WHITE BOOK

Proposals for improvement of the business environment in Serbia

2024

Foreign Investors Council

FOREIGN INVESTORS COUNCIL

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Proposals for improvement
of the business environment in Serbia

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and Foreign Investors Council

2024

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

https://fic.org.rs/WhiteBook2024.pdf

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FOREWORD

Dear Reader,

Welcome to the 2024 edition of the White Book – our key, flagship project and the highlight of the year for all of us at FIC. Our Council is the driving force of the Serbian economy, with 122 member companies, more than €44 billion in investments, and over 115,000 direct employees.

We know that Serbia is a great place to invest and a regional leader, drawing in around €4.52 billion in foreign direct investment last year. However, recent events, especially in Europe, have disrupted supply chains and impacted the delicate investment ecosystem. While foreign investors continue to invest, they do so with caution. That is why we all need to work together to build a better environment – one with effective governance, more competitive businesses, and a higher standard of living for everyone. The FIC offers its knowledge and experience in navigating this process, and the White Book is a perfect platform to get the job done.

This year's edition features 451 recommendations. We highlighted that the most significant progress was made in energy and digitalization.

We are the long-term and reliable partner to the government and society at large, taking on multiple positive roles in Serbia: bringing in new investments and creating jobs; introducing modern technologies, facilitating innovation; promoting ethical business conduct, and involving local SMEs in our value chains and integrating them into global markets. In 2024, we at FIC not only continued our activities but expanded them. We have established excellent cooperation with the National Bank of Serbia and also raised awareness of the importance of ESG, green and digital transformation, transfer pricing, the need for business integration, and developing regulatory frameworks for generative AI. In 2024, the FIC and EBRD organised the second conference on financial services with a focus on green and digital transformation, and we hosted "FIC Insight into the Telecommunications Sector", a successful event where we discussed the importance and impact of continuous investment in the mobile telecommunications sector on service quality for users.

One thing that remains constant is our strong emphasis on intensifying negotiations with the EU regarding membership status. To attract more investments, we need further economic integration with the EU market. More specifically, Western Balkan countries, including Serbia, should continue working on structural reforms and aligning their policies with the EU to boost competitiveness and secure a place in supply chains. We must always keep in mind that domestic companies also play a crucial role, and it is essential to push for both foreign and domestic investments to sustain the ecosystem. More private domestic investments are needed to close the gap.

I invite you to explore the White Book and enjoy the read. You can never have too much learning and dialogue.

Mike Michel
FIC President

FOREWORD EU

Dear reader,

It is with great pride that I was given the opportunity to write this foreword for the 2024 edition of the White Book, a cornerstone of dialogue and collaboration between Serbia and its vibrant community of foreign investors. This annual publication has, over the years, offered invaluable insights into the progress, potential and challenges of Serbia's business environment, providing a roadmap for improving the country's investment climate. Wonderfully researched, and underpinned by concrete experiences of leading investors in Serbia, this year's publication, addresses in a constructive manner a variety of regulatory issues which can hinder day-to-day company operations.

In this critical year, Serbia finds itself at a key juncture on its European path, with the potential to unlock unprecedented opportunities through deeper integration with the European Union (EU). The enlargement process has returned to the top of the EU's political agenda with a dedicated Commissioner for Enlargement in the next European Commission, instilling new life and momentum into Serbia's journey towards EU membership. This renewed focus offers a unique chance for Serbia to accelerate its reforms and deepen its engagement with the EU. An opportunity that cannot be missed.

With this in mind, I wish to underscore two key elements that will shape Serbia's future: its integration into the EU and the transformative impact of the EU Growth Plan for the Western Balkans.

EUROPEAN INTEGRATION: A PATHWAY TO SHARED PROSPERITY

Throughout history, Serbia has often been a frontier between worlds. Between Austro-Hungarian and Ottoman Empires. Between East and West. Between North and South. Serbia's future, today more than ever, lies firmly within a common European family. It lies between the countries that share a common history and aim at forging together a common European destiny.

The enlargement process has regained prominence on the EU's political agenda. This renewed momentum is a golden opportunity for Serbia to accelerate its reforms and deepen its engagement with the EU.

It is my firm belief that Serbia's EU accession path is more than a geopolitical project - it is a vision for shared prosperity and stability. As we look to the future, the EU remains steadfast in its commitment to supporting Serbia to reach its final destination. Serbia's progress toward EU membership represents not just a convergence of standards but a deeper alignment of values and ideas. The EU has always seen Serbia as part of the European family, and its continued progress on the path to EU membership will open new doors for trade, investment, and economic growth.

The accession process also ensures that Serbia's businesses will be able to compete and succeed within the largest single market in the world - a market that encompasses over 450 million consumers – for the benefit of all Serbian citizens. Businesses will be able to thrive in a more open, competitive, and innovative environment and consumers will benefit from wider choice and lower prices of goods and services they purchase. The EU is not just Serbia's largest investor and trading partner; it is the key partner in shaping the future of the Serbian economy.

THE EU GROWTH PLAN: A CATALYST FOR ECONOMIC REFORM AND INVESTMENT

One year ago, the EU launched the EUR 6 billion Growth Plan for the Western Balkans, a strategic initiative designed to boost economic growth and foster closer market integration within the region and of the region with the EU Single Market. Our shared efforts are already showing results.

Today, the Growth Plan is no longer a draft. It is a reality, a reality that Serbia will soon start implementing. On October 3, 2024, the Serbian government adopted its Reform Agenda, outlining strategic reforms across key sectors. These include improving the business environment, boosting private sector development, enhancing digitalization, supporting green energy transitions, but also advancing in fundamental reforms including the rule of law and the fight against corruption - without which further economic progress could be at risk. The Growth Plan, with its considerable financial support, offers a unique opportunity to further align Serbia's economy with EU standards, strengthening its competitiveness globally and expediting Serbia's accession process. The principle behind the Growth Plan is simple: every reform will unlock new funding. The very same principle as the EU applied to its own Member States with the Recovery and Resilience Facility for post-COVID 19 economic recovery.

By focusing on critical reform areas and advancing firmly in their implementation over the next three years, Serbia has the potential to position itself as a regional leader in growth, innovation, and economic resilience.

The opportunities offered by the Growth Plan represent more than financial support - it is a true partnership. Through the Growth Plan, Serbia can take bolder and faster steps to strengthen its business environment and attract greater levels of foreign investment. The reforms Serbia committed to in its Reform Agenda, particularly in areas such as the rule of law, transparency, and governance, are essential to unlocking the full potential of these investments and ensuring that businesses operating here can thrive in a more stable, predictable and fair environment.

With the Growth Plan, we aim to show Serbia and our Western Balkan partners the direct economic benefits of EU membership - benefits they can start experiencing even before officially joining. One key example is integration into the Single Euro Payments Area (SEPA), which is projected to save over half a billion euros annually in remittance fees alone. For businesses, the impact is even more striking. The cost of business to business transfers from Germany to Serbia will drop from EUR 35 to just EUR 2.50 – a 14-fold reduction in fees! Another tangible benefit is the creation of "Green Lanes" at border crossings with the EU. These lanes will significantly cut down waiting times, reducing both export and import costs for businesses. The recently signed MoU between Hungary and Serbia is a concrete step in expanding the Green Lanes. Digital transformation is also a priority, with initiatives like Wi-Fi for the Western Balkans (Wi-Fi4WB) and the extension of the EU Digital Wallet, aimed at boosting connectivity and competitiveness across the region. The interoperability of the digital wallet will make it easier for businesses to operate with EU companies, enhancing trust and lowering trade barriers. These are benefits people will feel right away – clear evidence of how integration into the EU can improve daily life, even before full membership is achieved.

The Growth Plan does not come in a vacuum, to the contrary. It builds upon the EUR 30 billion Economic and Investment Plan for the Western Balkans mobilising close to one third of the entire region's GDP. This means that we are raising the financial support to a level that is going to be close to what EU Member States benefitting from EU's own Cohesion policy receive. This is a huge step forward. Why is this important? Because like this we are creating more opportunities for Serbian citizens and businesses, investing in Serbia's economic development and prosperity and supporting the reforms needed on Serbia's EU path to full membership.

LOOKING FORWARD

As the White Book so clearly demonstrates, the journey toward a better business environment is not one taken in isolation. It requires collaboration, dialogue, and a shared vision for the future. Serbia has shown great ambition in embracing this journey, and the EU stands ready to support every step of the way.

I would like to thank once more the Foreign Investors Council (FIC) for being such a crucial partner in Serbia's economic transformation, providing the insights, expertise, and support needed to foster a stronger, more resilient economy. I am confident that with the FIC and all the friends of Serbia, we will continue to build a future of growth, opportunity, and prosperity.

I invite all stakeholders - investors, entrepreneurs, and policymakers – to seize the opportunities presented and to work together in shaping a future where Serbia's full potential as a member of the European family is realized.

Sincerely,

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

FIC INDEX FOR 2024

TABLE 1: RANKING BY PROGRESS IN IMPLEMENTING RECOMMENDATIONS IN 2024

Rating in 2024		Average score in 2024	Average score in 2023	Change of scores in 2024	Significant progress 2024	Certain progress 2024	No progress 2024	Average time of delayed recommendations 2024	Rating in 2023
Sectors									
1	Energy Sector	2.63	2.30	0.33	5	3	0	4.5	1
2	Digitalization	2.29	1.83	0.45	3	3	1	2.7	8
3	Protection of users of financial services	2.00	2.11	-0.11	3	4	3	3.5	2
4	Public Procurement	2.00	1.33	0.67	0	3	0	5.0	20
5	Capital market trends	2.00	1.60	0.40	1	3	1	5.8	14
6	Protection of Competition	2.00	1.38	0.63	3	3	3	7.3	17
7	Pharmaceutical Industry	1.70	1.64	0.06	3	8	9	5.6	13
8	Central registry of real owners	1.67	1.33	0.33	1	0	2	3.0	19
9	Telecommunications	1.67	1.79	-0.12	3	2	7	3.2	10
10	Labour: Employment of Foreign Nationals	1.67	2.00	-0.33	1	0	2	6.7	6
11	Consumer protection	1.67	2.00	-0.33	0	2	1	7.6	7
12	Taxes: Fiscalization and Electronic Invoicing	1.63	2.00	-0.38	2	1	5	1.5	3
13	Trade	1.60	1.67	-0.07	0	3	2	1.0	12
14	Environmental Regulations	1.55	1.25	0.30	1	4	6	2.1	25
15	State Aid	1.50	1.71	-0.21	0	1	1	3.0	11
16	Prevention of money laundering	1.40	1.50	-0.10	0	2	3	7.6	15
17	Law on payment Services	1.33	1.40	-0.07	0	2	4	2.2	16
18	Real estate: Construction land and development	1.33	1.33	0.00	0	2	4	2.3	21
19	Foreign exchange operations	1.33	1.33	0.00	1	1	7	5.9	18
20	Real estate: Restitution	1.33	1.33	0.00	0	1	2	7.0	23
21	Labour: Law on Vocational Rehabilitation and Employment of Persons with Disabilities	1.33	1.00	0.33	0	1	2	12.7	56
22	Illicit Trade and Inspection Control	1.29	2.00	-0.71	0	2	5	3.4	4
23	Law on Bankruptcy	1.25	1.00	0.25	1	0	7	5.6	37
24	Real Estate: Cadastral procedures	1.23	1.82	-0.59	0	3	10	2.7	9
25	Private Security Industry	1.22	1.20	0.02	0	2	7	4.7	31
26	Customs	1.20	2.00	-0.80	0	1	4	5.2	5
27	Industry of Crude Oil, Gas and Petroleum Products	1.14	1.00	0.14	0	1	6	2.6	38
28	Labour - Dual Education	1.14	1.14	0.00	0	1	6	4.1	32
29	Taxes: Personal Income Tax	1.11	1.20	-0.09	0	1	8	6.0	28
30	Public-Private Partnerships	1.08	1.08	0.00	0	1	11	5.7	34
31	Taxes: Value Added Tax	1.08	1.00	0.08	0	1	11	7.6	47

Rating in 2024		Average score in 2024	Average score in 2023	Change of scores in 2024	Significant progress 2024	Certain progress 2024	No progress 2024	Average time of delayed recommendations 2024	Rating in 2023
Sectors									
32	Law on Personal Data Protection	1.07	1.00	0.07	0	1	13	3.6	45
33	Mining and Geological Research	1.00	NA	NA	0	0	10	1.0	NA
34	Insurance	1.00	1.25	-0.25	0	0	27	1.8	26
35	Tourism & Hospitality	1.00	1.00	0.00	0	0	6	2.0	58
36	Labour: Health and Safety at Work	1.00	1.33	-0.33	0	0	6	2.3	24
37	Intellectual Property	1.00	1.14	-0.14	0	0	7	3.9	33
38	Labour: Staff Leasing	1.00	1.00	0.00	0	0	3	4.0	44
39	Labour: Labour Law	1.00	1.20	-0.20	0	0	11	4.5	30
40	Food & Agriculture: Quality and Labelling of Food Products	1.00	1.00	0.00	0	0	4	5.3	35
41	Food & Agriculture: Food and Food Contact Material Inspections	1.00	1.00	0.00	0	0	4	6.0	48
42	Company Law	1.00	1.00	0.00	0	0	8	6.1	40
43	Food & Agriculture: Food Safety Law	1.00	1.00	0.00	0	0	7	6.3	41
44	Tax: Tax Procedure	1.00	1.00	0.00	0	0	12	6.3	42
45	Arbitration Proceedings	1.00	1.00	0.00	0	0	4	6.5	36
46	Taxes: Property Tax	1.00	1.20	-0.20	0	0	5	6.8	29
47	Judicial Proceedings	1.00	1.00	0.00	0	0	7	7.0	46
48	Leasing	1.00	1.20	-0.20	0	0	7	7.3	27
49	Labour: Secondment of Employees Abroad	1.00	1.00	0.00	0	0	3	7.3	50
50	Real estate: Mortgages and real estate financial leasing	1.00	1.00	0.00	0	0	4	7.5	55
51	Labour: Human Capital	1.00	1.33	-0.33	0	0	6	7.7	22
52	Taxes: Corporate Income Tax	1.00	1.00	0.00	0	0	9	8.2	57
53	Law on Whistleblowers	1.00	1.00	0.00	0	0	3	8.3	52
54	Central Register of Temporary Restriction of Rights	1.00	1.00	0.00	0	0	2	8.5	54
55	Tax: Parafiscal Charges	1.00	1.00	0.00	0	0	6	8.7	43
AVERAGE/TOTAL		**1.30**	**1.36**	**-0.06**	**28**	**63**	**314**	**5.2**	
Areas									
	Real Estate	1.23	1.48	-0.25	0	6	20	4.9	
	Food and agriculture	1.00	1.00	0.00	0	0	15	5.9	
	Taxes	1.10	1.29	-0.19	2	3	56	6.4	
	Labour	1.09	1.27	-0.18	1	2	39	7.0	

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 "Pillars 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.

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 chapter of the White Book, beside the label, has the score of that chapter. Additional to individual sectors, there are 4 cross-cutting areas: Real Estate and Construction, Food and Agriculture, Labour Regulations and Taxes. 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 2024 report, we presented 61 topics with 451 recommendations. In the previous year, our coverage included 58 topics with 397 recommendations. The average score for fulfilling the recommendations published in 2023 is 1.30, and the previous year it was 1.36. While the number of recommendations has grown, the average rating has seen a slight decrease. Additionally, the average waiting time has also extended by 0.7 years (last year it was 4.50 years, and this year it reached 5,2 years).

FIC OVERVIEW

The Foreign Investors Council (FIC) has been a reliable partner to the business community and the broader public, including government authorities, for more than 20 years in creating a favorable business and investment environment in Serbia. The FIC's story began in July 2002 when 14 companies joined forces, with the support of the OECD, aiming to improve the business climate, ethics, and competitiveness of the Serbian economy.

For a full 22 years, the FIC has been dedicated to enhancing the business and investment environment that enables the development of Serbia's economic potential, achieving tangible results in the process. We proudly emphasize that our member companies, through their collaboration with local enterprises as key suppliers, help Serbian businesses integrate into global supply chains and connect with European and global economic flows. This partnership provides Serbian companies, especially small and medium-sized enterprises, with insights into the latest technological and organizational solutions, enhancing their competitiveness.

In times of economic uncertainty, the role of our business organization becomes even more significant. Our members, as global companies, generously share their experiences and suggestions for overcoming challenges. The spirit of unity, the exchange of knowledge, and strengthening mutual trust are key factors that enable us to face challenges and emerge either unscathed or even stronger.

Long-term planning is a significant aspect of the FIC's work, as well as the business of our members. A clear commitment to the Serbian economy is a crucial prerequisite for achieving consistent and significant growth. One year after its founding, our members had invested a total of 150 million euros and employed 3,160 people. Today, the FIC has around 120 members who have collectively invested over EUR 45 billion in Serbia, directly employing around 116,000 Serbian citizens. The "White Book" before you is a clear indicator of the continuity of our work. Since 2003, our members have diligently analyzed business conditions in numerous sectors, relying on recommendations from the previous year, assessing the level of implementation of the FIC's recommendations, and simultaneously looking forward to align the Serbian economy with emerging trends. We pay special attention to our relationships with key stakeholders in improving the business environment in Serbia and proudly highlight that we are the only business association with an institutional framework for cooperation with the Government of Serbia through the Working Group for the implementation of "White Book" recommendations. The European Investment Bank and the European Bank for Reconstruction and Development are permanent institutional members of the FIC and our Board of Directors, and we are committed to building relationships with other partners.

GREEN AND DIGITAL TRANSITION

The Foreign Investors Council is dedicated to finding the best solutions for Serbia regarding the green and digital transition that is already underway globally. We firmly believe that accelerating digital transformation and committing to environmental sustainability are prerequisites for Serbia's economy to reach its full potential.

We are proud of the results achieved through our digital transition initiatives. FIC members were the initiators of the digitization of promissory notes, the introduction of video identification and cloud-based signatures, and numerous other solutions that have already simplified business operations and improved working conditions. In cooperation with the National Bank of Serbia, we will continue our years-long work on digitalization solutions. Our main goal is to achieve "paperless work," accelerate digital transformation across society, and transform various business sectors. These processes have long been a focus of our efforts, and the COVID-19 pandemic has only accelerated them. In 2024, the FIC organized the second Financial Services Conference, where the main topics were digital solutions and financing green initiatives. We view such events as important opportunities for open discussions and charting future directions.

Environmental protection, social responsibility, and conscientious corporate governance (ESG) as well as green and digital transformation of business and society as a whole are deeply rooted topics in our work. In the EU and other economies from which our members originate, companies already have clear obligations regarding these issues. Their experience and expertise can be highly valuable in establishing these standards in Serbia and aligning with international ESG standards, and green and digital transition, but also finding practical solutions, business integration and regulatory frameworks related to the use of generative AI. We have also initiated discussions on regenerative agriculture and its innovative approach that helps restore and preserve natural resources and combat climate change while increasing agricultural productivity and ensuring sustaina-

ble food production for future generations. For companies within supply chains, this topic is important for adapting to new regulations, recommendations, and best practices in the EU.

COMMITTEES AS THE CORE OF OUR WORK

Committees form the core of our work, involving experts interested in the specific areas that each committee covers. The committees are the heart of the Council's operations, as they facilitate the exchange of knowledge and viewpoints, conduct policy and regulation analyses, and develop proposals to improve regulations, thereby enhancing the business and investment climate. This is also a dynamic system that aligns with the circumstances, needs, and priorities of our members. The Foreign Investors Council has nine working committees: the Committee on Combatting Illicit Trade and Food, the Financial Services Committee, the Human Resources Committee, the Infrastructure and Construction Committee, the Legal Committee, the Pharmaceutical Industry Committee, the Tax Committee, the Telecommunications and Digital Economy Committee, and the Tourism and Hospitality Committee.

CORE PRINCIPLES – GUARANTEE OF STABILITY AND SUCCESS

Since its founding in 2002, the Foreign Investors Council has evolved, adapted to circumstances, and anticipated upcoming changes. However, our core principles have remained unchanged, withstanding the test of time and maintaining the stability and continuity of our work. Our fundamental principles are independence, expertise, best practices, collaboration, and European integration.

INDEPENDENCE

The Foreign Investors Council represents the voice of the business community, advocating for the general interests of businesses. To fulfill this mission, independence and self-sustainability are essential, forming the foundation of our organization. A two-tier decision-making process ensures equal participation among members. The initial decisions are made within the working committees, with all interested members participating equally, aiming for consensus rather than simple majority voting. In the second step, the Council's Board of Directors reviews and decides on the proposed decisions from the working committees.

EXPERTISE

The FIC's greatest asset is the knowledge and expertise that our members generously share to improve the business climate in Serbia, ultimately leading to the economic prosperity of society. The "White Book" before you is the result of immense effort, professional knowledge, practical experience, and dedication from our members. Written by the members themselves, the "White Book" is a unique project and our main platform for dialogue on improving regulations and the business climate. It has also become a significant information source for the European Commission in preparing its annual Report on Serbia's progress toward EU membership. We have developed a unique, objective methodology for measuring progress in implementing the "White Book" recommendations, known as the "White Book Index," which ranks progress across all focus areas based on the fulfillment of previous recommendations. The criteria also include the time elapsed from the initial recommendation to its adoption, highlighting the pace of improvements in the business climate, which can significantly impact investment decisions.

BEST PRACTICES

Our members do not only bring investments and new jobs to Serbia but also high ethical standards, business ethics, sustainability concepts, and the application of new technologies. The FIC has continued its dedicated work in 2024, focusing on enhancing digitalization, environmental protection principles, social responsibility, and conscientious corporate governance. We proudly state that our members are good employers, committed to the well-being of their employees and the local community through various socially responsible projects. Regarding our commitment to the green agenda and waste management, our members are carbon-neutral, in line with the policies of their parent companies, mostly based in the EU.

COLLABORATION

Dialogue with all stakeholders interested in Serbia's economy is the backbone of our work to improve the business environment. Since its founding, the FIC has been open to joint initiatives and projects with the state, the EU, diplomatic circles, international financial institutions, development agencies, the academic community, and other business associations. We proudly emphasize our institutional

framework for collaboration with the Government of Serbia, known as the Working Group for Enhancing and Implementing "White Book" Recommendations, aimed at facilitating the effective and successful implementation of these recommendations.

EUROPEAN INTEGRATION

The Foreign Investors Council believes that intensifying the negotiations for Serbia's EU membership and harmonizing domestic regulations with European standards are key priorities. Although Serbia, as a candidate for EU membership, is not institutionally integrated into the EU, its economy is closely connected with the EU's economy. We believe there is no doubt that Serbia should continue moving towards the EU. We are aware that European integration is a long and challenging process and that moments of crisis and challenges may test the country's resolve to stay on this path. However, we strongly believe that this is the only path that will bring greater prosperity to Serbia in economic and social terms, opening new opportunities. The FIC can significantly contribute to Serbia's European integration efforts and actively advocates for harmonizing Serbian legislation with EU regulations. Around 75% of our members are from the EU, while most others operate in the European market. The strong European context of our activities is also evident in our partnership with the European Commission, the European Investment Bank (EIB), and the European Bank for Reconstruction and Development (EBRD).

EXECUTIVE OFFICE

The backbone of all our activities is the FIC's Executive Office. We are grateful to our small and efficient team that supports our initiatives, projects, and public appearances, and stands behind our events and successes. The Executive Office is responsible for implementing the FIC's decisions, enhancing collaboration among members, and communicating with the FIC's partners and collaborators. Thanks to the team's efficiency, knowledge, and dedication, the office significantly contributes to our complex but proven successful mechanism.

Key characteristics and values of FIC

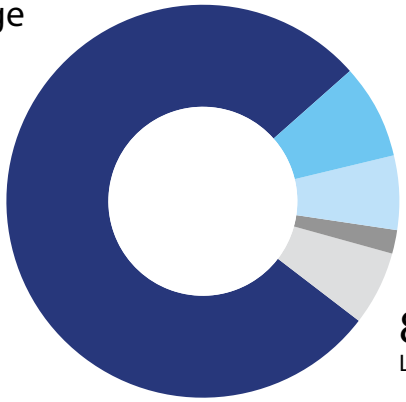
Independence	Regulatory expertise	Consistency
Best Practices	EU promotion	Cooperation

Key FIC figures

22 years since establishment

118 members from **23** sectors

Geo coverage



- 74% Europe
- 9% USA
- 7% Rest of the world
- 2% Local companies
- 8% Law offices

> €45 bil. of investments by FIC members in Serbia

>116,000 directly employed by FIC members in Serbia

White Book 2024 in numbers

CORPORATE SUSTAINABILITY MANIFESTO

ESG—referring to the risks, impacts, and opportunities related to environmental, social, and governance factors—has been increasingly embraced by companies and investors in recent years. This growing focus underscores the corporate sector's role in advancing sustainable development.

Significant regulatory initiatives at the local, European, and global levels aim to reshape market dynamics by focusing on reducing negative impacts on the environment and people. Many of the current binding regulations stem from long-established best practices and voluntary standards that have been widely followed for years. As a result, companies that were early adopters can now leverage their prior experience, but they must remain aware of the evolving landscape, which demands continuous advancement.

A wide range of public policies addressing sustainable finance, the circular economy, supply chain responsibility, and climate action—whether already in place or under development—are imposing stricter requirements on companies, especially those operating in the European market. Some of these regulatory efforts aim to shape capital and credit markets by integrating more stringent assessments of Principal Adverse Impacts into investment and lending decisions. As regulatory frameworks continue to evolve and sustainability expectations intensify, the share of financing directly linked to ESG performance metrics and targets is expected to grow significantly in the coming years, increasing the pressure on companies to strengthen their ESG practices.

EU regulators are also pushing companies to enhance their ESG disclosures for the benefit of investors and other stakeholders. The EU Directive on Corporate Sustainability Due Diligence (CSDDD) seeks to promote sustainable and responsible corporate behavior throughout entire value chains, embedding human rights and environmental considerations into companies' operations and governance. Meanwhile, the EU Corporate Sustainability Reporting Directive (CSRD) introduces comprehensive European Sustainability Reporting Standards (ESRS), aimed at improving the overall quality of disclosed ESG information. In Serbia, the practice of voluntary ESG disclosure, led by business leaders, is supported by mandatory non-financial reporting requirements under the Law on Accounting, which applies to large companies with over 500 employees. However, it's important to view non-financial/ESG reporting as a chance to enhance transparency, and strengthen relationships with stakeholders while helping companies to identify risks and opportunities and guide their sustainability strategies.

The shifting business landscape underscores the need for outstanding leaders and skilled professionals who can navigate the complexities of sustainability. This demand requires a combination of technical expertise and the ability to manage transformative change while recognizing the importance of ESG governance. To achieve a truly sustainable future, it is essential to address social challenges alongside environmental and climate change issues, recognizing their interdependence. These three dimensions of sustainability are deeply interconnected; neglecting one can undermine progress in the others. Therefore, a comprehensive approach that simultaneously tackles environmental, social, and economic issues is a recipe for fostering a balanced and enduring business and societal transformation.

While it's conventional to link ESG with risks, it is important to note that there also exist a multitude of opportunities—in innovation, the creation of green jobs, and the development of sustainable technologies. Embracing these opportunities can lead to new business models and practices that not only support environmental sustainability but also drive economic growth, enhance competitiveness, and contribute to social well-being. By focusing on these positive aspects, companies can position themselves as leaders in the transition to a more sustainable economy.

OUR COMMITMENTS

We believe that businesses can play a leading role in fostering economic growth while promoting social inclusion and cohesion, as well as protecting the environment. To this end, we remain committed to:

- Supporting the development of public policy frameworks that enhance and encourage sustainable and responsible business practices.

- Establishing and promoting multi-stakeholder and cross-sector dialogue to address pressing economic, social, and environmental challenges.
- Setting an example of good corporate governance and transparency by promoting and practicing transparent reporting on social and environmental impacts, in line with the best global practices.

INVESTMENT AND BUSINESS CLIMATE

THE PERFORMANCE OF PROSPERITY

The purpose of economic activity is to achieve the highest possible prosperity embodied in the standard of living. This is achieved by improving competitiveness, i.e. productivity with which we use all available resources. The indicator of the level of prosperity is GDPpc expressed through purchasing power parity (ppp) – GDPpc ppp.

We start this analysis of the investment and business climate with Figure 1, which shows the achieved levels of prosperity (through GDPpc ppp in 2023) on the vertical axis and the pace of prosperity improvement (expressed through GDPpc ppp growth rates in the 9-year period 2015-23 based on IMF data) on the horizontal axis.

As expected, the more developed economies of the EU (blue squares) achieve a relatively lower growth rate than the countries of Central Europe and the Baltics (green triangles) and the countries of the Western Balkans (red circles).

The countries of the Western Balkans achieve a lower level of GDPpc ppp than the world average, with Montenegro at the level of the average and Serbia slightly below it.

Between 2014 and 2023, Serbia narrowed its relative gap with the EU and Germany. Today, Serbia's prosperity is 56% in the EU and about 40% in Germany (the levels in 2014 were 40% and 30%, respectively).

GLOBAL ECONOMIC DEVELOPMENTS AND PROJECTIONS

After the end of the pandemic (2020-21) and during the war in Ukraine (which began in February 2022), the world economy showed greater resilience than expected to the strong negative shocks to which it was exposed.

The rise in global inflation began in mid-2021 during the recovery from the pandemic and especially gained intensity in early 2022 after the outbreak of the war in Ukraine with a sharp rise in energy prices and drought (rising food prices). These developments have led to a change in the nature of economic policies, with restrictive measures being introduced to curb and then bring down inflation. The desired outcome was the so-called Soft-lending, i.e. bringing down inflation without a recession (as opposed to unwanted hard-lending, i.e. bringing down inflation with a recession - a fall in GDP and an increase in unemployment).

The outbreak of war in the Middle East has deepened the global crisis, opening up new risks and requiring the utmost caution. In addition, modest productivity growth and increased geopolitical fragmentation, especially protectionism, adversely affect global economic activity.

In 2024, the global economy is recovering faster than expected, but there are still major risks related to possible increases in global commodity prices, geopolitical tensions, economic fragmentation, and protectionism, all

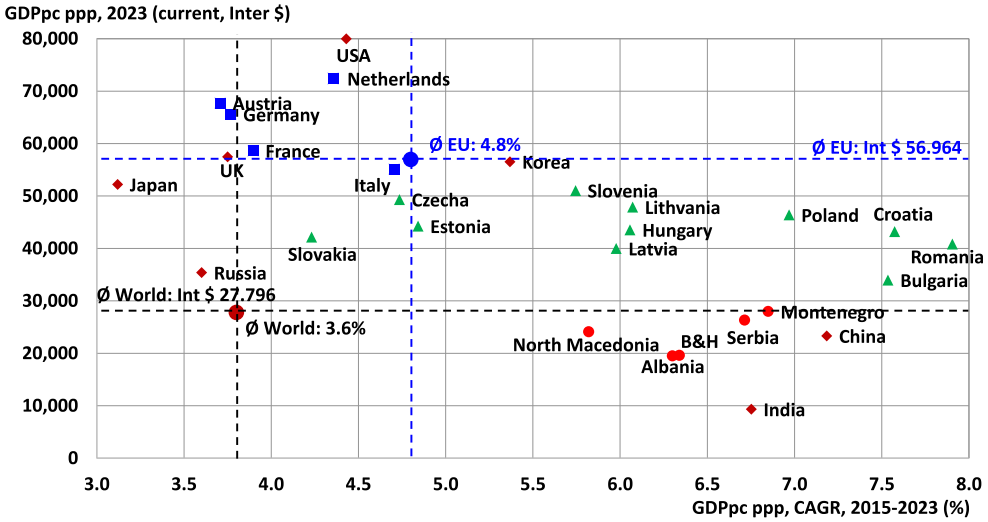


FIGURE 1.
ECONOMIC GROWTH IN THE US AND THE EU

Source: IMF, WEO April 2024

	2018	2019	2020	2021	2022	2023	2024*	2025*
World	**3.6**	**2.8**	**-3.2**	**6.1**	**3.4**	**3.3**	**3.2**	**3.2**
USA	2.9	2.2	-3.5	5.7	2.1	2.9	2.8	2.2
Eurozone	**1.9**	**1.3**	**-6.5**	**5.3**	**3.5**	**0.4**	**0.8**	**1.2**
Germany	1.5	0.6	-4.8	2.8	1.8	-0.3	0.0	0.8
Italy	0.9	0.3	-8.9	6.6	3.7	0.7	0.7	0.8
France	1.7	1.5	-8.0	7.0	2.6	1.1	1.1	1.1
European PUU[1]	**3.1**	**2.1**	**-2.0**	**6.7**	**0.8**	**3.3**	**3.2**	**2.2**
Russia	2.3	1.3	-3.0	4.7	-2.1	3.6	3.6	1.3
China	6.6	6.1	2.3	8.1	3.0	5.2	4.8	4.5
Serbia	**4.5**	**4.3**	**-0.9**	**7.7**	**2.5**	**2.5**	**3.9**	**4.1**

TABLE 1.
GDP RATES OF GROWTH WITH PROJECTIONS

Source: IMF, WEO, October 2024.
* Projection.
[1] PUU – emerging markets.

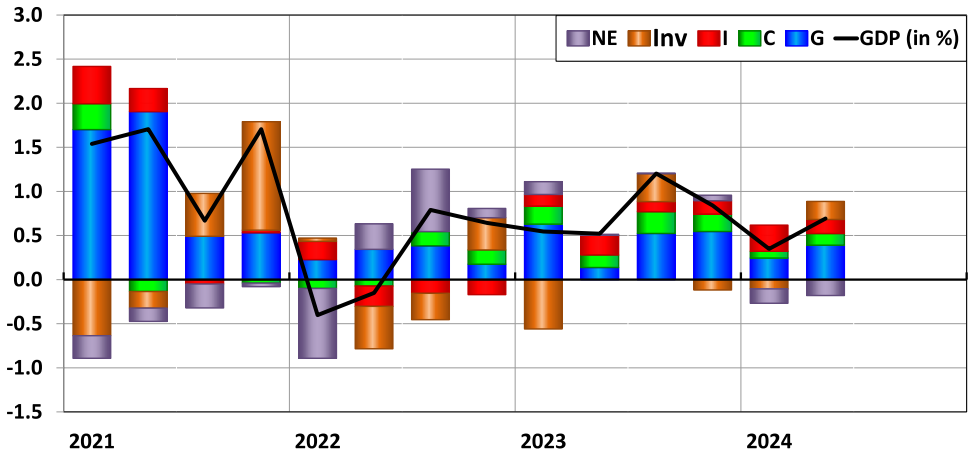


FIGURE 2.
CONTRIBUTION TO THE GDP GROWTH IN THE USA(PP)

Source: NBS, IoI, August 2024, p. 49.

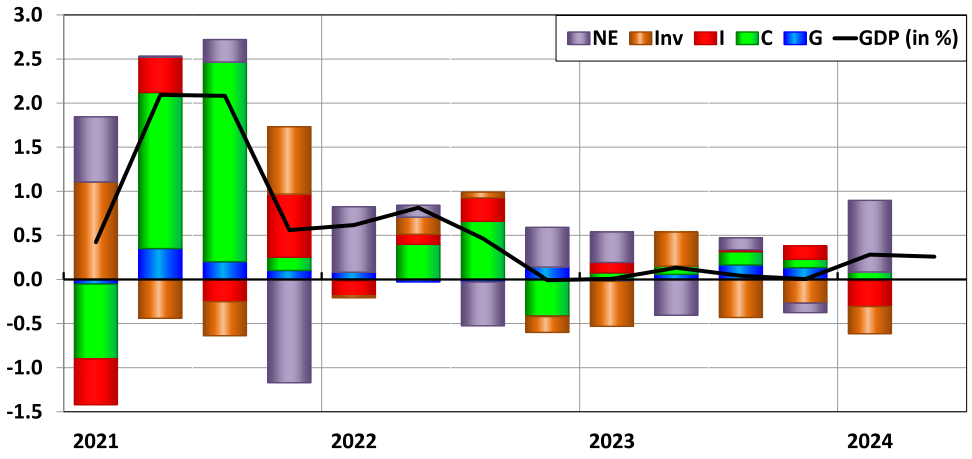


FIGURE 3.
CONTRIBUTIONS TO THE GDP GROWTH EURO AREA(PP)

Source: NBS, IoI, August, 2024, p. 48.

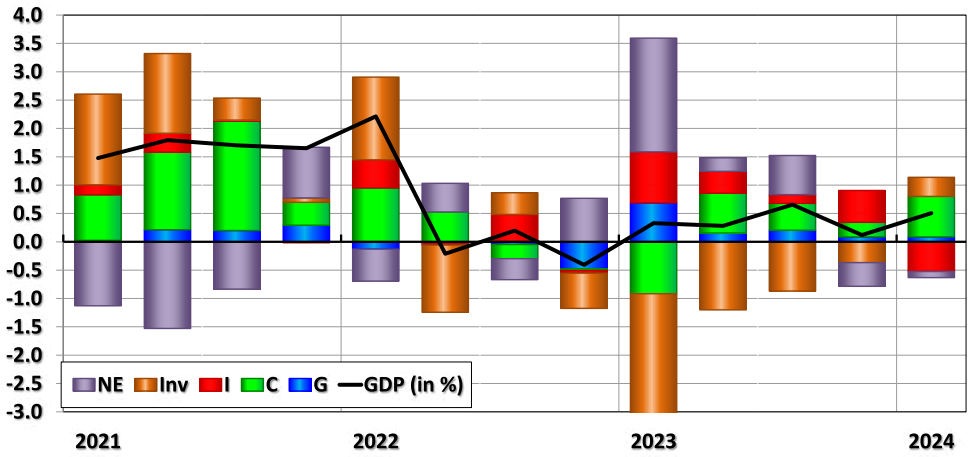


FIGURE 4.
CONTRIBUTIONS TO THE GDP GROWTH CESEE REGION *(PP)

Source: NBS, IoI, August 2024, p. 49.
* CIJIE -Bulgaria, Czech, Croatia, Hungary, Poland, Romania, Slovenia& Slovakia.

of which are reflected in weaker productivity growth. The IMF (2024) has projected that the world economy's growth will continue in the next two years (3.2%) with an increased likelihood of soft lending. This growth is below the long-term annual average (which was 3.8% in 2000-19).

From Table 1. The U.S. grew in 2023 on the basis of an increase in all components of GDP, except inventories. In IQ24, the U.S. also recorded a solid pace of growth, driven by continued growth in household consumption, fixed capital formation and growth in household consumption based on employment and wage growth (Figure 2). In September 2024, the Fed began the process of cutting the federal fund rate by 50bp, to 4.75-5%.

	2023	2024*	2025*
Poland	0.2	3.0	3.5
Czech	-0.1	1.1	2.3
Hungary	-0.9	1.5	2.9
Romania	2.1	1.9	3.3
Slovakia	1.6	2.2	1.9
Slovenia	2.1	1.5	2.6
Croatia	3.1	3.4	2.9
Bulgaria	1.8	2.3	2.5
Albania	3.5	3.3	3.4
BiH	1.7	2.5	3.0
North Maced	1.0	2.2	3.6
Montenegro	6.0	3.7	3.7
Serbia	2.5	3.9	4.1

TABLE 2.
GDP GROWTH PROJECTION

Sorce: IMF, WEO, October 2024. * Projection

The euro area is barely achieving positive growth rates while emerging markets in Europe are performing better (Figures 3 and 4).

The decline in the Eurozone is particularly pronounced in Germany and Italy, which are the most important markets in the EU for Serbia. According to IMF projections from April 2024, growth prospects in the Eurozone remain modest until 2025, while European PUU countries are expected to achieve growth around the global average (Table 2).

Economic growth in the Eurozone slowed at the end of 2023 and was slightly negative (-0.1% in IVQ23) as growth in consumption (both personal and public) and fixed capital formation was not enough to compensate for the decline in inventories and exports.

Given the negative trends in GDP dynamics, the ECB lowered the key policy rate by 25 bps to 3.50% each in June and September 2024. With the fall in interest rates, we can expect an intensification of investment and a restoration of growth in economies that had slowed growth or recession, and in other economies a gradual intensification of growth.

The pace of monetary policy easing varies from country to country. The fact that core inflation is declining more slowly than headline inflation indicates caution. The decline in inflation in the eurozone will be more gradual than previously expected. The ECB has been in a monetary easing cycle since June, while the Fed has been doing so since September.

When it comes to Serbia's most important trading partners in EU German's economy shrank by 0.5% in IVQ23, mainly

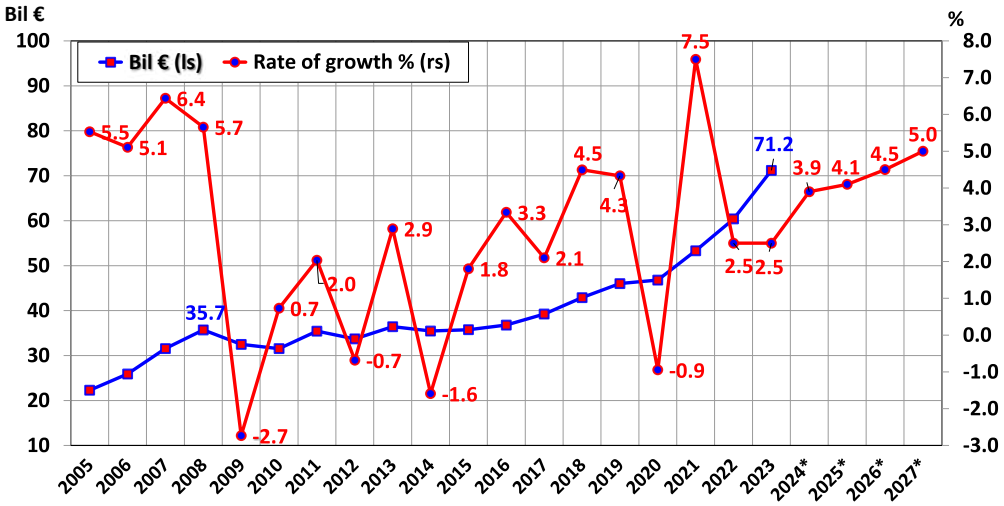


FIGURE 5.
SERBIAN GDP LEVEL AND RATE OF GROWTH

Source: IMF, WEO & NBS, IoI, August 2024, p. 80-81.

due to adecline in industrial production, Italy's economo grew by just 0.1% in the same quarter, driven by solid performance in services and construction.

In the region of Central and South-Eastern Europe in IVQ23, there was a slight increase in economic activity, based on the growth of fixed capital formation and household consumption, which was accompanied by a decrease in inventories and net exports.

ECONOMIC TRENDS IN SERBIA

Macroeconomic developments in Serbia in 2024 are characterized by two basic tendencies – first, accelerated GDP growth, and second, the return of the inflation rate to the target corridor.

In the post-pandemic period, the Serbia maintained positive growth rates and avoided a recession (Figure 5). In 2022 and 2023, annual growth of 2.5% was achieved and a GDP of over €71 billion was reached. According to IMF and NBS forecasts, Serbia will achieve GDP growth of around 3.9% in 2024, 4.1% in 2025 and 4.5% in 2026.

With GDP growth in the first two quarters of 2024 of 4.7% and 4.2%, respectively (with earlier growth of 3.6% and 3.8% in the last two quarters of 2023), Serbia ranks among the countries with the highest growth rates in Europe this year, exceeding the IMF forecast of average growth of the world economy in 2024 (3.2%).

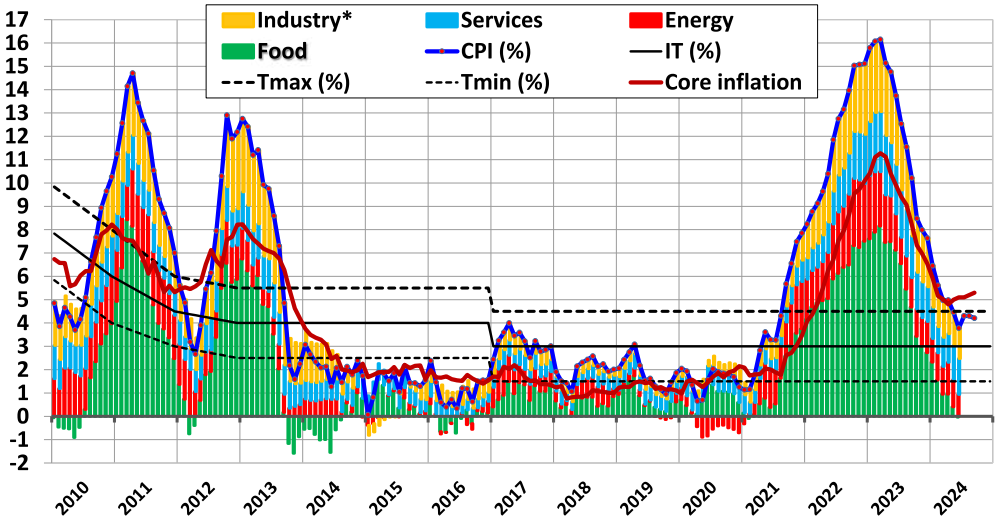


FIGURE 6.
CONTRIBUTION TO Y-O-Y CPI GROWTH – SERBIA(IN PP)

Source: NBS, IoI, August 2024, p. 13
* Industrial products without food and energy.

