directed in this direction are still very expensive and inaccessible to many average citizens of the Republic of Serbia. In this sense, it seems that subsidizing the state when insuring apartments and business premises in buildings with an energy passport of category A+, A or B, as well as when insuring houses with solar panels, would be an additional incentive for improved energy efficiency and electricity savings.

FIC RECOMMENDATIONS

- By-laws should provide the possibility of subvention when insuring apartments and business premises in buildings with an energy passport of category A+, A or B, as well as when insuring houses that have solar panels.

PROPERTY/EQUIPMENT INSURANCE SUBSIDY FOR LEGAL ENTITIES REGISTERED IN THE AGENCY FOR BUSINESS REGISTRIES UNDER THE RECYCLING AND WASTE MANAGEMENT CODES

CURRENT SITUATION

Recycling is the process of converting used materials into new ones for further use. This process involves collecting, separating, processing, and manufacturing new products from previously used materials. Recycling old materials helps protect the environment, reduce waste, and conserve natural resources. Since awareness of recycling and its benefits is not at the desired level in Serbia, it may be useful and justified to consider subsidy measures for businesses engaged in these activities.

POSITIVE DEVELOPMENTS

None.

REMAINING ISSUES

In points 38 and 39 of the Regulation on Classification of Activities, specific codes of activities are defined for businesses involved in recycling and waste management (e.g., 38.32 for the reuse of sorted materials, 38.31 for dismantling of wrecks). The state has already recognized the need to allocate incentive funds for businesses engaged in these activities. However, the current legal framework does not

provide for the possibility of subsidizing property/equipment insurance for these companies. Additionally, since many of these businesses handle hazardous and toxic materials, and their activities can be classified as high-risk operations, the need for insurance subsidies for liability insurance also exists.

FIC RECOMMENDATIONS

- By-laws should provide the possibility of subsidizing when insuring the liability of companies that are registered in the Agency for Business Registers under the codes found in points 38 and 39 of the Regulation on Classification of Activities, as well as when insuring the property/equipment of these companies.

SUBSIDY FOR PROPERTY/ EQUIPMENT INSURANCE FOR TOURIST/ACCOMMODATION FACILITIES WITH THE LABEL "TRAVEL SUSTAINABLE LEVEL 1, 2, 3"

CURRENT SITUATION

The criteria of the Global Council for Sustainable Tourism are based on four main themes: effective sustainable development planning, maximizing social and economic benefits for the local community, preserving cultural heritage, and reducing negative impacts on the environment. These criteria, among other things, serve as fundamental guidelines for tourist/accommodation facilities of all sizes to operate in a more sustainable manner. For a specific tourist/accommodation facility to receive the "sustainable" designation, it must actively engage in reducing plastic consumption, water consumption, food waste, energy consumption, ensuring animal welfare, and establishing a balance between sustainability and safety, and obtain certification for their tourist/accommodation facility.

Since all the above contributes to environmental protection, it appears that there is room to introduce subsidies for insurance of tourist/accommodation facilities with Travel sustainable level 1, 2, or 3 designations.

POSITIVE DEVELOPMENTS

None.

REMAINING ISSUES

The demand for sustainable accommodations is increasing year by year. Based on publicly available statistics, we have determined that 71% of travelers worldwide express a desire to travel in a more sustainable way, while 70% of global travelers have stated that they would choose sustainable accommodation, regardless of whether they actively seek such facilities or not. Furthermore, a significant 78% of travelers worldwide intend to stay in sustainable accommodations in the near future. However, awareness in this segment is still quite low, as 31% of travelers did not even know that such facilities exist, and 29% still do not know how to find them. Besides the clear lack of education in this regard, it is also evident that there is a lack of state support for individuals who choose to engage in tourism in a "healthier" way.

FIC RECOMMENDATIONS

- By-laws should provide the possibility of subvention when insuring property/equipment for tourist/ accommodation facilities that have the label Travel sustainable level 1, 2 or 3.

SUBSIDY FOR INSURANCE OF CROPS AND ANIMALS FOR ORGANIC PRODUCTION

CURRENT SITUATION

In the Law on Incentives in Agriculture and Rural Development, incentive is defined as "funds provided in the budget of the Republic of Serbia, as well as funds provided from other sources that are allocated to agricultural holdings and other persons in accordance with this law in order to achieve the goals of agricultural policy and rural development policy ". The law determines the types of incentives, their scope, purpose and distribution by type of incentives, as well as who exercises the right to these incentives.

Article 38 of the same law defines incentives for organic crop production, as well as for organic livestock production, with the condition that a legal entity, entrepreneur or natural person-holder of a family farm has a certificate that its production is organic in accordance with the regulations governing organic production .

On the basis of this Law, the Government of the Republic of Serbia adopts the Decree on the distribution of incentives for each year.

POSITIVE DEVELOPMENTS

None.

REMAINING ISSUES

Although the Law, within the framework of support for programs related to the preservation and improvement of the environment and natural resources, included incentives for organic plant and organic livestock production, it seems that there is room for additional incentives in the form of subsidies for crop and animal insurance, in the amount of 100%. In this way, farmers would be provided with security in case of natural disasters, and the possibility to increase investments in their organic production.

FIC RECOMMENDATIONS

- Amend the Law on Incentives in Agriculture and Rural Development in such a way that within the incentives for the preservation and improvement of the environment and natural resources, in the part related to organic production, a subsidy in the amount of 100% for the insurance of crops or animals, those legally persons, entrepreneurs or natural persons - owners of family farms who have a certificate of organic production.

LEASING

1.20

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Initiation of amendments to the Law on Value Added Tax, in the part related to interest taxation, and in terms of revoking VAT on the part of leasing fee related to interest.	2009			√
The Law on Compulsory Insurance in Traffic should be harmonized with the Law on Financial Leasing, in terms of the provisions on the right of recourse of the Guarantee Fund upon payment of damage caused by a vehicle for which a contract on compulsory insurance has not been concluded, by the owner or registered user of the vehicle, so that the insurance company can claim the recourse right from the lessee instead of from the leasing company.	2012			√
Leasing and insurance companies should be in the same position as banks pursuant to Article 85 of the Law on Personal Income Tax, i.e., that in the case of a write-off of receivables they are not obliged to pay additional personal income tax if the conditions prescribed by law are previously met. The change would be to simply add "insurance company or lessor" next to the word "bank client".	2016			√
To solve the problem of criminal-legal protection of financed leasing objects. Consistent application of the Law in court proceedings conducted in this legal matter and acting in accordance with the Law and the Constitution of the RS.	2018			√
Since through Business Register Agency (BRA) is possible for leasing companies to submit to the Ministry of the Interior the necessary data for authorization for registration by automated means (e.g., web service), it is necessary to further develop the solution by enabling communication with technical checks.	2021			√
Importing data from the Ministry of the Interior and the Parking Service in order to increase legal security in the country.	2020		√	
To establish the Operating Leasing Register with BRA, within which the concluded operating lease agreements would be registered.	2021			√

CURRENT SITUATION

The development of leasing in Serbia is linked to the beginning of 2003 when the Law on Financial Leasing was adopted. Today, 16 leasing companies are registered Serbia, which are mainly affiliates of renowned financial institutions, leaders in the field of banking and financial operations in the markets of Central and Southeast Europe. These groups have implemented their knowledge and high corporate business standards in the Serbian market. As a result of market competition, the number of active leasing companies which operate in Serbia is decreased to 10 and adjusted to market needs and. It is consequence of the banking groups. The market concentration is high and over 78,1% of total assets of Leasing sector comes from 5 leasing companies. This will only bring the quality of the offer because the standard of leasing services that market leaders have implemented so far will be further confirmed.

POSITIVE DEVELOPMENTS

In the previous period, during 2022, there have been no improvements.

Regarding the recommendation related to the issuance of the Registration Authorization to Leasing Users, it is enabled the delivery via Agency for Business registar Portal that is a certain improvement. However, the existing solution is technologically

outdated and it is necessary to additionally enable communication with technical services. Leasing companies proposed a more modern solution and it is being considered by the Agency for Business Registers and the Ministry of Economy

Regarding the recommendation that Financial Leasing is not included as a type of financing in some of the programs of state incentives in the economy, there have been significant changes. Positive examples are the Decrees of the Government of the Republic of Serbia on determining support to small enterprises for the procurement of equipment, which determine the Program of support to small and medium enterprises for the procurement of equipment. In addition to banks, this program also includes leasing companies and has been implemented very successfully.

REMAINING ISSUES

1. **Interest in financial leasing is still taxable**

Law on Value Added Tax treats the products and services of financial institutions in different ways when defining the subject of VAT taxation.

Namely, in Article 4, item 2a) the Law clearly states that the supply of goods on the basis of a leasing contract is subject to VAT. According to the said Law, the basis for VAT is the value of the subject of leasing and interest.

On the other hand, the legislator provided in Article 25 of the same Law that credit operations and insurance services are exempt from VAT.