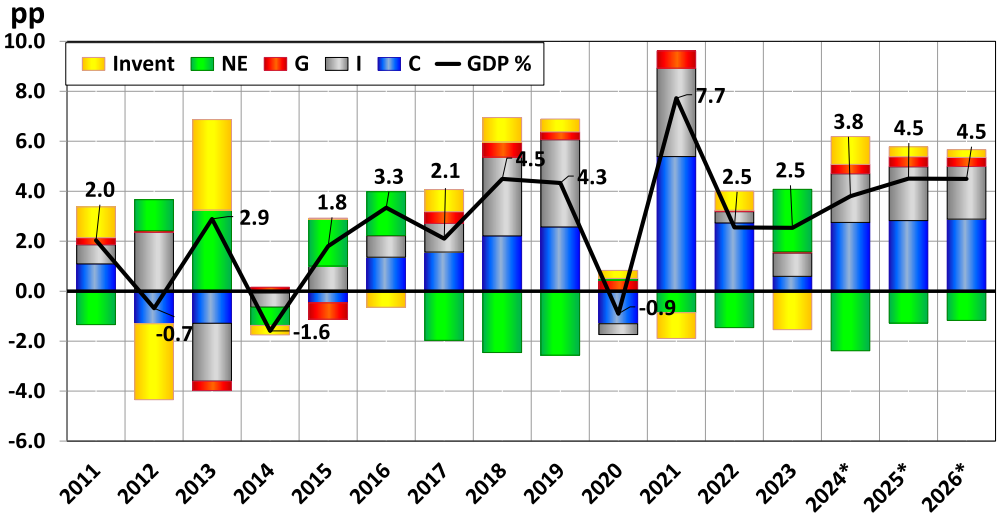


FIGURE 7.
CONTRIBUTION TO Y-O-Y SERBIAN GDP – EXPENDITURE (PP)

Source: IMF, WEO i NBS, IoI, August 2024, p. 61.
*NBS estimation

In the conditions of global fragmentation and recessionary tendencies in Serbia's main trading partners, this year's growth on the expenditure side is primarily driven by the growth of domestic demand, especially household consumption and investments in basic funds. The drivers of growth on the manufacturing side were services, especially ICT and trade, followed by construction and manufacturing. Of course, it remains to be seen what results will be achieved in the last quarter of 2024.

After peaking in March 2023 (16.2%), year-on-year inflation was sharply brought down by restrictive monetary policy measures and returned to 4.5% in May 2024, which meant a return to the target tolerance band (3±1.5%), with a tendency to hover around 4% by the end of the year, and gradually approaching the inflation target midpoint of 3% in 2025. Structurally (Figure 6), the key role in the process of bringing down inflation was played by the decline in food prices (green space) and energy (red surface), and part of the service (light blue surface).

In 2024. NBS will be in the process of easing monetary policy. First, it started with lowering the average repo rate, and than in June, July and September by lowering the key policy interest rate by 25bp each, so that was brought down from 6.5% to 5.75%. This has also translated into a moderate decline in interest rates on the dinar loans as well as euro-indexed loans.

The growth of the expenditure side of GDP in 2024 is driven

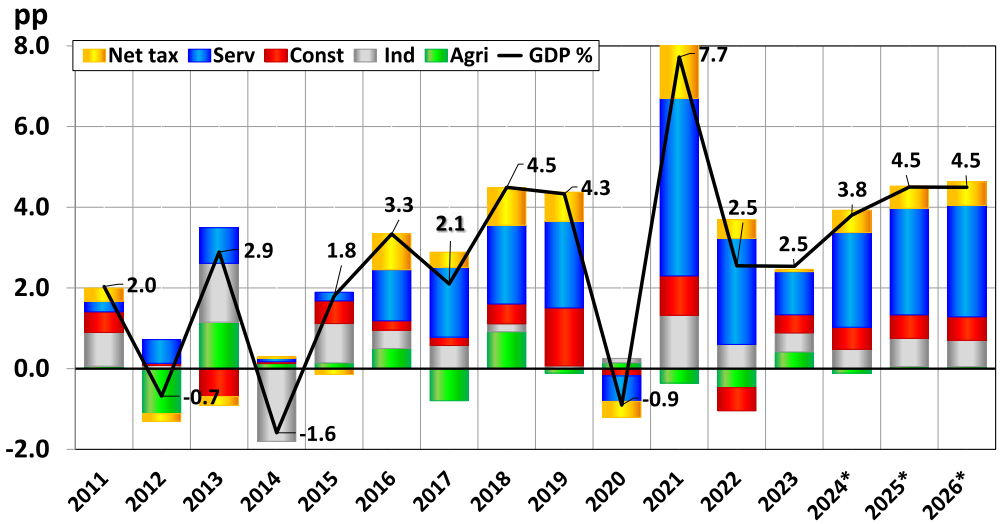


FIGURE 8.
CONTRIBUTION TO Y-O-Y SERBIAN GDP – PRODUCTION SIDE (PP)

Source: IMF, WEO i NBS, IoI, August 2024, p. 65.
*NBS estimation

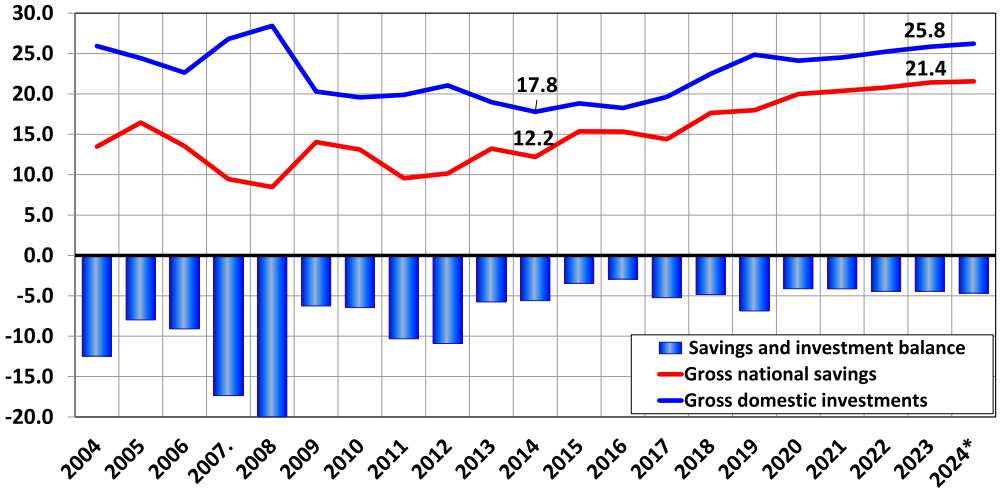


FIGURE 9.
SAVINGS AND INVESTMENT (% GDP)

Source: NBS, IoI, May 2024, p. 50.

by domestic demand (Figure 7), primarily household consumption (blue bars), which makes the largest contribution – its relative share is expected to increase from 2.4 pp to 2.9 pp, but investment growth is also expected (grey bars), while agriculture will decline. Public expenditure is also expected to grow from 0.4 pp to 0.5 pp, and private investment is expected to accelerate with a contribution of 1.1 pp. This growth in private consumption is linked to the growth in employment and wages, especially in the private sector (as a result of productivity growth).

On the production side (Figure 8), growth was driven by the service sector (blue bars), construction (red bars), and manufacturing (grey bars).

In terms of external demand, the year-on-year growth of exports in Serbia in IQ24 accelerated to 5.2% and imports to 4.5%. Investments in export-oriented sectors from previous years, along with the recovery of external demand, enable export growth. The growth of goods exports may be contributed by the manufacturing industry and a good agricultural season (which, unfortunately, was weak in 2024 due to drought), while the growth of ICT and business services, tourism, and air transport may contribute to the growth of exports of services. However, bearing in mind the need for planned investment activities in the coming period, it is realistic to expect a faster growth of imports compared to exports, which will increase the deficit of foreign trade.

In the next two years (2025. and 2026.) growth is expected to accelerate to 4.5%, primarily through the implementation of EXPO 2027. and other infrastructure projects, as well as the expected recovery of the euro area, which should stimulate external demand.

In recent years, there has been a significant increase in both investments (from 16% in 2014 to 23% in 2023) and national savings (from 12% to around 20%, respectively) but both of them are at an inadequate level (see Figure 9).

The contribution of fixed investments in underlying funds is increasing due to the high inflow of FDI and the preservation of investment confidence (Figure 10). Investments will

	2023			2024	
	IIQ	IIIQ	IVQ	IQ	IIQ
Real y-o-y growth rates in %					
Fixed investments	3.9	4.1	5.2	7.3	8.2*
Construction	14.8	13.0	7.4	14.2	10.0
Investment - government	7.2	10.0	12.0	5.0	8.0*
Construction permits - number	2.9	11.2	5.6	-3.8	38.1
Constr. material production	-10.8	3.5	-2.4	3.3	3.1
Value of construction works	17.6	15.9	11.1	17.8	10.3
Import of equipment	-20.5	-15.6	7.6	6.8	25.4
Domestic equipm. production	11.1	-2.4	-10.6	-17.9	-5.9

TABLE 3.
INVESTMENT MOVEMENT INDICATORS

Source: RZS and NBS calculation - *NBS estimation

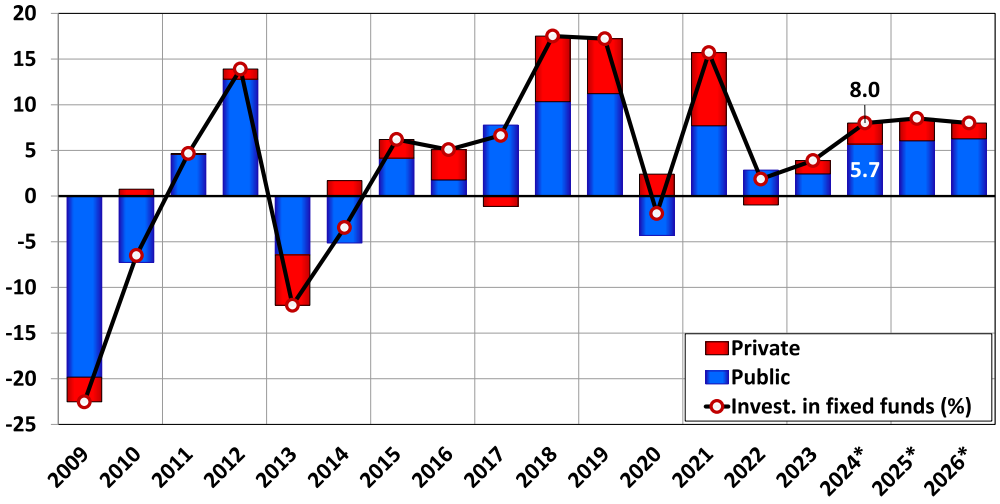


FIGURE 10.
BRUTO FIXED INVESTMENTS (IN PP)

Source: NBS, IoI, August 2024, p. 63
*estimation.

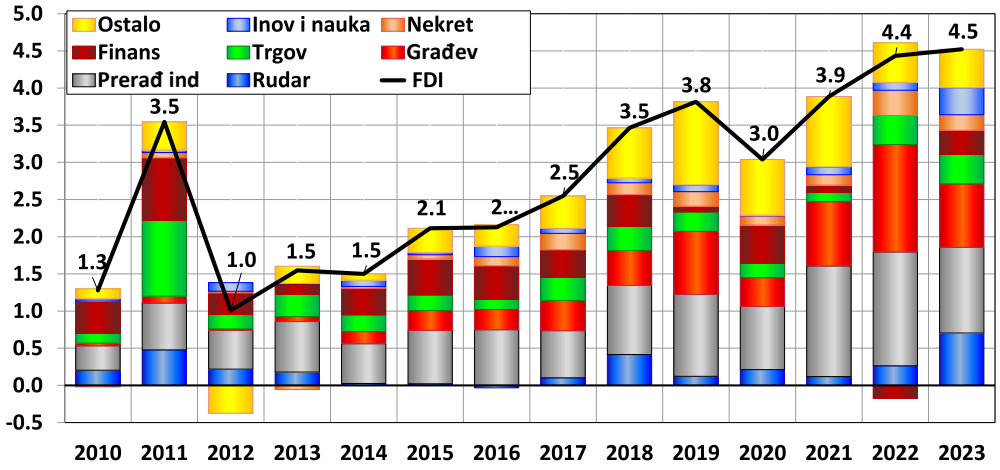


FIGURE 11.
FDI INFLOW IN SRBIA (BIL €)

Source: NBS

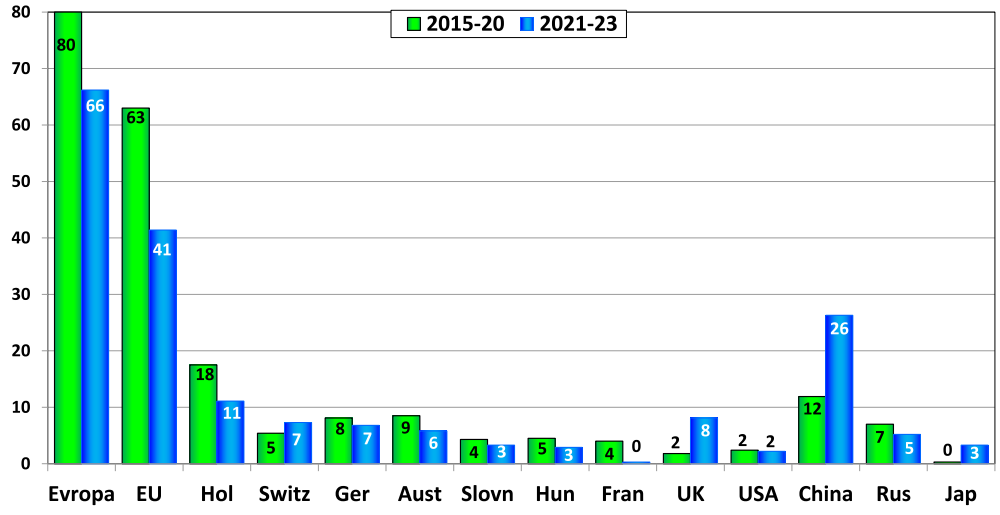


FIGURE 12.
FDI INFLOW IN SERBIA BY COUNTRIES (%)

Source: NBS

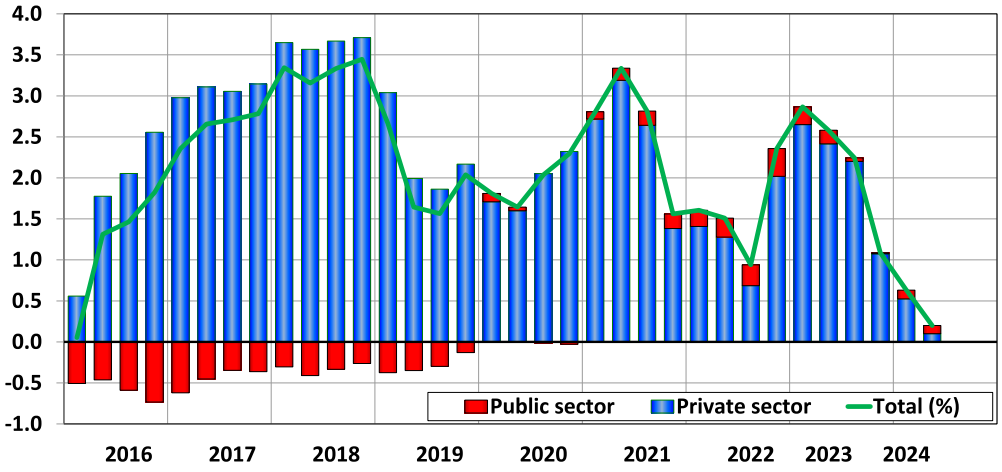


FIGURE 13.
Y-O-Y RATE OF GROWTH IN TOTAL FORMAL EMPLOYMENT (PP)

Source: RZS & NBS recalcutation, IoI, August 2024, p. 45

also grow due to more favorable financing conditions, the reduction of global inflationary pressures, and the implementation of projects in the fields of transport, energy, and communal infrastructure (Table 3). For successful development in the future, it is very important that in addition to FDI, the growth of domestic private investments is encouraged, which could significantly improve the flexibility of the Serbian economy but also expand supply chains within domestic clusters.

Despite global geopolitical tensions and fragmentation, the dynamics of private investment in IQ24 has been maintained. Investments are primarily financed from the company's previously realized profits, followed by the inflow of FDI and investment loans (1.8% y-o-y).

Net FDI inflows are expected to be around 5% of GDP while maintaining its high geographical and project spread. Most of this inflow will be directed to export-oriented sectors (Figure 11). The largest share of FDI still comes from the EU, but this share is declining – from 63% in 2015-20 to 41% in 2021-23 (Figure 12).

According to RZS data, the total number of formal employees slowed down from 1.1% in IVQ23 to 0.6% in IQ24 and reached a new record high of 2.37 million employees in March (Figures 13 and 14).

Formal employment in the private sector reached a new record level of 1.76 million people at the end of IQ24 – an increase of about 15,000 people compared to a year earlier.

In the private sector, registered employment is held by professionals in professional, scientific, innovation, and technical services, ICT services, and construction, while it is reduced in administrative and support services.

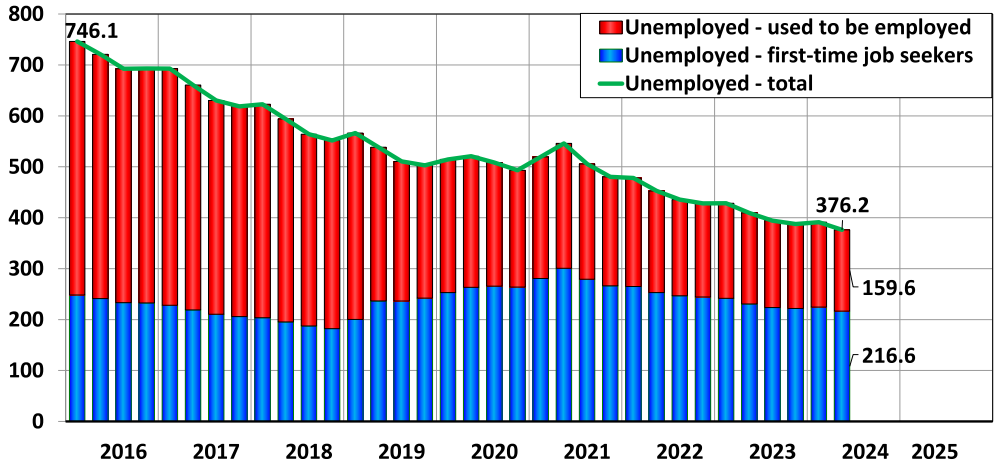


FIGURE 14.
MOVEMENT OF REGISTERED UNEMPLOYMENT (IN 000)

Source: NSZ

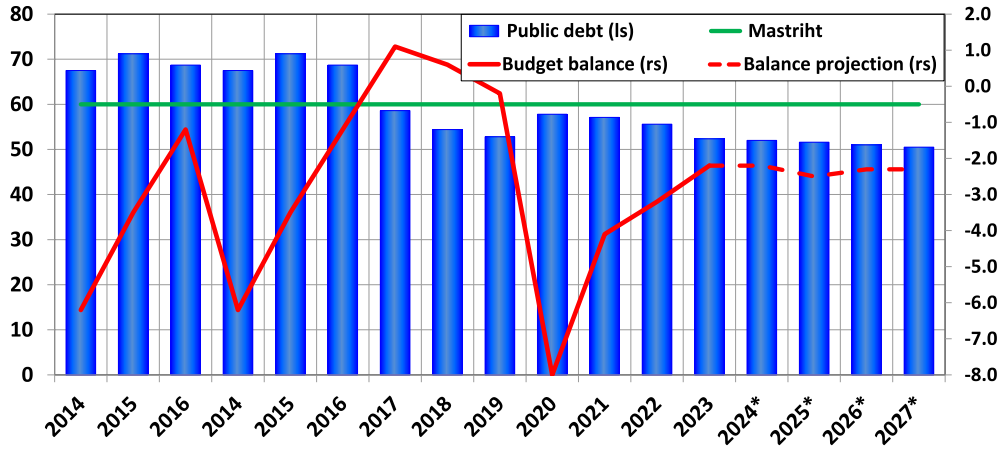


FIGURE 15.
BUDGET BALANCE AND GENERAL GOVERNMENT PUBLIC DEBT (% GDP)

Source: RZS & NBS recalculation, IoI, August 2024, p. 60

A significant proportion of new employment takes place in companies that come from the EU.

Registered unemployment fell to 376,000 at the end of IIQ24, which is about 35,000 fewer than in the same period last year and below 9%.

According to the NBS's preliminary estimate, productivity growth continued to accelerate to 4.2% in 2024 (from 2.5% in 2023) due to faster economic activity growth than employment growth.

In 2023, the consolidated state balance deficit of 181.1 billion dinars, or 2.2% of GDP, was achieved, which is a better result than the deficit planned by the state budget rebalance of 2.8% of GDP.

According to the revised fiscal strategy for 2024-2026, the medium-term fiscal framework envisages reducing the public debt-to-GDP ratio to 50% by the end of 2026. The government deficit is planned to be limited to 2.2% in 2024 and then to 1.5% in 2025 and 2026, which is in line with the general fiscal rules (Figure 15).

With the revision of the budget for 2024, the government deficit will be increased from the previously planned 2.2% to 2.9% of GDP. This increase in the deficit is not permanent in nature and allows the deficit to return to equilibrium in the future. The key positions of the rebalance in 2024 are investments related to EXPO 2027 related to the construction of the national stadium, expenditures on armaments (procurement of bursts), and additional subsidies to agriculture.

When it comes to government expenditures in the coming period, the share of salaries and pensions is expected to be stable and within the limits defined by fiscal rules (10% and 11%, respectively), and priority will be given to the econo-

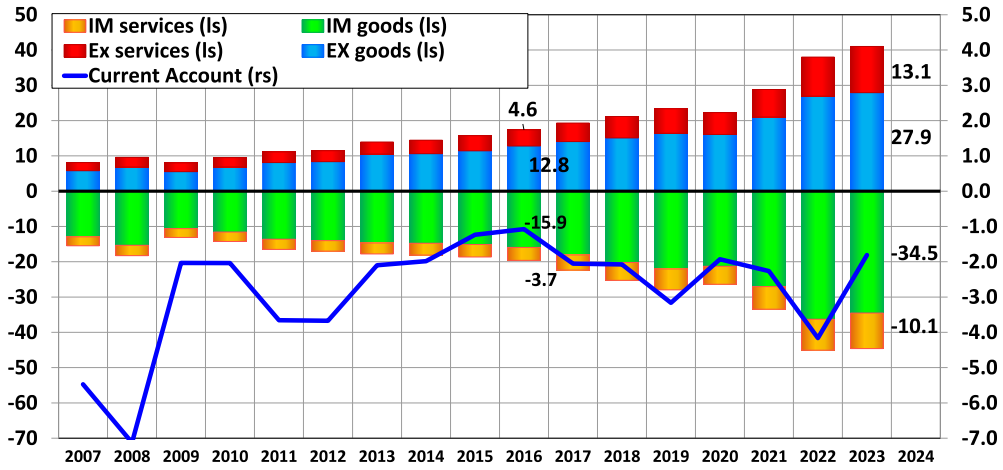


FIGURE 16.
SERBIAN EXPORT AND IMPORT (BIL €)

Source: RZS & NBS

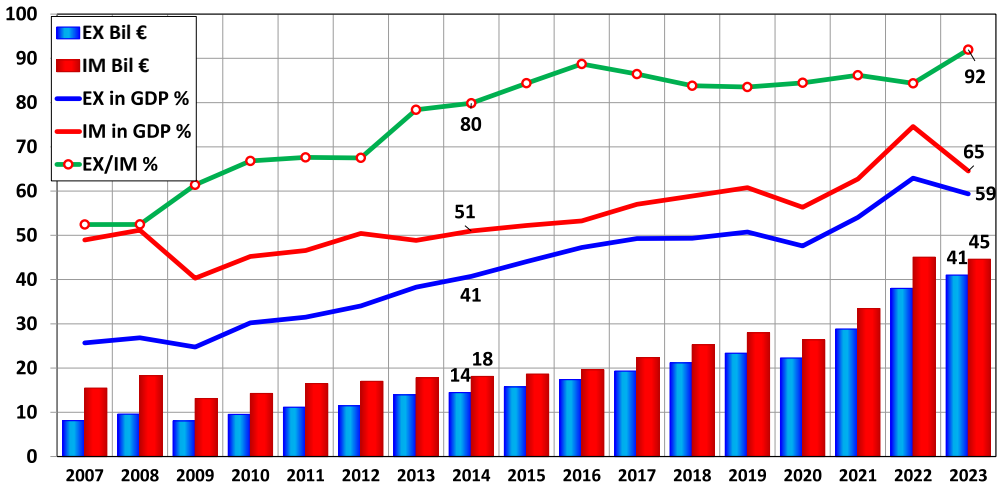


FIGURE 17.
EXPORT AND IMPORT

Source: RZS & NBS

my's infrastructure and capital projects.

In 2024, exports are expected to grow further based on the expected effects of investments from previous years in export-oriented sectors, as well as a gradual recovery in external demand. At the same time, we expect the surplus in trade in services to remain at a similar level as in 2023, which is the result of widespread growth in exports of services, primarily ICT and business services, tourism, and air transport services. Taking into account the needs of the planned investment activities, a strong growth in imports is projected for 2024 (faster than the projected growth in exports), especially equipment and raw materials. The growth of private consumption in the context of rising disposable income will also contribute to the growth of imports of consumer goods. All this will result in a negative contribution to net exports (of -2.7 p.p.).

Given the expected acceleration of the investment cycle, a negative contribution of net exports of around 0.7 percentage points is expected in the coming years as exports will grow at slightly lower rates than imports.

The EU remains Serbia's most important trading partner. In 2023, goods exports to the EU reached €18.1 billion and imports €23 billion, so the coverage of imports by exports is about 80% (Figures 16 and 17).

The current account deficit in IH24 increased from a record low level in IH23 and amounted to €1.2 billion. Exports continued to grow (4% y-o-y), driven by growth in ICT, agriculture, mining, and manufacturing; however, imports recorded a 5% growth, driven by growth in imports of equipment related to the current investment cycle, especially EXPO 2027.

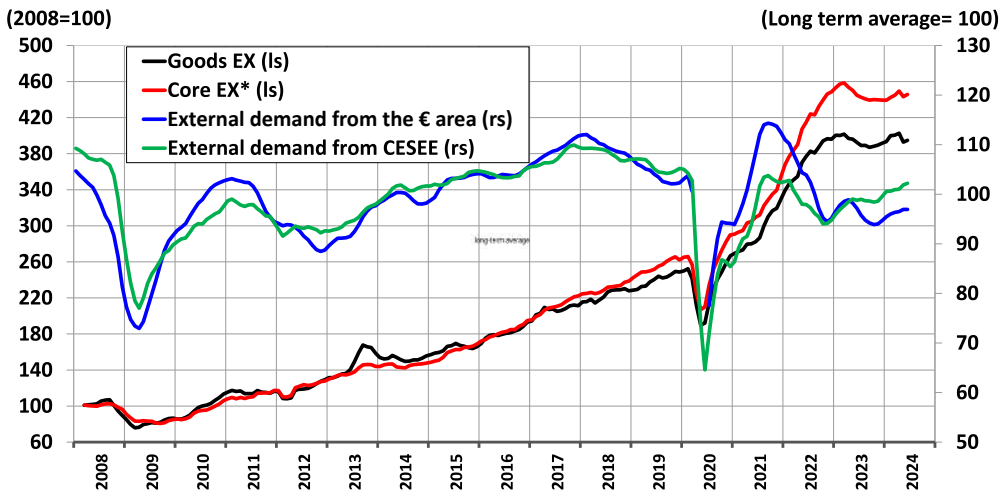


FIGURE 18.
MOVEMENT IN EXTERNAL DEMAND INDICATORS FOR SERBIAN EXPORTS (3M MOVING AVERAGE, S-A)

Source: EC, RZS & NBS
* Core exports are total exports excluding the export of agricultural products, base metals, motor vehicles, petroleum products and electricity.

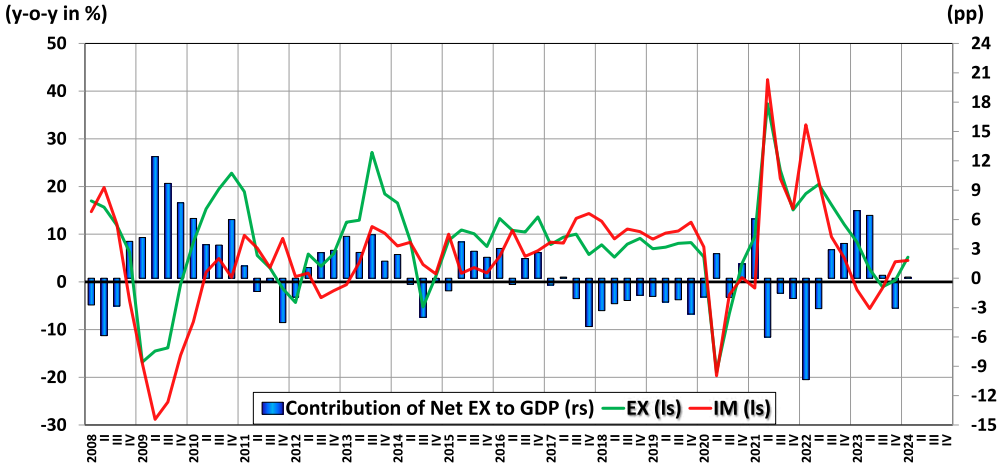


FIGURE 19.
EXPORT AND IMPORT OF GOODS AND SERVICES (constant prices based on prevoius year, ref 2015) – y-o-y rate in %

Source: RZS & NBS, IoI, May 2024, p. 41

The current account deficit is expected to be around 4% this year and in the medium term in the range of 4-5% of GDP. It is important to emphasize that this is a level that ensures external sustainability, and that it will be fully covered by the inflow of FDI, which has been the case in the previous nine years (Figures 18 i 19).

Although Serbia is not a member of the EU, its market practically belongs to the European single market.

What is clearly visible is that EU companies in Serbia have: (1) a stable business environment and (2) the opportunity to invest, which is clearly seen through the high level of reinvestment in Serbia.

On the December 2023 Moneyval Meeting, Serbia received the highest marks for compliance with international standards assigned by relevant international institutions (FATF and Moneyval), both for the regulations governing the operations of financial institutions supervised by the NBS and for the efficiency of their implementation. By increasing the rating for Recommendation n. In accordance with Article 15 of the FATF (Modern Technologies and Virtual Assets), the Republic of Serbia has achieved compliance with all 40 FATF recommendations and has entered the group of ten jurisdictions in the world that have this level of compliance.

	Rating outlook	Date	Action
Standard and Poor's	BBB-/ positive	04 October 2024	Rating upgraded
Fitch Ratings	BB+/ positive	09 August 2024	Rating affirmed
Moody's Investors Service	Ba2/ positive	30 August 2024.	Rating affirmed

Source: Standard and Poor's, Fitch Ratings and Moody's Investors Service

In October 2024, Standard and Poor's raised Serbia's credit rating to investment-grade credit rating BBB-/positive. This would contribute to further attracting foreign capital under more favorable conditions as it would reduce interest rates on borrowing. The following table shows the current credit ratings for long-term borrowing in foreign currency of the Republic of Serbia.

NEW DEVELOPMENT PERSPECTIVES – USA, EU, CHINA AND SERBIA

We live in a very complex world. Many countries are adapting to new circumstances. Below, we will show some of the most important events in the world and Serbia.

The Chips and Scientific Act[1] and the Inflation Reduction Act (IRA) were[2] passed on August 9 and 16, 2022. Both are the basis of the so-called New U.S. industrial policies with the introduction of some form of state interventionism, which has not been typical of the United States for decades.

The Chips and Scientific Act is aimed at encouraging research, competitiveness, and innovation and specifically treats chip manufacturing for safety reasons. The bill directs US$280 bil-

1 https://www.govinfo.gov/content/pkg/PLAW-117publ167/pdf/PLAW-117publ167.pdf

2 https://www.govinfo.gov/content/pkg/PLAW-117publ169/pdf/PLAW-117publ169.pdf

lion to domestic semiconductor production and US$52 billion to semiconductor research with the primary aim of empowering this supply chain to successfully counter China in this area. The $174 billion investment is directed towards developing an ecosystem of public research in science and technology. It is estimated that by March 2024, about $200 billion has been invested on this basis, with 40,000 new employees

The IRA, another key document, is dedicated to bringing down inflation in the U.S. by reducing the fiscal deficit and spending on prescription drugs while increasing investment in domestic clean energy production. It includes $738 billion in programs, of which $391 billion is focused on energy and climate change, with the goal of reducing greenhouse gas emissions to below 40% of 2005 emissions by 2030. The IRA is the most ambitious U.S. public investment plan since the Great Depression of the 1930s. However, in the implementation of fiscal policy, the U.S. continued to borrow, reaching the highest level in history.

Despite the level of debt, the IRA has produced results in bringing inflation down, and has been much more than an act of fighting inflation. In fact, it led to European companies starting to move their production to the United States.

The EU is also adapting its policies to adapt to new conditions. Like the United States, the EU has opted to increase the fiscal deficit instead of reducing it, but with much more modest economic growth than the United States, trying to maintain a high level of public investment in strategic areas. This is in stark contrast to what happened after the 2008 financial crisis, when public investment fell for more than five years.

The European Chips Act (ECA), adopted on 21 September 2023, is the EU's response to global changes, with the aim of shaping Europe's digital future.[3] It included a series of measures to ensure the EU's security of supply, resilience, and technological leadership in chip manufacturing and applications. The ECA is expected to result in public investment of over €43 billion, in addition to existing chip-related R&D programs and announced support from member states themselves. By 2030, more than €100 billion is expected to be channeled into investments supported by ECA.

With this, the EU aims to double its current global market share, which is only around 10%, by establishing a new ecosystem that completes the supply chain in chip manufacturing while increasing the share to 20%. It is important to note that, for example, a mobile phone contains about 160 chips, and a hybrid electric car contains about 3,500 chips

The ECA and other EU activities aimed to increase Europe's technological sovereignty, competitiveness and resilience to global change.

The EU, through the European Commission, has undertaken the development of the most ambitious programme to strengthen competitiveness, which it entrusted to Mario Draghi, the former president of the ECB. The program, which contains two documents, was presented on September 9, 2024.[4] He points out that after the establishment of the monetary system in the EU a quarter of a century ago, an incoherent fiscal system remains, which makes it impossible to link industrial and trade policy in the way that the United States and China achieve. According to the Commission's estimates, to meet Mr. Draghi's plans, an additional €750-800 billion per year would be needed to increase the share of investment in GDP from 22% to 27% after decades of decline. And China, which for decades relied on chip imports from the U.S., Taiwan and Japan (China's chip imports in 2021 amounted to $433 billion, surpassing the value of oil imports) is now seeking to be self-sufficient in chip production. China has provided $180 billion to support funding for the domestic chip industry, aiming to make it as fast as Nvidia's U.S. AI chip.

In June 2024, IMF Managing Director Kristalina Georgieva[5] underlined at the Eurogroup meeting dedicated to the European Competitiveness Region that the emphasis now placed on industrial policies in the EU should be fully aligned with improving competitiveness, stressing in particular that Europe's core strength lies in the single market, i.e. cohesion. The EU faces a range of challenges, from an ageing population and weak productivity growth to energy security, climate change and geoeconomic fragmentation. In 2023, more than 2,600 industrial policy measures were adopted in the US, China and the EU. Industrial policies can be a powerful tool, but there are rare occasions where they have been put to good use. That is why she warned that

3 https://digital-strategy.ec.europa.eu/en/policies/european-chips-act

4 Those two documents are:
1) The future of European competitiveness – A competitiveness strategy for Europe and
2) The future of European competitiveness – A competitiveness strategy for Europe and The future of European competitiveness – In-depth analysis and recommendations.

5 Kristalina Georgieva. (2024). A Strategy for European Competitiveness. Remarks IMF Managing Director on the Eurogroup on a Strategy for European Competitiveness, Luxembourg, June 20, 2024.

history is full of examples of industrial policy interventions that ended ingloriously. She pointed out that the condition for a successful industrial policy is the existence of clearly identified market failures and that there are no political pressures to favor someone. Only when both conditions are met can the use of market intervention through the implementation of industrial policy be appropriate.

Georgieva concludes that EU industrial policies should be: (1) temporary and in the function of protecting competition, (2) limited so as not to cause excessive fiscal costs and market distortions, and, in the case of the EU, coordinated to ensure the single market (avoid national subsidies to national champions, tax breaks and incentives for EU fragmentation) and (3) state aid should not have negative effects and cause fiscal strain for other EU members.

In July 2024, a Memorandum of Understanding was concluded between the EU and Serbia on a strategic partnership on sustainable raw materials, battery supply chains, and electric vehicles.

Both sides recognized that ensuring a sustainable supply of raw materials, in particular critical raw materials (CRMs), is essential to promote the green and digital economic transitions and is a factor enabling the decarbonization of energy production, connectivity and mobility.

In accordance with the SAA, both sides set out their intention to cooperate closely in five areas: industrial value chain development, research and innovation, the implementation of high environmental, social, and governance standards and practices, and the development of skills for jobs in the fields of raw materials, batteries, and electric vehicles.

The EU confirmed that the Serbian economy had shown significant resilience in times of crisis, with favorable prospects for further growth. At the regular annual meeting of the Economic and Financial Dialogue of the EU Member States, the Western Balkans and Turkey, which aims to prepare the Western Balkans and Turkey (WBIF) for EU accession, it was assessed that Serbia has confirmed significant resilience to numerous challenges from the international environment and has preserved macroeconomic stability even in times of crisis. [6]

The European Commission has made progress on the European Innovation Scoreboard, which shows the innovation performance of 39 EU Member States and other countries.[7] The scoreboard looks at the strengths and weaknesses of national innovation systems. Serbia is in 29th place, ahead of Slovenia, with an overall innovation index of 69.1, which is 4.4 points more than last year.

6 Western Balkan Investment Forum: https://www.wbif.eu/beneficiaries/serbia.

7 Published in July 2024: https://research-and-innovation.ec.europa.eu/statistics/performance-indicators/european-innovation-scoreboard_en#european-innovation-scoreboard-2024

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PILLARS OF DEVELOPMENT

This year, we decided to make a change in this part of the White Book. Namely, in the previous editions, in the section on the pillars of development, the same sectors were practically analyzed from year to year, and as a rule, they included: energy, telecommunications, digitalization and e-commerce, real estate and construction, labour and human capital.

In this year's edition of the White Book, we made a change in the sense that in the part of the sectoral analyses in the Pillars of Development, we presented the results of those sectors that made the most progress in the previous year. This year's topics are: energy, digitalization, protection of financial services users, public procurement and capital markets.

ENERGY

The energy sector, which includes the production and transmission of electricity, the market for renewables and energy efficiency, has been exposed to numerous challenges in recent years. Two years ago, this was related to possible risks in the part of the electricity supply, but in the end it was successfully overcome. With the global energy crisis, problems have opened up in the supply of other energy sources.

Insufficient supply of energy products and uncertainty in their supply led to a strong shock on the supply side, causing shortages. This supply shock, along with jeopardizing and in some places tearing up supply chains, translated into cost inflation and price growth.

The government introduced price controls because the liberalization of the electricity market could have led to a significant increase in costs for households and businesses. At the same time, the management structure of EPS has been changed, its business policy has been changed and the main causes of its poor performance have been eliminated. The electricity supply has been improved and stabilized. The transformation of EPS from a public company into a joint-stock company has begun. A new Supervisory Board has been appointed, which has taken important steps towards the professionalization of EPS management.

In 2023, Serbia supplemented the regulatory framework in line with the EU's Third Energy Package and de jure liberalized the electricity market. In this regard, the policy of full implementation of the relevant EU regulations has been continued.

Despite liberalization, EPS remains the most dominant supplier with about 97% share in the open market.

Coal remains the dominant source for electricity generation – more than 70% of annual production comes from coal-fired power plants. The coal mines are in relatively poor condition. Some of the world's largest coal-fired power plants will have to be overhauled or they will face a gradual shutdown. Currently, there is an increased import of coal in order to maintain production in thermal power plants. The transition to a "green" economy has been postponed for some time in the future.

In the case of renewable energy sources, a system of incentive measures for the production of electricity from these sources is crucial. Incentives are provided in the form of a market premium system and feed-in tariffs. Both systems 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 the purchase of electricity opens up.

In the field of energy efficiency, the Directorate for Financing and Promotion of Energy Efficiency has begun its work. In the energy efficiency market, the implementation of energy performance contracting (EnPC) projects for public lighting has begun in a significant number of local self-governments. Energy Supply Contracting (ESC) has also begun to function, primarily in the public sector, where schools and hospitals are priorities.

In this area, the Foreign Investors Council has made eight recommendations for improving the business climate. Five have made significant progress and three have made some progress. That is why energy is at the top of the list of sectors in which the most progress has been made. The Foreign Investors Council gave the 2024 index a high rating of 2.63, above the 2023 level of 2.30.

DIGITALIZATION AND E-BUSINESS

The digitalization and e-business sector, which includes e-commerce, electronic identification, issuance of electronic documents, as well as e-business of governing bodies, including the interconnection of public databases, achieved the second most dynamic improvement in the business climate.

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Globally, the technology sector has undergone major changes in recent years. After the bankruptcy of cryptocurrency exchanges, layoffs in IT giants, there was a huge popularization of Chat GPT, introducing artificial intelligence as the most important topic in the field of digitalization. These trends have also had a direct impact on the dynamics and priorities of the IT sector in Serbia. The government continues to develop new e-commerce services.

After the adoption of the Law on Electronic Communications harmonized with the EU regulatory framework, a public hearing on the conditions for organizing an auction of radio frequencies intended for 5G technology was announced. More than 1,200,000 mobile phone users in Serbia already have 5G-enabled devices.

The whole world has adapted to the new situation after the coronavirus pandemic and has begun to turn to e-commerce due to a completely changed way of life and business. In Serbia, a large number of companies have organized work "from home", citizens have started to use the services of the e-Government portal, and numerous new services have been developed and unified data registers have been formed. Accelerating the development of 5G networks is a priority.

There has been a significant increase in the volume of online trade. A similar trend existed in previous years. This is especially due to the IPS payment system introduced by the NBS.

Within the framework of the "ePaper" program, administrative procedures have been simplified. A large number of citizens have an account on the eGovernment portal. This is due to the fact that the number of services supported by eGovernment is continuously increasing, making it easier for citizens to use numerous services.

From 2023, the "eInvoice" system is applied in the economy through the SEF system of the Ministry of Finance, which has replaced paper invoices. In this way, a great administrative relief was achieved. In addition to this advantage, the digitization of invoices has led to an increase in transparency, i.e. to a reduction in the space for the shadow economy. It is expected that this will improve the VAT refund process as well as reduce the cost of storing invoices. Since the introduction of this system, the number of users of qualified electronic certificates has increased significantly. Electronic forms have become the basic form of account for telecommunications services.

Significant progress has been made in the digitalization of the economy and the public sector. The Foreign Investors Council has made seven recommendations in this area, three of which have been significantly improved, and three have been certainly improved so that the score is 2.29 (which is significantly above the previous year's score of 1.83).

PROTECTION OF FINANCIAL SERVICES USERS

A new Law on the Protection of Financial Services Users is in the process of being adopted. The NBS has been working continuously to improve this area.

The NBS has invested great efforts in educating users of financial services through a special section on its website that allows asking questions. The NBS responds to these questions very promptly. In addition, representatives of the NBS have participated in various conferences and events dedicated to topics in this area, and the engagement of the NBS in this area can be assessed as very active. The NBS has shown fair treatment in the procedures for the protection of financial services users. In addition to proposing the draft Law on the Protection of Financial Services Users, the NBS emphasized the need for education of financial service users through additional activities.

Due to the uneven court practice in loan processing disputes, there is a need for additional understanding of this area by public office holders, which is why additional education of judicial office holders in the field of banking and insurance within the Judicial Academy would be useful.

It is necessary to reach a final solution for disputes related to the loan processing fee and amendments to Article 368, paragraph 1 of the Loan Processing Act of the Code of Civil Procedure. In the part of loan processing disputes, compared to the previous year, some progress has been observed, so the number of new lawsuits has significantly decreased.

When it comes to promoting mediation as a way of resolving disputes between banks/insurance companies and users of financial services, the NBS has been actively involved.

In the field of protection of financial services users, the Foreign Investors Council has made 10 recommendations, of

which three have been significantly improved, four have been certainly improved, while three have not changed. There has been slow progress in this area, with a score of 2.00 (slightly below the previous year's score of 2.11).

PUBLIC PROCUREMENT

The implementation of the new Law on Public Procurement began in 2020 and represented a significant harmonization with the EU acquis, i.e. Directive 2014/24/EU on public procurement and Directive 2014/25/EU on procurement by entities operating in the sectors of water management, energy, transport and postal services.

The public procurement market in the Republic of Serbia in 2023 reached 10.5% of GDP (in 2022 it was 9.3%). The average number of bids per procedure is 2.4 (the EU average is around 3). The share of contracts awarded to foreign bidders is 4% (in 2022 it was only 1%).

The representation of negotiated procedures without the publication of a public call amounted to 2% of the value of awarded contracts, which is a decrease compared to the previous year.

The value of public procurements exempted from the implementation of the Law on Public Procurement amounted to about 831.6 billion dinars (slightly over €7 billion) or about 10% of GDP. The largest share (38%) was related to procurements in accordance with procedures related to international treaties or other international obligations.

Over the previous year, progress has been made in the fight against corruption and the protection of integrity in public procurement procedures. In order to strengthen mutual cooperation and improve the exchange of information and data between the competent public prosecutor's offices for the handling of criminal offenses of organized crime, corruption and money laundering, an Agreement on Cooperation was concluded between the Public Procurement Office and the Republic Public Prosecutor's Office.

Public Procurement Office in 2023. cooperated with the anti-corruption departments of the Higher Public Prosecutor's Offices, based on 21 requests. These requests included a total of 45 public procurement procedures over which the Public Procurement Office conducted a monitoring procedure, after which it informed the competent public prosecutor's office about the observed irregularities.

Also, international agreements with third countries continue to violate the principle of equal treatment of bidders, non-discrimination, transparency and protection of competition. The implementation of these agreements is often not in line with the adopted solutions both in the domestic and in the legislation of the European Union. In 2023, the Law on Line Infrastructure was repealed, which opened up space for discretionary decision-making.

The Foreign Investors Council recommends the improvement of administrative and expert capacity in this area.

In the part of public procurement, by implementing the proposal of the Foreign Investors Council, certain progress has been made in three areas, so the score is 2.00 (previous year 1.33).

CAPITAL MARKET TRENDS

The Capital Market Law, as a legal framework for the capital market, is almost completely harmonized with EU regulations. As the domestic capital market is not sufficiently developed, this legal regulation has not been tested enough in practice.

There is still a trend of decreasing the number of issuers of financial instruments and the number of public joint-stock companies listed on the Belgrade Stock Exchange. On the other hand, the amount of government bond issuance to finance environmental, infrastructure and development projects recorded significant growth in 2023 and especially in the first half of 2024.

In 2023, with a donation from the World Bank, capital market reform began through the implementation of the project "Catalyzing Long Term Finance Trough Capital Markets Project." The project aims to develop the legal, regulatory and economic environment, deepen the corporate bond market, including green bonds and other thematic bond issues.

It is expected that a larger number of legal entities will start raising capital by issuing mbonds, and one part should be listed on the Belgrade Stock Exchange. In anticipation of the implementation of these new initiatives, it is necessary to note once again that the capital market in Serbia is in its infancy, and that there is still insufficient quality and illiquid market material.

Progress has been made in encouraging the issuance of

government bonds and mbonds to finance infrastructure and other projects of public importance, as well as the issuance of corporate bonds in the private sector.

In IQ 2023 and iQ2024, through several primary auctions, the Public Debt Administration issued a total of about 150 billion dinars of bonds with an initial maturity of 8Y and a significant participation of foreign portfolio investors.

In 2024, the state initiative for Serbia's broader involvement in the global agenda of stimulating sustainable development through the issuance of ESG bonds worth $1.5 billion was also continued. The funds raised by this issue will be used to increase energy efficiency, transition to renewable energy sources, greater inclusion of minority and vulnerable social groups, help citizens to buy their first apartment and settle in rural households, etc.

The Decree on Conducting Operations with Financial Derivatives for the Purpose of Public Debt Management of the Republic of Serbia was also adopted, which regulates the general conditions for conducting operations with financial derivatives by Serbia in order to protect against financial risk. With this, the state continued to provide an example of the best practice of hedging, which would be useful to promote as much as possible among legal entities. The Digital Assets Act has also been passed.

Although government bonds are successfully issued in practice, municipal bonds are still rare, and so far there has been no trade in these bonds on the secondary market.

There is a need to further improve the regulation to create the conditions for transactions with more complex financial instruments, including a legal framework that would entail a more liberal approach and a higher degree of legal certainty regarding the Employee Share Plan, as well as the legal framework related to securitisation.

We also emphasize that it is necessary to establish a clear regulatory framework that would support specific investment methods through crowdfunding platforms, as a potential source of financing for micro and small enterprises.

In the part of the capital market, by implementing the proposals of the Foreign Investors Council, progress has been made in one area with significant progress, and in three areas with certain progress, so a score of 2.00 has been achieved (previous year 1.60).

Serbia's growth this year (around 4%) in the current global environment (3.2% growth of the world economy) can be assessed as dynamic, and the sectors mentioned here have made the most significant progress. The Foreign Investors Council with its recommendations seeks to encourage efforts to improve the business climate and stimulate growth in the future, ensuring sustainable growth with maximum respect for environmental standards on the path to the EU.

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INFRASTRUCTURE

ENERGY SECTOR 2.63

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	√		
Continue work on creating the necessary conditions for the 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		√	
Further harmonization of the regulations related to the calculation of VAT on consumer invoices.	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 regulation and methodology for determining the maximum price at auctions so that it more closely reflects the impact of the market price of electricity	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 changes from 2023, which for the most part transposes the European Union's (EU) Third Energy Package.

The Republic Commission for Energy Networks was established as an independent body for the control of the operator of the electricity transmission system - Elektromreža Srbije and the operator of the natural gas transport system - Transportgas Srbija. 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.

Also, there are strong indications that in 2024, new amendments to the Law on Energy will be adopted, which will

bring significant changes in this area. In April 2024, the Proposal for the Law on the Termination of the Law on the Prohibition of the Construction of Nuclear Power Plants in the Federal Republic of Yugoslavia was adopted, in order to enable the regulation of issues related to nuclear energy.

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 conducted, and a new supervisory board was appointed, which is important step towards professionalizing the management of this company.

The electricity market is fully liberalized . 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 May2023, while the next one is expected by the end of 2024. 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.

The Hungarian electricity exchange HUPX joins Adex, strengthening and expanding the scope of the regional electricity exchange group for Central-Eastern and South-Eastern Europe (SE-SEE). Adex Group thus becomes the most liquid centre for electricity spot trading in this part of Europe.

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, and in 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. It is very important to note that on September 28, 2023, the Government of the Republic of Serbia adopted the Decree on the Conditions of Delivery and Supply of Electricity. The aim of this Decree is, among other things, to regulate more closely the conditions for issuing approval for connection to the transmission and distribution system, by detailed regulation of the mandatory study of connection to the transmission system and the part of the distribution system managed by the transmission system operator, as well as establishing the obligation to submit evidence on the deposit of funds for the costs of the Study, i.e. the attachment of a bank guarantee in favour of the transmission system operator.

Incentives are provided in the form of a market premium system and feed-in tariffs (only for small facilities). Both systems are 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 digitalized, which ensures fast and efficient implementation of the process.

At the first auctions for the allocation of market premiums for renewable energy sources, 16 investors applied, with a total power plant capacity of 816.48 MW, of which 602.8 MW were offered to fill the quota, while the estimated value of the investments for all the power plants amounts to €1.26 billion.

The seriousness of the bids received is evidenced by the fact that the interested companies provided bank guarantees and cash deposits exceeding €18 million, which ensures their intention to realize the projects.

Out of the total number of registered investors, 11 participants qualified for the bidding phase. In the wind farm auction process, four investors filled the quota and three in the solar power plant auction. The lowest offered price was €64.48 per megawatt-hour (€/MWh) for wind farms, and €88.65 per megawatt-hour for solar power plants.

On this occasion, the Ministry of Energy stated that the auctions for the allocation of market premiums for a total of 450 MW are the largest auctions being conducted at once in the Western Balkans region and are the first auctions within the three-year incentive plan, which will secure a total of 1,300 MW from green energy sources.

Additionally, the auction process has been digitalized and is conducted through the portal oieaukcije.mre.gov.rs, ensuring an efficient and transparent selection of projects.

The successful implementation of the auction process is an important step in the transition to cleaner energy sources, increasing electricity production, and achieving greater security of supply for citizens and the economy.

A market premium is an incentive for electricity production whereby the state protects producers from changes in market prices relative to the price offered by the producer at auction by paying the difference between the auction price and the market price. If market prices exceed the price offered by the producer at auction, the producer will pay the difference to the state. According to current projections, the state will generate revenue from the first auctions, estimated at several million euros annually, in addition to the other benefits the auctions bring. The next auctions for the allocation of market premiums for renewable energy sources are scheduled for November 2024.

Additionally, it is important to note that the proposed amendments to the Energy Law introduce a new concept of the "active buyer," which is expected to be adopted. However, it remains uncertain how this will affect the existing prosumer model and how much time and cost will be required for investors to implement this new framework if they choose to do so.

Balancing responsibility for producers using renewable energy sources (RES) under the incentive system will be assumed by the "guaranteed supplier" (i.e., EPS). Other producers will need to regulate their balancing responsibility under market conditions.

The 2023 amendments to the Law on Renewable Energy Sources introduced a new mechanism for financial compensation between privileged producers and EPS, based on the rule that a privileged producer is required to pay EPS an additional fee if they produce less electricity than planned, and conversely, EPS is obligated to pay the privileged producer for any excess electricity produced beyond the planned amount. This mechanism adds responsibility for privileged producers to more accurately predict electricity production, as poor forecasting would result in paying a negative balance.

The Law on Renewable Energy Sources also introduces the concept of strategic partnerships and provides the possibility of conducting a public call for the construction of RES power plants through the selection of a strategic partner. The Government has established the procedure for selecting a strategic partner, and in July 2023, a public call was issued for a strategic partner for the construction of large-scale self-balancing solar power plants with battery storage systems in Serbia. A group of bidders consisting of Hyundai Engineering Co. LTD, Hyundai Eng. America Inc., and UGT Renewables LLC has been selected as the strategic partner.

Approval for the connection of a new electricity generation and storage facility to the transmission system and part of the distribution system managed by the transmission system operator may contain operational constraints. An operational constraint is a temporary reduction in active

power at the connection point to ensure the secure operation of the transmission system.

A facility subject to operational constraints cannot cause a change in connection conditions for already connected facilities. The transmission system operator is required to submit a request to the Energy Agency of the Republic of Serbia for approval of operational constraints, along with a connection study. The agency has 15 days from the date of receipt of the request to issue a decision after analyzing the connection study and determining whether the operator has acted transparently and without discrimination.

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 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.

In June 2024, the Directorate for Financing and Promoting Energy Efficiency was established.

POSITIVE DEVELOPMENTS

Electricity

SEEPEX membership grew to 42 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.

In this context, a significant improvement is the adoption of the new Decree on the Conditions of Delivery and Supply of Electricity ("Official Gazette of the RS", No. 84/2023) in October 2023.

The aim of the new regulation is, among other things, to further define the conditions for issuing connection approvals to the transmission and distribution systems. This includes detailed regulation of the mandatory preparation of a connection study for the transmission system and the part of the distribution system managed by the transmission system operator, as well as the obligation to provide proof of deposited funds for the study costs or submit a bank guarantee in favor of the transmission system operator.

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 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".No.33/2021);
- Rulebook on the Allocation of Non-Refundable Incentive Funds for Co-Financing the Implementation of Renewable Energy Projects in Public Purpose Buildings ("Official Gazette of the AP Vojvodina", No. 30/2023).

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 2023, 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), adopted in July 2024 in order to secure consistency with the long-term relevant policy goals at the level of the European Union, UNFCCC, and the Energy Community.

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.

Although the text of the mentioned plan is not yet available, the Ministry has announced that its adoption marks the beginning of a new phase in the development of Serbia's energy sector, aimed at contributing to greater security of supply, increasing the share of clean energy sources, and enhancing environmental protection.

Energy Efficiency

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

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.

Just before the publication of the White Book, the final proposal for the amendments to the Energy Law has been adopted. The current proposal introduces additional conditions for obtaining an energy license, as well as provisions that establish unequal business conditions for the same activities with different market participants, such as prioritizing strategic partners when defining connection conditions over previously submitted requests. While it is justified to relieve the transmission system of blocked capacities that will not be realized, the proposal to retroactively impose obligations for connection procedures cannot be considered a fair solution. So far, no accompanying amendments to subordinate legislation and other laws have been announced that need to be aligned, so that the industry can fully understand how the new concept of the "active customer" will be applied and

how it will affect planned investments in the development of their own renewable energy generation capacities.

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:

- strengthening and 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.
- Introducing a mechanism requiring investors to provide a security instrument, such as a bank guarantee or deposit, when reserving a grid connection, with the aim of preventing queues for connections that block available capacity.
- 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
- It is necessary to adopt the final proposal for the amendments to the Energy Law without delay. However, it is essential to pay attention to the following:

- The amendments to the Energy Law should not introduce additional conditions for obtaining an energy license. Unpredictable and insufficiently clear conditions that would be introduced through these amendments (primarily the proposal to assess compliance with long-term strategies) could pose a serious problem for legal certainty and the predictability of project development.
- It is crucial to avoid solutions that establish unequal business conditions for the same activities among different market participants, such as prioritizing a strategic partner when defining connection conditions over previously submitted requests.
- While it is justified to relieve the transmission system of blocked capacities that will not be realized, the proposal to retroactively impose obligations for connection procedures cannot be considered a fair solution. We emphasize the need to acknowledge the differences between projects—in terms of those within the incentive system and those in a mature phase, compared to those that have not yet started development.
- Until the amendments to the Energy Law are adopted, it is necessary to publish accompanying changes to subordinate legislation and other laws that need to be aligned, so that the industry has a complete understanding of how the "active customer" concept will be applied and how it will affect planned investments in the development of their own renewable energy generation capacities.

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.
- Enhancing the institutional readiness of local governments to organize energy management within their territories and to carry out tasks defined by the Law on Efficient Energy Use.

TRANSPORT

CURRENT SITUATION

When it comes to all types of transport, the importance of the Republic of Serbia is undeniable, both for the countries of the Balkans and for the region of Southeast Europe, but also beyond. The best way to consider the improvement of transport would be through five modes of transport: road, rail, air, water and intermodal.

The tendency to approach the development levels of the European Union also exists in this segment,, which is primarily reflected in the implementation and harmonization of Serbian positive regulations with European regulations. The basis for these activities is certainly **the General Master Plan of Transport in Serbia**, from 2009, which contains guidelines and plans for the road, rail, water, air and intermodal transport sectors, ending in 2027. **The General Master Plan of Transport in Serbia** also represents the basis for existing and future projects, which will be financed from EU pre-accession and accession funds, as well as other sources of financing. The draft of the new General Master Plan for the period after 2027 is still not being prepared, although the currently valid one was adopted in 2009.

When it comes to legal regulations, the road transport sector is the most extensive, given that road transport is the most represented in relation to other modes of transport. Out

of the 5000 kilometres of roads in Serbia, 1100 kilometres have been designated as a high priority for rehabilitation, in accordance with the Transport Strategy and the General Master Plan. In road transport, progress has been achieved by adopting regulations in the field of dangerous goods and transport licenses, while regulations related to the transport of goods are harmonized with European regulations.

During the final stage of the preparation of the White Book, a public debate was published on Draft Law on Roads, effects of which will be analysed in the next edition of the White Book.

The railway sector is the sector in which the need for modernization is the highest right now, which has been intensively worked on in the last few years. In the field of rail transport, where there is progress, it is necessary to continue to open the market to private operators and ensure the viability of the reformed railway companies.

Air traffic in the Republic of Serbia is characterized by the constant growth of air traffic in the period after the COVID-19 pandemic, the signed Agreement on Accession to the Common European Aviation Area, compliance with European regulations, the modernization of Nikola Tesla Airport and Konstantin Veliki Airport, and the development of destinations and the fleet of the national airline company AIR SERBIA. When it comes to regulation, the basic document is the Air Traffic Act, and many by-laws issued by the regulatory body - the Directorate of Civil Aviation of the Republic of Serbia emerge from it. The most important subjects of air transport are the Ministry of Construction, Transport and Infrastructure, the Directorate of Civil Aviation of the Republic of Serbia, airlines, airport operators and the Air Traffic Control Agency.

The waterways are not used enough, nor is their potential in the context of Serbia's international connectivity. Another burning issue, which occurs in this sector, is the financing of both reconstruction and modernization of water transport. The funds required for the improvement of ports, waterways and support systems, as well as their maintenance, are large. The changes in terms of regulations governing water transport introduce amendments to the Law on Navigation and Ports on Inland Waters from 2021.

The intermodal form of transport, with three partially built terminals, is a form of transport that is still in its infancy, with a tendency to develop in the coming period.

The three main characteristics of the state of transport in the Republic of Serbia are the current maintenance of the existing infrastructure, investment, i.e. its modernization and harmonization with European standards. Investing in infrastructure, investing and maintaining the existing traffic network are the goals to be pursued.

POSITIVE DEVELOPMENTS

In previous years, the improvement of all types of transport continued, not only in the technical sense, but also in the sense of concluding contracts and negotiations with the executive authorities of the surrounding countries, as well as foreign investors.

Part of the projects where certain delays were observed during implementation are the construction of the Belgrade-Budapest railway, the construction of the Nis-Merdare-Pristina highway, the reconstruction of the Belgrade-Bar railway, and the project documentation for the Belgrade-Sarajevo highway is being prepared. However, it should be noted that significant works have been carried out when it comes to the construction of the Belgrade-Budapest railway, especially bearing in mind that the high-speed railway Belgrade-Novi Sad, as well as Novi Sad-Subotica, has been built, while the completion of the complete railway is unofficially announced for 2025. When it comes to the construction of the Nis-Merdare-Pristina highway, at the end of July 2023, the first section of the Nis-Merdare road, 5.5 kilometres long, was completed.

In the road sector, the emphasis is placed on the construction of Corridors 10 and 11. The construction of the Preljina-Požega section of Corridor 11 began in May 2019, and completion is expected within 36 months. However, this deadline was not met, and the work is expected to be completed only at the end of 2024.

The construction of Corridor 11 branch Požega-Boljare is also planned, as part of the road corridor Belgrade-South Adriatic. For the section of the Požega-Boljare Corridor, a Memorandum of Understanding was signed between the Republic of Serbia and the People's Republic of China, and the Spatial Plan of the Special Purpose Area is currently being prepared. However, no information is yet available when the works on these sections are expected to be completed.

The project to build a new port in Belgrade, whose completion is planned for December 2023, and which is included in the Single Project Pipeline as a project of exceptional stra-

tegic importance, has not yet been completed and there is no information on when it will be.

The railway sector continued its cooperation with regional countries. Documentation is being prepared for the initiation of the tender procedure for the reconstruction of the Nis-Dimitrovgrad railway, which is significant, since this part of the railway connects the Republic of Serbia and the Republic of Bulgaria, and the completion of which is planned for the end of 2027 according to the latest statements of the President of Serbia. The modernization project of the Belgrade-Budapest railway is also underway. This project is of exceptional strategic importance, since it represents part of the basic traffic transversal of the Republic of Serbia, connects three of the five largest cities in the Republic and forms part of the Pan-European Corridor X. On the Belgrade-Stara Pazova section, 17.19% of the works have been physically completed, while the Novi Sad - Subotica section is expected to be completed by the end of 2024.

In air traffic, the project of a new runway for "Morava" Airport in Kraljevo is planned. For the "Konstantin Veliki" Airport in Nis, the addition of the terminal building and the renovation of the runway are planned.

Since the end of 2018, Belgrade Nikola Tesla Airport has been managed by a foreign concessionaire - part of the French Vinci Group. In accordance with the Concession Agreement, the airport operator has fully delivered the following works in the previous period of five years from the date of commencement of the concession:

- A new inset runway and new taxiways with a new light marking system were built,
- New navigation equipment for the instrument landing system was installed on the inserted runway, with associated energy and telecommunication installations and new meteorological equipment,
- Platform E and the accompanying new asphalt service road were built,
- Platforms B, C and the platform for de-icing and relocation of de-icing objects have been expanded,
- New roads and parking lots were built in front of the Terminal and in the vicinity of the airport,
- A new heating plant and new facilities for the processing of waste and wastewater were built.

With the reconstruction and expansion of the Terminal building, the surface area of the Terminal was increased to over 93 thousand square meters, and the number of waiting rooms was increased from 19 to 31. Through the project, the airport operator ensured the separation of passengers (departure / arrival / transfer), centralized security check of passengers, control of passengers in the transfer without interference, improved the control of passage from the public to the restricted zone of the facility by abolishing certain passages and introducing new ones.

The number of destinations has increased to 115 in 2023, and the number of passengers achieved is around eight million per year.

At the moment, works are underway on the complete renovation of the old runway, and the works on the terminal building are in the final phase.

On the other hand, the national airline AIR SERBIA significantly increased the number of destinations and aircraft in the period after the pandemic.

Considering all ongoing projects, it is evident that investing in traffic infrastructure is a priority.

In March 2020, the Government of the Republic of Serbia adopted its first Regulation on subsidizing the purchase of new electric vehicles, which directly encourages the use of an environmentally friendly form of transport. Subsidy amounts are 250 and 500 euros for electric motorcycles and between 2,500 and 5,000 euros (depending on the type of drive) for electric cars. Subsidies are awarded through the Ministry of Environmental Protection. In addition, by amending the law (on taxes on the use, holding and carrying of goods), owners of hybrid vehicles are exempted from paying the tax on the use of motor vehicles.

Also, in 2024, the Government of the Republic of Serbia passed a Regulation on the conditions and method of implementing the subsidized purchase of new vehicles with an exclusively electric drive, which encourages the purchase of new vehicles with an exclusively electric drive in order to encourage an environmentally friendly form of transport.

In the light of supporting the transition to sustainable mobil-

ity, it is necessary to adopt a series of regulations and measures that would improve the conditions for the use of electric vehicles, both those concerning the construction and the regime of importing electric cars and charging for the energy used to charge them. Changes in regulations in this direction and additional measures should aim to create more favorable conditions for electric vehicles in the city, encourage the market of sustainable vehicles and contribute to the reduction of harmful gas emissions in urban areas.

Finally, subsidies for the installation of private charging infrastructure, especially for charging stations, to support the growth of the charging network and facilitate the charging of electric vehicles in urban areas are also missing from the current regulation of the Republic of Serbia.

The combination of electric vehicles with renewable energy sources would represent a key step towards a sustainable future. By using solar panels, wind turbines and other renewable sources to produce electricity, vehicles can be powered in an environmentally friendly way. This approach reduces dependence on fossil fuels and encourages the transition to clean energy, thereby protecting the environment and contributing to global efforts to reduce emissions.

The initiative at the level of the Western Balkans with regard to the adoption of a detailed plan for the improvement of the Green Corridors also brings significant progress.

The comprehensive plan for the improvement of Green Corridors, improved customs cooperation and modernization of border/crossing points details initiatives aimed at facilitating trade and increasing efficiency between the Western Balkans and the EU. Established during the COVID-19 pandemic, the Green Corridors Initiative has proven successful in preserving trade flows and speeding up the customs clearance process for essential goods. Using the Electronic Data Interchange System, pre-arrival information sharing among customs and other inspection agencies is facilitated, benefiting trade within CEFTA and between the EU and the Western Balkans.

Key development steps include the expansion of the initiative to EU member states (Greece, Italy, Croatia) through a Memorandum on Data Exchange, with further phases planned. The plan emphasizes infrastructure improvement, digitization and capacity building at border crossings, with the aim of reducing waiting times, improving transparency and simplifying customs procedures. Coordination is entrusted to the EU-Western Balkans/CEFTA Green Belt Committee, supported by continuous EU initiatives and cooperation with regional partners. Future activities are aimed at improving the legal framework, expanding data exchange and implementing joint risk management strategies, all with the aim of encouraging economic growth and integration.

When it comes to the Transport Communities of the Western Balkans, this community focuses on the integration of the region into the European transport market through the operationalization of the new transport corridor Western Balkans-Eastern Mediterranean. This corridor connects eight EU member states with the Western Balkans, forming a single European transport network for the first time.

The main goal of the Transport Community is the complete harmonization of the transport markets of the Western Balkans with the EU, including the adoption of European standards and the organization of traffic. The revision of the Regulation on the Trans-European Transport Network, achieved at the end of 2023, is crucial for the integration of the Western Balkan partners in the newly established corridor.

For 2024, priorities include the operationalization of the European transport corridor and the development of new action plans for the adoption of EU transport legislation in the Western Balkans. It was assessed that Serbia stands out as the most advanced in the transfer of EU legislation in the field of transport.

Funding remains a key issue, given that current funds are insufficient to cover infrastructure needs. In this context, the New EU Growth Plan represents an important support mechanism for reforms in the area of transport in the Western Balkans, with an emphasis on European funding as a key factor for effective implementation of projects and reducing the risk of corruption, so it remains to be seen how this issue will be resolved on EU level.

Also, the board of directors of the Forum of Chambers of Commerce of the Adriatic-Ionian countries adopted the initiative of the Chamber of Commerce of Serbia and the Croatian Chamber of Commerce to speed up the flow of goods at border crossings between the EU and the Western Balkans in the Adriatic-Ionian region. The average waiting time for freight vehicles at the border is 10 hours, with a maximum recorded waiting time of 36 hours, which creates kilometre-long lines of vehicles and disrupts the safety and flow of passengers. These delays significantly reduce the competitiveness and economic development of the region,

estimating losses of 130 million euros per year for transport companies. Improving rail infrastructure is key to reducing congestion at road crossings and emissions, which supports intermodal connections and economic growth.

REMAINING ISSUES

Traffic safety is the most important issue when it comes to transportation problems. The number of injured and deceased persons is increasing, which is contrary to the goals of the Road Traffic Safety Strategy 2023-2030. The ever-present problem of road traffic is also financing - funds from state income, as well as foreign investments, are not sufficient for maintenance, repair and construction of new roads, and the aggravating circumstance is the fact that this problem is directly related to traffic safety.

One of the outstanding issues is the lack of adequate infrastructure for the use of electric vehicles, which may become a significant obstacle to the country's green energy agenda and may threaten the strategic importance of Corridors 10 and 11. On the other hand, it is encouraging that the Ministry of Construction, Transport and Infrastructure has recognized the need to improve this issue, and electric charging stations have been installed in certain places on Corridor 10. Some large oil companies have also installed electrical charging stations on their SSGs. However, there are several regulatory issues that need to be resolved in order to encourage this trend, as one of the obligations towards the EC and the EU is to achieve a certain share of energy from renewable sources in the transport sector. The by-laws were adopted in 2019, and the obliges are companies that trade fuels.

Modernization is the biggest problem of the railway sector. It is necessary to work on the improvement of this mode of transport, because a large number of railways are not used, while the speed of trains is not satisfactory on certain sections. Attention should be paid to the long-term plan for the development of rail transport and its harmonization with road transport, with the aim of increasing intermodality. Another problem is the image of the railway, which should be actively changed in the eyes of public, by changing the marketing policy.

The usefulness of other airports, besides Belgrade and Nis, should be increased, and a long-term strategy for the use of the entire Serbian aviation infrastructure should be devised.

When it comes to water transport, the biggest problem is financing - large funds are needed just to rebuild the infrastructure, which dates back to the period of the former Yugoslavia. Modernization and maintenance of the water transport system costs a lot. It is encouraging that the investment in the coming years in the total amount of 31 million euros has been announced, which will be aimed at the development of river transport and the protection of the natural features of the Danube. One of the positive examples is the reconstruction of the port of Smederevo.

Transport has become one of the burning issues of the green transition due to its significant role in greenhouse gas emissions, although other sectors have made progress in reducing emissions. According to estimates, the transport sector could account for as much as 44% of total EU greenhouse gas emissions by 2030, despite expected slight declines. This would significantly exceed the EU's emissions reduction target of -55% compared to 1990 levels.

Reasons for the rise in traffic emissions include increased human mobility, longer car journeys and significant growth in aviation emissions. Freight transport emissions are also on the rise, further contributing to the high level of emissions in the sector.

Although technological solutions such as electric cars are available, their wider implementation takes time, given the long lifespan of the existing European vehicle fleet. Only a small fraction of new cars sold in 2023 were fully electric, which shows the need for an accelerated transition and regulatory measures to support the transition to a more sustainable transport system. Also, at this moment, companies' investments in reducing or completely eliminating waste are not recognized in any way.

The European Union's initiative to regulate company cars as a means of increasing demand for electric vehicles is one step in that direction. This issue is the focus of an informal meeting of EU transport ministers in Brussels, where strategies for "green transport" and the fight against climate change in the transport sector are discussed.

Regarding the electricity consumed by EVs, the situation is as follows: it remains problematic that the electricity consumed when charging electric cars cannot be charged, because no one has the permission/consent of the Electricity Supplier and Distribution System Operator for retail electricity trading. Therefore, those liable for the share of

RES in transport, in addition to not being able to charge for this electricity, cannot prove that they have met part of their obligations for RES through electricity placed in the transport sector. Although a directive that foresees additional benefits if the merchant/owner of SSG obtains the electricity used by EVs from their own production of electricity from renewable sources was passed at the EU level back in 2018, this directive has not yet been transposed into the legal framework of the Republic of Serbia.

International truck transport and the capacities of border crossings are another problem.

- In addition to attempts to improve the situation (Open Balkans, establishment of green corridors, integrated border crossing with North Macedonia), the fact is that the EU is the most important foreign trade partner, which is why the efficient development of transport with EU countries is of crucial importance. In this sense, the three border crossings to the EU are the most significant (Horgos and Kelebija to the Republic of Hungary and Batrovci to the Republic of Croatia). The usual time for a truck to stay at a border crossing ranges from 12 to 24 hours, depending on the period of the year, day of the week, etc., observed per truck tour of 24-48 hours. In addition to the direct negative effects on the transport industry itself, the indirect negative effects on the entire economy are reflected in extended delivery times, reductions in available transport capacities which are problematic anyway due to some other factors already mentioned in the document, the final prices of goods that are the subject of transport...
- International road transport takes place on the basis of permits issued annually by the Ministry of Construction, Transport and Infrastructure based on negotiations with the authorities of other countries. For years now, especially with countries with which there is an intensive exchange of goods, there was a noticeable lack of transport permits, especially in the last quarter. Transports to and from Austria, Italy, Poland, Spain, Greece are particularly problematic and there is regularly a problem of the available number of permits.

FIC RECOMMENDATIONS

- Introduce additional incentive measures for the construction of infrastructure for the use of electric vehicles. Also, it is necessary to provide an adequate regulatory framework that will enable the development of this sector and that takes into account the constructive recommendations of relevant stakeholders.
- Adapt the Law on Energy to recognize and encourage the use of electricity in the transport sector.
- Increase material quality control and inspection supervision during the performance of works; implement international standards of quality and project management in the public sector as well.
- Enter into public-private partnerships in vital areas of transport that are not reserved for the state and which the government is not capable of equipping, restructuring, or modernising independently—or for which it is more optimal and efficient to do so in partnership with the private sector.
- Additionally, work on opening the market in railway traffic, with the aim of establishing the necessary institutional structures. The application of European standards in the implementation of technologies on the railway network, for the interoperability and smooth traffic with neighbouring countries in order to increase transport through Serbia, is crucial in this regard.
- Implementation of measures that will improve the characteristics of combined transport within the Serbian transport system.
- Conclusion of new and amendments to existing bilateral agreements in the field of air transport in order to

increase Serbia's connectivity with Asia and North America.

- Making the most of the European Open Skies Agreement to improve connectivity in the region.
- Construction of (rail) infrastructure to improve connectivity between the airport and central Belgrade.
- Stimulating investments in the reduction or complete elimination of waste generated during production processes, consumption and daily activities.
- Temporary reduction of duty on electric vehicles to zero, regardless of their origin.
- Establish a clear legal framework for charging energy consumed at electric vehicle charging stations per kilowatt hour (kWh).
- Urgent investment in electric vehicle charging infrastructure and the development of sustainable transport options is recommended, with strict enforcement of regulatory measures encouraging the reduction of greenhouse gas emissions in the transport sector.
- Enact regulations that would require building permits for "fast" charging stations, which would facilitate the process of their installation and improve the availability of chargers.
- Introducing cheaper or free parking options for electric vehicles in certain city areas.
- Consider the introduction of incentives for the import of used electric cars, as part of a broader strategy to diversify the offer of electric vehicles on the market.
- Introduce subsidies for setting up private charging infrastructure, especially for charging stations.
- According to the legislation in force in the Republic of Serbia, there are no special license plates for electric vehicles, which would prevent privileged access to certain parts of the city, including "yellow" lanes intended for faster movement. Related to this is the lack of cheaper or free options for parking electric vehicles in certain city areas, in order to facilitate their use and reduce congestion.
- Cyber security in transport: With the increasing number of electric vehicles and their connection to the grid, it is crucial to include cyber security standards in the legislation. It is necessary to define obligations to protect charging data, manage the risks of cyber-attacks on the charging infrastructure and ensure that all relevant actors are involved in data protection and network security.
- It is necessary to develop and implement standards for the management of risks related to cyber-attacks, especially on critical infrastructure. The above includes:
  - Risk assessment: Mandatory risk assessment of cyber-attacks and development of strategies to mitigate identified risks.
  - Infrastructure Protection: Implementation of advanced technologies and safeguards for critical infrastructure, including redundancy and resilient systems.

- Incident response plans: Developing and testing incident management plans to minimize the impacts of cyber-attacks.

- Therefore, it is necessary to legally oblige transport market participants to regularly assess risks and implement appropriate protection measures for critical infrastructure, and to develop and test incident management plans.

- It is necessary to ensure that all relevant actors, including state institutions, the private sector and non-governmental organizations, are involved in data protection and network security, including:

  - Coordination and cooperation: Creating platforms for coordination between different actors in order to improve cooperation and exchange of information on cyber threats.

  - Regulatory oversight: Introducing mechanisms for monitoring compliance with legislative standards and sanctioning violators.

  - Support and resources: Providing resources and support for small and medium-sized enterprises so that they can align their security practices with the standards.

- It is necessary to introduce legal provisions that oblige all relevant actors to coordinate and cooperate in the field of data protection and network security, while establishing regulatory oversight and providing resources to support compliance with standards.

- Autonomous vehicles and drones: As the technology of autonomous vehicles and drones advances, the legislative framework needs to be adapted to regulate their testing, use and integration into the traffic system. This includes defining standards for safety, liability in the event of accidents and ensuring that autonomous vehicles and drones comply with national regulations.

- The role of AI in logistics: The development of artificial intelligence (AI) in logistics brings opportunities for more efficient management of transport networks, route optimization and cost reduction. The legislative framework should support the development and application of AI technologies, while ensuring the ethical use of data and the protection of privacy.

- It is necessary for the Government to ensure understanding and synchronization with the governments of neighbouring countries in activities aimed at improving efficiency and flow at border crossings.

- In order for the supply chain to function on the international market, the Ministry of Construction, Transport and Infrastructure should provide a greater number of transport permits, that is, consider abolishing the permit system.

TELECOMMUNICATIONS 1.67

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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.	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 installed in relation to neighboring buildings, given that there is no comparative practice of EU countries for this, nor grounding in regulations and science.	2021		√	
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.	2023			√
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 Load, without initiating the environmental impact assessment procedure.	2021			√
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.	2021			√
Transition from a complicated administrative system of issuing necessary permits to a system of recording (notification) through a single point of contact in the form of a public portal and the establishment of a unified electronic procedure for reporting the installation of radio base stations and confirming compliance with prescribed requirements.	2019		√	
Consultations between the government and the industry regarding the model and timing of the public auction for the rights to use the radio frequency spectrum designated for the development of 5G technology – operators propose and advocate for a straightforward auction model aimed at selling those bands that are most needed from the perspective of the technologies in use and market demands, with a price that will facilitate the seamless development of new technology and its rapid implementation, in line with positive examples from the region.	2021	√		

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Adoption of operators' comments on the draft Law on Amendments to the Law on Fees for the Use of Public Goods regarding the calculation method for fees for the use of spectrum designated for new technologies, in order to ensure additional investments and expedite the deployment and development of 5G technology.	2023			√
A more active role of the government aimed at changing public opinion about 5G technology.	2020			√
Adoption of bylaws in accordance with the new Law on Electronic Communications through a transparent procedure and involving the Foreign Investors Council and operators, aimed at defining an optimal regulatory framework that will contribute to the further development of the electronic communications market.	2023	√		
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			√
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		√	
Through the planned amendments to the Law on Copyright and Related Rights, establish a more transparent relationship between organizations and fee payers due to the identified risk of unlimited growth in flat-rate tariffs charged by the incumbent and the establishment of new organizations for the collective exercise of copyright	2023			√
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.	2022	√		

Activities related to aligning the operating conditions of economic entities operating in the telecommunications industry with the new Law on Electronic Communications marked the year 2024. The most significant amendments pertain to the registration activities of prepaid users, which enhance security and prevent the misuse of electronic communication resources, as well as amendments that facilitate greater use of e-solutions/e-services in the field of telecommunications and improvements in communication infrastructure. The new Law on Electronic Communications stipulates that all operators have equal access to existing infrastructure, while regarding infrastructure construction, significant activities have been undertaken to improve regulations governing the construction of radio base stations, alongside proposed amendments to specific bylaws on non-ionizing radiation in the Republic of Serbia, and their alignment with the regulations of the European Union .

CURRENT SITUATION

The implementation of the new Law on Electronic Communications began on May 7, 2024, considering that economic entities were granted a 12-month period for aligning their operations with the new law from its effective date (May 7, 2023), while the relevant state authorities were granted a period of 6 to 18 months to adopt bylaws that would enable full implementation of the law and more detailed regulation of specific areas of operation.

During public consultations, a number of Rulebooks were discussed by RATEL, many of which had already been adopted by the time of writing this document.

In early January 2024, RATEL launched the "Do Not Call" Registry, aimed at recording mobile and landline customers who do not wish to receive promotional calls or messages. In such a case, customers are expected to contact their operator to have their phone numbers added to this Registry and traders and promoters are obliged to check the "Do Not Call" Registry before contacting any specific customer to ensure that the number is not on the list of numbers not to be called.

Throughout February 2024, the Ministry of Information and Telecommunications worked on the following tasks:

- Rulebook on the Technical Requirements for the Registration of End-Users of the Prepaid Service, which allows the registration of prepaid users at business outlets and other points of sale, as well as online through a basic-level electronic identification scheme. This Rulebook entered into force on February 10, 2024, and the obligation to register prepaid users in the manner defined by this Rulebook will start from February 10, 2025.

- A working group was established to prepare a Draft strategy for the development of the electronic communications system in the Republic of Serbia by 2027, including an Action Plan with the aim of preparing the Draft text of this strategy. The public hearing on the draft of this document was held from May 29 to July 2, 2024. The above draft document outlines objectives related to improving the electronic communication network, enhancing gigabit connectivity, establishing a supportive business environment, and mechanisms for the implementation of new solutions and technologies in the field of electronic communications. This Strategy was adopted and came into force on August 19, 2024.

- A working group was formed to draft an Action Plan for implementing the Strategy for the Development of the Information Society and Information Security in the Republic of Serbia 2021-2026, covering the period 2024-2026. This Action Plan was adopted and came into force on August 19, 2024.

- Electronic communications operators participated in the work of the Special Working Group aimed at establishing a system for the transmission of emergency information to citizens in case of announcement or occurrence of a threat of a natural disaster or technical and technological accident, actively participating in preparatory activities and testing the system to ensure its efficient and timely operation upon launch, in accordance with the schedule as defined by the relevant state authorities.

In addition to these activities, the Ministry published a Proposal for a Regulation establishing a Programme for the Development of Broadband Communication Infrastructure in rural and underdeveloped areas of the Republic of Serbia for the period 2024-2026. The public hearing was held from May 22 to June 12, 2024. A total of 1,503 settlements in the Republic of Serbia with 225,180 households were identified where intervention through capital incentives is potentially justified, as fewer than 40% of these households have access to next-generation broadband, as well as 1,323 settlements with 46,416 households were identified as needing intervention that could also be realized through capital incentives. This Regulation was published in the Official Gazette on August 9, 2024.

Furthermore, the Ministry of Information and Telecommunications continued its work in 2024 on drafting the Law on Information Security to align with the EU Cybersecurity Act and the EU NIS-2 Directive, which envisages measures for a high common level of cybersecurity within the European digital single market. The draft Law on Information Security foresees the establishment of an Office for Information Security and the relocation of the national CERT from RATEL to the Office for Information Security, starting from January 1, 2026. The public hearing on the draft Law on Information Security was organized from July 3 to July 23, 2024, while the adoption of the above law is expected by the end of 2024.

The expert group for reducing administrative barriers to the installation of mobile telephony radio base stations, which commenced work in 2022 and consists of members from relevant ministries, local self-governments, technical faculties, RATEL, and electronic communications operators, was inactive in 2024, but the activities to improve the conditions for the installation of radio base stations were carried out outside this working group through work and collaboration between the Foreign Investors Council and relevant ministries.

The Foreign Investors Council, in cooperation with the School of Electrical Engineering, completed the Study for the improvement of the national legal and implementation framework in the field of non-ionizing radiation, which includes the definition of the proposed measures to reduce administrative barriers to the installation of public mobile telephony radio base stations in the territory of the Republic of Serbia. This study was presented to the relevant Ministry and RATEL. The study's conclusions indicate inconsistencies in regulations of the Republic of Serbia and the need for their improvement in line with regulations applicable in EU countries.

Joint activities have continued, and to address administrative barriers to the installation of public mobile telephony radio base stations, the Ministry of Construction, Transport, and Infrastructure in March 2024 adopted Guidelines for local self-governments, instructing competent authorities of local self-government units not to impose additional restrictions in their planning and urban development acts regarding the conditions and possibilities for the construction, i.e., installation of linear infrastructure facilities for cable and wireless electronic communications and facilities in their function (including radio base stations for mobile telephony), in relation to the conditions defined by special regulations governing the construction, i.e., installation of linear infrastructure facilities for electronic communications and facilities in their function.

Additionally, in February 2024, the Ministry of Environment drafted Instructions directing local self-government bodies not to require the operators to prepare an environmental impact assessment study when, based on the expert assessment of the environmental load, it can be determined that the level of exposure to non-ionizing radiation is below the prescribed limits for a mobile telephony radio base station for which an application has been submitted.

At the meeting held in August 2024 between the representatives of the relevant Ministry, the Ministry of Environmental Protection, and the Foreign Investors Council, an agreement was reached to amend bylaws governing the protection from non-ionizing radiation, i.e., harmonization of the relevant acts with comparative practices in the European Union and generally accepted international standards.

Regarding the implementation of the Law on Planning and Construction, delays in issuing location requirements and building permits for installing fiber optic cables have been observed with regard to the deadlines defined by regulations in the field of planning and construction, particularly in the City of Belgrade. This practice has a significant negative impact on slowing down the further development of electronic communication networks and enabling users to access services based on the application of modern technologies.

The adoption of the New Law on Electronic Communications has created conditions 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 Gigabit Infrastructure Act (2024/1209/EU) as well as Directive 2018/1972 on the European Electronic Communications Code.

The adoption of this law is expected in Q2 2025.

The Foreign Investors Council expresses its expectation that activities related to drafting this law will be conducted transparently and efficiently, aiming to create optimal conditions for sustainable construction and investment in telecommunications, particularly in 5G infrastructure across Serbia.

The Ministry of Information and Telecommunications (hereinafter: the Ministry) opened public consultations on September 13, 2024 regarding the draft rulebook on

issuing licenses for the use of radio frequencies based on public bidding[1], which is the most important regulatory act for the introduction of 5G technology, which establishes the frequency bands, prices, coverage obligations, and other key requirements for frequency use. Although it was initially planned for the consultations to last one month, the Ministry extended this period by an additional 15 days upon request from the expert community, until October 29, 2024. The Council commends the transparency of the public bidding process, which, according to the draft rulebook, includes two phases: the first in 2025, focusing on renewing existing frequencies currently used for telecommunications services and parts of the frequency spectrum designated for 5G (700 MHz, 2600 MHz, and 3400-3800 MHz), and the second in 2026, concerning the remaining 5G spectrum. The Council expresses confidence that the spectrum auction will be realized as soon as possible, but no later than the first half of 2025.

The Foreign Investors Council of Serbia organized a panel discussion in March 2024 under the FIC Insight format, addressing the importance and impact of continuous investment in the mobile telecommunications sector on service quality for customers, as well as its role in the overall development of Serbia's economy and society. In addition to the representatives of the Foreign Investors Council and mobile operators, the panel participants included representatives of the relevant Ministry and RATEL. Based on an analysis of mobile phone market indicators, it was established that the development of electronic communication networks and infrastructure in the Republic of Serbia is at a high level, with the mobile telecommunications market experiencing stable growth and strong competition among operators, alongside decreasing data prices that are lower compared to most countries in Europe.

Joint meetings of operators signatory to the EU – WB Declaration on Roaming continued in 2024. According to RATEL data on user traffic from mobile operators operating in the Republic of Serbia, traffic has continuously increased over the past three years, both locally and while roaming, which is a direct result of reduced roaming service prices.

1 Draft Rulebook on the minimum requirements for issuing individual licences for the use of radio frequency spectrum based on the conducted public bidding procedure in the frequency bands 694-790 MHz, 880-915/925-960 MHz, 1710-1780/1805-1875 MHz, 1920-1980/2110-2170 MHz, 2500-2690 MHz, and 3400-3800 MHz.

POSITIVE DEVELOPMENTS

The drafting of bylaws following the adoption of the new Law on Electronic Communications takes place in a transparent process, and the Foreign Investors Council welcomes the efforts of RATEL and the Ministry to ensure that the public consultation process involves two-way communication and that the Report on completed public consultations contains an analysis of the submitted comments on the draft documents with detailed explanations, which contributes to a higher quality approach and understanding of the regulation of a particular area.

The inclusion of the Foreign Investors Council in the work of the working group for the development of the Action Plan for the implementation of the Strategy for the Development of the Information Society and Information Security in the Republic of Serbia 2021-2026, for the period 2024-2026, as well as the working group for the development of the Draft Strategy for the Development of the Electronic Communications System in the Republic of Serbia until 2030 with an Action Plan, contributes to transparency and a higher quality of these documents.

The support of the relevant Ministry for the activities of the Foreign Investors Council and operators in improving regulations in the field of environmental protection is significant for enhancing the process during the construction of radio base stations. In this regard, we welcome the adoption of the Instruction on the application of the provisions of Articles 8-10 of the Law on Environmental Impact Assessment ("Official Gazette of RS", No. 135/04 and 36/09) in relation to Article 6 of the Regulation on Sources of Non-Ionising Radiation of Special Interest, Types of Sources, Method and Periods of their Examination ("Official Gazette of RS", No. 104/09) for the installation of mobile telephony radio base stations. This Instruction provides more detailed guidance on the organization of work and the methods of operation of employees in the local self-government units, such that in cases where a professional assessment of the environmental load indicates that the level of exposure to non-ionising radiation is below the prescribed limits for the mobile telephony radio base station for which an application has been submitted to the competent local self-government body, they should not require the operator to prepare an environmental impact assessment study. Additionally, we welcome the support of the relevant Ministry to the activities of the Foreign Investors Council aimed at drawing the attention of the Ministry of Environmental Protection to the fact that it is necessary to amend bylaws governing the

area of non-ionising radiation, i.e., to harmonize these acts with the comparative practice of the European Union and generally accepted international standards.