Different tax treatment of products and services of financial institutions has conditioned that financing through leasing in relation to other types of financing is more expensive for clients who are not in the VAT system, since VAT on interest is an additional cost that puts financial leasing companies at a disadvantage. It should not be forgotten that these are entrepreneurs, registered agricultural farms, and companies that are not in the VAT system.

2. **The guarantee fund may have a recourse claim from the leasing company for the damage caused using the item by the lessee**

The Law on Compulsory Traffic Insurance stipulates that the Guarantee Fund of the Association of Insurers of Serbia has the right of recourse, upon payment of compensation from the owner of the means of transport, for the amount of damage, interest, and costs paid.

The Law on Compulsory Traffic Insurance is not harmonized with the Law on Financial Leasing, which introduced a legal deal into the legal system of the Republic of Serbia that, by definition and rules on liability for the use of leasing objects, conflicts with the existing rule on the recourse of the Guarantee Fund. The fact that the lessor is not able to influence the behavior of the lessee or other persons using the leased object and prevent the use of the vehicle in traffic without a compulsory insurance contract, as long as the leased object is located in the lessee's country, is completely ignored.

In the current situation, leasing companies face recourse claims from the Guarantee Fund of the Association of Insurers of Serbia, which they reject referring to the Law on Financial Leasing, while on the other hand the Guarantee Fund, despite understanding the essence of the dispute, has no legal possibility to apply for recourse to the paid amount of damage to any person other than the owner of the means of transport and possibly their driver, according to the system of subjective liability of the inflictor for damages.

3. **Leasing companies and insurance companies are obliged to pay personal income tax in case of a write-off of receivables from natural persons**

When a leasing company or insurance company makes a decision to write off claims from individuals who were previously sued, after an unsuccessful court procedure (due to poverty, inability to collect, etc.), they are obliged to calculate and pay personal income tax in the amount of 20%. Write-off receivables have the status of other income. This is defined by Article 85 of the Law on Personal Income Tax. Thus, a leasing company or an insurance company, in addition to having suffered a loss due to non-payment of obligations, has an additional obligation to pay personal income tax.

To make the paradox even bigger, this becomes the basis for the annual income tax of that natural person, so that a person who is unable to settle a debt to a leasing company or insurance due to poverty, can become a taxpayer if the value of the write-off together with other income exceeds the amount of 3,7 million dinars. This tax "illogicality" was noticed by the Ministry of Finance, and with the

amendments to the Law on Personal Income Tax in 2013, an exception was made for banks as creditors. Other financial institutions that are also under the control of the NBS were then "forgotten".

4. **The problem of the non-existence of criminal-legal protection of property of leasing companies.**

As a precondition for the functioning of financial leasing as a financing model (in which leasing companies retain the right of ownership over financed objects), there is adequate and complete protection of financed leasing objects as assets of leasing companies. However, in addition to other obstacles facing the leasing industry in Serbia, a new obstacle has recently emerged that threatens to stifle leasing in Serbia. It is about the lack or complete absence of criminal legal protection of the property of the Financial Leasing Providers. Namely, the Supreme Court of Cassation in Judgment CA No. 42/16 dated 26 January 2016, took the position that in the case of evasion of the subject of financial leasing, there is no objective element of the criminal offense of evasion under Article 207 of the Criminal Code of RS, considering that the leasing contract by its nature leads to the acquisition of property rights, due to which non-compliance with contractual obligations falls within the domain of civil law and does not contain the essential elements of the said criminal offense. The Supreme Court of Cassation did not take into account that the civil law relationship has already been resolved by a court decision and that a contract that has been terminated can never lead to the acquisition of property rights. In the stated manner, the lessors of financial leasing in Serbia were deprived of the right to criminal-legal protection of their property contrary to the principles defined by the Constitution. If such a wrong position of the Supreme Court of Cassation continued to be applied by the competent public prosecutor's offices, rejecting criminal charges for the criminal offense of evasion of leasing objects, the result would certainly be a very rapid withdrawal of all leasing companies from the market of the Republic of Serbia. Also, the reaction to the mentioned Decision of the Supreme Court of Cassation can be a huge increase in the number of mentioned criminal acts, appropriation or alienation of other people's property in order to obtain illegal property gain, considering the absence of criminal sanction according to the practice taken by the Supreme Court of Cassation with the Judgment CA No. 42/16 dated 26 January 2016.

5. **The Decision for risk management of Leasing companies which arise for launch the new product adopted by the National Bank of Serbia, gave the opportunity to companies registered to perform financial leasing activities to, in addition, perform operational leasing activities. In order to protect the rights of the lessor, it was necessary to adjust the regulation of the existing register of financial leasing to the said Decision, in such a way as to form the Register of operating leases, within which the concluded operating lease agreements would be registered.**

On that way, among other things, the excerpt from the register of operating leases kept by the Business Registers Agency would be an executive document, which would enable an urgent and efficient procedure for repossession of the subject of operating lease in case of termination of the operating lease agreement legal certainty for operating leasing entities.

6. **Leasing companies, in order to improve their business and improve the level of service to their clients, savings both for clients and for themselves, created a technical solution for the so-called paperless business. Namely, the entire process of signing contractual documents is digitized and clients can sign contracts electronically. However, in practice, a problem arises when registering a vehicle in the Ministry of Interior (MUP). Namely, in order to register a vehicle, the MUP requires documentation in paper form, so a digitally signed document is not acceptable. In this way, the improvement is meaningless because it is necessary that the leasing contract, which has been digitally signed, must be printed out once again and signed and stamped by hand.**

The solution is to use the so-called use the state electronic exchange line, which has already been developed between the Serbian Business Registers Agency (SBRA) and the Ministry of Interior, to submit the documentation required for vehicle registration in electronic form. The technical solution would be for the leasing company to first submit the documentation to the SBRA through the web service, and then to submit the SBRA to the MUP. The solution is supported by the eGovernment.

FIC RECOMMENDATIONS

- Initiation of amendments to the Law on Value Added Tax, in the part related to interest taxation, and in terms of revoking VAT on the part of leasing fee related to interest.
- The Law on Compulsory Insurance in Traffic should be harmonized with the Law on Financial Leasing, in terms of the provisions on the right of recourse of the Guarantee Fund upon payment of damage caused by a vehicle for which a contract on compulsory insurance has not been concluded, by the owner or registered user of the vehicle, so that the insurance company can claim the recourse right from the lessee instead of from the leasing company.
- Leasing and insurance companies should be in the same position as banks pursuant to Article 85 of the Law on Personal Income Tax, i.e., that in the case of a write-off of receivables they are not obliged to pay additional personal income tax if the conditions prescribed by law are previously met. The change would be to simply add "insurance company or lessor" next to the word "bank client".
- To solve the problem of criminal-legal protection of financed leasing objects. Consistent application of the Law in court proceedings conducted in this legal matter and acting in accordance with the Law and the Constitution of the RS.
- Since through Business Register Agency (SBRA) is possible for leasing companies to submit to the Ministry of Interior the necessary data for authorization for registration by automated means (e.g., web service), it is necessary to further develop the solution by enabling communication with technical checks.
- To establish the Operating Leasing Register with SBRA, within which the concluded operating lease agreements would be registered.
- The solution to use the so-called the state electronic exchange line, which has already been developed between the SBRA and the Ministry of Interior, to submit the documentation required for vehicle registration in electronic form.

OIL AND GAS SECTOR

1.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Repeal the Regulation on the limitation of the price of petroleum products.	2022			√
Introducing the marking of marine fuel sold to vessels in the domestic water transport.	2021			√
Reintroducing excise refund for marine fuel used in the domestic water transport.	2021			√
Applying a general VAT rate of 20% on CNG consumption, as well as an adequate level of excise taxation, in order to eliminate the effects of CNG's preferential status in relation to other motor fuels.	2021			√
Reducing the level of excise taxation for LPG in order to increase the consumption of this petroleum product.	2021			√
Concluding bilateral agreements on carriers' eligibility for VAT refund on fuel purchased in Serbia with Bulgaria, Turkey, Greece, North Macedonia and Montenegro, as well as with other countries from which trucks use Serbia as transit country.	2021			√

CURRENT SITUATION

In 2022, the oil and gas sector experienced a stable recovery from the imbalances caused by the COVID-19 pandemic, as global energy demand resumed its growth. Although there was a gradual recovery in oil prices from the previous year's lows, the situation remained unstable due to the geopolitical conditions, which contributed to market uncertainty.

The price of Brent crude oil reached its peak of 122.01 USD/bbl in June 2022. Subsequently, there was a decline, and by December, it reached its minimum of 76.10 USD/bbl for the year 2022. The average price in 2022 was 100.93 USD/bbl, which was 30.07 USD/bbl higher than the average price in 2021.

In the energy sector, there are ongoing efforts towards transitioning to cleaner and renewable energy sources, driven by environmental concerns and global activities to combat climate change. However, fossil fuels still dominate the energy mix, and oil and gas remain crucial for meeting global energy demand. As the transition to cleaner energy sources continues, the oil and gas industry will play a vital role in fulfilling global energy needs while exploring greener alternatives. Additionally, with the growing energy demand, understanding new trends and challenges in the oil and gas sector becomes crucial for further economic progress.