The Foreign Investors Council welcomes the adoption of the Regulation of the Government of the Republic of Serbia on amendments and supplements to the Regulation on the detailed regulation of the conditions that must be met by electronic identification schemes for particular levels of reliability. The Regulation introduced the possibility of verifying identity for issuing means of electronic identification of basic reliability level using remote video identification. Furthermore, the Regulation expanded the list of public documents based on which identity verification is carried out for issuing means of electronic identification, so that it includes public documents for foreign nationals, thereby harmonizing this bylaw with the provisions of the Law on Electronic Communications, which prescribes the mandatory registration of end users of prepaid services.

Additionally, the Foreign Investors Council welcomes the fact that the Government of the Republic of Serbia adopted two strategic documents in August 2024, namely the Strategy for the Development of the Electronic Communications System for the period up to 2027, which establishes conditions for the construction of a safe, reliable, and accessible infrastructure for electronic communications, and the Action Plan for the implementation of the Strategy for the Development of the Information Society and Information Security in the Republic of Serbia from 2021 to 2026, for the period from 2024 to 2026, which aims to ensure a developed information society and e-government serving citizens and the economy, as well as to enhance the information security of citizens, public administration, and the economy.

With the launch of the "Do Not Call" Registry, progress has been made in improving the control of direct marketing activities and the protection of consumer personal data. Traders are now obliged to check the "Do Not Call" Registry before contacting users to see if a particular phone number is on the list of numbers not to be called. Operators who are members of the Foreign Investors Council have provided their customers with a simple and quick registration process in the registry, in both electronic and traditional formats.

REMAINING ISSUES

The issue of installation of radio base stations and the issues of applying environmental protection regulations 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 to the installation of mobile telephony radio 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 the Gigabit Infrastructure Act (2024/1209/EU), 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 construction works and publication of data on works in real time through 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 accommodating the telecommunications infrastructure (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 2024, bearing in mind that this would create the conditions for additional investments in the field of telecommunications and at the same time ensure quality Internet access for all citizens in our country.

Furthermore, certain activities need to be undertaken in the upcoming period to address the existing problems identified during the issuance of location requirements and building permits for the installation of fiber optic cables, especially in terms of exceeding the deadlines defined by regulations in the field of planning and construction.

An important issue that is increasingly emerging with the establishment of new organisations and the activities of existing ones is 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 growth in flat-rate tariffs 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 Load, 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.

- Establishing a unified electronic procedure for reporting the installation of radio base stations and confirming compliance with prescribed requirements, as well as creating a single point of contact in the form of a public portal for all relevant stakeholders.

- Conducting a public auction of radio frequency spectrum to renew the rights to use existing spectrum and to acquire new radio frequency spectrum for 5G technology by no later than the end of the first half of 2025. Operators propose and advocate for a straightforward auction model, with a price that will facilitate the seamless development of new technology and its rapid implementation, in line with positive examples from the region.

- Continuing the existing positive practice of involving the Foreign Investors Council and operators in the drafting of bylaws in accordance with the new Law on Electronic Communications through a transparent procedure, aimed at defining an optimal regulatory framework that will contribute to the further development of the electronic communications market.

- Adoption of the new Law on Broadband Infrastructure (aligned with the Gigabit Infrastructure Act (2024/1209/EU), as well as with Directive 2018/1972 on the European Electronic Communications Code, 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
- Through the planned amendments to the Law on Copyright and Related Rights, establish a more transparent relationship between organizations and fee payers due to the identified risk of unlimited growth in flat-rate tariffs charged by the incumbent and the establishment of new organizations for the collective exercise of copyright.

DIGITALIZATION AND E-COMMERCE 2.29

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		√	
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.	2020			√
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.	2023	√		
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.	2021	√		

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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		√	
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.	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

Over the past year, artificial intelligence has maintained its position as the most important topic in the field of digitalization. On the technological front, we're seeing the rise of multimodal artificial intelligence, enabling users to interact with AI through a combination of text, images, and voice in a unified format, which marks a major step forward from earlier models that were limited to text-based interactions. This brings AI a step closer to replicating the human ability to process information through multiple senses at the same time.

In the field of regulation, the European Union adopted the AI Act in 2024 – the most comprehensive law in the field, which is based on assessing the risks of AI systems in relation to fundamental rights, aiming to promote responsible and transparent AI practices across the EU. The regulation defines 4 levels of risk for AI systems: negligible (e.g., personalized offers in e-commerce), limited (e.g., chatbots), high (e.g., systems used in transportation or healthcare), and unacceptable (e.g., social scoring systems). Higher-risk comes with stricter obligations, along with penalties, which in case of use of prohibited systems with unacceptable risk could lead to fines of up to 7% of a company's total global annual revenue.

Another key aspect of this topic is sustainability and the relationship between AI and energy and environmental concerns. On one hand, AI use (data centers, cloud computing, etc.) consumes significant amounts of electricity. On the other hand, AI models have the potential to optimize energy consumption. For instance, in telecommunications, AI can automatically shut off parts of base stations during low-traffic periods.

Over the past year, the trend of increasing reliance on information and communication technologies in daily life and business has continued to grow. According to the Republic Statistical Office, the number of households with internet access in Serbia rose by 3,2% compared to the previous year, now reaching 88,8% . In terms of online commerce, 51,8% of citizens made purchases or orders online in the past 3 months, which is a 3.2% increase. The most common e-commerce transactions remain the purchase of clothing and sports equipment.

In the past three editions of the White Book, we highlighted the continued growth of online commerce since the pandemic period. A similar increase was recorded last year – Data from the National Bank of Serbia shows that in 2023, the number of dinar-denominated payment transactions made by card online rose by 33.3% compared to 2022, while the value of these transactions grew by 40.9% compared to the previous year. In euro-denominated transactions, during the same period, the number of transactions increased by54,7%, while their value rose by42.2% . According to the same report, data from the first 2 quarters of 2024 shows similar year-on-year growth in the number and value of transactions for both currencies.

In the summer of 2024, the Ministry of Science, Technological Development, and Innovation launched a public consultation on the Draft Strategy for the Development of Artificial Intelligence in the Republic of Serbia for the 2024-2030 period. The strategy recognizes the significance of AI across all sectors of society, including its role in government administration and the public sector, with a focus on its use in education and scientific research. The strategy also underscores the importance of international cooperation, ethical regulation, and further investment in infrastructure, which is now

centered on the state data center and the national AI platform (supercomputer). According to earlier announcements from the Government and the Office for IT, one of the priorities will be the development of artificial intelligence and Electronic Government services in the healthcare sector, with the goal of facilitating the creation of eHealth Record (eKarton), eReferral (eUput), and eSick Leave (eBolovanje) services. These services are intended to make the healthcare system faster and more accessible.

Additionally, the Government has established a working group tasked with drafting the Draft Law on Artificial Intelligence.

In the previous period, work began on amending the Law on Electronic Government, which, among other matters, will regulate the concept of smart cities as well as the use of cloud technologies in public administration.

In the upcoming period, amendments to the Law on Electronic Document, Electronic Identification and Trust Services in Electronic Business are also expected, aiming to align this legislation with the EU's eIDAS 2 regulation. This regulation introduces digital wallets for secure storage of certificates and digital identities, as well as broader application of electronic identification schemes in both the private and public sectors.

As of September 2024, the number of citizens with accounts on the Electronic Government eUprava portal has reached 2.3 million. This increase is partly due to the growing number of services supported by the Electronic Government eUprava portal, which continue to expand, making it easier for citizens to access a wide range of services in both the public and private sectors.

POSITIVE DEVELOPMENTS

The Rulebook on Prepaid Registration for mobile numbers has established the possibility of registration using basic-level electronic identification schemes. This will enable a significant portion of the millions of prepaid SIM cards to be registered remotely, without requiring users to visit kiosks or mobile operators' offices, marking one of the largest opportunities for the use of digital identity in the business sector. The Ministry of Information and Telecommunications has also amended the Regulation on closer conditions that the electronic identification schemes must fulfill for certain levels of reliability. The main changes pertain to the ability to verify identity through video identification mechanisms, and this change certainly contributes to legal security. Additionally, the range of documents for foreign nationals that can be used to apply for electronic identification schemes has been expanded, resolving discrepancies between the Regulation and the Rulebook on Prepaid Registration.

Regarding Electronic Government services, as of 2024, all businesses in Serbia have been assigned a unique eMailbox (eSanduče) linked to their business address registered with the Business Registers Agency (APR). A notification of the delivery of an electronic document to the eMailbox is sent to the registered email address of the business, after which the document can be downloaded from the Electronic Government portal (eUprava).

As for new services, last year, the Ministry of Internal Affairs launched 8 new services, mostly related to declarations and consents concerning residence and domicile.

While healthcare remains a key focus of government initiatives in the AI domain, 2024 also saw the beginning of the migration of software systems containing patient health data to the State Data Center, ensuring that this data will be properly secured in accordance with all security standards. We hope that this initiative will continue, as it concerns particularly sensitive personal data.

In last year's edition of the White Book, we pointed out issues with regulations on archiving, specifically with the Regulation on Uniform Technical-Technological Requirements and Procedures for Storing and Protecting Archival Material and Documents in Electronic Form, which was adopted based on the Law on Archiving and came into effect on January 1, 2024. This regulation introduced a costly and complex process for archiving electronic documents, which requires, among other matters, that each individual document be sealed with a qualified electronic time stamp provided by an authorized trust service provider. The anticipated costs of implementing an electronic archiving system and applying a qualified time stamp to each document threatened to approach or even exceed the costs of managing a physical paper archive. In these circumstances, the motivation for businesses to transition from paper to electronic business was called into question. However, in the final days of 2023, the regulation was amended so that only documents subject to permanent retention are required to go through this process, including the qualified time stamp, while the integrity of documents stored for a limited time will be confirmed more simply, using a qualified electronic signature.

Since January 1, 2023, the full implementation of eInvoices (eFaktura) in the business sector has replaced paper invoices through the use of the Ministry of Finance's SEF system, significantly reducing administrative burdens. In addition to this advantage, the digitization of invoice transactions has led to increased transparency in both retail and wholesale transactions, thereby reducing opportunities for the gray economy. Moreover, it is expected that this will streamline the VAT refund process and reduce the costs of invoice storage, as they will now be stored electronically instead of on paper. A positive outcome of the introduction of eInvoices (eFaktura) is the significant increase in the number of users of qualified electronic certificates in our country since the system was launched.

The Government of the Republic of Serbia and the Office for IT and Electronic Government, as the central body responsible for coordinating Electronic Government activities, managing public IT infrastructure, and ensuring information security, continue to implement the digital agenda.

Among the new services introduced is the "Freelancers" portal, which allows individuals earning income from providing services domestically and abroad to easily submit tax returns. It is estimated that the number of freelancers in Serbia is around one hundred thousand. Additionally, an e-service called "I Protect You" (Čuvam te) has been introduced, allowing for the reporting of violence. This service connects schools, social work centers, police stations, and healthcare institutions, all with the goal of preventing violence among children and minors. Lastly, in 2023, services such as eConsent (eSaglasnost) for issuing documents for children, residence registration, eCitizenship (eDržavljanstvo), and obtaining extracts from the civil registry were also introduced.

As part of the regional Open Balkan initiative, a service related to the "Open Balkan Identification Number" was made available on the Electronic Government eUprava portal. This allows Serbian citizens with a digital identity on the portal to generate this identifier, which can be used for Electronic Government services in North Macedonia and Albania. Conversely, citizens of these countries with the Open Balkan Identification Number can access the labor market in Serbia.

In recent years, some key state institutions and public enterprises, such as the Real Estate Cadastre (RGZ) and Electric Power Industry of Serbia (EPS), have been the targets of hacker attacks, which have caused significant operational issues and disrupted service delivery to citizens. By depositing EPS's source code in the State Data Center, a positive step has been taken to ensure that EPS now has a secure backup of its information systems, which will allow for business continuity and better responses in case of new unforeseen circumstances.

In the financial services sector, the trend of further developing digital services and regulatory solutions continues, supporting further modernization and digitization. More details can be found in the articles "Payment Services" and "Consumer Protection in Financial Services" in this edition of the White Paper. Here, we will highlight a few key novelties.

During the preparation of this year's edition of the White Book, draft amendments to the Law on Protection of Financial Services Consumers were being prepared, marking another step toward digitalization. In line with market needs, the limit for concluding distance contracts has been increased from 600,000 dinars to 1,200,000 dinars for loans and up to 2,400,000 dinars for deposits.

At the end of July, amendments to the Law on Payment Services were adopted, aimed at improving the security, efficiency, and reliability of payment services, aligning with European standards, and providing additional protection for consumers. Of particular note is the introduction of the concept of open banking, which enables greater integration and interoperability between different payment service providers. The amendments to the law introduce stricter security measures, including strong customer authentication, which requires the use of at least two of the following three elements: knowledge, possession, and inherence. These amendments are expected to significantly improve the existing legal framework and enable further development and modernization of payment services in Serbia.

In previous editions of the White Book, special emphasis was placed on the digitization of promissory notes, and the Central Registry of e-Promissory Notes for legal entities is expected to begin operations soon.

REMAINING ISSUES

After the successful implementation of the "My Data for My Bank" (Moji podaci za moju banku) project, based on data exchange between the public and private sectors, the Telecommunications and Digital Economy Committee sees opportunities for further digitalization of business processes through similar initiatives.

The procedures in public administration have been significantly accelerated by connecting state institutions and enabling automatic document exchange. We believe that similar cooperation between banks, mobile operators, insurance companies, and other economic entities with state bodies could contribute to greater efficiency and security in business operations. Examples of such potential include data exchange with the Tax Administration, the Social Security Register, and the Credit Bureau to assess actual creditworthiness and prevent fraud, verifying the validity of ID cards via the Ministry of Internal Affairs (MUP) when concluding contracts, or using the Electronic Government's eMailbox (eSanduče) for document delivery.

In the last five years, significant progress has been made in terms of regulations governing Electronic Business. However, regulations in other areas often act as barriers to further business digitalization. These regulations are difficult to change, as they are often based on the mistaken belief that paper is a safer and more transparent form of documentation than electronic documents.

In conclusion, we note that considerable effort and progress have been made to enable further digitalization of the economy and public sector in recent years, and there is a clear willingness from all state institutions to continue in this direction.

FIC RECOMMENDATIONS

- Increase information security within public administration and state-owned enterprises to ensure the uninterrupted functioning of these entities and prevent the misuse of citizens' data.
- Enact a new Law on Information Security and align it with the EU's NIS2 Directive.
- Pass a Law on Artificial Intelligence that will regulate the application of this technology in a way that promotes innovation while respecting human rights and freedoms. Establish mandatory risk assessment mechanisms and prior testing of systems used in critical infrastructure sectors, as well as in sensitive areas such as healthcare.
- Enable the development and introduction of second-generation video identification through biometric protection as part of client verification processes, with the goal of further improving client security and fostering the continued development of digitalization in Serbia.
- Reduce the costs of electronic archiving for business documentation by amending regulations to exempt most business documentation, as it is not relevant to culture, art, science, or other categories defined by the Law on Archival Materials and Archival Activities.

REAL ESTATE AND CONSTRUCTION

1.23

Living conditions and environmental quality are becoming key issues for all of us today, not only as businessmen, but also as citizens of the Republic of Serbia.

It is particularly important that regulations regarding construction clearly define concepts such as "green construction" and other elements of the green agenda. In this context, implementing energy efficiency standards, using sustainable materials and technologies, as well as careful waste management, water protection, and air quality control are becoming essential innovations in the field of real estate planning and construction.

In terms of improving the conditions for investment in the construction sector, the improvement of the regulatory framework for solving the issue of property relations on land and the abolition of the conversion of the right of use to the right of ownership on construction land for the widest range of people represents an important step forward in this area. Visible progress has also been made in the energy sector, through the introduction of electronic services for the procedures for issuing and extending energy permits, acquiring the status of a privileged producer of electricity, as well as procedures related to the preparation of an environmental impact assessment study.

One of the goals to be achieved in the coming period is the modernization of the Cadastre lines and bringing it closer to users, by introducing functionalities similar to those in the Real Estate Cadastre, as well as further improving efficiency in all administrative procedures.

The Committee focus will be on supporting the reform of the Real Estate Cadastre, improving efficiency and time for obtaining construction permits, as well as continuing cooperation with the Ministry of Mining and Energy on the green transition and decarbonization of the economy.

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
CONSTRUCTION				
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.	2023		√	
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.	2021		√	
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.	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			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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.	2023			√
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.	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 introduced 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 (including in relation to construction and demolition waste management), and encourage the development of sustainable practices in the construction industry. It seems that both the construction industry and the public administration were unprepared for the changes related to waste management, but as the time goes by, it is expected that the novelties will improve the overall construction sector, with emphasis on sustainable development.

Legalization

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. The 2023 amendments addressed the issue of prohibition of connection of illegally constructed buildings to the electricity grid, gas network, and/or district heating, water supply and sewage system. In the meantime, the 2023 deadline for the completion of the legalization process was declared null and void by the Constitutional Court – this came as logical result, given that the legalization applicants are not in control of the process, so they should not suffer the consequences if the administration fails to complete the legalization process by the set deadline (2023).

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 entities. 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 recognition 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.

Construction

Recently, there has been a noticeable slowdown in construction and a decrease in the number of issued construction permits. 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 of this service are yet to be addressed by the Ministry for Mining and Energy through the secondary legislation.

Construction and demolition waste management has seen significant regulatory development in the past period – most importantly, construction permits are now conditioned with approval on waste management plan, and use permits are conditioned with documents on movement of (hazardous) waste.

REMAINING ISSUES

Construction

Building the related infrastructure for facilities, which is a prerequisite for obtaining a 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 the entire newly constructed facilities. Instead, additional specific documentation (expert opinions, etc.) must be obtained by the investor to confirm to which parts of the newly built building the construction/use permits refers (usually by comparing the permit with the project based on which the permit was issued).

New by-laws have now made the consent to environmental impact assessment a condition for construction permit. This is not fully aligned with the Environmental Impact Assessment Act, which allows such consent to be provided either at the time of construction permit, or later, at works commencement notification. Also, the Planning and Construction Act itself, in part related to works commencement notification, requires this consent. Thus, for the sake of legal certainty, it is necessary to reconcile the environmental and construction regulations.

Legalization

Length and complexity remain the key challenges of the legalization process.

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.

The Law is ambiguous on the issue of whether a decision

on legalization substitutes a construction permit and a use permit. Such ambiguity has resulted in problems with e.g. obtaining energy license.

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

Contractors from EU countries face significant challenges when participating in tenders related to projects financed by the international financial institutions in Serbia. To perform designing or construction works for complex infrastructure projects in Serbia, EU contractors need to obtain a specific license for designing and executing construction works for such projects (Big License). This requirement is highly burdensome, time consuming and practically unfeasible for EU contractors involved in these works to obtain Big License, which is why EU contractors cannot directly participate in this kind of projects in Serbia. Instead, they engage in joint organisations or joint ventures with Serbian contractors/subcontractors. Consequently, Serbian domestic contractors and subcontractors are engaged to fulfil these activities even though they lack required know how, which causes delays in the construction process. These delays result in significantly increased costs and project timelines, negatively impacting the overall success and efficiency of the financed projects.

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 and enable the registration of ownership rights for investors on the entire newly constructed facilities without obligation of investor to obtain additional specific documentation (expert opinions, etc.). 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

- Amendments to the Legalization Law in order to limit the prohibition of disposal only to buildings that cannot be legalized. To that end, the legalization administration should, upon request of the applicant, issue a certificate, stating whether a relevant building falls under exceptions which cannot be legalized – in case it is not within these exceptions, disposal should be possible.

- It is necessary that the Decision on legalization has the power of a construction permit and a use permit.

- 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.

Licenses for performing construction activities

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

- Clarification that if a subcontractor engaged by a contractor has required license, then the contractor is not obliged to have that license, and vice versa;

- Provision of the current Planning and Construction Law, that require foreign contractors to obtain Big Licenses for complex infrastructure projects, should be amended in order to allow contractors from EU to participate in tenders and perform design/construction works for the projects financed by the international financial institutions without facing the cumbersome licensing process. The amendments can be implemented through:

  (i) adoption of the Law on Amendment of the Planning and Construction Law;

  (ii) lex specialis, modelled after the existing Metro Law, which permits the use of foreign licenses for metro construction projects; or

  (iii) The law on indebtedness[1], for a financing of specific project, may include a provision, similar to the Metro Law, enabling designing, supervision and construction works for EU contractors for specific project.

1 Loan agreements with international financial institutions, for financing of construction of specific project in Serbia, are concluded in the form on the law on indebtedness adopted by the Parliament, which by its form and substance represents lex specialis.

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. Additionally, the real estate cadastre offices have started to suspend the process upon requests for the registration or change of a mortgage due to incomplete documentation, instructing the creditor to contact a public notary to provide the requested supplement. This shortens and simplifies the registration process, eliminating the obligation to submit a completely new request.

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 leas-

ing 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 removal of a mortgage that has been established on multiple different properties through the waiver of the mortgage creditor, given that the law does not stipulate the right of the mortgage creditor to waive the mortgage on individual properties, but only on 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 favourable 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 cadastre's current state, and it creates issues concerning the courts' interpretation of rights and poses problems when calculating interest in the mortgage statement.Starting from 2024, a new trend in judicial practice has been observed, whereby, after the submission of an execution proposal describing the property according to the content of the mortgage statement, and of course indicating the current status of the real estate cadastre, the execution creditor is required to supplement the proposal by providing a certificate of the property's movement, specifically proof that the property described in the mortgage statement is identical to the property listed in the execution proposal. This situation extends the timeframe for making a decision on the execution, creating an additional obligation for the creditor.

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

All the foregoing could be partially resolved in favour 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.

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 1.23

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 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.	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. 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.	2018			√
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.	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 bot regarding the registration of underground reservoirs and other issues where uniformity does not exist.	2019			√
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.	2021			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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.	2021		√	
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.	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		√	
The information system of RGA needs to be further improved in order to remain sufficiently secure.	2023		√	
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.	2023			√

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. Since then, the Republic Geodetic Authority has also established the "eService" system, through which it is possible to access web services such as the Electronic Notice Board - which is an attempt to overcome the problem of delivering solutions and which enabled more transparent insight into the adopted cadastre acts. Also the address register was established, as well as the procedure for determining house numbers throughout the country. The use of real estate appraisal services has also been made available to both professional users and citizens of the Republic of Serbia. 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 and at the beginning of 2024, below 400,000. Regardless of the potential effects of the unforeseen difficulties in its operations, 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 the last 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.

POSITIVE DEVELOPMENTS

Compared to the recommendations of the FIC from the 2020,2021, 2022 and 2023 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 and the possibility to monitor the status of the case;

- 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;

- The Republic Geodetic Authority has enabled professional users (as well as citizens of the Republic of Serbia for real estate in their property) to use the "real estate appraisal" service, which is conducted based on a mass appraisal of property values for apartments by the Republic Geodetic Authority. Additionally, citizens are able to generate an extract from the real estate cadastre through the eKatastar system, which is digitally sealed and valid for communication with all state authorities.

- 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.

- According to adopted 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 (now called Law on the Procedure for Enrolment in the Cadastre of Real Estate and Infrastructure Cadastre) and the introduction of the infrastructure register is planned.

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 reg-

ulations by different real estate cadastre offices, which are often non-compliant with other laws and bylaws.

The Republic Geodetic Authority should work on standardizing the practices of real estate cadastre services/ cable cadastre departments and enhance oversight of their operations. It should ensure greater accessibility for consultations with clients and respond more promptly to complaints. Additionally, it should enable the submission of complaints regarding the work of the cable cadastre departments through an appropriate link on the official RGZ website, as well as on the work of RGZ in appeal procedures (second instance), which often take several years to complete.

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). Thus, the option to schedule a meeting with the case processor through the "eScheduling" system (although formally available for the past two years) is now completely excluded.

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.

One of the ongoing issues arises in the handling of requests by the competent Real Estate Cadastre Services for the registration of specific parts of buildings – parking spaces that are designed and constructed as parking systems (parking platform, parklift, "seesaw" parking platform, etc.). Specifically, if the competent authority mentions the parking system (platform/parklift/"seesaw") in the Use Permit as a single unit with two, three, or more parking spaces, the Service registers one unit with the area stated in the Use Permit, while all individuals who own individual parking spaces within that unit are registered as co-owners of the common property. This method prevents the owners of parking spaces from fully exercising their constitutionally guaranteed rights.

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 Infrastructure, 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, nor can they submit notarized contracts for the transfer of ownership of utility lines..

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.

At the end of 2023, the National Assembly of the Republic of Serbia passed the Law on Amendments to the Law on State Survey and Cadastre, as well as the Law on Amendments to the Law on the Procedure for Registration in the Real Estate and Utility Cadastre – now called the Law on the Procedure for Registration in the Real Estate and Infrastructure Cadastre. These amendments have led to several issues. One of the problems faced by the citizens of Serbia is the elimination of the option to independently submit requests to the Republic Geodetic Authority (RGZ) in the format of their choice (e-counter or paper format) without the “intermediation” of professional users. According to the changes, requests can now only be submitted electronically through the eCounter application, and only by professional eCounter users (lawyers, geodetic organizations). Additionally, this change has also made it impossible for other cadastre users who are not lawyers but are professionally involved in handling cadastral matters for their companies (such as in-house legal counsel) to act on behalf of their companies in cadastre procedures. This complicates, slows down, and increases the costs for companies, particularly for those with a large number of real estate properties.

Additionally, the Law on Amendments to the Law on State Survey and Cadastre has abolished the misdemeanour liability of civil servants for failure to make a decision within the time prescribed by law, which results 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

- The Law should be amended to restore the ability for citizens to represent their own interests before the Republic Geodetic Authority (RGZ) in the format of their choice (either electronically or in paper form). Additionally, in-house legal counsel should be allowed to represent their companies in all matters before RGZ (in both the real estate cadastre and the infrastructure cadastre).
- The expert community should be involved, in any feasible and accessible way, in the process of drafting by-laws related to the Infrastructure Cadastre and underground structures.
- 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.
- 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 (particularly considering the fact that not all cases involve matters for which the appropriate documentation for registration has not been submitted). 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 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, and by accessing the application, a professional user and/or citizen can generate an extract from the electronic database in PDF format, secured with an electronic signature, 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 Infrastructure 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

Restitution

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 international 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

1.09

With the development of flexible forms of work, which have particularly gained momentum in recent years, the need for more comprehensive changes to the Labor Law is becoming increasingly evident. After a significant step forward in the improvement of labor 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 labor legal framework to the needs of the labor market will have to wait for some time.

In further reforming of the Labor 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 lead to simplification of the procedure for granting residence and work permits to foreigners in Serbia.

The new Law on Occupational Health and Safety 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 Labor Law which would provide for closer regulation of the mutual rights and obligations associated with this type of work. With the adoption of all by-laws in this area, the new law is expected to be fully implemented, allowing the effects of the new legal solutions to be observed in practice.

Continuing the initiated labor 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
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.	2016			√
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.	2018			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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.	2021			√
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.	2016			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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.	2018			√
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.	2023			√
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.	2023			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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.	2023			√
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.	2023			√
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.	2023			√
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).	2023			√
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. Main challenge is gaining status as a person with disability.	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 should contain the exact job title of the employee who was declared redundant.	2015			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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.	2015			√
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.	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			√
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			√
Dual Education				
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.	2018		√	
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.	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			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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			√
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			√
Human Capital				
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.	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				
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;	2021			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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, 83 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);	2021			√
employee training for safe work from home/remote work and digitization of the entire training process and work from home related administration;	2021			√
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.	2021			√
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.	2023			√
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.	2023			√

THE LABOUR LAW 1.00

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 ten 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 Labor 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 labor 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 incon-

sistent 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 Labor Law has not changed and the problems related to the implementation of the Labor Law are practically only recurring.

Improvements in the field of labor relations require amendments to the Labor 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 Labor 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 labor 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 Labor 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 Labor 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 labor 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 new Law on Health Insurance introduced 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 Labor 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 Labor 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 Labor 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 e with 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, abuse of the right to sick leave, use of alcohol, 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). This issue is particularly important considering that in previous years, several decisions of the Supreme Court of Cassation have been published, which interpret the redundancy procedure and the order of the mentioned actions in different ways, precisely due to the aforementioned loopholes in the Labor Law, which increases the legal uncertainty in the application of this law. 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. There are also some doubts regarding the application of measures for employment, especially the additional qualification and retraining. In addition, the Labor Law does not regulate the procedure for termination of employment due to abuse of the right to sick leave, but also due to the use of alcohol by employees. Although the Labor Law recognizes the two mentioned reasons for termination, in practice they cause many dilemmas. 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 employers 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 labor 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 labor-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 Labor Law did not explicitly envisage the electronic form of documents and electronic signature and, in the practice so far, the Labor 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 Labor 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 Labor 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 Com-

pany Law, the stamp is no longer obligatory. Therefore, digitalization in business operations must be recognized through modernization of the Labor 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, r 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 Labor Law, we consider it necessary to also change the Law on Records in the Labor 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 labor 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 mandatory - is the employer obliged to first amend the rulebook on the systematization of workplaces or to adopt a solution-finding program of employee redundancy first, and when program is not mandatory, clearly state 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) regulate the procedure of termination of employment due to abuse of the right to sick leave, but also the termination procedure due to the use of alcohol by employees, (h) to be defined by the Labor 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 Labor 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 1.33

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.
- 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 1.67

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 had come into force from February 1st, 2024. By laws had been adopted in January 2024.

The employment, special cases of employment and self-employment of foreigners in Serbia is subject to obtaining single permit, except in cases set by the law.

POSITIVE DEVELOPMENTS

The Amendments to the Act on Foreigners and the Act on Employment aim to simplify the procedure for obtaining temporary residence permit and work permit.

The single permit, which includes temporary residence permit and work permit, is issued upon the Employer's or expat's application submitted online through websites

Euprava and Welcometoserbia. Should the Immigration Office and the National Employment Service find the conditions are met, they will issue the single permit. The legal deadline to decide the application is reduced to 15 days from submitting the application properly. It is provided for social insurance registration based on the confirmation of launched process for single permit issuance. An additional improvement is provided in the e-administration system to enable launching of the application process ahead of a planned start of work. Expectingly this will be a solution for the practical needs of the processes of planning, budgeting and administering within groups or between companies, especially in cases of secondments and intra-company transfers or applications submitted from abroad.

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

- The labor market test is done upon the Employer's vacancy nomination (PPZ) submitted separately or as an integral part of the single permit application. The NES will issue an assessment within a period of 4 days.
- The single permit will be issued for a duration of up to 3 years. It remains for practice to take a stand in cases where bilateral conventions prescribe a shorter term.
- The application for the single permit for a new period (in the previous law: extension) can be submitted not earlier than 30 days before the expiration date and no later than the date of expiration of the single permit.
- Application through the websites and issuance of the single permit in the form of a biometric document.
- Foreigners may work also based on the Visa D without need to apply for the single permit, in the period of up to 180 days.

REMAINING ISSUES

- The fact the employer had not declared any redundancy from the nominated job position within three months prior to the application is proved by a certificate issued by the CROSO. The employer must additionally submit, along with such certificate, a statement that no redundancy has been declared from the nominated vacancy or if redundancy has been declared within the period of three months the Employer is held to submit 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 that was subject to redundancy, since it is not compiled in the deregistration.
- The labour market test is required for obtaining single permit in each case, even regarding the senior management, which is impractical, as well as in the cases of renewal of residence and work permit, for the employees who perform work at the same position.
- Some employers report problems in working with the portals, such as not receiving notifications in e-inbox or their deletion, unclear notifications about the need to supplement documentation, delays in issuing the single permit, the inability of the authorized person to submit the single permit online application on behalf of the employer, etc. Technical improvements to the online form are expected that will resolve these issues.
- Although in accordance with the Law, foreigners are allowed to work on the basis of Visa D during the period for which it is approved, in practice a problem arises due to the impossibility of registering to CROSO with the registration number which the foreigner receives.

FIC RECOMMENDATIONS

- The Central Registry of Mandatory Social Insurance should contain the exact job title of the employee who was declared redundant.
- Technical improvements to the online forms which will enable an efficient use of all the functionalities provided by the regulations.
- Facilitating the registration of an employee to CROSO on the basis of a Visa D.

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 peo-

ple 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 labor 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 labor 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 1.00

CURRENT SITUATION

Human capital in Serbia is one of the most important resources for the economic growth and development of our country. In the past period, a definite improvement of the educational system was visible, which contributed to the increase of better qualifications of the workforce. The country's universities and colleges offer a wide range of programs and occupations, and there is a visible increase in the number of young people completing higher education. However, Serbia is facing serious challenges such as brain drain, where highly skilled labor goes abroad in search of better business opportunities and life. This directly affects the reduction of labor availability within the country. Highly qualified people, as well as people with a lower level of education for basic jobs, are very challenging to hire and retain because they leave the country trying to find better-paid work abroad. On the other hand, there is a constant need for additional investments in training, development and improvement of the workforce. strength in order to respond to the changes and demands of the modern labor market. All activities aimed at encouraging entrepreneurship, developing the IT sector, promoting education and greater involvement of young people in innovative projects can significantly improve the state of human capital in Serbia and contribute to long-term economic growth.

In addition to all of the above, the situation on the labor market is becoming more and more challenging. In the previous period, the biggest challenge for companies was finding and attracting candidates, as well as retaining existing employees. Such a trend is visible for a longer period of time. It points out that companies have big challenges on how to keep existing employees on the one hand, and on the other hand how to attract better candidates from the labor market.

The lack of employees is felt in all industries. This deficiency is evident both in the number of executors required and in their professional structure. There is a noticeable lack of competence, knowledge and skills for various positions in all activities. These problems become major organizational challenges for companies.

Another visible segment that we accepted from the previous period was working from home as an important benefit that employees use frequently. This type of work ceases to be dominant and its representation is rapidly decreasing. The reasons for this are different, and from the IT industry, which used it the most, it becomes only one benefit and the possibility to allow employees to work from home 1-2 times a week.

The unemployment rate varies in the territory of the Republic of Serbia, which, in many ways, 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 territory of this autonomous province face a great challenge in the recruitment and selection of suitable personnel. The unemployment rate in the entire country in the first quarter of 2024 was around 10.1%, while employers have increasing challenges to find, attract and retain the workforce and especially quality candidates, especially in the field of IT where major changes and developments are visible that have caused employers to become more cautious when investing in new technologies and hiring more people.

Finally, despite the economic crisis that hit the whole world, the minimum wage will be increased this year as well as the previous one.

POSITIVE DEVELOPMENTS

Certain changes related to the state's efforts to support employment in all industries are visible.

REMAINING ISSUES

Despite the numerous efforts of the Government and the legislation to stand in the way of the negative appearance of the problem of the gray economy and illegal work, it is still very current. The number, age structure and qualifications of labor inspectors are one of the key challenges that the state must face. Unloyal competition, unfair market competition in various, especially low-profit industries and a large number of economic entities that do not fulfill basic legal and fiscal obligations towards employees and the state, as well as unpredictable labor costs, represent a major obstacle to the development of the market as well as human capital.

The education system still needs to be improved and better connected with the business community. In this way, the gap between education and the needs of employers would be reduced, and the image of the Republic of Serbia as a desirable investment location would be improved. It is nec-

essary to promote the importance of education at all levels, because it is a generator of the development of society, the economy and the entire country.

It is necessary to encourage the trend of rejuvenating the population as well as stimulate the migration of human capital within the Republic of Serbia in order to equally develop underdeveloped areas and thereby reduce the gap in the needs of the economy in different parts of the country. The decision of foreign investors to enter the market of a certain country is conditioned by the quality and structure of the labor force in the market as well as clear labor costs.

With the current situation and the planned amendments to the Labor Law, there is a great need for amendments to the Law in various areas.

FIC RECOMMENDATIONS

- The education system should continue to be improved. For that, it is essential to establish regular contact between the Council and the Government, the ministries responsible for education, youth and sports, as well as with universities. The Council and the business community in Serbia are ready to provide support and make available their expertise, and based on the analysis of the needs of the economy and the real sector, create and establish new educational profiles, as well as regularly correct enrollment quotas at all faculties in accordance with market needs.
- Define the legal framework for the relationship between employer and student in order to simplify the application of professional practice of students during regular schooling.
- Define the legal framework for the training of persons with higher educational profiles for independent work in the profession, regardless of the acquisition of the conditions for passing a professional exam, i.e. performing an internship.
- With the employment action plan of the National Employment Service, define, redefine and expand the range of educational profiles that will be included in the action plan and employment policy, that is, listen to the needs of the market and employers.
- Create a plan for the migration of human capital within the territory of the Republic of Serbia in order to equally develop underdeveloped areas and thereby reduce the gap in the needs of the economy in different parts of the country, and in order to prevent migration outside the Republic of Serbia, citizens have already been given an incentive to within the territory of the Republic of Serbia look for a better place to live and work.
- Consider supporting employment by reducing employment costs, especially in relation to taxes and wage contributions, as well as legally define all aspects of working from home.
- Facilitate and promote supplementary work at all levels.

HEALTH AND SAFETY AT WORK 1.00

CURRENT SITUATION

The period before us was in many ways characterised by the experts' meetings and conferences regarding the application of the Law on Safety and Health which was adopted on 28 April 2023 (Official Gazette, no. 35/2023) (hereinafter: the "Law") and entered into force on 7 May 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

The pandemic of the infectious disease COVID-19 led to the mass application of the work-from-home model, i.e. remote work, by employers throughout Serbia, and in the period after the pandemic, many employers whose work process allows it, continued to apply these models. Working from home and remotely is now regulated by the Law, but it is still not known whether this topic will be additionally regulated through by-laws. 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.

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 licences for individuals according to the type of work they perform, the legislator intends to distinguish the concepts of health and safety advisors and health and safety associates and thereby improve the quality in performing these jobs. It remains uncertain, however, 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. Also, training of employee representatives is being introduced.

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 (i.e. by November 2024) 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 (i.e. by May 2025) to organize their operations in compliance with the Law's provisions. This clause

was open for interpretation upon adoption of the Law, i.e. whether it 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, it is necessary to consult the economy as well, in order to share practical experiences and problems in the application of certain legal norms, and thus prevent the unilateral proposal of norms that are difficult or almost impossible to apply in practice. Also, it is necessary to arrange the 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. By the amendments to the Law on Dual Education from 2023, improvements have been established which are important for further implementation of learning through work .

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 eight 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).

IMPROVEMENTS

In comparison to previous conditions, some progress is evident in reference to the recommendations set forth by the National Education Council and the Council for Vocational and Adult Education. 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. Some of these novelties are as follows:

- A preliminary agreement on dual education is to be concluded;

- The number of hours a student can spend at the employer has been increased - from 6 to 8;

- The amount of compensation for learning through work still remains a minimum of 70% of the minimum hourly labour cost for each hour spent learning through work, while an option is available to pay the compensation in instalments;

- It introduces the concept of training alliances and training centres;

- The concept of learning through work is clearly defined, and hereof document represents a jointly created plan between the school and the employer, which can be amended and supplemented as per the specific needs of the employer during the term of the dual education contract;

- The structure of the committee responsible for determining if the conditions for performing learning through work have been met, has been changed (labour inspectors are no longer required to be members of the committee);

- A person who possesses basic academic and didactic knowledge and skills and holds a valid authorizations, issued by national or international regulatory bodies as per the relevant professional field , is now able to be an instructor (he/she is not required to undergo training for an instructor's license in a dual education);

- A financial support for schools and the relevant branch of the economy can be granted based on the decree passed by the Government of the Republic of Serbia (but only in the form of financial aid/support for students, as per Article 34, and for education and training of students for shortage occupations).

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).

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 Occupational Health and Safety, 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. There is only a general provision stipulated under Article 34 of the Law on Dual Education, which prescribes that the Government shall establish detailed conditions for granting financial support to schools and employers as per needs of financial security for students participating in educational programs for shortage occupations (lack of recognition that such support granted to all employers can be an incentive for participating in the dual education project, but also no method has been provided for determining such support).

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. Additionally, the Law on Dual Education fails to define compensation for damages under any provision, which could undoubtedly lead to the conclusion that the compensation in question shall be interpreted in accordance with other applicable laws.

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.

Circumstances requiring further consideration which can often become a focal issue demanding adjustment and harmonisation in practice, reflect the need to align the program of learning through work with the Regulation determining hazardous child labour ("Official Gazette of RS", no. 53/2017), bearing in mind that a child is any person under the age of 18.

FIC RECOMMENDATIONS

- 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.
- 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.
- 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/pupil 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/pupil.

- The provisions of both laws shall 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, leaving a reasonable period for remedying the disputed conditions and breaches of contract.
- Contract termination procedure shall be regulated in both laws in accordance with the above statements.
- The obligation shall be defined as to align and adjust the Program for the implementation of learning through work with the by-law prescribing the restrictions in reference to hazardous child labour.

ENVIRONMENTAL REGULATIONS

1.55

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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;	2021		√	
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.	2023			√
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;	2021		√	
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.	2021			√
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;	2021			√
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;	2021			√
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;	2021		√	
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, or enactment of new bylaws;	2023		√	
Passing regulations for the implementation of GHG inventory, reporting and verification of emissions with the greenhouse effect.	2023	√		

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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.	2023			√
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.	2023			√

CURRENT SITUATION

Serbia has achieved some level of preparation in the field of environment and climate change, as reflected both by the reports from the Energy Community and the European Commission. Key legislative initiatives have been launched, although significant gaps remain in terms of implementation, compliance and alignment with EU directives.

In the last report of the European Commission related to Chapter 27, which addresses environmental protection and climate change issues, Serbia has achieved some level of preparation in the area of environment and climate change. Overall, Serbia made some progress, including on last year's recommendations, in particular by adopting the Low Carbon Development Strategy 2023-2030, and its national energy and climate plan (NECP).

One of the primary challenges identified by the Energy Community Secretariat in their implementation progress report for 2023, relates to Serbia's incomplete transposition of the amended Environmental Impact Assessment (EIA) Directive. Although a draft of the new EIA law was submitted to Parliament, the Secretariat identified that the breach concerning the requirement that projects should obtain development consent only after the finalisation of the EIA process persists. The current framework under the currently applicable EIA Act allows EIAs to be submitted even at the stage of commencement of works, i.e. even after the building permit. Construction regulations have been adopted recently with a view to shift the moment of EIA necessity to the building permit phase, but still, it is necessary to implement this requirement via amendment of laws, and not via by-laws.

Additionally, while Serbia has submitted the draft Law on Strategic Environmental Assessment (SEA) to the Parliament, it has not yet been adopted, so the SEA Directive is yet to be transposed.

Moreover, while there are some strategic documents in the field of environmental protection, Serbia has not yet adopted a national strategy for environmental protection. Although progress has been made, with the Ministry for Environmental Protection publishing a call for public participation in the consultation process in September 2024, the formal adoption of this strategy remains pending. The delay in finalising the Environmental Protection Strategy with the Action Plan hampers efforts to align Serbia's policies with the EU's Green Agenda and broader environmental goals.

In the area of industrial emissions, the reporting under the Large Combustion Plants Directive for 2022 revealed that while emissions of nitrogen oxides and dust have decreased, sulphur dioxide emissions have increased. An infringement procedure for non-compliance with the National Emissions Reduction Plan (NERP) ceilings has been ongoing since March 2021.

Serbia continues efforts to comply with the Sulphur in Fuels Directive, with relevant legislation in place since December 2020. However, further amendments to the Rulebook regarding the requirements for marine fuels are still in the drafting stage. In addition, annual monitoring programmes for fuel quality and emissions are being carried out.

In the field of nature protection, Serbia is progressing with the establishment of Natura 2000 sites. A proposal encompassing 277 potential Sites of Community Interest and 85 Special Protection Areas for Birds has been put forward, covering approximately 35% of Serbia's territory. Despite these positive steps, institutional and human resource capacity remain challenges, particularly at the local level. Serbia also continues to struggle with enforcing a ban on small hydropower plants in protected areas, as the necessary environmental impact assessments are often not conducted.

Progress in transposing the Environmental Liability Direc-

tive is limited, with key aspects of the legislation still pending adoption. A comprehensive Law on Liability for Environmental Damage remains unapproved. Additionally, despite efforts, enforcement of environmental legislation remains weak, particularly in areas such as illegal logging, wildfire trade and water management.

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.

Air pollution remains a pressing issue.

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 metre 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 non-existent 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.

The management of investments related to the environment 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

Serbia has made several important steps forward in its environmental and climate agenda. In the past year, notable achievements include the adoption of the Low Carbon Development Strategy for 2023-2030, which serves as a key policy instrument for Serbia's transition to a more sustainable economy. Serbia also increased its budgets for environment and climate action by 18% compared to 2022, particularly focusing on waste management and water quality sectors.

In a major development, Serbia adopted its NECP, a strategic document that outlines the country's commitments to energy efficiency, renewable energy sources, and the reduction of greenhouse gas emissions. The adoption of the NECP is an essential step toward aligning Serbia with EU climate goals and improving its overall energy security and sustainability.

In the area of air quality, Serbia adopted its first Air Protection Programme for 2022-2030, following an extensive public consultation. The Air Protection Action Plan was also implemented, aimed at reducing air pollution levels across the country. Despite continued issues with exceeding the EU daily limit on air pollution, Serbia made progress increasing the transparency of air quality data through improved communication by the Serbian Environmental Protection Agency (SEPA). Efforts to introduce the EU Air Quality Index are also underway.

In the area of waste management, Serbia continues to show alignment with the EU acquis. In December 2022, the country adopted a Programme for the Development of the Circular Economy. Sorting waste at source has been a significant increase in four waste regions, thanks to the support from Team Europe, while funds have been allocated to clean 233 illegal dumpsites and install video monitoring to prevent waste disposal. Serbia had 12 sanitary landfills operational at the end of 2022, and projects for constructing additional waste-to-energy facilities are ongoing, including the remediation of the Belgrade landfill.