Price limitations on motor fuels in the Republic of Serbia, which were initially introduced on February 10 of 2022, through the Regulation on limiting the prices of petroleum products to prevent negative effects resulting from global market disruptions, remained in effect in 2023. Similarly, the Regulation on the temporary measure of limiting the price of gas and compensation of the price difference for natural gas procured from imports or produced in Serbia in the event of natural gas market disruptions, was also extended into 2023.

According to data published by the Energy Agency of the Republic of Serbia, the total consumption of crude oil and intermediates from domestic production, imports an stocks in 2022 stood at 4.087 million tons, which is a 3.6% increase on 2021. In 2022, about 0.824 million tons of crude oil was produced (20.2% of total consumption), while imports accounted for 3.263 million tons (79.8%).

The total consumption of motor fuels in 2022 was about 2.8 million tons, which is about 8% more than a year before. In the structure of motor fuel consumption, gasoline accounted for 16.3%, diesels 78.3%, and LPG 4.3%. Total gasoline consumption has increased by 5.1%, compared to 2021, consumption of Euro diesel increased by 9.9%. The consumption of extra light Euro L gas oil increased by 3.7%, while the consumption of liquid petroleum gases, including auto gas, decreased by 9.6%.

The annual production of natural gas, delivered to the country's transport distribution system in 2022, totaled

2,070 GWh, which is 12.0% less than the production in the previous year. In 2022 a total of 36,158 GWh was available from import, domestic production and underground storage, and 28,203 GWh of natural gas was counsumed. Most of the natural gas (23,786 GWh) was imported from the Russian Federation. Domestic production of 2,069 GWh in 2022 could meet only 7.3% of the demand, which is a decrease compared to last year, when 7.9% of needs could be met from production. In 2022, there were no gas exports.

POSITIVE DEVELOPMENTS

Significant progress has been made in promoting renewable energy projects, such as wind and solar energy.

The commitment to diversifying the energy mix is in line with the global trend towards cleaner energy alternatives, ensuring a sustainable and environmentally friendly future.

Active efforts are being made to reduce emissions and promote energy efficiency in the sector, as well as the adoption of advanced technologies.

The transition to renewable energy sources requires careful planning and investment in infrastructure, while balancing the needs for oil and gas production.

REMAINING ISSUES

The price limitation on petroleum products in the Republic of Serbia in 2022 and 2023 have had a negative impact on the business operations of companies engaged in the sale of petroleum products. Despite the stabilization of global and regional markets and derivative prices, the repeal of Regulation on limiting the price of petroleum products in the Republic of Serbia was not considered.

A special problem within the limits of oil derivatives prices in the Republic of Serbia is the non-market price of Eurodiesel fixed by the Regulation for registered agricultural holdings, determined as binding for one supplier on the market, which has led to a significant redistribution of market shares in the agricultural supply segment and where there are indications of inappropriate consumption the same.

Furthermore, the establishment of a mechanism to control the procurement and use of diesel fuel at a subsidized price for farmers, as stipulated in the Regulation on limiting the prices petroleum products, was also not considered.

Despite intensive and continuous controls of illegal trade in petroleum products within the country, it is necessary to continue such efforts while ensuring the development and capacity-building of inspection authorities to carry out control activities.

As well as in the previous period, the high level of excise taxes on liquefied petroleum gas (LPG), which is among the highest in the region, discourages the use of this environmentally friendly derivative.

Additionally, the lack of excise duties and a lower tax rate of 10% for trading in compressed natural gas (CNG) makes it more competitive compared to other motor fuels.

Another problem that has come into focus after the stabilization of the petroleum products market is that vehicles in international passenger and freight road transport purchase smaller quantities of fuel in Serbia, while there is an increasing number of domestic carriers who buy fuel outside of Serbia due to more favorable excise policies in neighboring countries.

FIC RECOMMENDATIONS

- Bearing in mind that the amendments to the Excise Law in September 2023 systemically regulated the regression of part of the excise duty for fuel purchased by registered agricultural holdings, consider abolishing the fixed price of Eurodiesel in the Regulation on limiting the price of oil derivatives.
- Repeal the Regulation on the limitation of the price of petroleum products.
- Introducing the marking of marine fuel sold to vessels in the domestic water transport.

- Reintroducing excise refund for marine fuel used in the domestic water transport.
- Reducing the level of excise taxation for LPG in order to increase the consumption of this petroleum product.
- Applying a general VAT rate of 20% on CNG consumption, as well as an adequate level of excise taxation, in order to eliminate the effects of CNG's preferential status in relation to other motor fuels.
- Concluding bilateral agreements on carriers' eligibility for VAT refund on fuel purchased in Serbia with Bulgaria, Turkey, Greece, North Macedonia and Montenegro, as well as with other countries from which trucks use Serbia as transit country.

PHARMACEUTICAL INDUSTRY

1.64

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
ALIMS should:				
Adhere to the existing time frames established by the Law on Medicines regarding new registrations, renewals and variations of licences.	2017		√	
Provide for electronic submissions of all requests for medicines (new registrations, renewals and variations).	2017		√	
Revise and harmonize the amount of certain tariffs; PV tariffs based on the INN; reduce the amount of tariff for the documentation control for each imported series of a medicine.	2019		√	
An additional number of professional executors should be hired in order to resolve cases faster within the legally prescribed deadlines and reduce huge delays, especially in resolving accumulated variations for medicines.	2021		√	
The Government should:				
Provide steady funding for innovative medicines and generic medicines while expanding the indications through a special-purpose transfer of budget funds to NHIF, thus compensating for the clear lack thereof in the financial plan of NHIF.	2018		√	
Take a position regarding the future of its healthcare institutions, primarily pharmacies. If state pharmacies have a future as such, a strong recommendation is to entrust them to a private partner in accordance with the law, with the key law being that on public-private partnership, and in accordance with the model respecting the specifics originating from the status and business operations of publicly-owned pharmacies undergoing PPPs. This guarantees the legality of the procedure, transparency and the maximization of benefit for everyone involved.	2017			√
Ensure the settlement of the remaining outstanding debt of state healthcare institutions towards pharmaceutical wholesalers and suppliers for delivered medicines and medical devices, in order to ensure further continued supply for the institutions.	2017		√	
The NHIF should:				
Ensure the acquisition of the funds required from the central budget for introducing new medicines on the Reimbursement List.	2018		√	
Continue the positive trend of ensuring the predictability of the decision-making process, with clear time frames and a transparent consultation process with industry representatives.	2013			√
Ensure greater flexibility regarding models for specific agreements, since every medicine has its own specific details that need to be incorporated into the agreement.	2017		√	
Enable the electronic submission of introducing new medicines on the Reimbursement List, without submitting paper documentation.	2020		√	
Ensures timely direct payment to suppliers for delivered drugs and medical devices, as well as timely payment to pharmacies for prescription drugs.	2020	√		

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Ensure control of health institutions in the part of dedicated spending of funds for medicines, for obligations that health institutions settle themselves, i.e. which are not subject to direct payment - Claims according to Article 9 of the Rulebook on the content and scope of the right to health care from compulsory health insurance and on participation. Determine clear criteria when potentially the price from the framework agreement/ public procurement contract can be increased or decreased, taking into account the numerous factors that influence cost increases.	2022			√
The Ministry of Health should:				
Work continuously, together with the Ministry of Finance and the NHIF, on securing additional funds from the budget of the Republic of Serbia with the aim of including new therapies on the NHIF Reimbursement List.	2018			√
With the aim of accelerating patients' access to medicines, allow the submission of documentation for obtaining the highest price of medicines for use in human medicine to competent ministries as of the moment the holder of the licence for the medicine receives a Report from ALIMS following a session of the Commission for the Placement of Human Medicines on the Market. Enabling parallel processes for finalizing the licensing procedure for a medicine and for obtaining its maximum price would considerably reduce the time frame for placing each individual medicine on the market. Therefore, the proposal is to enable two processes to take place in parallel: the final part of the process of obtaining a licence for placing a medicine on the market from ALIMS, and the process of publishing the maximum price of the medicine in a Decision on the highest prices of medicines for use in human medicine by the Ministry of Health.	2019			√
Urgently draft a new Law on Medicines in cooperation with industry representatives.	2019			√
Eliminate from the new Law on Medicines the issuing of approvals by ALIMS for the use of promotional materials and other documentation regarding the advertising of prescription medicines and/or promotional materials and other documentation intended for the professional public.	2019			√
Amend the Rulebook for acquiring basic knowledge about personal hygiene training program so that employers can conduct training for employees in the medicines production, trade and dispensing, as it is already regulated by other regulations.	2020			√
The Ministry of Finance should:				
Make a positive decision on a reasoned request by the Ministry of Health for a special-purpose transfer of NHIF funds for new medicines.	2018		√	
Ensure an equal tax and customs treatment of raw materials and finished medicines.	2013			√
Abolish VAT on donations of medicines and medical devices to health care institutions.	2014			√
Amend the Law on Fees for the Use of Public Goods in the part of fees for medicines that remain in possession after the expiration date and are collected from citizens, so that compensation basis is determined by the amount of medicines collected from citizens, which needs to be disposed of as pharmaceutical waste and precisely determine the taxpayer.	2020	√		

CURRENT SITUATION

The health of the nation is one of the key factors, if not the most important factor, of productivity and economic growth in society, directly related to investments into the healthcare system. At the same time, ensuring the supply of medicines and the availability of the latest therapies are among the key preconditions for positive results of the healthcare system of any country. In addition to the unhampered supply of medicines and availability of the latest therapies, the normal functioning of a healthcare system requires a systematically regulated and functionally efficient link between the three pillars supporting the medical treatment of the population: manufacturers, pharmaceutical wholesalers and healthcare institutions (private and state-owned).

The share of healthcare in the distribution of the gross national product in Serbia stands at approximately 10%. It is important to note that state/public resources account for only 62% of this amount (the National Health Insurance Fund (NHIF), the Ministry of Health and local governments), while the remaining 38% are private payments by citizens (the so-called out-of-pocket payments). This means that a significant burden of financing healthcare has been shifted to the patients. This is certainly not a positive attribute, having in mind the importance of the social role of the state in the provision of healthcare services. By comparison, in the European Union (EU), Member States finance between 70 and 80% of the total healthcare needs of the population from public sources.

Of the total public healthcare budget, 22% is allocated for medicines. Despite considerable steps forward in improving the availability of advanced therapies compared to the preceding period, this progress is not sufficient. Further strategic thinking and actions regarding the management of funds in the healthcare budget are important, having in mind the degree and character of the vulnerability of the health of the population, i.e. the need for modern therapies for all, even the most severe diseases. The average life expectancy in Serbia is considerably below the EU average (74.7 compared to 80.2). The greatest risks for the health and life of the population of Serbia are caused by coronary and vascular system diseases, malignant diseases, diabetes and chronic obstructive pulmonary diseases. For example, the gravity and complexity of this problem is best illustrated by the discrepancy between the cancer incidence rate, where Serbia is 18th in Europe, and cancer mortality rate, where it holds 2nd place. Bearing in mind the discrepancy in the cancer incidence rate and mortality rate in Serbia and the EU, the availability of oncological, as well as innovative medicines from other fields of therapy is clearly insufficient, while at the same time being crucial for reducing the high mortality rate of the population.

It is completely clear that the NHIF, even with the assumption of the best resource management, is not able to adequately respond to all patients' needs for drug therapies from its own income. For that reason, purposeful and continuous intervention from the central budget is necessary, in addition to the existing allocations of the NHIF for medicines.

It is very important for stable pharmaceutical market functioning to continue the harmonization of the domestic legal framework with EU acquis, primarily through the Law on Medicines, which should be adopted. That way the practice inapplicability in some of its provisions and non-transparency in certain procedures should be eliminated.

Another problem is that time frames for important decisions are often too long and, even so, typically not observed. The participation of representatives of the pharmaceutical sector in the drafting of all relevant acts is necessary, and significant progress can already be seen in this field.

POSITIVE DEVELOPMENTS

- In the middle of 2021, the NHIF, in coordination with the Ministry of Finance, provided an extremely high amount of budget funds for the increased availability of new drugs (RSD 5.8 billion). After that, a complex prioritization procedure was carried out among all submitted requests for placing the drug on the NHIF drug list, which is the responsibility of the medical commissions of the Ministry of Health and the NHIF. All these activities, along with the implied negotiations and the conclusion of special contracts between drug license holders and the NHIF on the conditions for financing prioritized drugs, resulted in the inclusion of 26 new drugs from a wide range of therapeutic areas on the Drug List (starting in 2022). By far the largest part of the above-mentioned budget it is aimed at financing the most modern drugs for the treatment of diabetes patients, and in addition, significant funds are also intended for the financing of medical therapies for oncology patients, as well as for patients with certain forms of multiple sclerosis, psoriasis, leukemia and hemophilia.

- NHIF announced the adoption of amendments to the NHIF Reimbursement List, which would include new drugs that would be available to patients at no additional cost to NHIF, by the end of 2022 or in the first quarter of 2023 at the latest. That has not happened even as of this writing (July 2023).

- A new model of a special contract was agreed which was/will continue to be used as a basis for placing new drugs on the List of Drugs A/A1.

- Past period brought considerable improvement in the communication and joint work of industry representatives and the NHIF/Ministry of Health regarding doing business, but big step back was made by NHIF introducing new reference countries for the formation of drug prices, without any prior consultation with any pharmaceutical association.

- During the 2022 direct payment for medicines to suppliers as per the CPP by the NHIF continued.

- In addition to the introduction of the Electronic Invoice System by the Ministry of Finance, NHIF implemented SAP and the Finance Portal with the aim of establishing monitoring and control of contracting and execution of contracts for centralized public procurement, which all contributed to the further digitization of wholesale drugstore operations.

- The Ministry of Finance has observed that the provisions of the Law on Charges for the Use of Public Goods regarding the obligation to pay a fee for products that after use become special waste streams for medicines that are collected from citizens through pharmacies cannot be applied, i.e. that their application would cause disruptions on the market, and these provisions were deleted through amendments to the Law.

REMAINING ISSUES

1. **A lack of a systemic solution for financing the introduction of new drugs on the Reimbursement List.**

It is necessary to provide assigned funds transfer from the central budget to the NHIF every year, to maintain the continuity of the new drug introduction on the Reimbursement List. This should be preceded by a statement of all competent medical commissions within the MoH / NHIF, after which evaluating all submitted requests for placing drugs on the Reimbursement List would determine the exact amount that has to be transferred to meet the needs of patients in all therapeutic areas.

2. **Shortcomings in the process of including medicines on the NHIF Reimbursement List**

The Rulebook on criteria for including/removing medicines from the Reimbursement List, as a key by-law in this area, needs to be amended to include clearer and more detailed criteria for the selection of medicines covered by the mandatory health insurance system. Although certain progress is already visible, each individual procedure for the placement of a medicine on the Reimbursement List should be even more transparent and with a mandatory explanation of the final decision, and the right to appeal.

3. **Policy of medicine prices**

Conflict in Ukraine, following economic crisis and inflation have strong, negative effect on pharmaceutical industry. The negative impact was reflected both on the production of medicines and on the distribution chain. As a result, pharmaceutical products prices have been subject to fluctuations, i.e. increases due to increased transportation costs, limited access and rising prices of raw materials, increased production costs and geopolitical uncertainty.

All of the above has and may have an even greater impact in the near future on the continuous supply and availability of medicines. The pharmaceutical industry is facing its biggest challenges in the last few years.

The challenge in the supply of drugs and potential withdrawals from the market is also recognized by the European Commission, which in its proposal for Pharmaceutical Legislation from April of this year significantly highlighted these allegations and therefore requires an increase in the supply of key drugs at the level of the European Union countries, as well as timely notification of potential exit from the market.

Also, we cite the example of Germany, which, due to a significant crisis and its impact on the pharmaceutical industry, raised the prices of medicines in order to ensure stability and prevent drug shortages.

In Serbia, the amendment of the Rulebook on the criteria, method and conditions for placing medicines on the List of Medicines, i.e. for removing medicines from the List of Medicines in the part related to - comparable countries and comparable wholesale prices in comparable countries, which can have a strong impact on the operations of the pharmaceutical industry in Serbia, above all in the case of a significant reduced price. The rulebook on the criteria, method and conditions for putting medicines on the List of Medicines, i.e. for removing medicines from the List of Medicines ("Official Gazette of the RS", number 45/22) stipulates that comparable countries, in the sense of this rulebook, are: Republic of Slovenia, Republic of Croatia and the Republic of Italy. The problem in the implementation of the Rulebook in question arose when the Republic of Croatia decided that the prices of medicines would no longer be publicly available. The reference country that will replace Croatia is currently being decided.

Considering the specificity of the situation and the challenges faced by the pharmaceutical industry in Serbia, it is necessary to involve all interested parties in making this and similar key decisions in order to ensure a stable and continuous supply of medicines in the Republic of Serbia in the coming period.

4. **Resolving of remaining debt of state healthcare institutions to wholesalers and suppliers**

It is necessary to continue with activities regarding settlement of remaining debts and payments of healthcare institutions for delivered medicines, medical devices, which refer to procurements that are not subject to the CJN of the NHIF, i.e. subject to direct payment.

5. **Administrative procedures and the issuing of licences for** medicines

In addition to new registrations and licence renewals, ALIMS is still considerably tardy when it comes to approving amendments to licences (variations). Variations approval and licences renewal are being waited for years, in case of permanent medicine licence, since there are no more renewals after 5 years, deadlines are not existing in practice. Such delays regarding new indications and variations in medicine safety have a considerable impact on the availability of the latest information on the use of medicines both for doctors and for patients.