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 has adopted a Sludge management strategy in late 2023, taking into account the relevant EU directives.

In the previous report, we highlighted 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. However, since then, the action plan, which according to the strategy was supposed to be adopted within 1 year, as of 2024 has yet to be adopted and no draft or announcement on the topic has been made public. As such, it is not clear how harmonisation measures are to be defined without an action plan, bringing into question the overall effectiveness of the strategy.

Regarding water management, Serbia adopted its first River Basin Management plan in April 2023 and continues to develop flood risk management plans. Efforts to address pollution in transboundary rivers such as the Danube, Drina, Dragovištica, and Pek are progressing slowly, but the first steps have been taken. Serbia's participation in the EU funded programmes to improve wastewater treatment infrastructure, particularly in Niš, is another positive development. Serbia's legislative alignment on water quality has improved, though significant efforts are still needed in monitoring and enforcement.

In the previous period, numerous wastewater treatment plant (WWTP) projects were initiated, with a large number 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.

In terms of nature protection, efforts to establish the Natura 2000 network are ongoing, with the proposal to include significant portions of Serbia's territory. This process has been supported by an EU-funded project that helps improve institutional capacity at the national level.

REMAINING ISSUES

Despite progress, Serbia still faces several challenges in fully aligning its environmental legislation with the EU acquis and improving enforcement mechanisms. The issue of incomplete transposition of the EIA Directive remains a key obstacle, particularly regarding the requirement for development consent to be granted only after the EIA process is completed. The absence of mechanisms to assess projects that have bypassed the EIA process and the lack of clear timelines for environmental assessments continue to be problematic.

The delayed adoption of the draft SEA Law further complicates Serbia's ability to align with EU standards on environmental assessments. The public consultation step in the development of SEA for key national strategies such as the National Energy and Climate Plan have marginally improved but still require significant efforts to ensure full transparency and participation.

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). Nevertheless, the issue of industrial emissions also persists, particularly concerning sulphur dioxide pollution from large combustion plants. Non-compliance with the NERP ceilings remains an area of concern, namely bearing in mind the deadline for the closure of opt-out plants, highlights the urgency for addressing the issue.

Air quality remains a critical issue, with several regions in the country regularly exceeding EU air pollution limits. While the adoption of the Air Protection Programme is a positive step, Serbia needs to accelerate the implementation of air quality plans to improve further monitoring.

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.

The waste management sector, although showing improvement, continues to suffer from insufficient inspection capacity and illegal waste dumping. Serbia still has a large number of illegal dumpsites, and the sorting of waste at the service is not yet widely adopted.

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 synchronisation 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 fertilisers 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 field of nature protection, institutional and human resource capacity at both the national and local level remains inadequate. Issues such as illegal logging, hunting of protected species and insufficient enforcement of bans of small hydropower plants in protected areas are ongoing. Also, in the area of nature protection, Serbia needs to continue aligning its regulations, particularly in compliance with the Directive on habitats and birds. Harmonisation 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 access 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 initial revocation of the Special Purpose Spatial Plan for the Jadar project.

Serbia also struggles with aligning its legislation on environmental crime and liability. The Law on Liability for Environmental Damage remains pending, and enforcement in areas such as industrial pollution and wildlife protection are weak.

FIC RECOMMENDATIONS

- Complete the transposition of the EIA and SEA Directives - this includes ensuring that development consent is granted only after the EIA process is finalised, and introducing mechanisms to address projects that have bypassed the necessary assessments. The draft laws on EIA and SEA should be adopted promptly to ensure alignment with EU standards

- Improve enforcement and monitoring - strengthening the administrative capacity of both national and local institutions is crucial, particularly for inspectorates and the judiciary. This will require the implementation of cross-sectoral reforms and the provision of adequate resources to ensure compliance with environmental regulations.

- Tackle air pollution – Serbia must accelerate the implementation of its air quality plans and strengthen monitoring systems to reduce air pollution levels, particularly in regions most affected by industrial emissions. The introduction of the EU Air Quality Index should be prioritised, and SEPA's capacity for monitoring and reporting must be further enhanced.

- Improve waste management practices - efforts to increase waste sorting at the source should be expanded, and illegal dumpsites must be eradicated. Inspection capacity in the waste sector needs to be improved, and further investments should be made in developing waste-to-energy facilities and recycling infrastructure.

- Strengthening transboundary cooperation - Serbia should intensify efforts to improve cooperation with neighbouring countries on the management of transboundary rivers and ecosystems, particularly of ongoing pollution issues.

- Adopt and enforce environmental crime legislation - the Law on Liability for Environmental Damage should be adopted, and Serbia must establish a track record for enforcement to address illegal logging, wildlife trade, and industrial pollution

- Increase transparency and public participation - Serbia should ensure that public consultations on environmental matters are inclusive, transparent, and meaningful. Greater efforts should be made to engage stakeholders in the decision-making processes, particularly concerning large-scale investments that impact the environment.

- Tackle greenwashing and misleading green claims – currently, this issue is only regulated by one paragraph of Law on Advertising and general rules on consumer protection and unfair market practices. With EU's proposal of Green Claims Directive and entry into force of Empowering consumers for the green transition (Directive 2024/825/EU) Serbia could be in pole position to define and regulate this issue in more detail.

- Invest in nature protection and biodiversity - institutional and human resource capacity in the area of nature protection must be strengthened, namely at the local level. Serbia should continue its efforts to establish the NAtura 2000 network and improve enforcement of existing regulations, especially regarding illegal construction and hunting in protected areas.

- 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, or enactment of new bylaws.

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LEGAL FRAMEWORK

The 2024 White Book provides a detailed insight into the current state of legislation and the business environment, with a special focus on key reforms that bring Serbia closer to the best world standards and practices and further support Serbia's path to membership in the European Union. Bearing in mind the dynamic changes in the last few years, Serbia shows year after year progress in the area of harmonization of legislation with EU regulations, confirming its commitment to the process of EU integration and improvement of business conditions for foreign and domestic investors.

During 2024, significant attention was given to the area of ESG (environmental protection, social responsibility and governance), which is increasingly becoming a central point of interest for international investors and national strategies. This topic is continuously developing, and this year initiatives that support sustainable development are noticeable in Serbia, which is in line with European ESG standards.

European regulations, such as the EU Whistleblower Directive and the German Supply Chain Due Diligence Act (LkSG), have a significant impact on improving the protection of whistleblowers and can serve as a model for the further development of Serbian legislation, especially in creating a more comprehensive and effective whistleblower system. Furthermore, the EU CSDDD (EU Corporate Sustainability Due Diligence Directive) further expands the obligations of companies to include mechanisms for gathering information through whistleblowing especially in the context of sustainability and social responsibility.

In addition to certain initiatives undertaken in the previous period in the direction of further changes to regulations and their improvement, which will be discussed in this chapter of the White Book, the FIC Legal Committee believes that there is still significant room for improvement.

To accelerate the green transition, Serbia should work on strengthening legislation within the framework of environmental protection, which means harmonizing national regulations with EU standards, such as the Air Quality Directive and the Industrial Emissions Directive. The harmonization process includes the adoption of new laws and/or amendments/supplements to existing ones. Furthermore, it is important to develop a modern system for continuous monitoring of the state of the environment, as well as regular reporting to the public on progress in the implementation of green policies. In addition, it is important to provide education in order to raise awareness about environmental protection, and this can be achieved by launching campaigns about the importance of environmental protection and the promotion of sustainable practices among citizens and businessmen.

In order to ensure that legislative changes have an impact, a general increase in the capacity of institutions is also necessary. By strengthening the capacities of regulatory bodies, inspection services and the judiciary, the proper and efficient application of current and new regulations is ensured. It is also necessary to continue with the practice of harmonizing the domestic regulatory framework with EU regulations.

As an introduction to the "Legal Framework" Chapter of the White Book, we will repeat the recommendations of the FIC Legal Committee from the previous edition, bearing in mind that it is still necessary to achieve the following:

- a more uniform practice of Serbian courts, as well as a generally greater efficiency of the judiciary and regulatory authorities. Although some efforts have been made, the duration of court proceedings is still one of the biggest problems in terms of creating a more favourable climate for investors;

- to work harder and provide additional funds in terms of improving the authorities and creating adequate mechanisms for law enforcement, bearing in mind a large number of new and specific areas that are important in the business environment (as is the case, for example, with the right to protect competition or the protection intellectual property rights).

- to invest more efforts in educating the public about the legal provisions and available options (for example, consumers and potential whistleblowers);

- to enable more practical options for the implementation of various legal solutions (as would be the case with the introduction of "foreign" electronic signatures, which would significantly facilitate business 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			√
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 thirteen 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.

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. 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 and in case of share capital increase, as stated. 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 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) act-

ing 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 and competition protection rukles, (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 prohibiting a single-member LLC from acquiring own shares, which is contrary to the Law's provisions on status changes.

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.

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

2.00

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 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.	2015	√		
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	2023		√	
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 (Law on Capital Market) is almost completely harmonized with European Union legislation, but domestic 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 2015, 2016 and 2020 and 2021, cannot be duly assessed.

Although noticeable, regulatory reforms alone were not enough to stimulate growth of the capital market. A downward trend in the number of financial instrument issuers and public joint stock companies listed on the Belgrade stock-exchange is still present. On the other hand, government bond issuance for financing eco-preservation, infrastructure and developmental projects are on the notable rise in 2023 and in 2024.

In 2023 government initiated a capital market reform project with donation of the International bank for reconstruction and development aimed at fostering long-term financing via corporate bond issuance (Catalysing Long Term Finance trough Capital Markets Project). Project's goal is to develop legal, regulatory and economic environment, as well as to broaden and deepen corporate bonds market, including Green bonds and other special type of debt instruments. Besides, project would strive to increase demand and attract more bond investors through simplification of the capital market tax regime.

More corporate clients should be motivated to get access to capital via bond issuance, with a portion of these bonds traded on the Belgrade stock exchange. We need to note once again that the capital market in Serbia is still developing and that there are still issues associated with low quality and liquidity of capital market products.

POSITIVE DEVELOPMENTS

Last year recommendations in relation to which tangible developments were noted:

- 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.

Public Debt Agency held several primary market auctions during Q4 2003 and Q1 2024 and successfully sold around 150

bln worth of dinar bonds with initial maturity of 8 years and significant participation of foreign portfolio investors. New benchmark bond is included in JP Morgan government bond index. Fund collected via bond issuance will mostly be used for financing rail and road infrastructure, as well as for EXPO 2027 project. Bond issuance significantly contributed towards increase in the local currency participation in the public debt and achieved final issuance yield is quite favourable.

During 2024. government continued with initiative of broader Serbia inclusion in the global Green agenda and issued an ESG bond worth $1,5bln. Fund collected via bond issuance will be used for energy efficiency projects, transition towards sustainable and renewable energy sources, further inclusion of minority groups (social, ethnic etc.), assistance to citizens purchasing first flats, populating the rural areas as well as other ESG compliant projects.

As already explained, with support of World Bank donation worth $20mln, government in 2023 embarked on project to facilitate process of corporate bonds issuance. Focus of the project is to provide expertise for potential corporate issuers regarding the issuance process, as well as reduction of fees for compiling prospectus and regulatory approvals. Current phase of the project entails election of the qualified agents and consultants, while first bonds should be offered to public in Q3 2024.

- 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. We believe that the aforementioned would represent a significant step forward in the direction of further regulation of legislation related to enabling greater legal certainty in 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. Good example of commendable hedging practice is continued state effort to protect against foreign exchange risk portion of the public debt in USD, via arranging the conversion of the ESG bond dollar proceeds in EUR.

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 risk of changing interest rates. Even though demand for hedging in the environment of rising Euribor rates was limited, it is of utmost importance to continue with efforts to foster active risk management culture.

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.

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. 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), as well as short-

term government bills. The potential introduction of the mentioned types of government bonds would enable banks and other investors to better manage their liquidity surpluses and 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

- To continue with the issuance of state and municipal bonds for the financing of infrastructural and other large communal projects, including green corporate bonds, 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, as well as short-term treasury bills.
- 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	2012			√
To allow easier access to case files to parties in the proceedings, and their representatives	2023			√
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.	2023			√
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.	2023			√

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 misdemeanour 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. Regarding the statistics for the year 2023, 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 319,239. The total number of unresolved cases in all courts in the country amounted to 1,095,479. This data indicates an evident overload of the courts, which has an undeniable negative impact on the efficiency of the judiciary, despite the fact that the number of unresolved cases is significantly lower than the previous year.

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

1.25

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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			√
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.	2016			√
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.	2016			√
Regulate in detail the procedure of electronic sale, if possible, by following the example from the Law on Enforcement and Security.	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			√
Regulate the procedure of entrepreneur insolvency either by amendments to the current Law on Bankruptcy or the adoption of a separate law.	2016			√
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.	2023			√
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.	2023			√

CURRENT SITUATION

According to data on the Bankruptcy Supervision Agency's website, as of 3 June 2024 there were a total of 1,524 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 10 months, while average duration of the proceedings initiated under the Law on Bankruptcy is about 2 year and 10 months.

186 bankruptcy proceedings were initiated in the first six months of 2024. This means that approx. 31 bankruptcy proceedings were initiated per month, almost the same as in 2023. 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 on the Draft amendments to the Law on Bankruptcy and the Law on Bankruptcy Supervision Agency in 2021, the procedure for their consideration and adoption by the National Assembly has not yet been initiated. These are the fifth amendments to the Law on

Bankruptcy since its entry into force in early 2010.Additionally, despite the Ministry of Economy forming a working group to draft of a law on the bankruptcy of entrepreneurs no specific steps have been taken.

Most of the latest amendments are expected to improve the efficiency, transparency and 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

Previous editions of the White Book analysed potential improvements in the draft amendments to the Law on Bankruptcy and the Law on the Bankruptcy Supervision Agency. However, since these drafts still did not find its way to the National Assembly, all "Positive developments" from previous editions of the White Book remain pending.

Notable proposed regulatory amendments include:

Improved position of secured and pledged creditors

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

The proposed amendments to the Law on Bankruptcy aim to enhance the transparency and information. They include provisions for collecting, processing and analyzing statistical data related to bankruptcy proceedings. The amendments also allow all creditors to request and receive all information related to the bankruptcy debtor, the bankruptcy procedure, 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. Further, 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 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 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 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 continue to highlight the issue

with the distribution of funds collected through the sale of a bankruptcy debtor's property that was pledged in favour 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 proceedings. 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 favourable 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 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

1.00

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 on paper). Use this opportunity to amend the provisions of the Law on Trademarks that regulate the 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 Law on Special Entitlement of Public Authorities in the Area of Intelectual Property (2006, amended in 2009, 2021)

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 is still in the process of adoption.

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 it was created a computer platform in the 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.

In the course of 2023, the Intellectual Property Office was filed a total of 4461 national applications (↑5.7%) with regard to the protection of intellectual property rights. From that number 3957 applications (↑5.3%) were filed for the grant of industrial property rights and 504 applications ↑13%) for the depositing of copyright works and subject matter of related rights. The rise in the recorded copyruight-protected works is a result of the tax incentives based on the licensing of these works.

442 inspections were carried out. 24 grams of gold, 36 liters of alcoholic beverages, and 8,877 pieces of various goods suspected of infringing intellectual property rights were temporarily seized. The counterfeit goods included textile products, sports equipment, clothing, footwear, and accessories such as bags and purses. A total of 29 general requests were approved[2].

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

1 2021 Annual IP Office Report.

2 Information on the work of the Ministry of Internal Affairs for the 2024

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.

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

2.00

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 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.	2023	√		
The fees in the Tariff Rules should be decreased to a reasonable sum, especially in the merger control area.	2009			√
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.	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 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.	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 2023, 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.

However, the Commission continued its activities regarding the adoption of acts within its competence. Following the Model Program of Compliance with the Rules on Protection of Competition, the accompanying Guidelines on Competition Compliance Programs and the Instruction concerning bid rigging practices in public procurement procedures adopted in 2022, the Commission introduced the new Instruction on content and manner of submission of the request for protection of the confidential information in 2023. This new Instruction clarifies certain practical aspects of confidentiality claims in proceedings before the Commission.

The Foreign Investors Council welcomes the fact that the Commission published on 4 July 2024 the draft bylaws concerning vertical agreements, transfer of technology, maintenance of motor vehicles and sale of spare parts, as well as the categories of agreements in rail and road transport. The Foreign Investors Council has been for years indicating in the White Book the need for issuing of the new bylaws since the current Law on Protection of Competition was adopted back in 2009.

Nonetheless, the Foreign Investors Council expresses its disappointment that the general public and all the relevant stakeholders have been granted with only nine days to provide their comments to the draft bylaws. With such a short deadline the public consultations concerning the new bylaws have effectively been excluded, in particular having in mind that the new bylaws have been published during July when most of the stakeholders are on their annual leaves. The Foreign Investors Council reminds on a good practice during preparation of the comments to the draft Law on Protection of Competition and the Decree on Submission of the Merger Notification (which Decree was enacted in 2016) when the Commission provided reasonable time for all the stakeholders to provide their comments. The Foreign Investors Council sincerely regrets with respect to such a misconduct concerning the four new bylaws having in mind an enormous impact that the four bylaws, in particular the Vertical Block Exemption Regulation, can have on business of all the undertakings active in Serbia, both foreign investors and the local companies.

Given that neither 2022 nor 2023 annual report of the Commission have 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. However, the Commission significantly reduced its activities in publishing the concentration decisions in 2023 – namely, the Commission published only 33 decisions on resolved concentrations from 2023, all of them cleared in summary proceedings. Also, based on publicly available information the Commission opened one Phase II in-depth investigations in 2023, in relation to the merger of two biggest coffee manufacturers in Serbia (which was eventually approved with commitments on 28 February 2024).

The delays in publishing of the annual reports for 2022 and 2023, as well as the Commission's decisions, have led to a lack of transparency that negatively affect the overall legal certainty. This is especially concerning as the Commission grounds its decision on its previous practice, which currently remains unknown to the public. Namely, companies rely on legal clarity to make informed decisions, and uncertainty about the enforcement of competition laws can lead to increased compliance costs and higher risks, deterring investment (particularly from foreign investors who may perceive the jurisdiction as risky) and stifling innovation.

In 2023, the Commission initiated two new procedures for investigation of the competition infringements, for alleged entering into restrictive agreements.

The Commission's focus on investigating restrictive agreements involves one case on bid-rigging and one case where resale price maintenance ("RPM") clauses in vertical agreements were suspected. In any case, it appears that RPM provisions remain a significant focus of the Commission in relation to restrictive agreements as RPM clauses are one of the most investigated types of antitrust violations historically in Serbia.

Further, the Commission continued to examine failures to notify allegedly notifiable concentrations and initiated one new investigation 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.

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

The Commission imposed five fines in 2023, in total amount of more than EUR 2.2 million. The two biggest fines were imposed in the case concerning two biggest coffee producers, which were individually fined EUR 1.6 million and EUR 400,000. Hence, the fine of EUR 1.6 million is the highest individual fine imposed in 2023 and the largest fine in the last couple of years.

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 2023, two 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 digital platforms for intermediating in the sale and delivery of predominantly restaurant food and other products, from 2018 to 2021,

- a sector analysis of the state of competition in the markets of cement and concrete in the Republic of Serbia, in the period 2018-2021.

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's Model Program of Compliance with the Rules on Protection of Competition and the accompanying Guidelines were published on the webpage of the Serbian Commercial Chamber and are published in English language as well.

In terms of the events that took place in 2023 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 and signed the memorandum on cooperation with the national competition protection authority from Georgia. Furthermore, the Commission took part in the Annual Conference of the International Competition Network (ICN) hosted in Barcelona by the Spanish competition authority.

Finally, as previously mentioned, in April 2023, the Commission adopted a new Instruction on content and manner of submission of the request for protection of the confidential information .

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, but in 2023 only 33 decisions in merger cases were published, which is only a third of the merger decisions published in 2022. The cause for particular concern is that the Commission, in continuation of the trend from 2022, did not publish any decision in individual exemption proceedings in 2023 (except for one decision on rejection of the individual exemption request that was published on the Commission's website in November 2023).

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 a significant delay (at the time of writing of this chapter in June 2024 we were still awaiting 2022 annual report to be published), 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.

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. 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.

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 published that the decision in bid-rigging case from December 2023 is the first ever partial leniency granted in Serbia.

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.
- The Commission should increase the activities on the promotion of leniency.
- 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 1.50

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.

Bearing in mind that the report of the Commission for State Aid Control for 2023 has not yet been published, we will look back at the situation and data from 2022.

The total absolute amount of state aid granted in 2022 amounted to RSD 187.871 million (EUR 1.599 million) while its share in gross domestic product was 2.7% which is less compared to 2020 when the account of state aid in the GDP was 4.96%.

In 2022, the agricultural sector was granted state aid in the absolute amount of RSD 58.137 million (approximately EUR 495 million), which represents an increase for 39% and 42% comparing to 2021. and 2020. State aid was granted to the industry and services sector in 2022 in the absolute amount of RSD 120.439 million (approximately EUR 1.025 million). Compared to 2021 and 2020, this aid is recording significant growth.

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 following ones:

- Decree on the content and form of the application for state aid;
- Decree on conditions and compliance criteria for state aid for environmental protection and in the energy sector;
- Decree on the conditions and criteria for the compliance of state aid for investment in sectors of importance for reaching a zero rate of greenhouse gas emissions;
- Decree on conditions and criteria for the compliance of state aid granted in the form of a guarantee and
- Decree on Amendments and Supplements to the Decree on Conditions and Compliance Criteria for State Aid for Culture.

REMAINING ISSUES

In the last report on Serbia's progress in the EU accession process for the year 2023, European Commission indicated that despite a solid legal framework on state aid control, consistent implementation of these policies remains weak. In this area, well-defined rules are not always implemented due to strong political pressure for financial assistance, channelled to SOEs and large foreign investors.

However, in 2023, there has been some acceleration of governance reforms, in particular in the energy sector.

The regulatory and administrative burden for doing business has been reduced, but the private sector continues to be affected by a lack of transparency and predictability in the way business-related legislation is adopted. Structural challenges remain for State aid, competition and public procurement. The State retains a strong footprint in the economy and the private sector is underdeveloped and hampered by weaknesses in the rule of law, in particular regarding the tackling of corruption and judicial inefficiency. Last year's recommendations have been partially implemented and remain partly valid.

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 being 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 127 decisions (according to the data available on the website of CSAC), of which 100 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.
- Ensure a harmonised approach for prioritising and monitoring all investments and basing investment decisions on feasibility studies, cost-benefit analysis and environmental impact assessments, and apply to all projects the principles of competition, equal treatment, non-discrimination and transparency in State aid procedures in line with the EU acquis.

CONSUMER PROTECTION 1.67

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

In 2023 and 2024, the Government of the Republic of Serbia has undertaken activities aimed at adopting a new Law on consumer protection, which will replace the Law from 2021. The new Law will take over a number of provisions from three EU Directives adopted in 2019: Directive 2019/770/EU on Certain Aspects Concerning Contracts for the Supply of Digital Content and Digital Services; Directive 2019/771/EU on Certain Aspects Concerning Contracts for the Sale of Goods; and the so-called 'Omnibus' Directive (EU) 2019/2161 in Better Enforcement and Modernisation of Union Consumer Protection Rules.

Like the 2021 Law, the draft of the new Law invokes Article 78 of the Stabilisation and Association Agreement which stipulates that the Contracting Parties shall encourage and ensure a policy of active consumer protection in accordance with Community law and the harmonisation of consumer protection legislation in Serbia with the protection in force in the Community of the European Union.

The 2021 Law significantly improved the mechanism of out-of-court settlement of consumer disputes, by introducing the obligation and regulating the procedure before bodies for out-of-court settlement of consumer disputes. Proceedings before the body may be initiated by the consumer if he has previously made a complaint or objection to the trader, and the trader is obliged to participate in the procedure. The penalty 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 50,000 dinars (which is approximately 425 euros). Although this method of dispute resolution existed in the period before 2021, traders in practice avoided participating in the agreement, but only rejected complaints about goods and referred dissatisfied customers to court, and consumers often gave up on the court proceedings.

The Law also introduced the so-called "Do not call" register of telephone numbers of consumers who do not want to be called by traders who offer goods/services by phone, which is kept by the regulatory body in charge of electronic communications, which should prevent or reduce intrusive business practices that exist through multiple telephone addresses to consumers. In this regard, on December 28, 2023, the Ministry of the Interior and Foreign Policy adopted the Rulebook on the Registry of Consumers Who Do Not Want to Receive Connected Devices and/or Messages as Sold by Phone, and starting from January 5, 2024, consumers have been allowed to register in the so-called "Do Not Call" Register. From the establishment of the full functionality of the so-called "Do Not Call" Register until July 2024, a total of 16879 consumers were registered in the "Do Not Call" Register.

The 2021 Law also improved and more precisely defined the complaint procedure (after two years from the purchase, the complaint is declared to the guarantor, and the obligation of the trader to receive the complaint has also been established, which solves the current problems from practice related to the refusal of the receipt of the complaint by the trader), the obligation to make a calculation and specification of the sale price of the service (for a value of more than 5,000 dinars, which is approximately 42 euros), and the content of the invoice issued for services of general economic interest. In addition, the Law specified that the prohibition of unfair business practices covers all phases of legal transactions, which opened up space for a more comprehensive implementation of inspection supervision.

The 2021 Law introduced the possibility of issuing misdemeanor orders to the trader. The Law prescribes a fixed fine of 50,000 dinars for a legal entity and 30,000 dinars (approximately 255 euros) for an entrepreneur for certain violations. Longer limitation periods are also prescribed, so misdemeanour proceedings cannot be initiated or con-

ducted if two years have elapsed from the date on which the offense was committed (previously, the one-year statute of limitations established by the Law on Misdemeanours was applied).

The Draft Law brings a number of important novelties, mainly related to the supply of digital content or digital services, or to the provision of the so-called online marketplace. The definition of "goods" has now been amended to include a bodily item that incorporates or is associated with a digital content or service in such a way that the goods would not be able to function without that digital content or service. The new Law will regulate in detail the subjective and objective requirements that must be met in order for goods to be considered conforming to a contract. Subjective requirements are satisfied when the goods are in conformity with what the trader and the consumer have agreed, and objective requirements are satisfied when the goods are suitable for the purposes for which goods of the same type would normally be used. Other important novelties from the Draft Law are presented in the second part of this text, in the sections "Positive Developments" and "Remaining issues".

POSITIVE DEVELOPMENTS

Among the improvements in the content and implementation of regulations in the field of consumer protection, improvements due to legal changes adopted in 2021 and improvements contained in the Draft of the new Law can be distinguished.

The 2021 legal improvement of the out-of-court dispute resolution mechanism seems to have encouraged consumers to try to exercise their rights more often than in the previous period. According to information from the Ministry of Internal and Foreign Trade, in 2023, consumers submitted 2,270 proposals for conducting proceedings before bodies for out-of-court dispute resolution. The number of intermediaries registered on the List of Bodies for Out-of-Court Settlement of Consumer Disputes, at the Ministry of Internal and Foreign Trade, increased from 25 to more than 60 from 2021 to mid-2024.

One of the important novelties from the Law of 2021 is the introduction of the "Do Not Call" register, as a database of consumers who have declared that they do not want to receive calls or messages over the phone for promotional purposes as part of the promotion or sale of certain goods or services. The "Do Not Call" register began operating on January 5, 2024. Verification of telephone numbers entered in the Register is enabled on the website of the Regulatory Authority for Electronic Communications and Postal Services (RATEL). A consumer who does not want to be invited by traders, i.e. agencies that do promotion or research, can contact his electronic communications operator with whom he has concluded a contract and ask him to be included in the Register. It is the obligation of traders, i.e. promoters, to check in the Registry before calling consumers whether a certain phone number is on the list of phones that should not be called. In addition, consumers are enabled to register in the "Do Not Call" Register electronically, using electronic solutions provided by operators of electronic communication services, which significantly facilitates the procedure of registration in the "Do Not Call" Register.

It is also noticeable the engagement of consumer protection associations through educating consumers about their rights, organizing round tables where important topics in this area were discussed, testing consumer products and informing consumers about observed irregularities, etc.

Improvements after the adoption of the Law in 2021 are also visible at the level of local self-government units and competent state institutions (including primarily ministries, inspections and courts), where various forms of education on consumer protection have been organized, such as trainings for employees, conferences and round tables, all with the aim of raising the level of their expertise and implementing EU standards. as well as the Government's efforts to improve the development of e-commerce.

The draft law introduces a number of changes that strengthen the position of consumers and the protection of their rights. The proposal introduces new forms of commercial practice which, regardless of the circumstances of the individual case, are considered misleading. Such forms of commercial practice include, but are not limited to: displaying search results in response to a consumer's online search without clearly indicating paid advertising or special payment for the purpose of achieving higher product rankings in those results; Fake reviews, due to the trader's failure to take reasonable and proportionate measures to verify that the reviews originate from consumers who have actually used or purchased their products; and the resale of tickets acquired by the trader using automated means to circumvent the rules relating to the purchase of tickets.

When selling goods with digital elements, according to the Draft Law the trader is obliged to inform the consumer about the updates and provide updates that the consumer himself then installs. The Draft also provides better protection for consumers who use social media. Namely, the proposal extends the application of the legal provisions on sales contracts to contracts for the supply of digital content or digital services, where the consumer supplies or undertakes to provide personal data to the trader. In this way, the Draft treats personal data as a form of compensation.

The draft law brings a significant improvement from the perspective of traders, through the provision according to which the notification to the consumer before concluding a distance contract must contain only a minimum of information if the means of distance communication has a limited space or time of display. The minimum information shall include the following: the basic characteristics of the goods or services; the identity of the trader; the total price; the duration of the contract; the existence of a right of withdrawal; and, if the contract is for an indefinite period of time, the conditions for termination of the contract.

REMAINING ISSUES

It is difficult to assess the effectiveness of out-of-court settlement of consumer disputes, due to the lack of transparency of the work of bodies for out-of-court settlement of consumer disputes. The Law obliges these bodies to publicly publish on their websites reports with statistics on procedures and with an overview of significant problems observed, but such a legal obligation exists only if the bodies have a website. In practice, out-of-court dispute resolution bodies do not have websites, so there is a lack of information about the work of such bodies. Contrary to the solutions from the Law, under Directive 2013/11/EU on alternative dispute resolution for consumer disputes, from which the Law partially took over the provisions on out-of-court dispute resolution, bodies are obliged to make their reports publicly available. In addition, it should be pointed out that in practice it has turned out that intermediaries do not have sufficient knowledge and expertise for out-of-court settlement of consumer disputes, especially disputes that have services of general economic interest as their subject, and it is necessary to continuously organize trainings for intermediaries with the aim of acquiring additional knowledge and skills for the legitimate resolution of out-of-court consumer disputes.

The 2021 Law does not provide the possibility of court proceedings for the collective exercise of consumer rights. Instead, citizens have the option of collective resolution of consumer disputes in administrative proceedings before the Ministry of Trade. The Law did not transpose the provisions of Directive (EU) 2020/1828 on representative actions for the protection of the collective interests of consumers. Consumer protection associations believe that the current legal framework prevents consumers from effectively exercising their rights. Compensation for damages is not among the measures that the Ministry may impose in order to protect the collective interest of consumers. In addition, the Ministry, unlike the court, is not subject to the constitutional obligation of independence and impartiality when deciding on the rights and obligations of persons. The Draft Law does not bring any changes to the existing regime of collective management of consumer rights.

The Draft Law did not adopt a provision from the "Omnibus" Directive (2018/2161), which prohibits the non-transparent placing of dual quality goods on the market. According to the provision in question, the marketing of goods in one Member State while presenting the goods as identical to those marketed in other Member States, even though those goods differ significantly in composition or characteristics, constitutes a misleading commercial practice. The Government did not include this or a similar provision in the Draft on the grounds that it is non-transferable. However, it would be possible to transpose the provision without referring to the "other members" of the European Union.

The provisions of the Draft Law on the elimination of lack of conformity, in particular on the trader's obligations after the expiry of the period within which the consumer has the right to choose between the replacement of goods, price reduction and termination of the contract, should be made clearer, in order to avoid problems in practice that traders faced during the period of application of previous consumer protection laws.

Finally, the provisions of the draft law contain certain solutions that are regulated in a different way in other laws that also have as their subject the rights and obligations of consumers, and it is necessary to harmonize different legal solutions, in order to avoid in practice the possibility of a different and inconsistent interpretation of the rights and obligations of consumers, as well as the rights and obligations of traders, which would fully ensure consumer pro-

tection (for example, A general ban on direct advertising without a clear provision for the fulfilment of the rights and obligations of the trader provided for by a special law as an exception). In addition, the Draft Law retains certain provisions of the current Law, for example, on the obligation of the trader to include free services in the invoice specification, which arecontradictory to the sectoral regulations, and increase the costs of the trader regardless of the absence of a clear interest of the consumer that is protected by these provisions.

FIC RECOMMENDATIONS

- Prescribing a legal obligation for out-of-court dispute resolution bodies to establish, for the purpose of transparency, websites on which they will publish periodic reports.
- Legal introduction of court proceedings for the collective exercise of consumer rights, with the power of the court to order compensation for material and non-material damage caused by the violation of consumer protection regulations.
- Adoption of a legal provision prohibiting non-transparent placing of dual quality goods on the market.
- Harmonization of legal provisions with the provisions of other laws regulating the issue of rights and obligations of consumers.

PROTECTION OF USERS OF FINANCIAL SERVICES

2.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Further education of users of financial services and insurance services about their rights and obligations, as well as users of insurance services.	2014	√		
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.	2020			√
Facilitating the electronic issuance of promissory notes for natural persons.	2019		√	
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.	2021		√	
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	2021		√	
Increasing the limit from Article 3, Paragraph 3 of the Law on the Protection of Users of Financial Services in Distance Contracting	2021	√		
Issuance of a legal opinion by the Supreme Court of Cassation regarding the proof of contracts concluded at a distance	2023			√
Continuous exchange of opinions and constructive discussions with insurance companies regarding the implementation of rules on insurance distribution, ie regulatory requirements regarding market behavior.	2021			√
Implementation of the open banking model, that is, the introduction of a banking identity	2023	√		
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.	2022		√	

CURRENT SITUATION

Bearing in mind that at the time of drafting the White Book, the adoption of the new Law on the Protection of Financial Services Customers is underway, and in this part, in addition to the analysis of the existing legal provisions, we will also consider the novelties brought by the new text of the law. The rights of users of financial services provided by banks, financial leasing providers and traders, as well as the conditions and manner of exercising and protecting such rights, are currently regulated by the Law on the Protection of Financial Services Users of 2011 (hereinafter: ZZKFU), as last amended in 2014. What is indisputable is that the ZZKFU has introduced legal security and certainty in the relations between users of financial services and their providers. Namely, the rights and obligations are much clearer and more precisely regulated than was the case before the adoption of the designated law. In addition to the aforementioned Law, due to the increasing importance of the process of overall digitalization, the Law on the Protection of Financial Service Users in distance contracting was adopted, which began to be applied in September 2018. By adopting this law, the regulator has recognized the importance of the development of digitalization in the process of concluding contracts, i.e. clear regulation of rights and obligations when concluding distance contracts.

In the part of this area that concerns loans indexed in Swiss francs, there was no additional intervention of the legislator, after the adoption of the Law on the Conversion of Housing Loans Indexed in Swiss Francs, which 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 previous models, are not covered by this law. The main intention of the legislator was to try to solve the problems 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. In practice, this type of dispute still exists, and what is necessary is a clear application of the law in question by the courts. The number of disputes has been significantly reduced, but even with the adoption of this law, it has not been fully resolved.

In order to regulate in detail and comprehensively the rights and obligations of users and providers of financial services, the National Bank of Serbia (hereinafter: NBS) has adopted a set of decisions regulating the protection of users of financial services. Since the adoption of the Law on the Protection of Financial Services Users, the NBS has continuously worked to improve this area, as well as the protection of financial service users, as well as a clear definition of the rights and responsibilities of financial service providers. In addition to the decisions that we have mentioned in previous texts and which have not changed in the past period (Decision on the Payment Account with Basic Services adopted in 2022, Decision on Detailed Conditions for Advertising Financial Services adopted in 2019, Decision on the Conditions and Method of Calculation of the Effective Interest Rate with the 2018 version, etc.) we would like to take this opportunity to point out to two decisions that were made by the NBS between the writing of this and the previous text. Amendments to the Decision on the Procedure for Objections and Complaints of Financial Service Users with the last changes that entered into force in September 2023, additionally clarified the concepts of financial service users, complaints, the way of submitting them, specified the NBS's handling of complaints, etc. Without diminishing the importance of the previous decision, we would like to emphasize the importance of the Decision on Temporary Measures for Banks Related to Housing Loans to Individuals, which was adopted in September 2023. By this decision, the NBS limited the interest rate to 4.08% for a period of 15 months for debtors who are beneficiaries of the first housing loan with a variable interest rate, and whose contracted amount does not exceed EUR 200,000, as well as the importance of the ZZKFU novelties, which foresees interest rate restrictions, and which above all relate only to natural persons as users of financial services, namely the way that the interest rate in the Loan Agreement will depend on the Weighted Interest Rate published by the NBS.

The aim of the aforementioned decision and novelty was primarily to preserve financial stability and protect certain categories of financial services users from the effect of a significant change in the variable part of the interest rate (EURIBOR). These and other decisions made by the National Bank of Serbia complete the entire system that regulates the relations between users of financial services and the their providers, which is very important because legal certainty brings legal certainty.

On the other hand, the manner of protection of the rights and interests of the insured, the policyholder, the beneficiary of the insurance and third parties is regulated by the Decision on the Manner of Protection of the Rights and Interests of the Beneficiary of Insurance Services, which has been in force since November 2015. In the previous period, there was no activity of the NBS in the part of additional regulation and protection of the rights of users of insurance services. In addition, the protection of insurance customers is regulated by the Insurance Law from 2014.

What needs to be emphasized is that this area has changed a lot and further developed, which has been recognized by the European Union with the adoption of Directive (EU) 2023/2225 on consumer credit products from 18 October 2023, which the Member States should implement in national regulations until November 20, 2026, and apply from November 20, 2026. Bearing in mind the close connection of domestic regulations in this area with the regulations of the European Union, the National Bank of Serbia has prepared a draft of a new Law on the Protection of Financial Services Users.

The draft of the new Law on the Protection of Financial Services Users further regulates this area, provides a significant set of benefits for the position of financial services users, and creates additional conditions for the average user to be aware of the economic consequences of their decisions on the use of financial services. In order to protect natural persons as users of financial services from a sudden increase in the value of interest rates, a limit on the amount of interest rates for various types of banking products has been introduced. In addition, emphasis is placed on the pre-contractual phase so that users can be clearly and simply informed in advance about the fact that borrowing costs money, as well as on the assessment of the creditworthiness of clients

in order to prevent excessive borrowing. Also, in accordance with the needs of the market, an additional step has been taken to encourage the digitalization of financial services, and the limits for concluding distance contracts have been increased from 600,000 dinars to 1,200,000 dinars for loans and 2,400,000 dinars for deposits.

POSITIVE DEVELOPMENTS

With regard to last year's recommendations, there have been improvements to the following extent:

Further education of users of financial services and insurance services about their rights and obligations – Regarding this recommendation, we can say that in the previous period there was no significant difference in the number of complaints from users of financial services, both in the number and in the merits of the same. A certain trend has been maintained that 1/3 of the complaints are well-founded. Bearing in mind that in recent years, the NBS has invested great efforts in educating users of financial services through a special section on its website, through answers to questions, etc. Also, in the previous period, representatives of the NBS participated in various conferences and events dedicated to topics in this area, and the engagement of the NBS in this area can be assessed as very active. In addition, it is indisputable that through various forms of regulation and engagement of the NBS, the primary goal is fair treatment and protection of users of financial services. We also believe that the proposed draft Law on the Protection of Financial Services Users further emphasizes the need for education of financial services users. In accordance with the above, we believe that this recommendation does not need to be emphasized, since we can conclude that it has been fulfilled, with the suggestion to continue in the same direction with the education of financial service users.

Education of judicial authorities in the area of banking operations and in the field of insurance, and in that sense the introduction of specialized cases in these areas at the Judicial Academy – In this part we have not really seen any certain progress, and in that sense it is necessary to work further on the fulfillment of this recommendation. Namely, the regulatory framework is only one pillar of legal certainty, and the implementation of the same is yet another important element. The inconsistency of judicial practice in loan processing disputes, as well as the rationales of the decisions themselves, indicate that additional understanding of this area is necessary by public office holders.

Enabling electronic issuance of bills of exchange for natural persons – the progress depends on the establishment of the Central Register of E-Bills of Exchange for legal entities and entrepreneurs, which project is still in the testing phase. Accordingly, there has been no progress in this field, but the reasons for stagnation are objective.

Permanent Resolution for Disputes Regarding Loan Processing Fees and Amendments to Article 368, Paragraph 1 of the Civil Procedure Law – Some progress has also been observed in the part of loan processing disputes compared to the previous year. Namely, the number of new lawsuits has been further reduced. Certain courts correctly interpret the Legal Position of the Supreme Court on the permissibility of contracting the costs of loan processing. On the other hand, some of the courts, by freely interpreting the position of the Supreme Court, introduce legal uncertainty in this area. Overall, judicial practice still differs in this matter and depends on which court the lawsuit is filed with, which still carries with it both legal and financial risks for clients and financial service providers. In accordance with the above, we remain of the opinion that it is necessary to continue working on the final solution of this problem and the possible prevention of new mass litigations in the future.

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 burden on the judicial authorities – as we have stated, the number of these disputes is decreasing and we can say that at this moment there is no need to do anything additional in relation to this recommendation.

Increase of the limit referred to in Article 3, paragraph 3 of the Law on the Protection of Financial Services Users in Distance Contracting – The new amendments to the Law stipulate that the User may sign a distance contract in the amount of up to RSD 1,200,000 for loans and up to RSD 2,400,000 for deposits, by verifying and confirming his user identity by the service provider, using at least two elements to confirm the user's identity (authentication) or the use of electronic identification schemes with a high level of confidence, in accordance with law and other regulations. In view of the new provisions, we believe that in this way the recommendation from the previous text of the White Book has been met.

Issuance of a legal position by the Supreme Court of Cassation regarding the proof of contracts concluded at a distance – There has been no progress in this part, and we

believe that in the near future it would be necessary to issue the legal position in question, bearing in mind the increasing number of contracts concluded at a distance.

Continuous exchange of views and constructive discussions with insurance companies regarding the implementation of rules on insurance distribution, i.e. regulatory requirements regarding market behaviour - No significant progress has been made in this area.

Implementation of the Open Banking model, i.e. banking identity - in this part, we believe that there has been a significant shift, especially considering the adopted text of the amendments to the Law on Payment Services. We hope that in the future, this concept will be fully implemented in our legal system.

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 that sense, amendments to the Law on Mediation – There has been progress in this part because the NBS is actively working on it. We would like to specially point out to the progress from the point of view of the insurance company, as mediation has been recognized as a way of resolving disputes. Some insurance companies have recognized mediation as an effective way of resolving disputes and initiate the mediation procedure even before initiating court proceedings, while more often in contractual relations, as a way of resolving a dispute, mediation is primarily mentioned, while secondarily the court of appropriate jurisdiction. However, we openly and directly state that the problem lies with other market participants (financial institutions) that have not yet recognized mediation as the most useful tool for potential dispute resolution, and we believe that it is necessary to educate all market participants.

REMAINING ISSUES

1. The education of the holders of judicial functions

As we have stated in previous years, the education of the holders of judicial functions is key to understanding the area. We believe that misunderstanding of banking business and business in the field of insurance and leasing by the holders of judicial functions, is one of the great issues of the stability of the financial system. The explanations of many courts' decisions regarding loan processing fees indicate that judicial office holders do not possess the necessary knowledge to make lawful decisions in the field of banking operations. Also, uneven judicial practice, especially when it comes to accident insurance, indicates the same in the field of insurance. In addition, we emphasize the necessity of education and cooperation in order to have a uniform judicial practice. We believe that the regulatory framework is very clear in this area, harmonized with the practice and law of the European Union, and a clear application of the regulation is necessary, and the key element is the understanding of the financial sector business. In that part, we believe that constant training of the holders of judicial functions is necessary, with the aim of education and familiarization with the regulations from business in the financial sector. We cannot propose a training modality, but we are sure that in that part the High Council of the Judiciary, the Supreme Court, the National Bank of Serbia, as well as other bodies in cooperation with the financial sector can significantly contribute to the improvement of the work of holders of judicial functions when it comes to the matter of financial services.

2. Enabling Electronic Issuance of Bills of Exchange for Individuals

We hope that the implementation of electronic bills of exchange for legal entities and entrepreneurs will be implemented in the near future, as this solution not only enhances legal certainty but also makes the process of issuing an e-bill of exchange more convenient for clients. Following the development of digitalization in our legal system, as well as the importance of the bill of exchange as a means of securing loan agreements, it is expected that the next step after the implementation of electronic bills of exchange for legal entities and entrepreneurs will be the introduction of e-bills of exchange for individuals.

Namely, current regulations have enabled the conclusion of loan agreements using both two-factor authentication and qualified electronic signatures, which is a significant benefit. Additionally, the proposed amendments to the Payment Services Law introduced reliable authentication as an added layer of protection. However, the need for credit users to physically visit a bank branch to issue a bill of exchange as collateral for a loan somewhat negates the benefits users enjoy when concluding loan agreements in electronic form.

Similar to last year, our proposal this year would be a form of compromise in the interest of all participants in the financial services market. Namely, it is indisputable that

the Central Register of e-Bills of Exchange is closely linked to the enforcement of the same without the need to initiate court enforcement proceedings. We are aware that at this moment, allowing such a system for individuals would expose them to additional risk if a bill of exchange issued by an individual could be enforced without judicial verification.