In addition to the fact that the Agency applies significantly higher tariffs for its services from 1 January 2018, which led to the duplication of regulatory costs of the pharmaceutical industry, this did not lead to a more efficient work of the Agency in terms of meeting deadlines. Fees for medicines are enormous, every activity that the Agency needs to perform is invoiced, even those that were not done before. Due to such high costs, companies give up new registrations, and also cancel existing ones, which is why patients suffer the consequences.

6. **Regulations effecting business**

Despite the fact that the adoption of the new Law on Medicines has been in the Work Plan of the Ministry of Health for 6 years, no progress has been made in the drafting of this, for the pharmaceutical industry, the most important legal act.

It is necessary to amend the Law on the Protection of the Population from Infectious Diseases in the part of the provisions on training for the acquisition of basic knowledge of personal hygiene for employees in the production, distribution and dispensing of medicines organized and conducted by the Ministry of Health, with the payment of the prescribed fee. During the adoption of this Law and the accompanying Rulebook on the training program, it was not taken into account that the obligations and responsibilities of drug manufacturers, wholesalers and pharmacies in the part of hygiene training are already regulated by special regulations as well as the strict requirements of the Good Manufacturing Practices Guidelines (GMP) and the Good Practices Guidelines in distribution (GDP).

FIC RECOMMENDATIONS

ALIMS should:

- Adhere to the existing time frames established by the Law on Medicines regarding new registrations, renewals and variations of licences.
- Provide for electronic submissions of all requests for medicines (new registrations, renewals and variations).
- Revise and harmonize the amount of certain tariffs; PV tariffs based on the INN; reduce the amount of tariff for the documentation control for each imported series of a medicine.
- An additional number of professional executors should be hired in order to resolve cases faster within the legally prescribed deadlines and reduce huge delays, especially in resolving accumulated variations for medicines.

The Government should:

- Provide steady funding for innovative medicines and generic medicines while expanding the indications through a special-purpose transfer of budget funds to NHIF, thus compensating for the clear lack thereof in the financial plan of NHIF.
- Take a position regarding the future of its healthcare institutions, primarily pharmacies. If state pharmacies have a future as such, a strong recommendation is to entrust them to a private partner in accordance with the law, with the key law being that on public-private partnership, and in accordance with the model respecting the specifics originating from the status and business operations of publicly-owned pharmacies undergoing PPPs. This guarantees the legality of the procedure, transparency and the maximization of benefit for everyone involved.

NHIF should:

- Ensure the acquisition of the funds required from the central budget for introducing new medicines on the Reimbursement List.
- Continue the positive trend of ensuring the predictability of the decision-making process, with clear time frames and a transparent consultation process with industry representatives.
- Ensure greater flexibility regarding models for specific agreements, since every medicine has its own specific details that need to be incorporated into the agreement.
- Enable the electronic submission of introducing new medicines on the Reimbursement List, without submitting paper documentation.
- Timely payment
- Ensure full functionality of its information systems SAP and Finance Portal with SEF of the Ministry of Finance, in order to ensure timely, accurate and correct monitoring, control and payment of invoices issued for delivered drugs and medical devices.

The Ministry of Health should:

- Work continuously, together with the Ministry of Finance and the NHIF, on securing additional funds from the budget of the Republic of Serbia with the aim of including new therapies on the NHIF Reimbursement List.
- With the aim of accelerating patients' access to medicines, allow the submission of documentation for obtaining the highest price of medicines for use in human medicine to competent ministries as of the moment the holder of the licence for the medicine receives a Report from ALIMS following a session of the Commission for the Placement of Human Medicines on the Market. Enabling parallel processes for finalizing the licensing procedure for a medicine and for obtaining its maximum price would considerably reduce the time frame for placing each individual medicine on the market. Therefore, the proposal is to enable two processes to take place in parallel: the final part of the process of obtaining a licence for placing a medicine on the market from ALIMS, and the process of publishing the maximum price of the medicine in a Decision on the highest prices of medicines for use in human medicine by the Ministry of Health.
- Urgently draft a new Law on Medicines in cooperation with industry representatives.
- Eliminate from the new Law on Medicines the issuing of approvals by ALIMS for the use of promotional materials and other documentation regarding the advertising of prescription medicines and/or promotional materials and other documentation intended for the professional public.
- Amend the Law on the Protection of the Population from Infectious Diseases and the accompanying Rulebook on the Training Program so that employers can conduct training for employees in the medicines production, trade and dispensing, as it is already regulated by other regulations.

The Ministry of Finance should:

- Make a positive decision on a reasoned request by the Ministry of Health for a special-purpose transfer of NHIF funds for new medicines.
- Ensure an equal tax and customs treatment of raw materials and finished medicines.
- Abolish VAT on donations of medicines and medical devices to health care institutions.

TOURISM & HOSPITALITY 1.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Adoption of a New Tourism Development Strategy with a Change of the Tourism Destination Management Concept	2022			√
Adoption of a New Assessing Methodology for the Tourism Foreign Exchange Inflow of Through the Application of the Tourism Satellite Accounts Methodology	2022			√
Amendments to the Law on Simplified Employment of Seasonal Jobs in Certain Activities Expanding the Provisions on Tourism and Hospitality Sector in terms of expanding the circle of employers from Article 2. of the Law on Simplified Employment in Seasonal Jobs in Certain Activities ("Official Gazette of the RS", No. 50/2018) in such a way as to include employers who perform activities in the Tourism and Hospitality sector	2022			√
Amendments to the VAT Law to Expand Activities That Would be Taxed at a Special, Reduced Rate of 10%	2022			√
Amendments to the Law on Copyright Regarding the Method of Determining the Copyright and Related Rights Tariff to introduce a fee payment criterion based on the occupancy percentage of the taxpayer's accommodation capacity in the accounting period.	2022			√
Suppression of the High Level of the Grey Economy in Tourism and Hospitality Emphasizing Individual Accommodation Services Segment: 1) It is necessary to strengthen the capacities of the tourism inspection at the local and national level and to carry out permanent education of inspectors. 2) Accommodation service providers (especially individual accommodation service providers) should be informed and educated about the rights and benefits provided by the legal framework through educational campaigns. 3) Effective and continuous tourism inspection (preventive and regular) supervision must be applied to minimize the grey economy and improve the use of E-tourist, especially among individual accommodation service providers. 4) The tourism inspection (at all levels) should adopt a Strategic and Annual Plan for suppressing the grey economy based on comparing the advertised accommodation facilities on various online platforms and the facilities in the E tourist system. The Annual Plan for the following year should be drawn up by December 15 of the current year. 5) The tourism inspection should make publicly available the Annual Report of the performed supervision according to the newly proposed Strategic and Annual Plan. The Annual Report should be quantified and contain at least the destination name, the number of inspections carried out, the types of facilities inspected, and the supervision results. The Annual Report should be published for the previous year by February 15 of the current year. 6) Legal entities and individual accommodation service providers not registered in the E tourist system cannot be beneficiaries of public funds at the national and local levels.	2022			√

CURRENT SITUATION

The second decade of 21 century is characterized by a quantitative increase and qualitative improvement of accommodation tourist capacities in Serbia after the collapse of post-transitional tourism and the closure of many degrees in the first decade of this century. This period is characterized by the opening of a number of previously missing 4- and 5-star hotels, the start of a number of planned hotels in mountain and spa destinations, and the emergence of congress, spa, and other specialized hotels. On the other hand, the development of rural accommodation and different tourist capacities is flourishing.

The quality structure of accommodation capacities is continuously improving, given that the most significant number of newly opened facilities belong to higher categories. Despite these improvements, Serbian accommodation is not adjusted to the international market expectations, given that the share of hotel accommodation is only 29%[1] of the total accommodation capacity. It can be seen as a disadvantage, but it also represents the considerable opportunity for growth in this segment.

The mainly positive achievement was a substantial increase in foreign arrivals, overnights, and spending, influencing the Serbian foreign trade balance, traditionally in deficit and positively supported in the period of Tourism Development Strategy the Republic of Serbia 2016-2025 (TDS) implementation. From 2009 to 2019, Serbia recorded an increase in the relative share of foreign tourists in total volume. The number of international arrivals and overnights was growing on average at 11.11% (CAGR) and 10.61% (CAGR), respectively, and in 2019 foreign tourists reached a 50% share in total arrivals and 40% share in total overnights. [2]

However, in 2020, the COVID-19 pandemic interrupted the positive tourist trends. It caused significant damage to the tourist traffic in Serbia, resulting in a drop in tourist arrivals by 51% and tourist overnights by 38%.[3] The number of arrivals and overnights of foreign tourists recorded a significant decrease of 76% and 68%, respectively.[4] After a partial recovery in 2021, the positive recovery trend of Serbian tourism continued in 2022, when a record 3.9 million tourist arrivals and around 12.2 million total overnights were recorded.[5] Foreign tourists' overnights were about 23% higher than the pre-pandemic level.[6] In 2022, a record foreign exchange inflow from tourism was achieved and amounted to EUR 2.5 billion, which is EUR 1 billion more than in the pre-pandemic year 2019 and doubled compared to 2017.[7] The same trend continued in 2023 when new records are expected regarding arrivals, overnight stays, and foreign exchange inflow from tourism.

Regarding services, tourism is one of the most significant contributors to services export, participating in more than 1/5[8] of total service export in Serbia. In 2022, it is estimated that the participation of the tourism industry (total) in the GDP will be at the level of 2019, around 6.9%.[9] Furthermore, in 2022, this industry had about 88.6 thousand employees.[10] However, a relatively high share of the gray economy in the catering sector remains unchanged despite certain activities initiated by the competent ministry in 2022 regarding communication with online platforms that allow advertising of unregistered accommodation capacities.

Investments in tourism have increased (from 280 mil EUR in 2015 to 700 mil EUR in 2020)[11], but at a much lower rate than projected. Namely, significant investments were registered as investments in infrastructure (which is in the function of tourism), buildings (in tourism function), etc. Considering the number of newly opened hotels, doubts about underestimating statistics became important. In addition, by obtaining the organization of the specialized EXPO 2027 exhibition, the construction of new accommodation capacities is expected, primarily in the hotel industry.

From the perspective of strategic planning, the valid TDS is still relevant in many of its segments: key target foreign markets and key tourist products were kept from the former strategy; geographical clusters of Serbian tourism supply are stable; in the process of tourism digitalization, critical step has been undertaken by e-Tourist platform introduction. On the other hand, the TDS did not sufficiently cover the area of digital transformation of tour-

1 e-Tourist, Statistical Office of the Republic of Serbia
2 Statistical Office of the Republic of Serbia
3 Statistical Office of the Republic of Serbia
4 Statistical Office of the Republic of Serbia
5 Statistical Office of the Republic of Serbia
6 Statistical Office of the Republic of Serbia
7 National Bank of Serbia
8 Statistical Office of the Republic of Serbia
9 WTTC Assessment based on the Tourism Development Strategy of RS 2016-2025
10 Statistical Office of the Republic of Serbia
11 WTTC Report and Assesment

ism business. Besides, market segments were not defined based on specific market research, so there is no explicit connection between tourist products and specific market segments for which these products are planned.

During 2023, the development of a new strategic framework for the tourism sector was started, and its adoption is expected in the upcoming period.

Further, key legal documents were upgraded in 2019 according to strategic intentions to support the SME sector and protect consumers starting with laws: Law on tourism and Law on hospitality. Further, in 2021, Strategic Marketing Tourism Plan of Republic of Serbia was adopted.

The further development of European and Serbian tourism in the coming period will continue to face numerous challenges, such as:[12]

- Russian-Ukrainian conflict;
- Conflict in the Middle East and other geopolitical crises;
- Climate change;
- Restrictions on airlines and use of airspace;
- Rising inflation and interest rates;
- Food and fuel price increases, and
- Self-confidence of travelers and available financial resources.

REMAINING ISSUES

The key challenge of the tourism industry in Serbia is to improve its competitiveness and position of Serbia in the global tourism market as a recognizable, attractive, and authentic tourist destination, which creates new jobs, sustainably manages its development and is attractive for new investments.

1. **Sustainable Tourism Development Vision and Measurable Strategic Goals are Not Defined**

The importance of tourism development programming and integral planning was not sufficiently recognized and implemented in the previous period. Specific strategic vision and well-articulated strategic and measurable objectives, including implementation, and transparently monitoring mechanisms with the upgraded coordination and cooperation of all key stakeholders at all levels, are missing.

Consequently, it is necessary to define a new Tourism Development Strategy, which will consider the "new reality", and the need for redefine strategic and set measurable goals, including implementation and monitoring mechanisms that will ensure sustainable tourism development. Besides, improved coordination and cooperation of all key stakeholders at all levels with more significant participation of local communities in the tourism development process is needed.

The strategic framework has to respect the modern destination management concept, which implies introducing the legal possibility for tourist destinations to be managed by private companies and public-private partnerships.

2. **Inadequate Methodology of the National Bank of Serbia for the Foreign Currency Income Assessment**

Foreign exchange inflow is still calculated according to the inadequate methodology of the NBS for estimating foreign exchange inflow, which is one of the most important topics. The estimation of foreign exchange inflow is related to the work of exchange offices, so there is a discrepancy with tourist peaks. The estimation of the average consumption of foreign tourists based on such calculated foreign exchange inflow is highly unreliable. Consequently, there is no reliable calculation of the tourism industry's contribution to GDP. Furthermore, the budget for national tourism promotion and tourism, in general, is permanently underestimated and insufficient, directly affecting the insufficient promotion of Serbia as a tourist destination.

Modification of the NBS methodology for the assessment of the foreign exchange inflow of the tourism and hospitality industry and its contribution to the national GDP through the introduction of tourism satellite accounts. In this way, the quantification of the economic impact of tourism would be carried out using internationally recognized and accepted methodology.

3. **Unflexible legal framework that does not provide the possibility of employment in accordance with the Law on Simplified Employment of Seasonal Jobs in Certain Activities**

Human resources present a significant barrier to further development in labor-intensive industries such as tourism and hospitality. The number of disposable workforces decreased, causing the rise in wages, and consequently

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causing an economically rational reaction of employers: part-time jobs, reduction of service (self-service, etc.), and even hiring unregistered employees to reduce labour costs. In addition, the structure of the labour force and the level of its education and training further deteriorated after the pandemic outbreak when a significant number of employees sought work in other industries. The insufficiently flexible legal framework does not recognize the needs of highly seasonal industries such as tourism and hospitality.

Hiring within this industry can be performed only in accordance with the Labour Law provisions ("Official Gazette of RS", no. 24/2005, 61/2005, 54/2009, 32/2013, 75/2014, 13/2017 - US decision, 113/2017 and 95/2018 - authentic interpretation), i.e., in a way to come to establishing of employment relationship by concluding an Employment Contract or in such a way that the work takes place outside the employment relationship by concluding a Contract on Temporary and Periodical Jobs, a Purchase Order Contract or a Supplementary Work Contract.

Due to the special characteristics and expressed need for seasonal workers in tourism and hospitality, it is necessary to amend the Law on Simplified Employment of Seasonal Jobs in Certain Activities ("Official Gazette of RS," No. 50/2018) in terms of expanding the circle of employers from Article 2. of the Law on Simplified Employment in Seasonal Jobs in Certain Activities ("Official Gazette of the RS", No. 50/2018) in such a way as to include employers who perform activities in the tourism and hospitality sector.

In this way, it would be possible to implement a simplified procedure for the employment of persons and the payment of taxes and contributions for work on jobs of a seasonal nature and within the scope of activities of a hospitality and tourism nature.

This modality of work engagement would imply mutual benefits both for the employers and for potential seasonal workers. The expected advantages on the employer's side are as follows:

- The employer is given an opportunity of simpler employment procedure, which represents work outside the employment relationship, via a verbal contract on the performance of seasonal work, which is concluded from the moment the seasonal worker access to work.
- The employer can apply a simplified procedure for calculating and paying citizens' income tax and contributions for mandatory social insurance, which in this case only include rights from pension and disability insurance, as well as rights from health insurance, but only in case of injury at work and occupational diseases. The simplified procedure for paying taxes and contributions implies a pre-determined basis for calculating the obligations, regardless of the contracted hourly labour price of a seasonal worker. The stated base is always equal and amounts to a thirtieth part of the amount of the lowest monthly contribution base per day of engagement in seasonal jobs;
- The employer is only obliged, to submit in the stipulated period electronically to the tax administration the data required for the preparation of the evidentiary application, based on which the Tax Administration system automatically prepares and submits the individual tax return on calculated taxes and contributions.

The expected employees' benefits are as follows:

- Creating opportunities for persons in employment to earn additional income by concluding seasonal work contracts;
- Creation of the opportunity to generate additional income for beneficiaries of social assistance, given that the compensation for work received by a seasonal worker has no effect on the realization and use of the right to cash social assistance;
- Creating an opportunity for family pension users to earn additional income, given that there is no suspension of family pension payments if the contracted monthly compensation is realized in an amount lower than the lowest base in employee insurance, valid at the time of payment of contributions.

In addition, it should be emphasized that the law clearly prevents the possibility of abusing the simplified work engagement of a person, considering that a legal limitation of a maximum of 180 days is clearly introduced during the duration of the calendar year on the basis of the contract on performing seasonal work, as well as the relationship between this contract and the contract of Temporary and Periodical Jobs, where it is prescribed that if the same person is engaged on the basis of both contracts in one calendar year, the total number of working days on the basis of

both contracts cannot amount to more than 120 working days in the calendar year.

4. **VAT High Tax Rate in Hospitality Sector**

Even before the COVID-19 pandemic, most European countries reduced VAT rates on hospitality services which positively impacted competitiveness and boosted their tourism industry. In addition, after the COVID-19 pandemic outbreak, the vast majority of European countries significantly reduced the VAT rate. Serbia, with a 20% VAT rate on hospitality services, became even more uncompetitive, especially in MICE, when the tax burden is crucial for destination selection.