Therefore, our proposal is aimed at enabling individuals to issue an e-bill of exchange through the Central Register of e-Bills of Exchange, but without the possibility of it being activated by the creditor without submitting an enforcement proposal to the competent court. An electronic bill of exchange issued by an individual could only be activated upon the submission of an enforcement proposal to the competent court, along with a certificate issued by the Central Register of e-Bills of Exchange confirming that it has been issued and registered. Regulating e-bills of exchange for individuals in this way would facilitate the use of financial services on one hand, while not jeopardizing the position of individuals as users of those services on the other.

3. Permanent Resolution of Disputes Regarding Loan Processing Fee and Amendments to Article 368, Paragraph 1 of the Law on Civil Procedure

In terms of the loan processing process, the situation has improved significantly, the number of lawsuits has decreased, we also have an increasing number of decisions in line with the legal position of the Supreme Court from September 2021, but problems still exist. As we have previously stated, a major problem, both financially and operationally, is the number of enforceable court proceedings based on non-final judgments, in accordance with Article 368 of the Criminal Code. Named Article prescribes that appeal against the first-instance verdict ordering a legal entity to pay a claim 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 of the decision shall not delay the execution. Namely, by filing a proposal for enforcement based on a non-final judgment, lawyers expose clients to a significant risk if the decision of the court changes by the higher jurisdiction. In such a situation, if the client's claim against the bank is collected on the basis of a first-instance judgment, which has been modified or cancelled, the bank has the right to claim from the client the entire collected claim increased by the costs of enforcement proceedings, as well as the costs that the bank will incur in the counter-enforcement procedure. This puts clients, especially natural persons, in an unfavourable financial position, due to the irresponsible behaviour of their lawyers, and it is often the case that clients were not even informed by the lawyer of the fact that such a possibility exists. In order to fully relieve the financial system of disputes regarding loan processing fees, it is necessary to first consider the adoption of either an additional legal position by the Supreme Court or the adoption of a special law that would regulate this area. In addition, regardless of the final solution, what is more than urgent is the amendment of Article 368 of the Law on Civil Procedure and the abolition of the possibility of carrying out enforcement on the basis of a non-final judgment. Namely, this provision is now a new significant threat to financial stability, because banks' claims against clients, after the reversal of first-instance decisions, are increasing on a daily basis.

4. Issuance of a legal position by the Supreme Court regarding the proof of contracts concluded at a distance

As we have stated, the proposed draft Law on the Protection of Users of Financial Services provides the possibility of concluding Contracts, the value of which is up to 1,200,000 dinars or 2,400,000 dinars. The aforementioned fact additionally indicates that it is necessary to take a legal position as soon as possible on the way in which the validity of those contracts is proven in court proceedings. The user can conclude the contract without using his qualified electronic signature with the use of two elements to confirm the user's identity (authentication). Although the conclusion of a contract at a distance is a significant relief for Users compared to previous legal solutions, the issue of proving the conclusion of a contract in the event of a dispute can create a challenge for service providers, taking into account the rules of the burden of proof which stipulate that the burden of proof is borne by the party who claims that has a right, i.e. that the contract has been concluded. Taking into account the previous experience in disputes of a similar nature, we believe that in order to achieve legal certainty and certainty, it would be necessary for the Supreme Court to issue a legal position explaining what constitutes evidence that a distance contract has been concluded or for the regulator to adopt an authentic interpretation which would clarify the said question in detail.

5. Expansion of the domain of the Housing Loan Agreement and expansion of the concept of residential real estate

Namely, the proposed draft Law on the Protection of Users of Financial Services defines in detail the term Housing

Loan Agreement in such a way that it is stated that it is a loan agreement concluded by the bank with the beneficiary for the purpose of purchasing, building, adapting or reconstructing exclusively residential real estate: houses, an apartment, a part of a residential building that is intended for living, a garage, a garage space together with an apartment and a plot of land with a building permit for the construction of a house. This arrangement of the concept of the Housing Loan Agreement envisages the exclusive purpose of the loan for the listed immovable properties, without taking into account the needs of the user to expand the definition of residential immovable property, given that the need for long-term financing of the purchase of apartments and cottages is increasingly emerging, and therefore we suggest considering the possibility of expanding definitions of residential real estate.

6. **Continuous exchange of views and constructive discussions with insurance companies regarding the implementation of the rules on insurance distribution, i.e. regulatory requirements regarding market behavior**

In the area of insurance, we would like to point out the following problems that we encountered in the previous year: an increase in the number of both reported claims and objections filed by lawyers based on material and immaterial damages from liability insurance due to the use of a motor vehicle was observed, and thus the costs of processing such demands increase to insurers in the part of settlement of attorney's fees. Also, lawyers who submit compensation claims and objections do not have professional knowledge in the field of insurance, and it happens that they submit objections to insurance companies and the NBS even though it is evident that the requests are unfounded. In particular, it happens that they do not want to submit the special power of attorney prescribed by the Decision on the procedure for the complaint of insurance service users from 2021, and after the request of the insurance company to submit a special power of attorney with all the prescribed elements in order to be able to proceed with the resolution of the complaint, it happens that dissatisfied clients appeals to the NBS.

The insurer is often faced with premature objections, especially regarding the amount of the future insurance compensation, when the processing of the claim for compensation is still ongoing and not even a first-instance decision has been made. Also, an increasing number of lawyers, when representing users of insurance services, submit an incomplete request for compensation/compensation, and then when the insurance company requests a supplement because it is objectively unable to make a decision based on the available documentation, they initiate a court case. These disputes usually end quickly because the litigator provides what the insurance company requested as a supplement. In this way, the number of court cases increases, the costs of both insurance companies and users of insurance services increase, mistrust is created in the insurance industry, and all because of individuals who see it as a quick and easy profit. Also, insufficient knowledge of insurance matters, both on the part of lawyers and judges, and the length of the procedure, lead to a long wait for the verdict, which is not in accordance with the trends in the insurance market and the views of the NBS.

With regard to the rules in the field of market behavior in the insurance sector, since a significant improvement of the regulations regulating this matter is planned, and as the aforementioned rules have great practical importance because they affect the basic activity of insurance companies (from issues of supervision and management of insurance products to issues of placement and distribution of products), continuous and constructive communication between the industry and the NBS before the implementation and prescribing of new obligations would be useful in order to properly assess the level of market development as well as the achieved level of user protection by current regulations and rules.

7. **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.**

Although there has been progress in the field of promoting mediation, especially given the engagement of the NBS in the previous year, as well as the recognition of mediation as a way of resolving disputes by insurance companies, we believe that it is necessary to expand education to all participants in the market, so that users of financial services can also see the benefits of mediation in relation to litigation. Additional promotion of mediation can be achieved through educating the public, organizing educational campaigns and seminars on the benefits of mediation, which would serve to raise awareness of advantages of this method by state institutions, courts, chambers of commerce and business organizations.

FIC RECOMMENDATIONS

- Education of judicial office holders in the field of banking and insurance, and in this sense the introduction of specialized subjects in these areas at the Judicial Academy
- Enabling Electronic Issuance of Bills of Exchange for Individuals
- Permanent Resolution for Disputes Regarding the Loan Processing Fee in the manner described above and amendment to Article 368, paragraph 1 of the Law on Civil Procedure
- Issuance of a legal position by the Supreme Court regarding the proof of contracts concluded at a distance
- Expansion of the domain of the Housing Loan Agreement and expansion of the definition of residential real estate
- Continuous exchange of views and constructive discussions with insurance companies regarding the implementation of the rules on insurance distribution, i.e. regulatory requirements regarding market behaviour
- 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 would be important.

PUBLIC PROCUREMENT

2.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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		√	
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		√	
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 new Law Public Procurement Law (RS Official Gazette No 91/2019 and 92/2023), hereinafter: the New Law). The New 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.

POSITIVE DEVELOPMENTS

The public procurement market in the Republic of Serbia in 2023 accounted for 10,5% of GDP, which is higher compared to 2022, when it was 9,34%. The average number of bids per tender is 2.4, 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 is 4%, which is the difference compared to the previous year when it was only 1%.

When it comes to contracts awarded in the negotiation procedures without prior notice their values accounted for 2% which represents a decrease increase compared to previous year.

The value of public procurements that are exempted from the application of the Law on Public Procurements amounted to about 831.6 billion dinars, of which the largest percentage (38.03%) refers to procurements in accordance with the procurement procedures established by an international agreement or other act on the basis of which an international obligation was created , and which the Republic of Serbia concluded with one or more third countries or its narrower political-territorial units and which refers to goods, services or works intended for joint implementation or use by the signatories

REMAINING ISSUES

In the previous year, progress was made in the field of fight against corruption and integrity in the field of public procurement. To strengthen mutual cooperation, improve the exchange of information and data between competent public prosecutor's offices for dealing with cases of criminal offenses of organized crime, corruption and money laundering and the Office for Public Procurement ("KJN"), an Agreement on cooperation between the KJN and the Republic Public Prosecutor's Office was concluded. The Agreement regulates the manner of cooperation, the means and rules of communication, i.e. the exchange of information and data between the signatory parties to increase efficiency in the detection, prosecution and trial of criminal offenses to which the Law on the Organization and Competence of State Authorities in Suppression of Organized Crime applies. terrorism and corruption. Competent prosecutor's offices that acted on the submitted criminal reports sent their requests to the KJN. The above-mentioned requests mainly require the provision of professional assistance in the consideration and clarification of specific issues in the field of public pro-

curement of importance for the further work of the prosecution, consideration of the regularity of the actions of the contracting authorities in the implementation of certain public procurement procedures, monitoring of the implementation of the Public Procurement Act by specifically designated contracting authorities, as well as the submission of data which KJN has at its disposal.

During 2023, the KJN cooperated with the anti-corruption departments of the Higher Public Prosecutor's Offices based on 21 requests. The requests included a total of 45 public procurement procedures over which the KPL conducted a monitoring procedure, after which the competent public prosecutor's office was informed of the observed irregularities.

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 implementation 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 KJN 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 much closer co-operation between, on the one hand, the KJN 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.				
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 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.	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 284[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 2024 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

1.60

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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)	2023			√
Harmonize Article 34 of the Law on Trade with the Food Safety Law and by-laws;;	2023			√
Devote attention to by-laws;	2023		√	
Harmonization with EU regulations and standards is further needed;	2023		√	
Simplification of the importation procedures;	2023		√	

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.

While novelties introduced by the cited laws contributed to increase of legal certainty and the entire economic ecosystem in the Republic of Serbia, there is still room for improvement, which is why it is crucial that the Serbian Parliament adopts the new Law on Trade as soon as practically possible. Simultaneously, through adoption of the new Law on Trade, the relevant legal framework could be additionally harmonized with EU regulations and standards. As this area has been constantly developing and adjusting to overall progress of technologies and trade, it is important that the Serbian regulatory framework keeps pace with current trends.

POSITIVE DEVELOPMENTS

Positive steps were taken by adopting the cited laws, including, particularly:

- Better definition of sales incentives (by defining clear rules applicable for each type of sales incentives);
- introduction of definitions of types of distant trade;
- additional obligations concerning labelling requirements (i.e., making mandatory labelling data directly and permanently available);
- lifting the obligation of publishing the retail format (the traders are free to choose whether they will publish the retail format or not);
- introduction of concealed shopping as an additional mean of fighting the illegal trade;
- introduction of the concept of electronic store and electronic platform (which is particularly 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);
- introduction of the possibility to display product prices in foreign currencies as well (which is particularly important considering that it makes it easier for domestic traders to open their offer to foreign markets – not only to regional markets, but also to other developed markets);

Furthermore 2023, merchants who organize and advertise sales incentives in electronic commerce continued to be controlled.

Among those who engage in fraud, the majority are those who sell goods through social networks, particularly Facebook and Instagram, whereas the National Consumer Organization of Serbia (NOPS) keeps publishing 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.

Notwithstanding unquestionable progress driven by the adoption of the Law on Trade (as well the Amendments to the Law on Electronic Trade), further improvement of the regulatory framework is necessary to reach a satisfying level of legal certainty.

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. In addition, minimal time period between two promotional sales should be defined, as there is a gap in the Law on Trade in this sense.

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.

Moreover, it is necessary to work even harder on the education of consumers (majority of which do not have legal education) by publicly advocating and elaborating on their rights granted by the Law on Trade and associated laws (such as Consumer Protection Law) – we think that the Ministry could and should even more engage in media campaigns, thematic workshops and similar activities (such as regular publishing of newsletters or similar editions covering trade and consumer-related topics) aimed at strengthening consumer awareness and consumer education.

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, defining the minimal time period between two promotional sales);
- Harmonize Article 34 of the Law on Trade with the Food Safety Law and by-laws;
- Further engagement of the Ministry on strengthening consumer awareness and consumer education;
- Simplification of the importation procedures.

ILLICIT TRADE AND INSPECTION CONTROL

1.29

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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.	2023		√	
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.	2021			√
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.	2019			√
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.	2018			√
Establish a system of reporting on the measures and effects of the Activity Plans (hodograms), and communicate 142 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.	2021			√
Prescribe and implement the fast and efficient procedure for regulating the storage of the confiscated goods between the public and private sectors.	2021			√
Maintain the continuity of the process of improving import and export procedures.	2021		√	

CURRENT SITUATION

The systemic approach to the fight against the grey economy, which began in 2015, was continued by the adoption of the new Programme for Supressing the Grey Economy for the period 2023-2025 in March and the Action Plan for the Implementation of the Programme for Supressing the Grey Economy 2023-2024 in June 2023. The fact that the fight against the grey economy and illicit trade is yielding results is confirmed by the continuous growth of the tax revenues collection in 2023, by 16.3% compared to 2022. The total tax revenues of the state in 2023 amounted to RSD 2,593 billion and compared to 2014, before the reform of the Tax Administration started, increased by 124.2%. The total amount of calculated newly discovered revenues in 2023 is almost RSD 35 billion, which is about a quarter more than in 2022.

According to the results of the assessment based on macroeconomic data ("Estimation of the Size and Dynamics of the Shadow Economy in Serbia, S. Randjelović, M. Arsić, S. Tanasković, FREN, 2024), the grey economy in Serbia in 2023 amounted to 21,1% of GDP, which is approximately 14.7 billion euros, out of which two-thirds was in the domain of consumption, and one-third in the domain of income. The grey economy in the domain of consumption in 2023 was estimated at 14.4% of GDP, and the total value of unregistered taxable consumption was around 10 billion euros. Estimated using the modified monetary method, the grey economy in 2023 was 23.6% of GDP.

POSITIVE DEVELOPMENTS

The Government of the Republic of Serbia adopted the Programme for Suppressing Grey Economy for the period 2023-2025 in March 2023, setting 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, reduces to 10% of GDP by 2025, measured by survey method of formally registered business entities, relative to 18% of GDP measured by monetary method.

The Coordination Commission for Inspection Supervision of the Ministry of Public Administration and Local Self-Government has continued with regular activities in order to improve inspection controls. At regular meetings during 2023, annual plans for the next year, as well as progress reports on the work of the republic inspections for the previous year were adopted, confirming the intention to continuously work on the capacity building and the inspections status improvement. In June 2023, the Working Group for Monitoring and Harmonizing the Performance of Inspection Supervision in the Field of Trade was formed, with the aim to contribute to the integral supervision improvements on the market in order to suppress the grey economy in accordance with the Programme for Supressing the Grey Economy 2023-2025.

The work of most republic inspections is carried out through the information system e-Inspector. In 2023, e-Inspector was actually used by 29 inspections (out of a total 46), and during that period 42.615 supervisions were carried out. By the number of performed inspections through the e-Inspector in 2023, the Market Inspection once again took the lead, with as much as 44% of the total number of the performed supervisions - 18.912 supervisions. 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.

Since March 2020, the Contact Centre of Republic Inspections is functioning as a focal point where businesses and citizens can report irregularities in the operations of entities and unfair competition, and file complaints about the work of inspectors. From the beginning of its operation until the end of 2023, the single Contact Centre has received more than 50.000 submissions. In comparison to 2022, during 2023 number of submissions have risen by 20%, to 14.055, out of which 36% were addressed to Tax inspection, and 9% to the Market inspection. The Contact Centre is connected with the local self-government inspections and the information system e-Inspector, which significantly simplifies the procedure for reporting irregularities. During 2023, the Coordination Commission concluded the Agreement on Cooperation in the Field of Inspection Supervision with the Network of Inspectors of Serbia, as a representative professional association of inspectors, in order to better coordinate and improve the efficiency and effectiveness of work, as well as to implement the activities that will improve the status of inspectors in the Republic of Serbia.

The system for electronic exchange of invoices (e-invoices), fully implemented since 1 January 2023, as well as previous introduction of the e-fiscalization, contributed vastly to the fight against grey economy, enabling 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.

Through the implementation of the World Bank project "Western Balkans Trade and Transport Facilitation Project Using the Multiphase Programmatic Approach", with the sub-component "National Single Electronic Window System Development and Implementation" (National Single Electronic Window), it is envisaged for businesses to 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. In March 2024, the Ministry of Construction, Transport and Infrastructure has published the tender for the design and implementation of the National Single Electronic Window, which foresees a deadline of two years for the completion of all works.

REMAINING PROBLEMS

After 5 years since the launch of e-Inspector, only republican inspections are connected with this software solution, while provincial and local self-government aren't. As part of the further functionality improvement of the information system e-Inspector, it is necessary to adjust the software to the specifics of certain inspections and include provincial, city and municipal inspections in the e-Inspector, in order to complete the picture of the actual situation in the area of supervision and inspection services performance at all lev-

els. Additionally, it is necessary to establish the functionality for the exchange of information between the system of the Tax Administration and the Customs Administration with the system e-Inspector. During December 2023, a smaller number of supervisions through e-Inspector were noticed, as a consequence of establishing connection with a system e-Pisarnica. 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.

The situation in the inspection services of Serbia is still alarming, which is why it must be a priority to agree 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 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%, and that year after year there is a large outflow due to retirement. It is especially alarming situation in the Tax Administration, where the number of tax inspectors decreased by more than a quarter in 2023, decreasing the capacity occupancy from 60.4% to only 47.7%. The International Monetary Fund also indicated the need for an urgent response to fill the shortage of staff in the Tax Administration, in order to ensure the efficiency of tax revenue collection. The problem is also an extremely unfavourable material position of inspectors, taking into account that inspectors, depending on their experience, earn between 65.000 and 84.000 RSD, which is below the average salary in Serbia. Having in mind all of the above, activities that 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 be at the top of the priorities.

Illicit trade, in accordance with the actual changes of the business model, has largely moved online from the traditional markets, without clear inspection jurisdictions or competencies to control these channels. Cooperation and greater capacities of the Ministry of Interior and the Prosecutor's Office for high-tech crime will be also necessary in order to properly treat this new area.

Even after the decade since the initiative has been launched, the comprehensive public electronic register and portal with the applicable fees and charges has not been established. Mandatory electronic calculation and collection of all non-tax levies of republican, local and provincial authorities, public companies, local public companies, public agencies would be necessary as it would contribute to transparency, one of the significant elements of predictability of business conditions and would disincentivize the activities of illegal trade.

The system of reporting on the results of the implementation of adopted hodograms for the control of illicit trade in certain sectors/ has not 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 the Grey Economy in 2023-2025, with the accompanying Action Plan for the Implementation of the Programme for Suppressing the Grey Economy in 2023-2024, focusing on introducing the specialization of judges for misdemeanour offences in the field of suppressing grey economy and monitoring the work of misdemeanour courts in this process

- Continue to build the capacity of the Republic inspections by employing new inspectors, as well as by improving significantly the working conditions and the material compensation of inspectors. In accordance with the International Monetary Fund recommendations, work swiftly on the employment of new inspectors in the Tax Administrations, with the aim of strengthening capacities.
- Improve eInspektor functionality, connecting all inspection services and establishing timely information exchange with Tax Administration and Custom Administration.
- Prescribe inspection competences and control measures of illegal trade on the Internet.
- 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

1.20

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) 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.	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) 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.	2021			√
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.	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 Nos. 95/2018, 91/2019, 144/2020, 118/ 2021, 138/2022) and other bylaws; Customs tariff that is adjusted once a year with the Combined Nomenclature of the European Union; then international free trade agreements signed with members of the following agreements: CEFTA, EFTA, EU, Turkey, Eurasian Economic Union Great Britain and Republic of China; as well as by applying different 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 significant role is played by international agreements on free trade, since their application 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 has applied the 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).

With the goal 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

The following positive developments have been identified that affect day-to-day business operations:

- Additional alignment with EU regulations and acceptance of more flexible rules on the concept of origin of goods between Serbia, CEFTA and PAN-EU members.

- Free Trade Agreement between Serbia and China was implemented as of July 2024 and shall deepen the economic and political ties between two countries.

- Customs Administration is intended for introduction of Automated Import and Export systems by establishing the Institutional Framework for the Implementation of "AIS/AES" jointly with EU. Numerous benefits are expected from paperless business, such as: reducing the time and costs necessary to carry out import and export customs procedures, increasing the competitiveness of our economy and protecting citizens through better control of import and export, improving security and safety aspects as well as more efficient budget filling.

- New regulation is proposed for Electronic Bill of Landing, that is expected to be aligned and to have positive impact on the system of electronic invoices. It will impact most aspects of goods trade and it is expected to be adopted by the end of 2024.

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 regarding 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.

- The Customs Law stipulates that economic operators may be authorized to use a comprehensive guarantee with a reduced amount for customs debt and other charges, or to have a guarantee waiver. This right is restricted by Article 141 of the Regulation on Customs Procedures and Customs Formalities, which only prescribes the possibility of reducing the reference amount by 50%.

Application of legislation

- The Customs Law stipulates that the maturity period of a customs debt may not exceed 8 days, which is too short for taxpayers who process a lot of customs documents on a daily basis. We suggest that customs authorities should enable the debtor to pay the customs debt within a period not exceeding 31 days. We believe that this would allow flexibility in customs clearance, resulting in a reduced number of errors in the processing of customs documents.

- 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. Overall, the quality control tests are without deficiencies in the case of regular importers.

- The Decree on Customs Procedures and Customs Formalities provides that, until the date of deployment of electronic systems the movement of goods between the temporary storage facilities shall be affected by applying the transit procedure. This restricts the rights of holders of the AEO authorization.

- 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.

- FTA are applied without major difficulties, but documents of origin and "BTI" should be issued and processed more efficiently.

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) 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.
- 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) we propose that opinions of the Customs Administration should be more precise and detailed; (4) specify the procedure for determining and changing the customs value in the event of a goods' price change; (5) specify the procedure for temporary export in order to customs authority approval is not required and regular export procedures can be applied in practise; (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, (9) introduce an exemption from conducting misdemeanour 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; (10) consider the introduction of customs relief for the import of new equipment that is not produced in the country.
- 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.
- 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

1.33

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Automating the video identification process	2022		√	
Issuing a qualified electronic certificate to PIs without the need for them to do so in person	2023			√
Introducing e-bills of exchange for PIs	2019			√
Establishing an interrelated (joint) bank platform for information exchange in the payment account switching process	2023		√	
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 terms of regulations concerning payment services, the period following 2021 has been a time of stabilisation, as many reforms were implemented between 2014 and 2021. After the adoption of the Payment Services Law at the end of 2014, we experienced a period of significant regulatory activities aimed at creating a modern and digitalised payment services system. This encompasses not only the Payment Services Law and related bylaws but also a whole set of other regulations enacted by the National Assembly of the Republic of Serbia and other regulatory bodies (e.g., the Law on Electronic Documents, Electronic Identification and Trust Services in Electronic Business from 2017, the Law on the Protection of Financial Services Consumers for Distance Contracts from 2018, and the Decision on General Rules for the Execution of Instant Credit Transfers from 2017, including amendments).

This group of documents supports the implementation of both the Strategy for the Development of Digital Skills in the Republic of Serbia for the period 2020 to 2024 and the Strategy for the Development of the Information Society and Information Security for the period 2021 to 2026, both adopted by the Government of the Republic of Serbia as umbrella documents for the modernisation and digitalisation of society. Consequently, it is clear that significant progress has been made in recent years in improving, digitalising, and making payment services more accessible, as well as improving the protection of payment services users.

After a period of stabilisation, aligned with the ongoing reforms and modernisation of the payment system in the Republic of Serbia, amendments to the Payment Services Law were adopted at the end of July. These amendments aim to enhance the security, efficiency, and reliability of payment services, aligning with European standards, specifically with the Payment Services Directive 2 (PSD2), as well as providing additional protection for users.

Some of the most significant changes include the introduction of the concept of open banking, which facilitates greater integration and interoperability between different payment service providers. The new Law introduces two innovative services: initiation of payment from an account at another bank, allowing users to perform transactions more easily and quickly and a comprehensive overview of account information in one place, contributing to better financial control and management. Additionally, the amendments set the basis for Serbia's accession to the Single Euro Payments Area (SEPA), which will further facilitate and expedite cross-border payments in euros.

Furthermore, the amendments introduce stricter security measures, including reliable customer authentication (SCA), which requires the use of at least two out of three elements: knowledge, possession, and inherence. These changes are expected to significantly improve the existing legal framework and enable further development and modernisation of payment services in Serbia.

In light of the above, the aim of this text is to analyse the results of previous recommendations and propose what further steps should be taken to improve payment services in the Republic of Serbia.

POSITIVE DEVELOPMENTS

Regarding last year's recommendations, the following improvements have been made:

1. Automation of the video identification process – In terms of this recommendation, we note that there has been no additional regulatory activity leading to further automation of the video identification process. However, the adopted amendments to the Payment Services Law and the clear definition of strong customer authentication, provide room for reconsidering the possibility of further automation. In this regard, we can say that the amendments to the Payment Services Law have created an opportunity for this issue to be reconsidered, and that progress has been made in this area.

2. Issuing certificates for a qualified electronic signature without the need for the physical presence of an individual – Regarding this recommendation, we note that there has been no progress towards its fulfilment, and we hope that in the future, the possibility of issuing a qualified electronic certificate without physical presence will be reconsidered, both for the citizens of the Republic of Serbia and for potential foreign investors.

3. Introduction of electronic bill of exchange for individuals – We believe that certain progress has been made in this area, as the National Bank of Serbia has stated that in the next phase of the development of the Central Registry of E-Digital Bill of Exchanges, individuals who do not conduct business activities will be also included as issuers of e-bill of exchange. We fully understand the regulator's need to ensure the functionality and quality of the registry's operations in relation to legal entities and entrepreneurs, with the expectation that individuals will be included in a subsequent development phase.

4. Establishment of a joint banking platform for the exchange of information during the account switching process – Although a joint banking platform for the exchange of information during the account switching process has not yet been established, the amendments to the Payment Services Law introduce the concept of open banking, with the expectation that this will further encourage payment service providers to create such a platform.

5. Amendment of Article 9, Paragraph 2 of the Law on Interbank Fees and Special Rules of Business for Payment Transactions Based on Payment Cards concerning the existence of a specific client request – In this case, we believe there has been no progress, considering that the regulation has not been amended in line with the proposal. Given our view that the banking documentation that clients are required to sign is excessive, we will no longer emphasise this recommendation, but instead, in the following text, we will try to explain the general need to reduce the volume of documentation.

6. Amendment of regulations regarding the documentation provided to clients when opening a current account – Since there was no regulatory activity in this area during the previous period, we can note that no significant changes have been made towards fulfilling this recommendation. However, the proposed changes to the Payment Services Law create an opportunity to once again reconsider the need for a large number of documents in this area.

REMAINING ISSUES

1. Automation of the video identification process

As in previous years, we would like to highlight the importance of automating the video identification process for opening client accounts. Despite the inherent risks, we firmly believe that automating this process would bring significant benefits to both clients and payment service providers that is greater than the risk of fraud associated with the automation of the video identification process. Expressing satisfaction with the introduction of the video identification process in previous years and enabling citizens and businesses to open accounts significantly more easily, we believe it would be desirable to reconsider the potential elimination of the need for the presence of a representative of the obligated party, who conducts the video identification process on behalf of and for the obligated party, but to have the verification conducted by software. The existing process, which indeed represents an easier account opening, still has several technical limitations regarding the client's environment (sound, light), internet signal strength, and understanding the instructions from the agent (visual presentation of the identification document, rotation, covering with a finger, etc.). We believe that by identifying clients through biometric data (face recognition), these technical limitations could be overcome, the

process itself could be expedited, and security would not be compromised.

Accordingly, our proposal is to enable video identification using various software solutions that will identify the client through biometric data. While we support the view that human interaction is sometimes necessary for verifying all information, in a modern society where technology advances daily, we believe we should place our trust in it. To address potential security risks, the proposal is to introduce an additional method of authentication alongside video identification (if it is performed automatically). The amendments to the Payment Services Law introduce strong customer authentication, and it would be useful to consider introducing another form of verification in parallel with the implementation of automatic video identification to achieve complete security. We additionally emphasise our support for any pilot project on this topic, as well as any other proposal that would allow for further simplification of the client account opening process (e.g., conducting video identification by another state body with the possibility for banks to retrieve the data).

2. Issuance of certificates for qualified electronic signatures without the need for the physical presence of an individual

This recommendation is not directly related to the provision of payment services; however, it can significantly simplify the process of establishing a business relationship with the client. Currently, under the existing arrangement, for an individual to obtain a qualified electronic certificate, it is necessary for them to physically visit one of the certification bodies (Post of Serbia, the Serbian Chamber of Commerce, the Ministry of the Interior of the Republic of Serbia, etc.). We believe that this procedure is one of the main reasons why the issuance of certificates did not take root in practice and why a significantly larger number of them has not been issued to date. Additionally, the requirement for individuals to personally collect their certificates significantly demotivates foreign investors and managers who are compelled to travel to Serbia solely for this reason. Accordingly, we believe that the regulations regarding the method of issuing certificates should be amended.

Our position is that it is essential to allow for the issuance of certificates for qualified electronic signatures without the need for individuals to physically visit the certification body. We recommend that regulators introduce the possibility for certificates for qualified electronic signatures to be issued through the process of video identification by the certification body, or through the verification of the client's biometric data, or the recognition of electronic signatures issued in EU countries. Although Article 40 of the Law on Electronic Documents, Electronic Identification, and Trust Services in Electronic Business ("Official Gazette of RS", No. 94/2017) states that a qualified trust service provided by a foreign trust service provider is reciprocally recognised as a domestic trust service in the country of the foreign service provider, as regulated by a confirmed international agreement, the Republic of Serbia has currently signed agreements only with Montenegro and North Macedonia.

This is related to payment services in that banks could then open accounts for clients without the need for video identification, using the fact that the client has already been identified by the certification body. Furthermore, such a client would possess a qualified electronic signature and would be able to obtain any bank product without the need to visit the bank in person. This would fully complete the remote contracting process and enable seamless processing of various products for clients online.

3. Establishment of a joint platform for banks to exchange information during the account switching process

The joint platform for banks to facilitate the refinancing of client loans began operating in 2022 and based on the banks' experiences, the process works excellently. It has significantly streamlined communication and the loan refinancing process from both the client's and the banks' perspectives. With amendments to the payment services regulations from 2018, the procedure of the account switching process for payment service users was defined and simplified. However, current practice shows that the process has not taken off significantly, and exchanging data via email can cause issues with tracking and actively responding to requests.

To ensure the account switching process is more widely adopted in practice, the authors of this text believe that it would be necessary to introduce a platform for the account switching process, similar to the one used for loan refinancing. The introduction of this platform would not only accelerate the account switching process but also facilitate communication between banks during its implementation. The amendments to the Law introduce the concept of open banking, which involves greater interoperability between

different banks and payment service providers. This could ease the creation of platforms that allow for easier information exchange and smoother account switching processes. Ultimately, we believe this would also contribute to increased competition in the banking sector, which could positively impact clients as users of payment services.

4. Introduction of electronic promissory notes for individuals

In accordance with the fact that the Central Registry of E-Digital bill of exchange for legal entities and entrepreneurs is expected to start operating soon, the authors of this text believe that allowing individuals to issue e-bill of exchange would be another step in the comprehensive process of digitising payment services. Namely, individuals as users of various banking products are often obliged to issue bill of exchange when concluding contracts. Additionally, when granting loans to legal entities, individuals who are owners often act as guarantors, which means they will still be required to submit original bill of exchange to the bank, even though the entire process has been digitised.

Accordingly, it would be much more convenient for both banks and clients to allow individuals to issue an electronic bill of exchange. This is primarily because banks are increasingly using the option of concluding loan agreements remotely in accordance with the provisions of the Law on the Protection of Financial Services Consumers for Distance Contracts. Legally speaking, these contracts do not have security, as clients are often not even required to provide a promissory note. Therefore, if a contract is concluded remotely, it is not practical to require the client to visit the bank's premises to issue a bill of exchange. Given that individuals are a significantly more sensitive category of payment service users compared to legal entities and entrepreneurs, and that they require additional protection, we consider this a compromise solution.

The fact is that the function of the Central Registry of E-Bill of Exchange is to enable the forced execution of bill of exchange without the need to submit an enforcement proposal to the competent court. It is undeniable that allowing this for individuals at this moment would expose them to an increased risk of forced collection. Therefore, we propose enabling individuals to issue e- bill of exchange through the Central Registry of E-Bill of Exchange, but without the possibility for the creditor to activate them without submitting an enforcement proposal to the competent court. Such an issued e- bill of exchange could only be collected by submitting an enforcement proposal to the competent court and with confirmation from the Central Registry of E- bill of exchange that it has been issued and registered. We believe that the proposed regulation of e- bill of exchange regarding individuals would facilitate access to loans and other banking products without exposing them to the risk of activation outside of court decisions and would also simplify the process of concluding loan agreements with legal entities.

5. Amendments of regulations to reduce the volume of documentation in banking operations

Banking operations are already burdened with a large volume of documents, which presents a significant problem for clients, who often cannot understand which information is of critical importance to them. Practice shows that clients complain about the extensive documentation they receive during the pre-contractual and contractual phases when opening a current account. To protect clients and ensure they are fully informed, it would be desirable and more efficient to reduce the number of documents provided, enabling clients to be more clearly and concisely informed. As part of this recommendation, we would once again like to emphasise the need to reconsider the volume of documentation provided to clients when opening a current account.

We recommend excluding the obligation to provide an offer, as delivering a Draft Agreement for opening an account, along with the General Terms of Business and the Price List of the payment service provider, could be considered an offer. Furthermore, a key change that would ensure full transparency for clients is the introduction of a new document to replace the "Overview of Services and Fees." It should specify a set of 5-10 of the most common services used as criteria for assessment across all banks over a one-month period, and the National Bank of Serbia would allow banks to download this document from its website, with the obligation to provide it to clients in the pre-contractual phase. The idea of this document is to provide the average client with an A4-sized one-page summary of the total monthly fee for that set of services at each bank in the Republic of Serbia. This would fulfil the regulator's aim of ensuring full transparency for clients. Although different banks offer different account packages, modern technologies enable an application to identify which package is most favourable for the client and contains the selected set of services.

In addition, we believe that the recommendation from last year should be repeated, as no changes have been made to implement it. We propose amending the Law on Interbank Fees and Special Rules of Business for Payment Transactions Based on Payment Cards so that the issuance of cards, for which the processing of payment transaction orders does not take place in the Republic of Serbia, is not conditional upon a specific prior request from the payment service user. The authors of this text are fully aware of the importance of Article 9, Paragraph 2 of the Law on Interbank Fees and Special Rules of Business for Payment Transactions Based on Payment Cards. Therefore, we once again propose deleting the part of the paragraph that states that a card, for which the processing of payment transactions does not take place in the Republic of Serbia, can only be issued upon a specific written request from the payment service user.

The proposal is for Article 9, Paragraph 2 of the Law to read: "A payment card that can be used to initiate payment transactions from a current account and for which the processing of transactions under Paragraph 1 of this Article does not take place in the Republic of Serbia, can only be issued if the user has already been issued or is being issued a payment card under Paragraph 1 of this Article."

This proposed amendment in no way undermines the purpose and objective of introducing this provision into our legal system. On the other hand, by eliminating the need for a specific written request, the Bank would reduce unnecessary administrative work, such as creating and signing additional documentation for issuing payment cards, which payment service users need to carry out their transactions at points of sale or online stores abroad.

We believe it would be useful to form a working group that would include representatives from the National Bank of Serbia and banks. Through joint discussion and analysis, this working group could re-examine the entire account opening process and consider possible regulatory changes concerning the volume of documentation provided to clients

FIC RECOMMENDATIONS

- Automation of the video identification process
- Issuance of certificates for qualified electronic signatures without the need for the physical presence of an individual.
- Establishment of a joint banking platform for the exchange of information during the account switching process.
- Introduction of electronic promissory notes for individuals.
- Amendment of regulations to reduce the volume of documentation in banking operations.

FOREIGN EXCHANGE OPERATIONS

1.33

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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.	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. Generally, the adjustment of the rules on payment transactions with foreign countries in the context of discussions on Serbia's accession to the SEPA payment system.	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, whereby, as noted – currently published standpoints may serve as the basis for further improvements of the Law.	2021	√		
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.	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, with prescribing adequate conditions, 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 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 non-refundable 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, only the by-law to the Law on Foreign Exchange Operations (Official Gazette of RS Nos. 62/2006, 31/2011, 119/2012, 139/2014 and 30/2018) (Law) has been amended which refers to the regulation of exchange transactions, while there have not been 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 (which regulations were updated in the previous period) 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. 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 application 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, which is particularly important for the possibility of Serbia joining the SEPA payment method. 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 extrajudicial 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. Generally, the adjustment of rules on payment transactions with foreign countries in the context of conversation on Serbia's accession to the SEPA payment method.

- 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.

FACTORING

CURRENT SITUATION

The development of factoring in Serbia began at the beginning of the 21st century, and it obtained its legal basis in 2013 with the adoption of the Law on factoring ("Official Gazette of RS", No. 62/2013 and 30/2018), which remains in force today with amendments from 2018. Factoring has become an important financing instrument for small and medium-sized enterprises, enabling them to secure liquidity by selling their receivables before maturity.

In Serbia, 23 companies have been authorized to perform factoring operations, including the Export Credit and Insurance Agency and about ten commercial banks, in accordance with the law. Since 2014, when the first company for factoring operations was registered, there has been a continuous trend of registering several new factoring companies each year, indicating the interest of business entities in engaging in this activity.

One interesting fact is that factoring in Serbia is not only a tool for improving liquidity but also for reducing receivables collection risk. Factoring companies take on the risk of non-payment, allowing businesses to focus on the growth and development of their core activities. Additionally, factoring has become particularly popular among exporters, enabling them to quickly obtain funds for financing new orders and reducing risks associated with international transactions.

Moreover, factoring in Serbia is recognized as one of the more effective ways to combat liquidity issues and payment delays, common problems in the domestic economy. However, challenges still exist, particularly regarding educating business entities about the advantages and opportunities that factoring provides.

POSITIVE DEVELOPMENTS

As the operations of factoring companies are being considered for the first time within the framework of the White Book this year, there are no conditions for analysing improvements compared to recommendations, considering that there were none.

REMAINING ISSUES

1. **Ambiguity of legal provisions regarding the possibility of concluding contracts in electronic form**

Article 19, paragraph 1 of the Factoring Act stipulates that factoring can only be carried out based on a contract concluded in written or electronic form. Further, Article 23, paragraph 1 of the Law on factoring stipulates that the assignment of receivables by the assignor is done with the delivery of the contract to the factor (original or a copy certified by the competent authority) and/or invoices representing the basis of the receivable and notifying the debtor that the receivable has been assigned to the factor.

Documentation from Article 23, paragraph 1 of the Law on factoring, together with proof of the assignment of receivables, constitutes a credible document in enforcement proceedings.

Factoring companies that have organized their operations in accordance with the general trend of digital business solutions have encountered certain issues when initiating proceedings against debtors under factoring contracts concluded electronically, i.e., using electronic signatures and exchanging electronic documents. This has been particularly problematic for those factoring companies using their own software solutions based on two-factor authentication principles.

One of the main issues facing factoring companies is the lack of alignment between the Law on factoring and the Law on Electronic Document, Electronic Identification and Trust Services in Electronic Business Operations ("Official Gazette of RS", N. 94/2017 and 52/2021). Although the introduction of the option to conclude contracts in electronic form is a significant step forward, the lack of precise instructions on electronic signing methods and methods for enforcing receivables in enforcement proceedings creates administrative obstacles. These obstacles can lead to unjustified prolongation of proceedings, which can have significant negative consequences for factoring companies, as they require funds that would otherwise be further deployed in the market.

Additionally, the use of different software solutions for electronic signing, which are not sufficiently standardized or recognized by relevant institutions, further complicates the process. Factoring companies often have to allocate additional resources to adapt their systems and train their staff, which can increase costs and reduce operational efficiency.

To address these issues, several measures have been proposed:

- Harmonization of legislation: Aligning the Law on fac-

toring with the Law on Electronic Document to ensure clear rules and procedures for electronic signing and enforcement of receivables.

- Standardization of software solutions: Introducing standardized software solutions for electronic signing that are recognized and compatible with the existing legal framework.

- Education and training: Providing education and training for factoring companies and their clients on the benefits and proper use of electronic contracts and documentation.

The introduction of the option to conclude contracts in electronic form without simultaneously specifying the method of electronic signing and more precise definitions of enforcement of receivables in enforcement proceedings discourages further development of digital factoring. However, with appropriate legislative amendments and alignment, digital factoring can significantly improve business efficiency and flexibility, providing faster and more secure financing for enterprises in Serbia.

The proposal should include an amendment to the Law on factoring to further specify the mechanisms and conditions under which a contract is considered to be concluded in the appropriate form, thereby reducing the possibility of arbitrariness by courts and standardizing judicial practice.

2. Providing a mechanism to protect against double financing of invoices

Although double financing of invoices does not occur frequently in practice, the negative consequences for factoring companies can be significant. This problem can manifest as financial losses, undermining client trust, and adding to administrative costs. It should also be noted that with further development of digital factoring and streamlining of factoring contract procedures and documentation exchange, such situations may become more common in the future.

The lack of an institutional legal framework regulating the exchange of information between factoring companies has been somewhat mitigated by the development of a platform by one of the leading factoring companies in Serbia. This platform enables faster and more efficient information exchange among market participants, reducing the risk of double financing of invoices. Despite these initiatives, we believe that a centralized solution under the supervision of state authorities would be a better approach. A centralized system would provide equal access to all market participants and ensure additional protection against fraudulent actions by unscrupulous assignors. State supervision would also enable better regulation and monitoring of transactions, reducing the risk of financial fraud and ensuring transparency in business operations.

Furthermore, the introduction of a centralized information exchange system could enhance overall efficiency of the factoring market. Such a system would enable quicker identification of potential frauds and enable factoring companies to make informed decisions when approving financing. This would also contribute to strengthening trust among market participants and improving overall stability and security of the financial system.

Further development of digital factoring in Serbia requires continuous adaptation of the legal framework to ensure adequate protection for all participants and ensure business efficiency. With appropriate legislative amendments and the introduction of a centralized information exchange solution, factoring companies would be better equipped to address challenges in modern business and provide higher-quality services to their clients.

3. Developing a mechanism for better assessment of the assignor's and/or debtor's creditworthiness

Factoring companies currently have extremely limited options for assessing the creditworthiness of assignors and/or debtors of assigned receivables, which discourages cooperation with relatively "young" companies or those lacking sufficient indicators to establish their creditworthiness. Such a situation could significantly limit the potential for expansion and growth of new business entities in the market.

This issue could be addressed by introducing a kind of marketplace based on access to a central invoice registry, where the Ministry of Finance would allow registered users – factoring companies to purchase company credit reports. This centralized invoice registry would provide factoring companies with faster and more reliable insight into the financial status and creditworthiness of potential clients.

The introduction of such registries and data availability would not only improve the level of information available

to factoring companies and increase the percentage of concluded contracts, but also positively impact the awareness of business entities about the importance of responsible business practices. Business entities would be encouraged to respect all deadlines and promptly fulfill their obligations to creditors, thereby further improving the overall business climate in the country.

Implementing such solutions would require close cooperation between government agencies, factoring companies, and other relevant institutions. However, the long-term benefits in terms of increased liquidity, reduced risk, and improved business efficiency would certainly justify the initial efforts and investments in this system.

4. Enabling electronic issuance of promissory notes

Despite years of announcements regarding the implementation of electronic promissory notes through the IT solution of the National Bank of Serbia and the establishment of the Central Register of E-notes for legal entities and entrepreneurs, there is still no possibility of issuing electronic promissory notes. This deficiency represents a significant obstacle to the complete digitalization of factoring company operations. The current practice, where contracts are concluded online and assignors must send registered promissory notes by mail, is paradoxical and creates unnecessary administrative complications.

The introduction of electronic promissory notes, combined with the legal possibility of electronic signing of contracts, could lead to complete digitalization of factoring company operations and significantly increase the interest of assignors in this form of financing. The introduction of electronic promissory notes also increases legal certainty regarding the identity of the promissory note debtor and thereby enhances the ability of factoring companies to successfully collect their receivables.

FIC RECOMMENDATIONS

- Removing ambiguities in legal provisions regarding the possibility of concluding contracts in electronic form.
- Providing a mechanism to protect against double financing of invoices.
- Developing a mechanism for better assessment of the assignor's and/or debtor's creditworthiness.
- Enabling electronic issuance of promissory notes.

PREVENTION OF MONEY LAUNDERING AND FINANCING OF TERRORISM

1.40

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			√
Continue work on harmonizing domestic regulations and laws with European standards and requirements.	2023		√	
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

In 2023, there were smaller amendments to the Law on the Prevention of Money Laundering and Financing of Terrorism (Official Gazette of RS Nos. 113/2017, 91/2019, 153/2020 and 92/2023), hereinafter: „Law"). New version of the Law entered into force on 4 November 2023 and its application started on 4 February 2024. The previous amendments were introduced in 2020 to enable harmonization with the Law on Digital Property (Official Gazette of RS, No. 153/2020) and full compliance with FATF Recommendation 15 and, to a large extent, with the EU Fifth Directive.