Furthermore, it is necessary to change the legal regulations in the direction that, within the scope of the activities now foreseen, which are taxed at a special, reduced VAT rate of 10%, (such as accommodation services), food consumption services within hospitality business entities should also be added. In this way, domestic tourism and hospitality competitiveness would be enabled compared to competitors primarily from the Region but also from the rest of Europe, especially in MICE tourism.

5. **Inadequate Tariff Model Determination According to the Law on Copyright and Related Rights**

The improvement of the competitiveness of Serbian tourism is additionally burdened by parafiscal burdens such as the payment of tariffs according to the Law on Copyright and Related Rights. Namely, regardless of whether the accommodation facilities (rooms) are occupied or not, the tariffs must be paid.

In accordance with the Law on Copyright and Related rights, business entities from the tourism and hospitality sector are charged a special fee according to the Tariff issued by the organization for the realization and protection of copyright and related rights.

The most common case of collection of these fees is collection in accordance with a flat rate. When determining the amount of the flat fee, the following criteria are considered:

- the type and method of exploitation of the subject of protection;
- geographic location of the user's headquarters;
- type and size of the space in which the objects of protection are used;
- duration and scope of use and prices of the user's services.

The criteria set in this way for determining the flat rate are inadequate and completely ignore the key circumstance, i.e., the occupancy percentage of the facility's accommodation capacity.

Instead, it is necessary to introduce a fee payment criterion based on the occupancy percentage of the taxpayer's accommodation capacity in the accounting period.

6. **The Grey Economy's High Share**

The grey economy's high share in the tourism and hospitality sector (reaches up to 40% - 50%, especially among individual owners' accommodation rental via various online platforms) negatively affects the profitability and quality of accommodation services and the overall competitiveness of Serbian tourism. Further, this practice allows unfair competition for facilities that work legally.

FIC RECOMMENDATIONS

- Adoption of a New Tourism Development Strategy with a Change of the Tourism Destination Management Concept
- Adoption of a New Assessing Methodology for the Tourism Foreign Exchange Inflow of Through the Application of the Tourism Satellite Accounts Methodology

- Amendments to the Law on Simplified Employment of Seasonal Jobs in Certain Activities Expanding the Provisions on Tourism and Hospitality Sector in terms of expanding the circle of employers from Article 2. of the Law on Simplified Employment in Seasonal Jobs in Certain Activities ("Official Gazette of the RS", No. 50/2018) in such a way as to include employers who perform activities in the Tourism and Hospitality sector.
- Amendments to the VAT Law to Expand Activities That Would be Taxed at a Special, Reduced Rate of 10%
- Amendments to the Law on Copyright Regarding the Method of Determining the Copyright and Related Rights Tariff to introduce a fee payment criterion based on the occupancy percentage of the taxpayer's accommodation capacity in the accounting period.
- Suppression of the High Level of the Grey Economy in Tourism and Hospitality Emphasizing Individual Accommodation Services Segment
  - It is necessary to strengthen the capacities of the tourism inspection at the local and national level and to carry out permanent education of inspectors.
  - Accommodation service providers (especially individual accommodation service providers) should be informed and educated about the rights and benefits provided by the legal framework through educational campaigns.
  - Effective and continuous tourism inspection (preventive and regular) supervision must be applied to minimize the grey economy and improve the use of E-tourist, especially among individual accommodation service providers.
  - The tourism inspection (at all levels) should adopt a Strategic and Annual Plan for suppressing the grey economy based on comparing the advertised accommodation facilities on various online platforms and the facilities in the E tourist system. The Annual Plan for the following year should be drawn up by December 15 of the current year.
  - The tourism inspection should make publicly available the Annual Report of the performed supervision according to the newly proposed Strategic and Annual Plan. The Annual Report should be quantified and contain at least the destination name, the number of inspections carried out, the types of facilities inspected, and the supervision results. The Annual Report should be published for the previous year by February 15 of the current year.
  - Legal entities and individual accommodation service providers not registered in the e-Tourist system cannot be beneficiaries of public funds at the national and local levels.

PRIVATE SECURITY INDUSTRY

1.20

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Continued monitoring of the Law on Private Security application , while continuously insisting that its implementing by-laws be harmonized with EU models of legislation to the extent possible, while at the same time taking into account local specificities. By-laws are specially needed for transportation of money services regarding insurance and special treatment in traffic regulation.	2009			√
Make a clear obligation for the user of private security services to have Risk Assessment act in accordance with the law under the threat of the same sanctions as for private security companies.	2020			√
Support the Ministry of Interior (MoI) in its commitment to inspect all entities that are in the grey area to ensure that they comply with the adopted law to the fullest extent.	2016			√
Determine the legal employment status of all persons engaging in private security activities, or employed in this industry in such a way that all forms of employment engagement that are permitted by the Labour Law will be treated equally as employer opportunities unless they are in conflict with the nature of the institute provided for by the Labour Law . In the conditions for attending training and obtaining a license, the professional qualification requirement should be amended to allow persons with primary school to obtain a security officer license. Security clearance is another precondition for obtaining the license, prior to the commencement of the training programme, to avoid unnecessary administrative problems and unreasonable expenses related to persons who do not pass the security clearance. Prescribe the explicit obligation of the MoI to inform the employer about any changes in the status of the license of individuals, especially bearing in mind the fact that a security officers' IDs areissued upon request of the employer's company and returned to the MoI in case of the employment termination.	2017		√	
Due to the challenges on labour market allow candidates who completed the training to work with supervision of licenced officers until they do not obtain licence.	2020			√
Implement new regulations concerning service of transport of cash and valuables and increasing protection of people and assets such as Change of traffic law giving CIT vehicles access to pedestrian areas and yellow lines, mandatory electrochemical protection in CIT vehicles especially during payment transfer , introduce body worn cameras and make the number of CIT crew member subject to electrochemical protection specification.	2020			√

CURRENT SITUATION

After the adoption of the Law in 2017 and its amendments in 2018, the private security industry is finally getting a legal framework. The intention of the legislator was to set the minimum conditions for the performance of this activity as well as to standardize the market by defining the minimum requirements and obligations for security service providers. Despite positive developments in the field of legal framework, the industry is still affected by multiple challenges related to unfair competition and compliance with the law. The market faces major challenges of non-compliance, which has resulted in a large number of private security companies operating in the grey area. It also puts the competent authorities in a position to focus on enabling equal conditions for domestic and foreign companies providing services. Success in controlling the implementation of the Law will have a direct impact on the fiscal revenues of the state, but also on the creation of a more stable and safer business environment for all participants on the market.

IMPROVEMENTS

The Ministry of Internal Affairs (MIA) has opened channels of communication with industry, which is of utmost importance. The amendments to the law also made it easier to obtain a license for certain categories of persons with appropriate qualifications, but the deadlines for obtaining a license were slightly shortened, which still represents an insurmountable challenge in practice. With the adoption of by-laws 2018/2019, the powers of security officers are more clearly defined, which is a significant improvement in practice. In light of the tragic events that took place in May 2023, the state raised the issue of reducing the position and use of weapons, which is a significant step forward in preserving general security. Such an initiative should be strongly supported through all relevant institutions and organizations as well as through the legislation itself.

REMAINING ISSUES

Certain problems that were evident even before the adoption of the Law are still noticeable in practice. They became the key topic of the initiative of professional associations to change some articles of the Private security law.

So far, the following issues have been identified as the most important:

- The need for more precise determination of binding provisions for users of private security services regarding the preparation and adoption of the Risk Assessment Act;
- Regulation and implementation of regular and extraordinary supervision and control of the private security sector, as well as terminological inconsistency of the law with international standards in the field of private security;
- Partial non-compliance with other laws and by-laws related to work and labour relations; administrative procedure for issuing licenses for private security; providing security for public gatherings (ie sporting events); handling of firearms etc;
- The process of training and obtaining licenses for individuals is too long, three months on average, inflexible and not in line with modern practice. During training, individuals cannot be engaged in private security work, while companies providing security services have difficulties in engaging licensed employees;
- The money transport service must be subject to more precise regulations through special by-laws;
- The MIA is not obliged to inform companies, as employers, whether their employees have received a license or their licenses have been revoked due to non-fulfilment of some requirements.

In addition to the general application of security law regulations, private security companies face three main challenges:

- Risk Assessment Requirements - By law, a risk assessment is the first step prior to providing private security services to most clients. It represents the basis for concluding the contract and defines the elements especially regarding the scope and type of service. If the risk assessment is not done, in accordance with the law, the sanction for the same shall be borne by the Private Security Company, although it is impossible to provide such an assessment without the consent and engagement of the client.
- Manpower - procedures for obtaining a license in accordance with the Law take an average of 3 months, together with a dramatic shortage of manpower in the service sector puts private security companies in an unenviable situation. Examples of positive practice from the region (Bosnia and Herzegovina, Croatia and Slovenia), specifically the abolition of high school education as a condition for the performance of private security services, have contributed to progress in this area: increased employment rate, all private security companies that operate in accordance with the law.
- Transportation of cash and valuables - transportation of cash and other valuables due to its nature is one of the most risky security operations. However, local legislation does not regulate this area in detail, which leaves room for different interpretations, resulting in lower safety standards in Serbia than the corresponding standards in the EU. It is very important to note that exposure in this industry has a direct impact on the stability of the economy, the impact on the stability of the banking sector and the general safety of society. Among others, the most common legal challenge is the lack of precise regulations and standards regarding the electrochemical protection of vehicles. In contrast, current legislation replaces the above standards with multiple crew members in transport vehicles. This solution makes this service more risky and less profitable for the end user. It is in the interest of the economy to reduce logistics costs, so that Serbia can bene-

fit from a more competitive economy and encourage faster growth. Transport of money is an operation that must have mandatory insurance with precise types of policies that would be a general requirement for all private security companies. This issue should be clearly regulated by regulations in order to protect public and private interest as well as business from unexpected and uninsured losses.