The current amendments to the Law are not significant, with the only major change being the introduction of a new obligor, specifically the Central Securities Depository and Clearing House. The current amendments also provide a three-month period from the effective date for alignment of regulations adopted based on the Law with the new amendments.

In order to implement the current amendments, the Securities Commission issued a *List of Indicators for Identifying Persons and Transactions Suspected of Money Laundering and Terrorist Financing for the Central Securities Depository and Clearing House* on 22 January 2024.

Additionally, in 2024, the National Bank of Serbia issued four new lists of indicators for identifying grounds for suspicion of money laundering or terrorist financing, specifically for banks, obligors in the life insurance sector, voluntary pension fund management companies, and financial leasing providers.

On the international level, the Acting Director of the Administration for the Prevention of Money Laundering concluded an agreement on cooperation and information exchange with Japan's Financial Intelligence Unit. The aim of this agreement is a smooth and rapid exchange of financial intelligence data via the protected website of the Egmont Group (an organization comprising the financial intelligence units of 174 countries and jurisdictions worldwide).

POSITIVE DEVELOPMENTS

The International Centre for Asset Recovery at the Basel Institute on Governance (Basel AML Index) has ranked the Republic of Serbia in 97th 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 Republic of Serbia was in 78th place, and even greater improvement compared to the ranking in 2022 when Republic of Serbia was ranked 46th on the list.

Apart from that, significant improvements were noted for Republic of Serbia in the latest report by MONEYVAL (the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism as the permanent monitoring body of the Council of Europe) from December 2023. Sufficient progress was noted in the technical compliance especially in addressing the shortcomings identified in the previous MONEYVAL report from November 2021. Accordingly, MONEYVAL determined that there Serbia is now largely compliant with the FATF Recommendation 15, whereas previously it was only partially compliant.

The report further states that Republic of Serbia has implemented all 40 Recommendations at the level of large compliance / compliance, therefore no further reporting shall be required under MONEYVAL's 5th round of evaluations.

The 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, 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

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.

In addition to the large compliance of legislation with EU rules, it is necessary to make further changes to laws and regulations based on the MONEYVAL report, in order to be deemed as largely compliant in all forty Recommendations made my MONEYVAL. It is also necessary to ensure proper and full implementation of all adopted legislation in practice.

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 Law applies, with the purpose of increasing the efficiency of its applicability.

LAW ON THE CENTRAL REGISTER OF BENEFICIAL OWNERS

1.67

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Potrebno je nastaviti i dalje unaprediti postupak elektronske evidencije i olakšavanje posrednog evidentiranja osnivanja Registrovanih subjekata.	2022	√		
Potrebno je izuzeti strana javna akcionarska društva koja su listirana na reputabilnoj berzi.	2022			√
Potrebno je ublažiti sankcije predviđene Zakonom.	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 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, postponed the implementation of the above-mentioned amendments from 2021 and they began to apply from October 1, 2023. In practice, the changes made it possible to simultaneously establish a Registered entity and record the UBO through an electronic system

which significantly facilitated and accelerated the registration procedure itself.

According to the data of the Agency for Business Registers, as of 1 December 2021, there were 146,202 entities which have registered their UBOs which represents a little over than 85% of Registered entities.

POSITIVE DEVELOPMENTS

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. This is due to the fact that 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.

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

1.07

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 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.	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, 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.	2022			√
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.	2021			√
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.	2020			√
Adopt guidelines on the implementation of Articles 41 and 50 of the new Law; bezbednost obrade	2021			√
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).	2023			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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.	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			√
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.	2023			√
Adopt the Proposal for a Personal Data Protection Strategy for the period 2023-2030 and its accompanying action plan.	2023		√	

CURRENT SITUATION

The Data Protection Act ("Official Gazette of the Republic of Serbia" no. 87/2018) (hereinafter: DP Act) has been in effect since 21 August 2019. The DP Act is, to a considerable extent, a translation of the EU General Data Protection Regulation 2016/679 (GDPR), excluding its recitals and with certain specificities reflecting the characteristics of the legal system of the Republic of Serbia.

The DP Act is based on seven data processing principles: lawfulness, fairness and transparency; purpose limitation; data minimisation; accuracy; storage limitation; integrity and confidentiality; and accountability of the controller for data processing. In order for processing to be lawful, it must be based on one of the six legal bases for processing: consent; contract; legal obligation; vital interests; public interest; or legitimate interests. The DP Act imposes stricter conditions for the lawful processing of special categories of data, which include, for example, health data. The DP Act grants data subjects broad rights. Data subjects have, inter alia, the right of access to data, the right to rectification, the right to have incomplete personal data completed, the right to erasure, restriction, and data portability, the right to object, and the right to withdraw consent.

The DP Act imposes a number of obligations on controllers and/or processors. Controllers and processors must implement appropriate technical, organisational, and personnel measures to ensure a level of security appropriate to the risk to the rights and freedoms of individuals. Controllers are required to report data breaches to the supervisory authority, and in certain cases, to inform the data subjects. The DP Act allows for the free transfer of data outside of Serbia to countries that are members of the Council of Europe Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data, and to countries for which the European Union has determined provide an adequate level of protection (by adopting an "adequacy decision"). The transfer of data to other countries is permitted on the condition that the data exporter implements one of the prescribed safeguards (for example, the conclusion of standard contractual clauses, prepared by the Commissioner, with the data importer), or if one of the specific situations set out in the DP Act applies (for example, transfer based on the explicit and informed consent of the data subject).

Controllers and/or processors have a number of additional obligations under the DP Act, such as: appointing a data protection officer; keeping records of processing activities; contractually regulating relationships with processors and joint controllers; conducting data protection impact assessments if it is likely that a certain type of processing will result in a high risk to the rights and freedoms of individuals, and more.

The DP Act has extraterritorial application. The DP Act applies to controllers and processors in Serbia, and, under certain conditions, to those outside of Serbia as well, if they process data about individuals who have residence or domicile in Serbia.

Compared to the GDPR, the fines prescribed for violations of the DP Act are low. While the GDPR allows for fines of up to 20,000,000 euros, or in the case of a legal entity, up to 4% of the total worldwide annual turnover of the preceding financial year (whichever amount is higher), the fines under the DP Act range up to a maximum of 2,000,000 dinars, i.e. approximately 17,000 euros.

POSITIVE DEVELOPMENTS

The Commissioner has continued to actively participate in expert meetings related to the enforcement of the DP Act and make public appearances to highlight the importance of data protection. The Commissioner has published its ninth publication "Protection of Personal Data: Opinions and Stances of the Commissioner" includes examples from the Commissioner's practice. It is noteworthy that the Commissioner, after opening an office outside the Commissioner's headquarters in Novi Sad in 2022, opened another office in Niš, and invested in administrative equipment for the Commissioner's work.

The Commissioner is involved in the implementation of a short study program "Training of Managers for Personal Data Protection" conducted by the Faculty of Security at the University of Belgrade, as well as the short program "Legal Protection of Data and Access to Information" conducted by the Faculty of Law at the University of Kragujevac. Furthermore, members of the Commissioner's office participate in training sessions for individuals involved in personal data protection organised by the Serbian Chamber of Commerce. Finally, Faculty of Law at the University of Belgrade has also established a new specialist study programme in the field of personal data protection, set to commence in October 2024, with the participation of members of the Commissioner's office in the implementation of specialist studies announced. The implementation of the study programmes contributes to the education and training of individuals for personal data protection within the higher education system of the Republic of Serbia.

The most significant development is the adoption of the Strategy for Personal Data Protection for the Period 2023–2030 by the Government of the Republic of Serbia on 25 August 2023. The Strategy outlines objectives and measures to align the legal framework of the Republic of Serbia with the rules and standards of the European Union.

REMAINING ISSUES

The capacities of the Commissioner's office have not seen significant development. Staffing and financial conditions remain at a similar level to previous years.

The relevant ministries have not yet taken steps to align the provisions of sectoral laws with the DP Act, despite the DP Act stipulating that the provisions of other laws relating to the processing of personal data must be harmonised with the DP Act by the end of 2020.

Certain specific types of personal data processing, such as video surveillance, processing of employees' personal data, and processing for the purpose of scientific and historical research and statistical purposes, are not systematically regulated.

The DP Act needs to be amended to create conditions for easier transfer of personal data outside of Serbia. Firstly, the Commissioner's authority to adopt standard contractual clauses needs to be expanded. In comparison to the EU, where standard contractual clauses for four different transfer models exist, the standard contractual clauses for the transfer of data from Serbia only apply to the transfer of data from a controller to a processor. Standard contractual clauses for other transfer models (such as from controller to controller) do not exist because the DP Act does not empower the Commissioner to adopt them. Recognising EU standard contractual clauses and binding corporate rules approved by the relevant EU bodies as adequate mechanisms for data transfer in the DP Act, in addition to the domestic ones, would further facilitate data transfer.

The Commissioner should intensify activities in issuing guidelines that will help with the implementation and interpretation of the DP Act. For instance, guidelines for implementing appropriate technical, personnel, and organisational measures to protect personal data, as well as guidelines on the controller's obligation to inform data subjects about a data breach that may pose a high risk to individuals' rights and freedoms, would be particularly beneficial for controllers and processors.

The Commissioner has not used its power to set conditions for issuing permits to certification bodies, which, according to the DP Act, would be authorised to issue certificates to controllers and processors as proof of compliance with the DP Act. In addition, neither the DP Act nor any other regulation establishes the competencies and procedures for accrediting legal entities to conduct compliance control of codes of conduct.

The Council expects the Government of the Republic of Serbia to state its position on the impact of the European Commission's Adequacy decision for the EU-US Data Privacy Framework of 10 July 2023 on companies operating in Serbia and to update the 2019 Decision on the List of Countries, Territories, or Sectors of Activities and International Organizations Where an Adequate Level of Data Protection is Considered to be Ensured.

The government has adopted a new Strategy for Personal Data Protection for the Period 2023–2030. Some of the objectives of the Strategy include addressing the aforementioned issues: amending the DP Act, harmonising sectoral laws with the DP Act, and regulating certain specific types of personal data processing. However, since the government has not adopted an action plan for implementing the Strategy nor has it formed a working body to oversee the implementation of the Strategy and the action plan, it is questionable whether the Strategy will lead to concrete results.

FIC RECOMMENDATIONS

- Provide the Commissioner with improved working conditions, equipment, and staff to ensure the effective implementation of the DP Act.
- Harmonise the provisions of other laws related to the processing of personal data with the DP Act.
- Regulate special types of personal data processing, such as video surveillance, processing employees' personal data, and processing for scientific and historical research and statistical purposes.
- Amend the DP Act to create conditions for easier transfer of personal data outside of Serbia.
- Intensify the activities of the Commissioner in issuing guidelines to facilitate the implementation and interpretation of the DP Act, specifically guidelines on the implementation of appropriate data protection measures, and the obligation of the controller to inform individuals about data breaches.
- Prescribe conditions for issuing permits to certification bodies.
- Prescribe the competencies and procedures for accrediting legal entities to conduct compliance control of codes of conduct.
- Update the 2019 Decision on the List of Countries, Territories, or Sectors of Activities and International Organizations Where an Adequate Level of Data Protection is Considered to be Ensured, in accordance with the European Commission's Adequacy decision for the EU-US Data Privacy Framework.
- Adopt an action plan for the implementation of the Strategy for Personal Data Protection for the Period 2023–2030 and establish a working group to oversee the implementation of the Strategy and 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.

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 informa-

tion 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.

In the European Union, whistleblowing through non-governmental organizations and trade unions is a key element in ensuring the protection of workers and citizens, as well as in strengthening the transparency and accountability of institutions and the economy. The inclusion of these mechanisms in the legal framework of Serbia would contribute to the improvement of the fight against corruption and the strengthening of the rule of law, following European standards and best practices.

In order to ensure the protection of whistleblowers, it is necessary to determine the duration of the procedure, that is, establish the maximum possible period for the duration of the procedure. A clearly defined time frame allows complaints to be dealt with properly, reduces the risk of delays and ensures that whistleblowers receive protection and support in a timely manner. In this way, trust in the legal system is strengthened and citizens are more willing to report irregularities, which is essential for the fight against corruption and illegal actions.

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).

European regulations, such as the EU Whistleblower Directive and the German Supply Chain Due Diligence Act (LkSG), have a significant impact on improving the protection of whistleblowers and can serve as a model for the further development of Serbian legislation, especially in creating a more comprehensive and effective whistleblower system. The directive's requirement that companies establish a reporting system, combined with LkSG's focus on supply chain monitoring, has led to the development of unique reporting systems that satisfy both internal and external mechanisms. This synergy has resulted in improved com-

munication and transparency for whistleblowers, as well as a reduced technical and organizational burden on the reporting system. These regulations also share common goals, such as drawing attention to abuses and promoting responsible reporting. Although there are technical differences between the two laws, such as the requirement for external reports in the LkSG, overall, the EU Whistleblower Directive and the LkSG have created a better environment for whistleblowers, with reporting systems in place and the necessary entities to ensure their protection and support.

In particular, the new EU Whistleblower Protection Directive, which was adopted in 2019, sets standards for the protection of whistleblowers within the European Union, obliging member states to introduce effective mechanisms for the reporting and protection of whistleblowers.

Also, LkSG orders companies with at least 1,000 employees to take responsibility for human rights and environmental protection within their supply chains. The LkSG obliges German companies to establish effective whistleblowing mechanisms to ensure that violations of human rights and environmental standards in supply chains can be reported and adequately addressed. Furthermore, the EU CSDDD (EU Corporate Sustainability Due Diligence Directive) further expands the obligations of companies to include mechanisms for gathering information through whistleblowing especially in the context of sustainability and social responsibility.

The appeal mechanisms provided for in the CSDDD are also a key part of the new requirements, including the source of information for mapping purposes. Although the directive expressly provides for a link with the whistleblowing directive, existing whistleblowing schemes are unlikely to cover all the requirements of the regulation and will need to be updated.

The aforementioned improvements have established comprehensive reporting mechanisms, reducing organizational burden and increasing transparency for whistleblowers and complainants.

POSITIVE DEVELOPMENTS

Bearing in mind that there were no changes in the legislative framework in this area, including by-laws, there was no closer definition of the concept of authorised body, nor the relationship between internal and external whistleblowing. In the same context, criminal offences related to whistleblowing were not foreseen in the previous period, as well as rules on rewarding whistleblowers were not introduced.

REMAINING ISSUES

- Existing reporting systems may not meet all the requirements of the new regulations. On the other hand, there was no amendment of the Criminal Code, where, as an alternative to the option mentioned above, such criminal acts would be prescribed especially with respect criminal acts against environment and health of people, corruption.
- The integration of reporting systems for internal and external complaints can be challenging, making it difficult to implement effective safeguards.
- Whistleblowers continue to face the risk of retaliation. Although the law provides protection, practice shows that retaliation still occurs, creating uncertainty for potential whistleblowers.
- Existing laws may not provide enough protection for whistleblowers from retaliation and other negative consequences.
- Although the adoption of this Law was a significant step, some provisions are contradictory or incomprehensible, and in some segments the Law should be more precise.

FIC RECOMMENDATIONS

- It is necessary to harmonise the Serbian law on the protection of whistleblowers with the EU Whistleblower Directive and supply chain regulation in order to ensure adequate protection of whistleblowers in accordance with the best European practices. This includes revising and amending the law to cover all types of embezzlement, including those within supply chains. To that end, it is necessary to better prescribe the criteria that must be

met by the application channels, specifically ensure better application security, as well as the introduction of deadlines that are currently missing, such as the deadline by which the procedure should be completed. It would also be useful to ensure the possibility of reporting not only within the legal entity to which the report refers, but also that it is possible to do it through external institutions. It can also be added that the EU Directive has an established system where competent authorities can determine the priority of the case, thereby ensuring more efficient operation of the system.

- Increase cooperation with international organisations to ensure compliance with global whistleblower protection standards. Sharing experiences and best practices can help improve the national framework for whistleblower protection.

- Continue to educate judges, prosecutors, lawyers and employed persons about the rights and obligations under the Whistleblower Protection Law, as well as the best practices related to the protection of whistleblowers, thereby making the legal provisions clearer and more understandable. This will contribute to a better understanding of the law and increase confidence in the system.

- Update existing reporting mechanisms to cover all the needs of the new legislation and enable reporting of irregularities within supply chains. This includes technical and logistical support for establishing and maintaining the reporting system.

- Provide appropriate technical and logistical support for the establishment and maintenance of the application system. This implies the development of digital platforms that enable simple and safe reporting of irregularities where any person in the most efficient manner, in plain language can make a claim.

LAW ON PUBLIC NOTARIES

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Enable the disposition of clients' requests toward the cadastre in situations when the delivery of the document is carried out by a public notary ex officio.	2019			√
Reducing charges for services provided by public notaries, and their harmonization with the purchasing power of companies and natural persons.	2017			√
Further improvements in communication between the public notaries and the cadastre of real estate, including the possibility for notaries to initiate registration of leases on buildings (when applicable)	2020		√	
Unification of the practice of notary publics to obligatory implementation of the opinions of the Chamber of Notary Publics.	2020		√	
Preventing notaries from denying verification due to circumstances that they are not obliged by law to determine for a certain form of certification.	2021			√

CURRENT SITUATION

Since the entry into force of the Law on Public Notaries ("Official Gazette of RS", Nos. 31/2011, 85/2012, 19/2013, 55/2014 - other law, 93/2014 - other law, 121/2014, 6/2015, and 106/2015), the institution of public notaries has significantly contributed to legal certainty and the efficiency of transactions in the territory of the Republic of Serbia. Based on observations of the work of public notaries so far, it is possible to objectively assess their impact on the legal system. The main characteristics of the current state include:

- Relief of the courts: With the introduction of public notaries, the burden on courts has been significantly reduced, as certain activities that were previously within the jurisdiction of the courts (such as the notarization of contracts and other documents, handling probate procedures, etc.) have been transferred to public notaries.

- Legal certainty: Public notaries play a key role in ensuring legal certainty in legal transactions, especially in areas such as real estate transactions, the establishment of pledge rights, and the conclusion of other contracts. Public notaries conduct legality checks of the legal transaction that is the subject of notarization, as well as checks related to the parties themselves, i.e., whether the parties have the appropriate authority to conclude contracts and dispose of their rights under the agreed conditions.

- Availability of services: Over time, the number of public notaries has significantly increased, providing greater access to their services for economic entities. Improved geographical coverage facilitates access to these services and allows for quicker scheduling of notarization appointments.

- Technological improvements: The implementation of modern technologies, including networked databases and communication platforms with other state bodies, has enhanced the efficiency of public notaries' work. This digitalization has shifted the burden of collecting additional documentation for notarization purposes from the parties to the public notaries, speeding up transactions and reducing costs for the parties.

- Challenges and problems: Despite significant progress, there are certain inconsistencies in the application of the law, as well as a need for additional education and training, along with further improvement of the technologies used in the work of public notaries.

The current state of the public notary system in Serbia reflects a high level of stability and successful integration into the legal framework, significantly contributing to legal certainty and transaction efficiency.

POSITIVE DEVELOPMENTS

With the adoption of the Law on the Procedure for Registration in the Real Estate and Infrastructure Cadastre ("Official

Gazette of RS", Nos. 41/2018, 95/2018, 31/2019, 15/2020, and 92/2023) and the Law on Electronic Documents, Electronic Identification and Trust Services in Electronic Business ("Official Gazette of RS", Nos. 94/2017, and 52/2021"), public notaries have become so-called "obligatory submitters" to the Real Estate and Infrastructure Cadastre. This means that public notaries are obliged, within 24 hours of notarizing documents suitable for registration in the real estate cadastre, to electronically submit these documents to the real estate cadastre for the registration of rights and to issue a certificate to the parties. These procedures have significantly accelerated the process of implementing changes in the real estate cadastre and reduced the risk of parties influencing the transaction through unauthorized disposals aimed at preventing the implementation of changes in the real estate cadastre.

Public notaries have also taken on the obligation to submit tax return for the determination of taxes on the transfer of absolute rights, inheritance, and gift taxes, as well as property tax return related to transactions subject to notarization to the real estate cadastre. The real estate cadastre subsequently forwards these tax returns to the competent tax authorities.

Since January 1, 2021, all documents submitted to the real estate cadastre must be submitted exclusively in electronic form via the e-counter, reducing the use of paper documentation and simplifying the process before the cadastre itself. Parties can now complete everything in one place with the public notary – from the notarization of documents and registration in the real estate cadastre to the submission of tax declarations.

REMAINING ISSUES

One of the primary issues that has arisen in practice is the issue of fees for public notary services. These fees are significantly higher compared to the fees that courts and municipalities used to charge for the same services. A particular increase in costs has been noted in the notarization of pledge statements, where fees can reach several thousand euros.

In practice, an additional problem has been identified in the interpretation of the provisions regarding the maximum fee that public notaries can charge, particularly in transactions exceeding RSD 386,000,000. The general rule is that in the case of notarizing preliminary agreements, annexes to contracts, as well as terminations of preliminary agreements or contracts, the notary fee is calculated at 50% of the total fee for the entire transaction. According to the public notary tariff, the maximum fee a notary can charge for a transaction is RSD 600,000 plus VAT. However, in these situations, public notaries interpret that the maximum fee limit applies to each individual action within a single transaction. This has practically led to a significant increase in costs for the parties, who had to pay double fees compared to what they would have paid if only the contract had been notarized. For example, if the contracting parties decide to conclude a preliminary agreement before the contract, and the value of the transaction exceeds RSD 386,000,000, the notaries will charge RSD 600,000 + VAT for the preliminary agreement and again for the contract. In these cases, the notary fee amounts to RSD 1,200,000 + VAT.

Furthermore, to establish more efficient communication between public notaries, the real estate cadastre and the tax administration, it is necessary to continue the process of digitalization and networking of public notaries with state institutions. In the current system, after notarizing the document that effectuates changes in the real estate cadastre, the public notary is obliged to electronically enter all documents into the application for communication with the cadastre and tax administration. However, apart from the digital entry of documents, the public notary must manually enter all relevant data from the documentation, which is then manually entered again by the real estate cadastre officials. This process requires simplification to avoid duplication of work and improve efficiency, as in practice, the real estate cadastre often takes the longest time to implement the appropriate changes.

Existing legal solutions have also brought new practical problems. In situations where the notary is officially submitting the document, the party in whose favor the registration in the real estate cadastre is being made no longer has the option to withdraw, modify, or delay the submission of the notarized document (such as a cancellation permit that can be used for the disposal of an unused mortgage). This situation is not in line with the practice of comparative legal systems in neighboring countries, where parties are allowed greater flexibility in these procedures. Although this problem has existed for some time, little has been done so far to resolve it.

Additional problems include inconsistent practices among public notaries and the requirement of certain notaries for additional documentation or the fulfillment of conditions

during notarization that are not explicitly prescribed by law. This practice leads to legal uncertainty and unpredictability, making it difficult for parties to plan their transactions, as during contract negotiations, they often have to consult with public notaries to confirm whether certain contract provisions would be acceptable for notarization.

FIC RECOMMENDATIONS

- Reduce public notary service fees and adjust them to the financial capacities of citizens and businesses.
- Improve and more efficiently integrate communication between public notaries and state authorities.
- Allow parties to control their requests regarding the real estate cadastre in cases where the notary, as the obligatory submitter, submits a request on their behalf.
- Allow public notaries to initiate certain rights registrations in the real estate cadastre (e.g., lease rights registration), as is the case in certain comparative European legal systems.
- Standardize the practice among public notaries and ensure consistent application of the Public Notary Chamber's guidelines.
- Prevent notaries from refusing notarization for reasons not legally prescribed as grounds for refusal.
- Prescribe effective mechanisms that parties can use to ensure consistent and uniform practices among public notaries.

TAX

1.10

Serbia did not react to ongoing changes in the global tax system, and there are no significant changes in domestic tax regulations

Significant changes in the area of taxation that are taking place at the international level, such as OECD Pillar 2 initiative for introduction of the global minimum corporate income tax of 15% which was endorsed and implemented by a number of developed countries, introduction of CBAM (Carbon Border Adjustment Mechanism) at EU level and other, directly and indirectly impact also Serbian tax system and taxpayers. These changes may lead to decrease of the attractiveness of tax incentives offered by Serbia to foreign investors, as well as changes of conditions and/or increase of costs of doing business of local companies that are part of large international groups and/or which have significant export activities. In contrast to a number of other countries in the region and in the EU, which are adjusting their tax systems in response to current and upcoming changes, there is no indication that local tax laws will be changed in that respect.

Unfortunately, there were no significant changes of the domestic tax laws, except in relation to improvement of the electronic invoicing system and resolving problems and issues arising in practice. Improvement of the electronic invoicing system will contribute to better and easier reporting on one side, and more precise and comprehensive insight of the Tax Administration in business activities of companies on the other side. However, taxpayers are facing the challenge to timely respond to these changes and adjust their business information systems, which requires significant time and resources.

New law on electronic delivery notes is currently being prepared, which should further contribute to digitalization od business activities of companies and long term increase of efficiency and costs reduction.

With regard to customs regulations, Serbia concluded last year the Free Trade Agreement with China which came into force in July this year.

Since domestic tax regulations did not change, 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.

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 176 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: - 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.	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 nondeductible impairment, and so that fair value increases and decreases are treated equitably.	2017			√
Align the CIT law with accounting requirements set by new standards, including IFRS 9.	2023			√

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.

During 2024 there were no amendments of CIT law nor its bylaws. Upon the ending of this White Book edition, Ministry of Finance announced public consultations on the Draft Law on Amendments to the Corporate Income Tax Law, which will be addressed in the next White Book edition.

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 of the 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 newly 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 calcu-

lating 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 1.11

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 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.	2017			√
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.	2017			√
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 toavoid double payment of contributions.	2017			√
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.	2020			√
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.	2023			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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.	2023		√	

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.

In 2024, there were no significant changes to the Law on Personal Income Tax, nor to by-laws. As every year, the non-taxable amounts of personal income tax in dinars and the amounts of average monthly wages are harmonized.

Upon the ending of this White Book edition, Ministry of Finance announced public consultations on the Draft Law on Amendments to the Personal Income Tax Law, which will be addressed in the next White Book edition.

POSITIVE DEVELOPMENTS

In 2024, there were no significant changes to the Law on Personal Income Tax and related by-laws, and therefore no improvement in terms of the remaining issues.

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 Labor 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 Labor 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 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 terminating 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 Labor 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). Even though recent opinions of the Ministry of Labour 011-00-00416/2021-07 from 15.10.2021 and 011-00-00383/2021-07 from 8.12.2021. have specified that the remuneration for the work of directors is a mandatory element of the Contract on the Rights and Obligations of Directors who are not in an employment relationship with the employer, it is still necessary to legally define the amount of adequate remuneration for the directors. 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.

- 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 Labor, 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 Labor 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 labor 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 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 1.08

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Regarding the application of the so-called reverse charge mechanism, it should be specified that for transactions involving a foreign entity, the obligation to calculate VAT for the recipient of goods and services arises either at the moment: 1) when the invoice for goods or services provided by the foreign entity is received, or 2) when an advance payment is made to the foreign entity, whichever of these two events occurs earlier.	2013			√
Consideration should be given to introducing an annual VAT return (with monthly/quarterly returns treated as advance payments), which would be submitted by March of the current year for the previous year. Through this return, taxpayers could make all necessary adjustments, including changes related to transactions from abroad for which the recipient of goods or services is obliged to calculate VAT as the taxpayer.	2013			√
VAT regulations should allow that a credit note for a change in the tax base can be issued either by the person who supplied the goods and services or by the recipient of the goods and services. This practice is in line with VAT rules in other countries and common business practices. This cannot in any way jeopardize the collection of VAT. On the other hand, this would help companies reduce their administrative costs.	2014			√
It is necessary to clearly define that in the case where a smaller quantity of products than invoiced is mistakenly delivered, the taxpayer can either issue a new amended invoice or a credit note. This corresponds to common business practice, and insisting on only one approach imposes additional costs, while from the aspect of VAT collection, there is no reason why both approaches should not be applied.	2014			√
It is necessary to define that in the case of returning goods, regardless of the expiration date, the supplier of the goods can issue a credit note or the buyer can issue an invoice/credit note, depending on their mutual agreement. This approach cannot jeopardize the collection of VAT, because, regardless of who issues the credit note, the same VAT rate applies.	2014			√
The law should stipulate that the obligation to calculate VAT lies with the recipient of goods and services in the following cases: 1) in the case of the contribution of goods and services to the capital of a company, when the supply of goods and services as a contribution to the capital is subject to VAT, and 2) in the case of a status change, when the supply of goods and services in a status change is subject to VAT.	2015			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
First and foremost, it is necessary to align Serbia's VAT regulations with the regulations in force in the EU regarding the calculation of VAT for transactions in the construction sector. In EU countries, the recipient is the taxpayer for transactions in the construction sector to prevent evasion and fraud in VAT calculation. These specific rules apply when a subcontractor supplies the contractor, but not when the contractor supplies the investor. We emphasize that most problems in practice arise precisely in transactions between contractors and investors, as the "investor" in this case can also be an entity that procures, for example, maintenance services for a building and similar (i.e., the "investor" does not necessarily have to be active in the construction sector). Given this motivation for defining the recipient as the taxpayer, there is no reason to prevent the provider from calculating and paying VAT, nor to penalize any party, as the general taxation rule has been applied, not the specific rule where the recipient is the taxpayer. This approach would also be more favorable for the state from the perspective of cash flow (by applying the "reverse charge" mechanism, the state consciously "forgoes short-term financing" to prevent tax evasion).	2022			√
It is necessary to stipulate that in the case of transactions in the construction sector, the parties can opt for taxation according to the general principle – the supplier calculates VAT. Additionally, in cases where the supplier has calculated and paid VAT, but the tax authority believes that the recipient should have calculated VAT as the taxpayer, it is recommended to prescribe that the supplier's invoice will be considered a valid invoice and that no misdemeanor proceedings will be initiated against either the supplier or the recipient.	2017			√
Regarding VAT records and the preparation of VAT calculation reviews, we believe it is necessary to reconsider the adopted Rulebook and user manual, especially regarding the content of the VAT Rulebook form and the manner of presenting certain transactions, such as advance and final invoices.	2015			√
It is necessary to align the handling of refund requests stated in the VAT return with the provisions of the VAT Law and the Tax Procedure and Tax Administration Law, which means that the control procedure cannot delay the VAT refund. The Ministry of Finance needs to issue a binding explanation in accordance with the VAT Law and the Tax Procedure and Tax Administration Law, and the Tax Administration should align its procedures accordingly.	2017			√
We propose that in Article 10a, paragraph 6 of the Value Added Tax Law, the words "issuing an invoice" be deleted.	2020			√
We propose to consider amending Article 95a of the VAT Rulebook, as it does not reflect the goal of the Electronic Invoicing Law and does not facilitate the possibility of obtaining tax exemption under 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, and that customs authorities should be involved in this process in such a way that taxpayers do not print and certify external representations of the same. This arises from the fact that such invoices have already been created, uploaded, and sent via the eInvoice portal, which certainly validates their authenticity.	2023		√	

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, 60/2023, 96/2023, 116/2023 i 29/2024; hereinafter: VAT Rulebook).

The VAT Law has not been amended in the previous period. However, the VAT Rulebook has been amended several times.

In accordance with the relevant amendments to the VAT Rulebook, the following has been stipulated, among other things:

- A more detailed Record of Traveler's VAT Refund Requests Form (EZPPPDV) has been prescribed. It is required to report data within seven days from the end of the tax period in which the certified original of the traveller's VAT refund request was received. It is also prescribed to keep these records for fiscalization obligors on the Tax Administration portal.

- It is envisaged that tax exemption can be achieved for the supply of goods in the customs warehousing procedure in the case of advance payment for future supply of goods, i.e., before the goods are entered into the free zone, provided that the required documentation is obtained.

- It is specified that an e-invoice for multiple individual deliveries can be issued for a period shorter than a calendar month, where the date of transaction is indicated as the last day of the period for which the e-invoice is issued.

- It is specified that a fiscal receipt issued for a transaction for which an e-invoice has been issued at the request of a public sector entity is not considered an invoice within the meaning of the VAT Law.

- The obligation for the taxpayer to possess an invoice for the supply of goods certified by the competent customs authority, to exercise the right to tax exemption for the supply of goods in the customs warehousing procedure, has been abolished.

- It is specified that tax exemption based on international agreements can be achieved according to the international agreement that is applicable on the date of the contract conclusion under which the transaction is carried out or on the date of the supply of goods or services.

- It is prescribed that the right to a VAT refund for the buyer of the first apartment is achieved exclusively based on the fiscal receipt of the VAT obligor – the seller, who is the taxpayer in accordance with the VAT Law.

The previous period has certainly been marked by further harmonization of VAT regulations with fiscalization and e-invoicing regulations. Additionally, during the year, amendments to e-invoicing regulations were made, and by the end of the year, further amendments to e-invoicing regulations (regarding the announced obligation for electronic recording of previous tax) are expected, which could potentially have significant effects on the application of VAT regulations.

In this regard, 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.

Upon the ending of this White Book edition, Ministry of Finance announced public consultations on the Draft Law on Amendments to the Value Added Tax, which will be addressed in the next White Book edition.

POSITIVE DEVELOPMENTS

The latest amendments to the VAT regulations have introduced certain useful simplifications of the existing rules and more precise regulation of specific situations (for example, the obligation to possess an invoice certified by customs authorities as a condition for obtaining tax exemption for the supply of goods in the customs warehousing procedure has been abolished).

However, the problems addressed in the previous period were not in the focus of the regulator.

REMAINING ISSUES

I. Construction: When interpreting the classification of activities of legal entities in the field of construction, for which the Law prescribes special rules for VAT calculation, there are still uncertainties in practice regarding the determination of the taxpayer, between the service provider and

the service recipient. The classification of activities of legal entities is not aligned with tax laws, and very often, due to different interpretations, legal inconsistencies and uncertainties arise in practice. Taxpayers are at risk that the Tax Administration will calculate output VAT to the supplier, even though the recipient, as the taxpayer, has calculated VAT, or that the recipient, who has calculated output VAT, will be denied the right to deduct input VAT, considering that the tax authority believes that the obligation to calculate VAT was on the supplier. Additionally, it is necessary to harmonize the VAT regulations of the Republic 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 the taxpayer for transactions in the field of construction to prevent evasion and fraud in VAT calculation, whereby these special rules apply when the transaction is performed by a subcontractor to the contractor, but not when the transaction is performed by the contractor to the investor.

We emphasize that most problems in practice arise precisely in transactions between contractors and investors, since the "investor" in this case can also be a person who procures, for example, maintenance services for the building, and so on (i.e., the "investor" does not necessarily have to be active in the field of construction). Given this motive for defining the recipient as the taxpayer, there is no reason to prevent the provider from calculating and paying VAT, nor to penalize any of them, as the general taxation rule has been applied, not the special rule by which the recipient is the taxpayer. 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 "forgoes short-term financing" to prevent tax evasion).

II. VAT Refund: The law prescribes that VAT refunds are to be made within 45 days of the deadline for submitting the tax return, or 15 days if it concerns predominant exporters. In practice, it has been observed that the Tax Administration delays VAT refunds. It has also been noted that VAT is not refunded because a tax audit has begun. Neither the VAT Law nor the Law on Tax Procedure and Tax Administration prescribe that VAT will not be refunded if the audit is ongoing. Additionally, the audit of the declared VAT refund is not prescribed as a condition for the VAT refund. The Tax Administration has the right to audit regardless of the refund, and this can be done until the statute of limitations expires. Moreover, the Law on Tax Procedure and Tax Administration prescribes that if the VAT refund is not made to the taxpayer within the period prescribed by the VAT Law, interest is calculated from the next day after the expiration of that period.

We emphasize that the VAT refund is not the result of an error or omission by the taxpayer, but a key mechanism for the functioning of this tax form. Any delay in the VAT refund directly affects the liquidity of companies that must make timely payments to their suppliers, which include VAT, and on which the ability of their suppliers to regularly meet their tax obligations depends.

III. VAT Rulebook: The VAT Rulebook prescribes the method of keeping VAT records and preparing the VAT calculation overview (VAT Rulebook form). Adapting accounting programs to these requirements is time-consuming and financially demanding, and many VAT payers have opted to manually keep VAT and POPDV records. This situation significantly increases the costs for taxpayers. Additionally, due to the large number of categories, there is a high risk of misclassifying certain invoices, even though the VAT treatment is correctly applied, which calls into question the informational value of these data for the Tax Administration. Given the limited utility of certain items in the VAT Rulebook form, the required way of presenting certain transactions, and the significant costs imposed on taxpayers by preparing the POPDV form, it is necessary to consider abolishing or greatly simplifying the VAT Rulebook form and the method of its completion (presentation of certain types of transactions). The user manual published (on the Tax Administration's website), which has facilitated its application to some extent with numerous examples and explanations, on the other hand, introduces some additional requirements that are difficult to implement in practice, e.g., presenting the final invoice issued after the advance invoice in such a way that the full amount of the base and the difference in VAT calculated on the final and advance invoice are shown on the final invoice. Generating data in this way from accounting records is extremely demanding, so, as a rule, even those taxpayers who have adapted their accounting programs to the new way of keeping VAT records enter/keep these data manually. Also, the informational value of presenting the full amount of the base and the VAT difference for the Tax Administration is questionable when it is not possible to match the advance invoice with the final invoice from the VAT Rulebook form.

IV. Issuing Advance and Final Invoices: Before the adoption and implementation of e-invoicing regulations, the VAT Rulebook prescribed that if advance payments were

made in the same tax period as the supply of goods or services, the VAT payer was not obliged to issue both an advance and a final invoice, but only a final invoice for the performed supply of goods or services. This was a significant administrative and financial relief for VAT payers based on practical experience. With the introduction of e-invoices in Serbia, the legal framework has changed so that VAT payers, including tax representatives of foreign entities, are now obliged to issue both an advance and a final invoice when advance payment and the supply of goods or services are made in the same tax period. The recommendation is to amend the legal framework and revert to the previous legal solution. It is considered necessary to reassess the importance of issuing advance invoices if the final invoice is issued in the same month. The introduction of this obligation has created additional administrative burdens for taxpayers in issuing additional documents and linking their numbers with final invoices. In certain cases, the introduction of this obligation has also affected commercial business conditions, as sellers now insist that buyers take delivery of goods on the same day the payment is made to avoid issuing both advance and final invoices.

V. Reverse Charge Mechanism: A taxpayer who is liable for VAT on the supply of goods and services provided by a foreign entity calculates VAT (applies the so-called "reverse charge mechanism") at the moment the supply is made or at the moment of advance payment, whichever occurs earlier. In cases where there are no advance payments, VAT should be calculated at the moment the service is performed, which is often not applicable in practice, especially for services where the price is not agreed upon in a fixed amount but depends on the agreed calculation. At the moment of supply, or by the deadline for submitting the tax return, the taxpayer often does not have the supplier's invoice or information on the amount of the fee, and therefore cannot know the tax base on which to calculate VAT.

VI. Change of Tax Base: VAT regulations define that when the consideration for the supply of goods and services changes after the supply has been made, i.e., the tax base is altered (e.g., a discount is subsequently granted), the entity that made the supply must issue a document containing certain mandatory elements. The regulations do not allow this document to be issued by the entity to whom the goods and services were supplied, which is a common business practice in other countries. This imposes additional costs on companies, as they must change their usual business practices due to regulations in Serbia. The proposed change would be in line with the existing solution for issuing invoices prescribed by Article 43 of the VAT Law, which provides for so-called "self-billing," i.e., the issuance of invoices by the recipient of goods or services under certain conditions. Additionally, based on practical experience, many foreign companies planning to expand their business in the Serbian market often inquire about the possibility of applying self-billing. Therefore, we believe it makes sense to reconsider the application of this institute to other documents (documents on the change of the tax base) in addition to the invoice itself.

VII. Status Changes: In practice, there is a problem with VAT calculation in the case of the contribution of goods and services to the capital of a company and in the case of status changes. Namely, in these cases, the VAT calculated by the transferor of the assets represents income for the transferor and an expense for the transferee, which means that the capital increase and status change are not neutral from the perspective of the income statement, although they should be by their nature. For this reason, in these cases, VAT should be calculated by the recipient of the goods and services (the so-called reverse charge).

The law should prescribe that the obligation to calculate VAT lies with the recipient of the goods and services in the following cases:

1. In the case of the contribution of goods and services to the capital of a company, when the supply of goods and services as a contribution to the capital is subject to VAT.

2. In the case of a status change, the supply of goods and services in the status change is subject to VAT.

VIII. Customs Authority Certification: Given that the VAT Rulebook has been further harmonized with the regulations governing e-invoicing, as well as the tendency for tax regulations to move towards digitalization, we believe that Article 95a of the VAT Rulebook should be reconsidered. Namely, according to this article, the tax exemption from Article 24 of the VAT Law can be achieved if the competent customs authority certifies a printed copy of the e-invoice (external display) that has been previously confirmed by the issuer's signature or stamp. We believe that this provision imposes an additional burden on taxpayers, as it significantly complicates the fulfilment of conditions for obtaining a tax exemption, and its formulation is not in

the spirit of the e-Invoicing Law, which promotes the digitalization of the invoicing process.

IX. Invoice Cancellation or Reduction of Tax Base: The process of documenting the statement on the change of the tax base is still in paper rather than digital format. It has been pointed out several times that with the transition to the electronic invoicing system, the number of corrections, i.e., "cancellations" of invoices, which are not necessarily VAT-related, has increased. For each correction, it is necessary to obtain an official statement in paper form with a stamp and signature that the other legal entity has made the VAT correction. The process of obtaining the document on the change of the tax base for all corrected documents has proven to be extremely inefficient and additionally leads to temporary differences in the form of overpaid VAT. We believe that the statement of the invoice recipient on whether they have used the previous VAT should be digitized in the e-Invoicing System (SEF) environment.

X. Disputed Claims: The VAT Law should simplify the application of this institute by prescribing more relaxed conditions for the refund of VAT that has not been collected from customers. The current solution stipulates that uncollected VAT can only be refunded based on a final court decision on the concluded bankruptcy proceedings or based on a certified transcript of the court settlement record. We point out that a significant number of neighbouring countries prescribe less stringent conditions for the refund of uncollected VAT. For example, in Croatia, it is possible to correct output VAT if the claim has been uncollected for more than a year, provided that measures have been taken to collect it (e.g., the claims have been sued or enforcement proceedings have been initiated). The correction is carried out by the seller notifying the debtor of the correction using a special electronic form, and the debtor is obliged to adjust the input VAT deduction. In Bulgaria, the seller can, after taking measures to collect the claim, inform the buyer in writing that the claim is considered uncollected and issue a document reducing the tax base. In the Netherlands, for example, uncollected VAT can be refunded if the claim has not been collected for a year, with the refund possible even earlier as soon as it is determined that the claim is uncollectible.

XI. Tax Exemption with the Right to Deduct Previous Tax for Transactions Arising from the Donation of Used IT Equipment to Schools and Other State Institutions: It is common for legal entities to use IT equipment (e.g., computers, monitors, printers, and other accompanying equipment) for a limited period, such as three years, in accordance with company policy that aligns the usage period with optimal efficiency. After this period, the IT equipment is replaced with new equipment, and the used IT equipment is recycled, sold, or donated. Used IT equipment is often still functional and fully capable of handling less demanding tasks, such as applications used in the educational system or other state institutions. Considering that IT equipment in the educational system is outdated or non-functional, and with the aim of encouraging legal entities to donate their used IT equipment, we propose that Article 24 of the Law be expanded to include this type of donation.

FIC RECOMMENDATIONS

- **I - Construction:** It is necessary to prescribe that in the case of transactions in the field of construction, the parties can opt for taxation according to the general principle – the supplier calculates VAT. Additionally, in cases where the supplier has calculated and paid VAT, but the tax authority believes that the recipient should have calculated VAT as the taxpayer, it is recommended to prescribe that the supplier's invoice will be considered a valid invoice and that no misdemeanour proceedings will be initiated against either the supplier or the recipient.
- **II - VAT Refund:** It is necessary to align the handling of refund requests stated in the VAT return with the provisions of the VAT Law and the Law on Tax Procedure and Tax Administration, which means that the audit process cannot delay the VAT refund. The Ministry of Finance needs to issue a binding explanation in accordance with the VAT Law and the Law on Tax Procedure and Tax Administration, and the Tax Administration should align its procedures accordingly.

- **III - VAT Rulebook:** We propose that the VAT Rulebook form be completely abolished or significantly simplified in accordance with the previously mentioned comments.

- **IV - Issuing Advance and Final Invoices:** We believe it is necessary to reassess the importance of the obligation to issue advance invoices if the final invoice is issued in the same month. The recommendation is to amend the legal framework and revert to the previous legal solution in accordance with the previous explanation.

- **V - Reverse Charge Mechanism:** When it comes to the application of the so-called reverse charge mechanism, it should be specified that for the supply of goods and services by a foreign entity, the obligation to calculate VAT for the recipient of goods and services arises either at the moment:
  1. When the invoice for goods or services provided by the foreign entity is received, or
  2. When advance payment is made to the foreign entity, whichever of these two events occurs earlier. Additionally, it should be considered to introduce an annual VAT return (monthly/quarterly returns would be treated as advance payments), which would be submitted by March of the current year for the previous year, through which taxpayers could make all necessary adjustments, including those related to transactions from abroad for which the recipient of goods or services has the obligation to calculate VAT as the taxpayer.