FIC RECOMMENDATIONS

- Constant monitoring of the implementation of the Law on Private Security, and continuous insistence that its by-laws are harmonized to the greatest extent possible with the models of EU legislation, at the same time taking into account local specificities. Bylaws are especially needed for the transport of money in terms of insurance and special treatment in traffic regulations.
- Clearly define the obligation for users of private security services in connection with the Risk Assessment in accordance with the law under the threat of the same liability and the same sanctions as for private security companies.
- Support the Ministry of Internal Affairs in order to compel all entities in the grey zone to implement the adopted Law in full through inspection supervision.
- In the conditions for attending training and obtaining a license, change the condition of professional education, that allow persons with elementary school to obtain a license to perform the duties of a security officer. It is advisable to change, shorten and adapt the training process to modern learning styles through dual education and e- learning, and to consider the establishment of work opportunities during the training until obtaining a license with supervision. Also, define that the security check is performed before the start of the training, that is, the same requirement for attending the training in order to obtain a license in accordance with the Law in order to avoid unnecessary administrative problems and costs related to candidates who do not pass the security check.
- Prescribe a clear obligation of the Ministry of Interior to notify the employer of any change in the status of the license of natural persons. This is especially bearing in mind that the identity card of the security officer is issued at the request of the employer's company and that it is returned to the MUP in the event of termination of the employee's employment.
- The definition of the control centre should be more precise, and in particular, the obligation to have a team should be harmonized, that is, the terminology should be harmonized so that the obligation to have a patrol and not a team should be harmonized.
- Implement new regulations related to the money transport service and improve the protection of people and property through changes in traffic regulations, allowing money transport vehicles access to pedestrian zones and yellow lanes, introduce mandatory electrochemical protection in money transport vehicles, especially during money transfers, introduce mobile cameras that would be worn by each money transport officer, and the number of money transport crew members should be defined according to the specification of electrochemical protection.
- Exclude from the penalty provisions of the Law the possibility of prohibition of the performance of activities due to some of the misdemeanours, since such a measure is extremely rare and is not provided even for serious violations of the law for acts that are of public importance. This measure is certainly unproportioned to the offenses committed.

- In accordance with the initiative at the state level regarding the reduction of firearms, abolishing of the legal obligation for employees of private security companies to carry firearms in certain positions should be considered. The premise would be that, for example, adequate electrochemical protection in the transport of money can completely replace weapons, while physical security should be completely freed from the obligation to carry weapons, regardless of the type of protected object. The maximum reduction of weapons has proven to be a topic of public interest, and this kind of initiative deserves absolute support.

MINING AND GEOLOGICAL EXPLORATION

CURRENT SITUATION

The legal framework for geological exploration and mining in the Republic of Serbia is given in the Law on Mining and Geological Exploration ("Law") with the last amendments adopted in 2021, as part of legislative reforms in the field of energy and mining.

The latest amendments have significantly improved the existing legislation, while also numerous novelties have been introduced with the aim of further modernization and better alignment with international practice in this field.

The Ministry of Mining and Energy ("MRE") is responsible for implementation of the Law and supervision over the application of its provisions.

More than 40 bylaws in the field of geological exploration and mining are currently in force. Certain bylaws in force were adopted on the basis of previously applicable laws in this field, while over time they were not harmonized with later amendments to the Law, which further limits their implementation and creates difficulties in practice.

The field of geological exploration and mining is a complex and multi-disciplinary field, thus the harmonization of laws and regulations from other related fields such as planning and construction, waste management, environmental protection and health and safety at work is crucial for this industry. Despite the obvious progress in the legislative framework and the involvement of the relevant Ministry, geological and mining companies in Serbia still face numerous problems in practice when applying the Law, due to insufficiently precise elaboration of certain provisions of the law, the lack and obsolescence of certain bylaws and conflicts with regulations from other related fields.

With that in mind, recommendations presented herein aim to improve the legislative framework applicable to the geological exploration and mining sector.

FIC RECOMMENDATIONS

- Needed harmonization of laws and regulations from other related fields such as planning and construction, waste management, environmental protection and health and safety at work.

Geological exploration

- The law should define the deadlines for issuing approvals for applied geological exploration that the competent authorities will adhere to.
- The provisions of the Law regarding the permitted quantities of mineral raw materials that can be taken for technological testing during the performance of approved geological exploration for the purpose of determining technological characteristics and proving reserves should be amended, especially with respect to mineral raw materials of strategic importance for the Republic of Serbia.
- Harmonized implementation of regulations in the field of geological exploration and regulations in other fields in accordance with the statutory competences is necessary. For example, agricultural inspection authorities acting in accordance with the Law on Agricultural Land, do not distinguish between geological exploration and exploitation works when performing inspection supervision over agricultural land on which geological exploration is carried out. Thereon, inspection orders obtaining of the consent for the change of land use (from agricultural to non-agricultural) and other measures in accordance with the applicable law, while clearly such obligation is triggered only for exploitation works or construction of infrastructure facilities subject to the general regime of obtaining building permits.
- A Rulebook should be adopted that prescribes the conditions, criteria, content and method of classifying resources and reserves of mineral raw materials and other geological resources and the method of presenting them in the elaborate (in accordance with the Law).

- The bylaws that regulate the manner, scope and preparation of the annual and final report on the results of geological exploration of solid mineral resources should be updated, as well as the manner of preparation of certain projects for the exploration of geothermal resources, which do not require prior approval of geological exploration works, but only the notification of construction works submitted at the local level.

Mining

- The Law should clearly provide that the request for approval of geological exploration works will be rejected if another entity holds the certificate on resource and reserves for the same area and the six-year period during which such company is entitled to obtain exploitation rights has not expired.

- The Law should regulate more precisely the correlation and order of the preparation of studies and projects according to the Law and obtaining of acts and preparation of studies under the environmental impact assessment legislation. The Law should allow for the possibility of implementing a simplified procedure for subsequent changes to the feasibility study of exploitation of mineral resources in certain cases, without the need to implement a new procedure for obtaining exploitation rights and determining the scope and content of the environmental impact assessment study. It is necessary for the Law to recognize the force majeure institute (especially civil protests, strikes, delays of authorities and holders of public authorisations or them acting contrary to the statutory deadlines) in the provisions prescribing validity terms or deadlines for obtaining approvals. The Law should regulate more precisely the triggering events for payments under collateral for the execution of remediation and recultivation of degraded land due to exploitation.

- To harmonize the competences of MRE and the Ministry of Environmental Protection in the areas of accreditation of laboratories and the implementation of the characterization and classification of mining waste. Regulations in the field of mining waste should be aligned and the area of mining waste should be more precisely and comprehensively regulated in the bylaws of the Law.

- Amend the existing Rulebook on technical norms for the underground exploitation of metallic and non-metallic mineral resources, so as to enable: (i) the transport of people and materials in the same shaft when the skip compartment has a steel barrier (brattice) between its own compartment and other conveyances, in accordance with ISO Standards (ISO 19426 - Shaft Infrastructure and ISO 22111 - Basics for the design of steel partitions); (ii) the use of steel structures such as Tehnogrid system, which has a proven application in mines with underground exploitation instead of tapered wooden guides; (iii) the use of Epoxy resin in accordance with ISO 3108 and ISO 2408 Standards and ISO 17893 Standard which defines several potential socketing methods instead of molten metal socketing ; (iv) the use of SANS 10208 Standard for shaft steelwork and guides, which is used globally and represents the most updated and onerous standard for shaft guides but considers different safety systems; and (v) the automatic hoisting and signaling system in line with modern alternatives.

- New bylaws to the Law to be adopted or the existing ones to be supplemented in order to improve mining technical requirements, such as to: (i) provide for the use of Standard ISO 7243 for defining the effective air temperature in the mine; (ii) introduce all types of backfill for excavated areas (eg Cemented Rock Fill, Paste Fill as well as usage of GeoPolimer, etc.); (iii) regulate the use of emulsion explosives (storage of emulsion explosive components before their mixing in underground storage as chemical components, as well as their mixing and filling of mine holes into prepared mine holes) and ignition sources (new methods for ignition including EDK (Electronic Detonator Capsules), Busters and electronic ignition); and (iv) enable and regulate the use of battery electric vehicles for pit machines and the use of hybrid vehicles.

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