- **VI - Change of Tax Base:** VAT regulations should allow that a credit note for a change in the tax base can be issued either by the person who supplied the goods and services or by the recipient of the goods and services. This practice is in line with VAT rules in other countries and common business practices. This cannot in any way jeopardize the collection of VAT. On the other hand, this would help companies reduce their administrative costs. It is also necessary to clearly define that in the case where a smaller quantity of products than invoiced is mistakenly delivered, the taxpayer can either issue a new amended invoice or a credit note. This corresponds to common business practice, and insisting on only one approach imposes additional costs, while from the aspect of VAT collection, there is no reason why both approaches should not be applied. In accordance with this, it is also necessary to define that in the case of returning goods, regardless of the expiration date, the supplier of the goods can issue a credit note or the buyer can issue an invoice/credit note, depending on their mutual agreement. This approach cannot jeopardize the collection of VAT, because, regardless of who issues the credit note, the same VAT rate applies.

- **VII - Status Changes:** We propose that in the case of the contribution of goods and services to the capital of a company and in the case of status changes, VAT should be calculated by the recipient of the goods and services (so-called reverse charge mechanism), in accordance with the previous explanation.

- **VIII - Customs Authority Certification:** We propose to consider amending Article 95a of the VAT Rulebook, as it does not reflect the goal of the Electronic Invoicing Act and does not facilitate the possibility of obtaining tax exemption under Article 24 of the VAT Act. In this regard, we believe that it should be possible to send e-invoices to the competent customs authority in their integral form, and that customs authorities should be included in this process in such a way that taxpayers do not print and certify external representations of the same. This arises from the fact that such invoices have already been created, uploaded, and sent via the eInvoice portal, which certainly validates their authenticity.

- **IX - Invoice Cancellation or Reduction of Tax Base:** We propose that a technical solution be enabled in the e-Invoicing System (SEF) environment for a digitized Statement from the invoice recipient regarding whether the previous VAT correction has been made. From the perspective of SEF users, the simplest solution would be to add some form of Statement that the VAT has not been corrected when rejecting the e-invoice, thereby providing confirmation from the taxpayer that they have not used the right to deduct the previous tax; conversely, by accepting the invoice, a Statement on the use of the previous VAT would be generated, confirming that the previous tax correction has been

made. This would expedite the reduction of the calculated tax and reduce the increased administrative activities of taxpayers in the process of issuing and tracking the acquisition of these documents.

- **X Disputed Claims:** We propose that more relaxed conditions be prescribed for the refund of VAT that has not been collected from customers, and that EU practices be applied in accordance with the previous explanation.
- **XI Tax Exemption with the Right to Deduct Previous Tax:** We propose that Article 24 of the Law includes a tax exemption with the right to deduct previous tax for transactions arising from the donation of used IT equipment to schools and other state institutions, with adequate proof and documentation.

D. PROPERTY TAX 1.00

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, simplify the method of calculating property taxes, if, for example, the storage area, the administrative building and the land represent one unit.	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); 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.	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 2023, we consider that the latest amendments to the Law on Property Taxes (hereinafter: "the Law") that are in effect from January 1, 2024, 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, tha latest amendments to the Law relate to the following: 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)

Upon the ending of this White Book edition, Ministry of Finance announced public consultations on the Draft Law on Amendments to the Property Tax Law, which will be addressed in the next White Book edition.

POSITIVE DEVELOPMENTS

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.

Additionally, it should be noted that some local municipalities did not publish decisions related to determination of average prices of square meters of respective properties and determination of zones for 2024, which caused certain confusion for taxpayers related to determination of property tax for 2024.

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 tax-payers to electronically obtain TIN and all tax certificates. Propose an amendment to the Rulebook on the allocation of TIN, so that it is pre-scribed 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			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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			√
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. Introduce the obligation to publish a redacted request with the issued opinion.	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			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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 protection system (e.g. deciding on actions against second-instance decisions of the Ministry of Finance).

The latest amendments to the PTA Law are in effect from the end of 2022 (Official Gazette of RS, number 138/2022). When it comes to changes to the rest of the legal framework regulating the tax procedure matters, changes to the GAP Law were made at the beginning of 2023 in accordance with the decision of the Constitutional Court of the Republic of Serbia (Official Gazette of the RS, number 2/2023). There were no changes in AD Law and LIO Law in the recent past.

Upon the ending of this White Book edition, Ministry of Finance announced public consultations on the Draft Law on Tax Procedure and Tax Administration, which will be addressed in the next White Book edition.

POSITIVE DEVELOPMENTS

In the previous year, there were no significant changes affecting the normative framework governing the tax procedure in Serbia, and as a consequence no progress in terms of the previously highlighted problems was made.

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. 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 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. FISCALIZATION AND E-INVOICING 1.63

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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. Further harmonize the terminology of VAT and EI laws, especially with Article 42 of the VAT Law.	2022	√		
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.	2022			√
d. We suggest specifying whether the request for payment refers/ does not refer to the pro-invoice issued to the public sector.	2023			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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			√
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)	2023			√
Amend paragraph 1 in Article 4a of the Law on Electronic Invoicing, ie delete: "regarding paid upon importation of goods".	2023	√		
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.	2023		√	

CURRENT SITUATION

The implementation of electronic business in the Republic of Serbia began in 2017 with the introduction of the Law on Electronic Document. With the adoption of the Law on Fiscalization and the Law on Electronic Invoicing (ZEF), electronic business in Serbia has gained an appropriate legal framework and a new way of functioning. The most significant changes relate to the preparation, reporting, and exchange of electronic documents/invoices; electronic identification; and electronic data exchange in the public and private sectors. The Republic of Serbia has taken a step further in the legal regulation and implementation of electronic business and the monitoring of the development of information technologies based on solutions contained 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 is regulated by the following laws and by-laws:

Law on Fiscalization ("Official Gazette of RS", Nos. 153/2020, 96/2021, and 138/2022)

- 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 invoices are 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 based on 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 (Official Gazette of RS", Nos. 44/2021, 129/2021, 138/2022, and 92/2023)

- Fully implemented from January 1, 2023, with the aim to regulate the obligation of electronic recording of VAT calculations in the electronic invoicing system; regulate the use of the electronic invoicing system; provide basic instructions for handling electronic invoices, including how to accept/reject an electronic invoice, as well as other relevant instructions.

Rulebook on Electronic Invoicing (Rulebook) ("Official Gazette of RS", Nos. 47/2023, 116/2023, 65/2024, and 73/2024)

- Implemented from July 1, 2023, the consolidated rulebook replaces the previous three rulebooks and regulates the method and procedure for registering access

to the electronic invoicing system (SEF); the application of e-invoice standards; the elements and attachments of e-invoices; the method and procedure for electronic recording of VAT calculations in SEF; procedures in case of temporary interruptions in SEF operations; the use of data from SEF; and the procedures of the Central Information Intermediary.

- Of significant importance is the Internal Technical Manual, published and additionally harmonized by the Ministry of Finance of the Republic of Serbia.

The Electronic Invoicing System (SEF) has been introduced, which represents an information technology solution for sending, receiving, recording, processing, and storing e-invoices, managed by the central information intermediary. Additionally, the SEF records VAT calculations for public and private sector entities, as well as VAT for representatives of foreign entities registered for VAT in the Republic of Serbia, who are obliged to ensure technical capabilities and timely implementation in accordance with the Law on Electronic Invoicing (ZEF).

The introduction of electronic business and issuing invoices in electronic form is the biggest change since the introduction of VAT. In addition to the new regulations, further alignment with other relevant laws is required, primarily with the Law on VAT and the Law on Accounting, especially in terms of specifying the content and manner of issuing invoices.

The Ministry of Finance of Serbia has announced the Law on Electronic E-Delivery Notes (ZEO), which is a platform for sending, receiving, managing, and storing e-delivery notes. The implementation of the ZEO is planned to be phased: Phase I - in the form of e-delivery notes will include transactions with the public sector and transactions of excise goods, coffee, alcoholic and tobacco products, with the proposed implementation from January 1, 2026. In the second phase, other transactions are planned, and this segment is scheduled from October 1, 2027. It is planned that the e-delivery note module will be integrated with the e-invoice system to link issued e-delivery notes and sent invoices, which should facilitate business operations, speed up administration, and reduce the possibility of errors.

Upon the ending of this White Book edition, Ministry of Finance announced public consultations on the Draft Law on Amendments to the Electronic Invoicing Law, which will be addressed in the next White Book edition.

POSITIVE DEVELOPMENTS

Since the transition to electronic business, the technical functionality of the system has been improved several times, enabling more efficient work for all users.

The latest amendments and additions to the Rulebook, which came into effect on September 1, 2024, regulate the following:

- Determining the status of the entity and setting the tax period: In the SEF, the user can determine the status of the entity regarding whether the entity is a VAT payer or not.

- New tax categories are introduced: S20, S10, AE20, AE10.

- Special invoices for the sale of construction objects: It is prescribed that in the electronic invoice (e-invoice) issued for the sale of objects, economically divisible units within those objects, and ownership shares in those goods (construction objects), data on other transactions cannot be displayed.

- The most significant innovation is the introduction of electronic recording of input tax: the procurement of goods and services from local VAT payers is carried out collectively by types of invoices such as e-invoices, fiscal receipts, etc.; while for foreign legal entities (recipient as the tax debtor), the recording is done collectively from individual records based on internal invoices.

- The data contained in the input VAT records have been specified, such as: input VAT record number; year and tax period; procurement of goods and services in the Republic of Serbia from VAT payers - transactions for which the tax debtor is the supplier of goods or service provider; procurement of goods and services in the Republic of Serbia - transactions for which the tax debtor is the recipient of goods or services; VAT paid for the importation/e-delivery of goods placed in free circulation in accordance with customs regulations; VAT compensation paid to the farmer, including increases; corrections of input tax deductions.

- Automatic data entry: it is performed at the end of the tax period for which the electronic recording of input tax is carried out (from the 1st to the 10th day of the calendar month following that tax period), with the status as of the day preceding the day of automatic entry.

- The deadline for electronic recording of VAT calculation

and input VAT: It is specified that the deadline for electronic recording of VAT calculation, as well as the deadline for electronic recording of input VAT, expires on the 10th day of the calendar month following the tax period for which the electronic recording of VAT calculation/input tax is carried out.

- E-Delivery note as an attachment to the e-invoice: It is stipulated that e-delivery notes and transport documents can be attached to the e-invoice.

The Foreign Investors Council (FIC) has communicated proposals for clarifying the ZEF regulations, as well as the functioning of the information system, which have received a positive response to some extent from the working group of the Ministry of Finance responsible for establishing the e-invoice system. The most significant of these are the technical adjustments to the SEF.

REMAINING ISSUES

I. We will point out the remaining ambiguities regarding the interpretation of the Law on Electronic Invoicing, as well as the functioning of the information system:

   a) The terms of the European and Serbian standards on electronic invoicing, which have not yet been applied in business, are listed. To better understand and adequately apply them, 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 private sector entities, it is important that the standards are transparent and publicly available.

   b) Certain terms in the VAT and ZEF laws still have terminological inconsistencies, especially regarding the application of Article 42 of the VAT Law. For example, the terms "invoice" and "e-invoice," "date of transaction," etc.

   c) Referring to Article 44 of the VAT Law, the entity that has corrected the value or canceled the invoice needs to have a paper notification from the invoice recipient that the calculated VAT was not used as input tax or that the correction of the input tax deduction was made. It is expected that the digitization of the invoicing process would also apply to these documents, but the technical capability in the SEF has not been created.

   d) In practice, the concept of a payment request is still unclear, as well as whether a proforma invoice to a public sector entity is considered a payment request and, if so, which type of document is selected in the SEF.

   e) Although the amendments to the Rulebook were announced in advance by the Ministry of Finance, only 25 days were left from the adoption of the Rulebook to the start of its application for all technical adjustments of the system by taxpayers, which is not feasible in practice. It turned out that the e-invoice system was not ready on time either. An additional complication arises when entering data into the e-invoice system. Since 2018, we have been reporting in the form of a VAT calculation overview (Rulebook on Value Added Tax), which is submitted through the e-taxes portal, i.e., through the Tax Administration. Now, the same data, only in a different way, is systematized and entered the e-invoice system, which is not within the Tax Administration but the Ministry of Finance. This way, two types of records are kept in parallel, i.e, the data we enter is duplicated.

   f) There is no integration with the fiscalization system. In the spirit of digitalization, it would be expected that the data already passing through fiscalization would be available and transferred to other records, but unfortunately, this functionality in the SEF is not enabled and represents a serious administrative burden and risk for the taxpayer.

II. The functionality of the SEF has been fully implemented since January 1, 2023, and the FIC has communicated proposals for technical improvements on several occasions. With further enhancement of e-business, it would be significant to introduce automated data checks.

III. A deadline of 10 days after the end of the tax period is provided for the electronic recording of VAT calculation and input tax, creating an unnecessary additional obligation for taxpayers, as well as additional costs and administration. Also, this provision shifts and shortens the already established deadline for submitting VAT returns as prescribed by the VAT Law.

IV. The Rulebook on Electronic Invoicing regulates the

recording of VAT calculations in different situations. Additionally, the e-Invoice website has published instructions related to the electronic recording of VAT calculation. However, the regulations and the mentioned instructions still do not precisely define when individual and when collective recording of calculations is performed, as well as how recording is done in one of the records in certain situations.

FIC RECOMMENDATIONS

- We propose the following amendments or clarifications to the Law on Electronic Invoicing:

  a) Enable simple and transparent access to the "European and Serbian standard for electronic invoicing".

  b) Further harmonize the terminology of VAT and ZEF, especially aligning with Article 42 of the VAT Law.

  c) We propose that the SEF develop, and the ZEF regulations specify the digital signing of cancellation documents as proof of input VAT correction.

  d) We propose clarifying whether the payment request applies/does not apply to proforma invoices issued to the public sector.

  e) We propose that when amending and supplementing legal regulations, for which technical adjustments of the taxpayer's system are necessary, the implementation period should be a minimum of 3 to 6 months. Additionally, we propose abolishing the POPDV form to eliminate duplicate record-keeping.

  f) We propose suspending the manual transfer of fiscal receipt data until digital transfer within the SEF is established.

- With the introduction of digitalization, it is expected to simplify processes and save time in this regard, and we ask that the development of the SEF be considered in terms of digital verification of the formal correctness of e-invoice elements, such as logical and mathematical verification of e-invoice correctness, as well as error reporting.

- Align the date of electronic recording of VAT calculation and input tax with the date for submitting the VAT return (by the 15th of the current month for the previous month).

- We propose more detailed regulation of the method of recording VAT calculation, in collective and individual records, as well as recording input tax, for already prescribed situations in which records are kept, and closer definition of situations in which individual and collective VAT calculation records are kept.

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. The changes which occurred in the year 2024 solely relate

to the adjustments of RSD amounts of certain parafiscal charges.

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.

The Law on Fees for the Use of Public Goods was amended at the end of October 2023. 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.

top

SECTOR SPECIFIC

top

FOOD AND AGRICULTURE

1.00

Agriculture and the food industry are crucial for local and national economic development. Therefore, accelerated work is necessary to improve institutions, legislation, and the business environment in this area. The recent pandemic crisis and ongoing socio-economic and political events in Europe, as well as global climate change, have a significant impact on the functioning of many economic sectors, especially on the availability of raw materials, rising prices in the raw material and transportation markets. In these conditions, agriculture and food production must not stop but must operate faster and more efficiently.

Despite these challenges, there has been no significant progress in the functioning of the local food safety system, as official controls continue at the same pace. The physical exchange of documentation with competent authorities poses 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. Reorganizing existing resources, focusing on high-risk products and entities in the food business would increase control over those that are truly risky, which is of multiple importance in such circumstances.

Harmonizing regulations with EU standards is not progressing at the expected pace. There are conflicts of jurisdiction, with the Ministry of Agriculture harmonizing food declaration, while the Ministry of Trade issues regulations that override harmonized rules in this area. Implementation in practice is challenging due to unclear institutional jurisdiction in interpreting regulations. Although some regulations are aligned, national laws limit the application of EU practices, posing a barrier to free trade and innovation in production and the development of new products. The focus must be on modernizing outdated regulations, eliminating trade restrictions, and focusing on the protection of local and traditional products.

The report of the Risk Assessment Expert Council, established in June 2017, and the activities of the Council are not known to the public.

There is room for improvement, both in improving the regulatory framework to ensure high standards in food quality control and in applying a consistent approach to controlling all food business entities, including importers and local producers. It is important to simplify testing procedures, strengthen transparency, and enable predictability of goods retention. Improving the capacity of control bodies and a risk-based approach are key to further strengthening the food safety management system. Enabling electronic data and document exchange between government institutions and the private sector is also of paramount importance.

It is important to emphasize the importance of regenerative agriculture, as these practices are still not widely applicable, although they are crucial for preserving our land and ensuring food supply for future generations. It is encouraging that awareness of the importance of regenerative agriculture is growing among farmers, and that there are companies and producers who have begun to apply these key practices to our land. In addition to preserving land and ensuring crops, it is important to note that the EU is increasingly concerned with the use of raw materials from regenerative sources. This is very important for producers who want to export to the EU, as it will become a limiting factor in competitiveness in the EU market if raw materials are not produced using regenerative agricultural practices. State support and subsidies for the purchase of equipment and farmer education are essential to raise awareness that investing in these practices is not a short-term solution but should become a new way of working. Therefore, it is necessary to include regenerative agricultural practices in national strategic and program documents and laws regulating the field of agriculture and rural development.

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 Food Safety Law (hereinafter: the Law), which was adopted in 2009 and amended in 2019, is still not fully implemented, and not all anticipated subordinate regulations have been adopted.

The amendments to the Law have led to a reorganization of inspection supervision responsibilities between the Ministry of Agriculture and the Ministry of Health. The National Reference Laboratory was established in 2015, and the amendments to the Law in 2019 defined its jurisdiction and introduced the concept of Reference Laboratories. The ministries select reference laboratories through competitions, and the list of reference laboratories is mandated to 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 mid-2024, not completely and permanently alignment of the legal regulations related to milk safety has been achieved. The maximum allowable content of aflatoxin M1 in raw milk has been extended to 0.25 µg/kg to accommodate milk producers in Serbia. It is anticipated that the maximum values will be aligned with the European standards (0.05 µg/kg) from December 1st, but it is uncertain whether the maximum value of 0.25 µg/kg will be extended for another year, following the practice of previous years. This measure opens the possibility of importing milk from neighbouring countries and the EU whose aflatoxin content exceeds the limit of 0.05 µg/kg prescribed in the EU. To ensure food safety, measures need to be taken to reduce the presence of aflatoxins in animal feed.

The Risk Assessment Expert Council was officially formed in April 2017.

The Regulation on maximum levels of contaminants in food use to be annually harmonized with the applicable EU regulations for specific types of food under the jurisdiction of the Ministry of Agriculture. This regulation also incorporates the provisions of EU Regulation 2017/2158, which prescribe measures to reduce the presence of acrylamide in certain categories of food.

POSITIVE DEVELOPMENTS

The new Regulation on maximum levels of certain contaminants in food, which is aligned with EU Regulation (EU) 2023/915, came into force in September. For the first time, it includes categories of food under the jurisdiction of the Ministry of Health (e.g., baby food), marking a significant step in the efforts of both ministries to fully harmonize this area. This brings Serbia closer to fully aligning its food safety regulations concerning contaminants with those of the EU and neighbouring countries, despite the existence of requirements that differ from EU legislation (aflatoxin in milk, mercury in dietary products).

REMAINING ISSUES

The Food Safety Law and some subordinate regulations are not aligned with EU regulations:

a. Current provisions of the Law limit full compliance, such as the mismatch of food categorization with EU legal categories, for example, food with modified nutritional composition.

b. The Regulation on maximum levels of contaminants in food partially relies on Regulation EC 2023/915 in the EU. This is because the requirements for food for infants and young children is not completely in line with the EU requirements for contaminants. Some provisions related to contaminants, which are not specified by EU regulations, are still in effect from the regulation governing dietary products. The Coffee Product Quality Regulation prescribes requirements that are not specified at the EU level. The Fruit Juice Regulation also imposes additional quality requirements for fruit juices. This puts domestic food businesses at a disadvantage compared to businesses outside of Serbia.

c. There is room for different interpretations by inspections, which can lead to inconsistencies in the application of the law.

d. National legislation is slow to adopt the latest amendments and updates to regulations regarding the use of food additives.

The lack of a comprehensive risk assessment system by inspection services has not led to progress and coordination in the application of methods for analysis and risk assessment:

a. The establishment of the Risk Assessment Expert Council was intended to enhance risk analysis according to the Law, but this has not happened. After 6 years since its establishment, the activities of the Council are not known to the public.

b. Risk analysis would enable the classification of food business operators as low risk or high risk, which would expedite the customs clearance process for low-risk goods. Importers assessed as low risk could save money and time through faster document processing and a reduced number of inspections during import.

c. Risk analysis would reduce the burden on inspection services and relieve their limited resources, as resources would be directed towards examining high-risk products.

d. The publication of the Regulation on specific elements of risk assessment for sanitary and agricultural inspections in 2018 created a framework for initiating the risk assessment process, but there is still inconsistency in its application among different inspections.

Unpredictable business conditions during the procurement of raw materials for food production:

a. The lack of uniform rules in inspection procedures leads to different costs, deadlines, fieldwork mechanisms, sampling methods, and the determination of the number of analyses in laboratory processes.

b. Laboratories apply different criteria for control analyses, and the responsibility of laboratories in interpreting regulations is not clearly defined.

Unclear procedure for placing novel food on the market:

a. Although the Regulation on novel food adopts the list of food freely placed on the EU market, an additional procedure for placing new food on the market, unlike

the procedure in the EU, is repeated by all food business operators each time the same ingredients of new food are used as ingredients in other products.

b. The Ministry grants approval based on the opinion of the Expert Council for Food, even though there is already a relevant scientific opinion from an internationally recognized institution (EFSA) on the use of that food in the EU, which has already been adopted in Annex 1 of this regulation. It is not known whether the Expert Council for Food has issued an opinion contrary to the EFSA opinion for the same food.

The exchange of documentation with competent authorities is still mainly done physically, which hinders the work of companies and slows down the flow of goods.

FIC RECOMMENDATIONS

- Align the Food Safety Law and all related subordinate regulations with EU regulation (178/2002/EC and accompanying subordinate acts).
- Establish a transparent and comprehensive risk analysis system by all inspection services, including the establishment of a functional IT system and digitization of supervision.
- Establish uniform rules in inspection procedures regarding costs, deadlines, fieldwork mechanisms, sampling methods, and the determination of the type and number of analyses during official controls.
- Standardize criteria for laboratories during control analyses, with a clearly defined responsibility of laboratories in interpreting 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 prescribed by law in order to strengthen the capacity of the food safety system.
- Simplify the procedure for placing new food on the market from the list in Annex 1, while maintaining the approval process for new food not listed in Annex 1, following the EU model.
- Enable electronic data exchange between government institutions and the private sector.

2. FOOD AND FOOD CONTACT MATERIAL 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

Amendments to the Food Safety Law in 2019 reorganized the division of responsibilities for inspection supervision between the relevant inspections of the Ministry of Agriculture (phytosanitary, agricultural, and veterinary) and the Ministry of Health (sanitary). Additionally, the Ministry of Health establishes health and safety requirements for articles of general use, including food contact materials (FCM), while the sanitary inspection is responsible for enforcing the legal regulations that cover food contact materials, including packaging.

The work of inspection services is regulated by the Law on Inspection Supervision, which has been in effect since April 2016. Some inspections have developed models for implementing the Law on Inspection Supervision, but full alignment of sector-specific regulations with this law has not yet been completed.

The Ministry of Health has been in the process of adopting a new Law on Sanitary Supervision since 2016, which would provide more detailed regulations for the tasks of sanitary supervision.

POSITIVE DEVELOPMENTS

Improvement has been noticed in the work of the border phytosanitary inspection, considering the established internal traceability system that contributes to the implementation of risk analysis to a certain extent.

REMAINING ISSUES

Although announced several years ago, the Law on Sanitary Supervision and executive regulations on the work of sanitary and phytosanitary inspections, as well as the Law on Official Controls, have not yet been adopted, which would align them with the Law on Inspection Supervision and EU regulations. There is a lack of executive regulations, such as the Regulation on the Implementation of Official Controls, the approval and certification system, cooperation with customs authorities and competent authorities of EU member states and third countries, inspection, sampling, setting deadlines for conducting official controls, as well as reporting on conducted controls. Additionally, there is a lack of a Regulation on sampling and testing methods for food in the process of official control and other regulations. This situation creates inconsistency in the actions of inspection services and varies in the implementation of the risk assessment system. As a result, risk analysis is not applied in the work of the sanitary inspection, where all shipments are sampled and sent for laboratory analysis, including articles of general use and food contact materials, including packaging. This leads to unnecessary significant financial costs

for business entities where no irregularities are found, as well as delays in deliveries and unpredictability in business and planning.

Competent inspections do not allow the use of raw materials in production before obtaining the Decision on the release of raw materials into free circulation, resulting in loss of time and money.

Since the beginning of this year, the Directorate for Veterinary Medicine has experienced significant delays in issuing decisions on determining veterinary-sanitary conditions for the import or transit of shipments of food of animal origin, as well as mixed food, which the Ministry issues in accordance with Article 124, paragraph 2 of the Veterinary Law. These delays occur despite no changes in the law or bylaws. Importers face additional requirements and delays due to requests for additional documentation, even when it is necessary to renew existing decisions after their expiration, without changes that would affect the risk analysis according to Article 124 of the Law. The decisions have a validity period of 3 months for milk, dairy products, meat, and meat products, while they last for 6 months for various mixed goods. The lack of transparency in the process and requests for additional documentation often lead to a significant extension of the deadline of one month for delivering the decisions. This poses a challenge for importers, who sometimes must submit requests for the next quarter before receiving decisions for the upcoming period to overcome delays in procuring goods.

The time required for import procedures for food is not clearly defined.

The exchange of documentation with competent authorities still largely takes place physically, which hinders the work of companies and significantly slows down the flow of goods.

FIC RECOMMENDATIONS

- Adopt a new Law on Sanitary Supervision and executive regulations on the work of sanitary and phytosanitary inspections that are aligned with the Law on Inspection Supervision and EU regulations, as well as a Law on Official Controls based on Regulation (EU) 2017/625 and executive regulations on the implementation of official controls. This would ensure consistent implementation of unified rules in inspection procedures and a unified approach to comprehensive risk analysis.
- Amend the decisions of the competent inspections to allow the use of raw materials in production without the right to release the finished product into free circulation until the decision on the release of raw materials into circulation is obtained.
- To overcome delays in issuing decisions on veterinary-sanitary conditions for import or transit shipments, it is suggested that the Ministry of Agriculture adopt a bylaw that prescribes the list of necessary documentation and deadlines for submitting requests and issuing decisions. This will enable greater transparency in the process, more efficient procurement of goods, and predictability in business.
- Clearly define the time required for import procedures for all types of food.
- Enable electronic data exchange between state institutions and the economy.

3. QUALITY AND LABELLING OF FOOD PRODUCTS 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. 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.	2016			√
Adopt the Rulebook on the Conditions and Manner of Production and Food Market Placing 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

Since June 2018, the Regulation on the Declaration, Labelling, and Advertising of Food has been in effect, which is largely aligned with relevant EU regulations. In September 2020, amendments were made to the Regulation to harmonize the provisions regarding the declaration of the country of origin of the main ingredient in accordance with EU regulations 2018/775 and (EU) 1155/2013, with effect from January 1, 2023. Additionally, in early 2022, provisions were added that further prescribe the appearance of the graphic mark "Originating from Serbia" for meat and meat products to support consumer information about local products.

There are a number of regulations that govern the quality of certain categories of food, but they are not fully aligned with the EU, are outdated, or there are no EU regulations defining the quality of these food categories. This vertical legislation puts economic entities at a disadvantage compared to producers in the region and the European Union. Often, due to the outdated regulations, it is difficult to find suitable raw materials and they have a higher cost, and some raw materials cannot even be placed on the market or used in production due to the absence of a specific category within the regulations. A similar situation exists with finished products that do not fit into the categorization of the mentioned regulations.

The Trade Law, enacted in mid-2019 by the Ministry of Internal and Foreign Trade, stipulates the obligation to label the country of production on the declaration of goods in retail trade. However, it is still unclear whether this obligation applies to the labelling of food, considering that the Food Safety Law (lex specialis) and the Regulation on the Declaration, Labelling, and Advertising of Food are in force. The Regulation requires mandatory indication of the country of origin only for certain categories of food, while in the case of voluntary indication, it also imposes an additional obligation to indicate the country of origin of the main ingredient. Additionally, there is inconsistency in the interpretation of regulations by inspections and food business operators, leading to conflicts of jurisdiction, as well as uncertainty in business and difficulties in foreign trade with the EU and neighbouring countries. The responsibilities for harmonizing the regulations from Chapter XII are unclear, as different ministries have different approaches to the same area.

POSITIVE DEVELOPMENTS

In previous years, certain regulations have been amended to expand the list of categories based on the needs of food business operators. However, despite these individual amendments, a systemic solution has not been achieved, leading to the conclusion that significant improvements in this area have not been observed.

REMAINING ISSUES

The current legal framework does not clearly define the authority for interpreting regulations in the field of food safety, while over time, a practice has emerged in the market where laboratories interpret the regulations:

a. Regardless of the fact that the legal assessment or determination of certain illegalities in business operations is exclusively within the jurisdiction of inspectors, according to Article 37 of the Law on Inspection Supervision, inspectors, as the competent authority, exclusively rely on the conclusion of the laboratory, which is not always aligned with the official position of the Ministry that enacted the regulation. This situation is particularly noticeable when interpreting regulations on food labeling, where there are different approaches and interpretations, despite the existence of a Guide.

b. The official position of the competent Ministry is not a binding act for inspection services.

c. This practice creates difficulties in the functioning of economic entities in the food business and limits their ability for long-term planning.

d. A bylaw has not yet been adopted in which ministers, in accordance with the division of responsibilities from Article 12 of the Law, specify the conditions and methods of production and placing on the market of food for which quality conditions are not prescribed, as envisaged by Article 55 of the Law.

Non harmonised regulations prescribing product quality with EU regulations:

a. Most national regulations that prescribe the quality of certain food categories date back to the 1980s and 1990s. Some of these regulations, such as the Regulation on the Quality of Fruit and Vegetable Products and the Regulation on the Quality of Raw Coffee, Coffee Products, Coffee Substitutes, and Related Products, although more recent, are exclusively of national character and not aligned with EU legislation. There are no EU-level requirements for these products, except for instant coffee and instant coffee substitutes. The latest amendment to the Regulation on the Quality of Fruit and Vegetable Products, from the end of 2021, did not make any progress in harmonization. By enacting 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, in order to reduce the possibility of misuse. However, these regulations can limit food business operators, especially in cases where products cannot be classified into any of the categories of the newly enacted regulation, particularly with related products where there is room for different interpretations. These situations can be overcome through amendments and supplements to the regulations, but such solutions require a longer time and do not contribute to efficiency.

b. The Regulation on Fruit Juices, although harmonized with Regulation EC 2012/12, still has additional requirements regarding the quality of fruit juices, which are taken from the standards of the European Association of Fruit Juice Producers. However, these standards have voluntary, rather than legally binding, application in EU countries. This puts domestic food business operators at a disadvantage compared to entities operating outside of Serbia.

c. The Regulation on Dietary Supplements retains the process of registering products in the Ministry's database, similar to the process that existed in the Regulation on the Health Safety of Dietary Products. Unlike the notification process in EU countries, this process involves obtaining certificates from multiple institutions before registration in the Ministry of Health's database.

The misalignment of the requirements of the Trade Law, which obligates the indication of the country of origin, and the Regulation on Labeling, which prescribes the obligation to indicate the country of origin of the main ingredient when voluntarily indicating the country of origin on product labels, creates a framework for additional problems in practice.

FIC RECOMMENDATIONS

- Identify the competent institution for interpreting regulations in the field of food safety and ensure that the official positions of the Ministry are mandatory for all participants in the chain. Additionally, establish a competent Ministry for the area of food labeling to ensure consistent interpretation and implementation of regulations, guides, and instructions issued by the relevant ministry.
- Adopt a regulation that will regulate the conditions and methods of production and placing on the market of food for which quality conditions are not prescribed.
- Adopt executive regulations derived from the Food Safety Law and align them with EU regulations.
- Amend Article 34 of the Trade Law to clearly define that the provisions of that article do not apply to products subject to the provisions of the Food Safety Law and subordinate regulations governing the labeling and marking of food.

4. REGENERATIVE AGRICULTURE: BENEFITS AND IMPLEMENTATION CHALLENGES

CURRENT SITUATION

With the increasing global population, the demand for food is also growing. At the same time, food producers are facing increasing pressure to adopt more sustainable business strategies and practices, given the significant role of agriculture and the food industry in combating climate change. The main challenge for the food industry is how to ensure an adequate food supply for the growing population while dealing with the threats of climate change and general soil degradation caused by intensive farming practices. This problem is also present in Serbia, where research shows that humus content is declining at a faster rate than in the mid-20th century.

Agriculture is one of the main pillars of economic activity and growth in the Republic of Serbia. Agricultural land covers nearly half of the country's territory, and agriculture contributes to almost 7% of Serbia's GDP. The agricultural sector employs 547,000 people, with 78.7% working in primary agriculture, accounting for almost 20% of total employment in Serbia. Agriculture also accounts for 17.8% of Serbia's total export of goods, with a total export value of 4.8 billion euros and a trade surplus in agricultural and food products of 1.6 billion euros. Primary agricultural products make up 69% of total exports, while processed agricultural products account for 30.7%. Agriculture is recognized as a sector with significant impacts and risks related to ESG (Environment, Social, Governance) factors worldwide. Serbia has a unique opportunity to develop and implement detailed ESG regulations in the agricultural sector, which will impact both large enterprises and small-scale farmers, enabling economic growth and the development of sustainable business practices.

Agricultural production contributes to 66% of total emissions in the supply chain from farm to fork. Proposed measures to reduce the carbon footprint in agricultural production include two key steps:

- Increasing the capacity of land to retain carbon through the adoption of regenerative agricultural practices. Increasing carbon content in the soil is mainly achieved through the implementation of regenerative agricultural practices, as mentioned in section 6.4.3 "CO_2 Emissions in Serbian Agriculture." When these practices are successfully applied, they act as the main compensation for emissions arising from field work and natural processes. The implementa-

tion of regenerative agricultural practices is best combined with targeted measures to reduce CO_2 emissions, contributing to achieving a cumulative positive effect.

- Reducing greenhouse gas emissions from all sources, both natural and human.

POSITIVE DEVELOPMENTS

There are currently no improvements as the topic is new in the White Book.

REMAINING ISSUES

Legislation in Serbia shows a strong tendency towards harmonization with EU regulations, particularly in the field of agriculture. However, certain deficiencies and inconsistencies have been identified regarding general ESG regulations. While there is room for improvement, achieving full harmonization with the EU does not require a complete change of the regulatory framework but rather the adaptation of existing regulations.

The identified deficiencies include:

- Lack of an ESG regulatory framework that defines the rights and obligations of economic entities regarding non-financial reporting at the level currently in force in the EU. This is important to ensure transparency and accountability regarding ESG factors.
- Failure to recognize regenerative agricultural practices in strategic planning documents and laws, despite their crucial role in sustainable land management and reducing negative environmental impacts.
- Absence of systemic and financial support for the transition to regenerative land management systems. Farmers need support in the form of training, technological solutions, and financial incentives to adopt sustainable practices and reduce their environmental impact.
- Limited awareness among farmers about the existing systems and opportunities for financial support.

FIC RECOMMENDATIONS

- Within national strategic and programmatic documents and laws governing agriculture and rural development, it is necessary to recognize and incorporate regenerative agricultural practices. These documents include the Strategy for Agriculture and Rural Development, National Agricultural Program, National Rural Development Program, Law on Agriculture and Rural Development, and Law on Incentives in Agriculture and Rural Development.
- Provide financial support through subsidies and other available tools to support the transition of agricultural producers from conventional to regenerative agricultural practices. These support measures would include subsidies within rural development support programs, as well as direct payments.
- Consider the possibility of additional subsidies for producers implementing regenerative agricultural practices within direct payments in primary crop production, following a similar principle to the subsidies provided for organic farming compared to conventional production.
- Invest in farmer education programs and capacity building focused on sustainable agricultural practices, providing farmers with the knowledge and skills necessary to adopt environmentally friendly methods.

5. SYNERGY OF SCIENCE AND BUSINESS FOR THE WELL-BEING OF CUSTOMERS AND A HEALTHIER DIET

(ZERO RESIDUE CONCEPT: FRUIT AND VEGETABLES WITHOUT PESTICIDE RESIDUE)

CURRENT SITUATION

In the modern world, health standards and food safety are key for consumers. The "Zero Residue" or "Pesticide Residue-Free" concept represents one of the latest trends in agriculture, the goal of which is to eliminate pesticide residue on fruit and vegetables offered on the market. Not only does this approach secure healthier products for customers, but it also contributes significantly to sustainable development of agriculture and preservation of the environment.

Agriculture plays a crucial role in the economy of the Republic of Serbia. With almost 50% of the country's territory engaged in agricultural production, this sector contributes approximately 7% of the country's GDP and employs a large number of people. However, traditional agricultural practices often include pesticides in order to protect crops from pests and diseases. While pesticides help increase yield, their misuse can negatively impact the environment and human health.

The strategy for sustainability and food safety recognizes the importance of reducing pesticide residue in products. In cooperation with the Faculty of Agriculture at the University of Belgrade, a new food safety management concept was developed in 2022. With the aim of producing fruits and vegetables free from pesticide residues through good agricultural practices, standards in the food supply chain are significantly raised, and this benefits primary producers, and particularly consumers and society, as well as companies that implement and promote a responsible approach to food safety. In the summer of 2022, the first "Zero Residue" crops were produced in Serbia, and they included cantaloupes and watermelons marked with the official guarantee stamp. In 2023, the concept was upgraded and expanded to include new fruit and vegetable crops, including cherries, raspberries, pumpkins, and packaged lettuce. This innovative approach includes the application of advanced technologies in production, strict control of good agricultural practices and laboratory analyses that prove the absence of pesticides in products.

This type of innovation is exactly how synergy between science and business is achieved. Through this kind of cooperation, retailers make sure that the products offered at the retail chain comply with the highest quality and safety standards. Moreover, the Faculty of Agriculture of University of Belgrade, as Serbia's leading scientific institution in food production, plays a key role in validating good agricultural practices among primary producers and conducting laboratory analyses. This process involves strict control of every step during the production, from planting to harvesting and distribution.

The partnership between retailers and local producers is one of the key elements of the success of this concept. Expanding the concept to include new fruit and vegetable crops ensures that consumers have access to a wider selection of healthier and safer products. During 2023, the number of products with the "Zero Pesticide Residue" label increased from seven to 16, whereas the volume of these products on the market increased by 138 percent. These results clearly indicate the success of the concept and the market's readiness to accept and support such initiatives.

Retailers will continue to work on expanding this concept, aiming to include even more types of fruit and vegetables. Analyses are already underway to extend it to new varieties of apples and vegetable crops. This process not only contributes to a healthier diet but also sets new standards in agricultural production in Serbia, promoting sustainability and responsible resource use.

POSITIVE DEVELOPMENTS

Currently, there are no improvements as the topic is new in the White Book 2024.

REMAINING ISSUES

Although the concept "Pesticide Residue Free" is a step forward toward healthier and safer food, there are several challenges in Serbia:

- Lack of clear regulations: Currently, there is no comprehensive legal framework governing pesticide residue-free products at the national level. This complicates the standardization and certification of these products.

- Financial challenges for producers: Transition to pesticide residue-free production requires additional financial investments in new technologies and training, which poses a significant challenge for many agricultural producers.
- Insufficient consumer awareness: Many consumers are not adequately informed about this innovative production concept, affecting demand.
- Lack of support for small producers: Small agricultural producers often lack access to the resources needed to transition to pesticide residue-free production, which can reduce their competitiveness.
- Maintaining quality: Continuously upholding high production standards and quality control requires ongoing investments and supervision, which can be challenging for producers.

FIC RECOMMENDATIONS

- Development and implementation of a national regulatory framework: It is proposed to adopt comprehensive regulations that will define standards and procedures for the production and certification of pesticide residue-free products. This will provide clear guidelines for producers and increase consumer trust.
- Financial support and subsidies: Financial assistance should be provided through subsidies and other tools to help producers transition to the Zero Residue concept. This includes subsidies for acquiring new technologies, training, and educating farmers.
- Raising consumer awareness: Campaigns to inform and educate consumers about the benefits of pesticide residue-free products are essential. This will increase demand for these products and encourage producers to adopt this concept.
- Support for small producers: Special support programs for small agricultural producers, including access to technology and training.
- Continuous quality improvement: Establishing a system for ongoing monitoring and quality improvement through collaboration with scientific institutions such as the Faculty of Agriculture at the University of Belgrade. This will ensure that products remain compliant with high standards and that issues are addressed promptly.

TOBACCO INDUSTRY

CURRENT SITUATION

The tobacco industry represents a stable and reasonably regulated sector that contributes, on average, 8% of the total revenue to the budget of the Republic of Serbia each year. Three multinational companies, along with one domestic producer are operating in Serbia. These companies directly employ more than 2,000 people and indirectly additional 5,000. When firms that support the tobacco industry's operations, such as distributors, retailers, and others are included, this number is significantly higher.

In Serbia, the production of tobacco products has significantly increased across all segments over the past five years (2019-2023). Last year, 18.27% more cigarettes were produced compared to 2019, while domestic sales in the same period decreased by 7%. This indicates a 31% increase in the export of tobacco products during the mentioned period. The total foreign trade exchange of tobacco and tobacco products in 2023 amounted to €839.8 million, of which €549.5 million was attributed to exports, while imports were valued at €290.3 million, resulting in a surplus of approximately €259.2 million.

From 2019 to 2023, tobacco production was carried out on an average annual area of 4,375 hectares, while in 2024, production was recorded on 4,556 hectares. In the first six months of 2024, cigarette production increased by 5% compared to the same period of the previous year. The value of tobacco exports in the first six months of 2024 decreased by 11% compared to the same period of the previous year, while the value of imports increased by 6%.

In Serbia, there is an illegal market for tobacco and tobacco products, the suppression of which has been designated as a priority by the Government of the Republic of Serbia through the establishment of the Working Group for Combating Tobacco Smuggling (Government Decision published in the "Official Gazette of RS" No. 47/16). The revenue from excise duties and VAT on tobacco products in 2023 amounted to 165.6 billion RSD, representing a 40% increase compared to 2016, when the revenue from this source was 118 billion RSD. Therefore, it is of paramount importance for Serbia to control tobacco production within its territory, especially considering that around 90% of the black market is consisted of cut tobacco rather than cigarettes. Nevertheless, the efforts of state authorities, led by the Ministry of Internal Affairs, the Customs Administration, the Market, Phytosanitary, and Agricultural Inspections, together with industry representatives, are yielding visible results in curbing the illegal production and trade of tobacco and tobacco products, thereby minimizing the damage to budget revenues.

POSITIVE DEVELOPMENTS

Amendments to the Tobacco Law, on which the Tobacco Administration was working intensively in collaboration with all relevant market participants, and which have been in effect since November 2023, have introduced definitions for new tobacco and nicotine products, such as non-combustible tobacco and related products (electronic cigarettes, nicotine pouches, herbal products for smoking or heating, and shisha flavors). This law also introduced the definition of an electronic device for heating tobacco or herbal products.

Given that the global tobacco industry has committed to the harm reduction concept by introducing and developing alternative products with reduced harm compared to conventional cigarettes, the unique regulatory framework adopted by Serbia Government encourages the transformation of the industry.

The law also introduced registers of manufacturers and importers of related products, as well as additional restrictions on the sale of tobacco and related products, the most important of which is the explicit prohibition of sales to minors. Since products containing nicotine or tobacco are intended exclusively for adult users, this regulatory framework supports the principle of responsible marketing and a strong commitment to prevention and restricting access to all tobacco and nicotine products for minors.

The Excise Law regulated the consistent implementation of a five-year excise calendar; it also introduced and presented the e-Excise System – digitizing the processes of ordering and using control excise stamps with QR codes for tobacco products, whose mandatory use came into effect on October 1, 2024. Amendments to the Excise Law also defined a system for tracking tobacco products in the production and supply chain in Serbia, modeled after the systems in the European Union, known as Track & Trace systems.

REMAINING ISSUES

In addition to market stabilization, the negative impact of the illegal market for cut tobacco remains evident, threat-

ening the sustainability of the entire supply chain within the tobacco industry, as well as employment and GDP, which are directly influenced by the production and distribution chain of tobacco products. It is estimated that the volume of the illegal market in Serbia is around 16.3%, with three-quarters consisting of leaf tobacco and cut tobacco of domestic origin, and the remainder being illegal cigarettes that are either unmarked or marked with stamps from neighboring markets where excise duties are lower.

Moreover, the illegal sale of tobacco products negatively impacts consumers due to unknown origins, uncontrolled production, storage, and transport conditions, and the fact that illegal tobacco products are accessible to minors, do not contain legally required health warnings, and are illegally advertised. The Government of the Republic of Serbia is making significant efforts to combat the illegal trade of tobacco products, as evidenced by the quantities of seized tobacco and cigarettes and the continuously increasing number of proceedings against various perpetrators of the criminal offense of illegal trade in tobacco and tobacco products. However, there is still a noticeable lack of adequate prosecution by the public prosecutor's office and the courts.

FIC RECOMMENDATIONS

- It is necessary for all relevant public institutions to continue to focus on an efficient implementation of the law in order to combat the illegal tobacco market, which has a significant negative effect on all of society. The Foreign Investors Council also supports efforts of the Serbian Government in combating the illicit trade in tobacco and tobacco products and proposes once again the formation of a special department within the Prosecutor's Office which would be responsible for excise goods.

- Continue with the open dialogue between the Government of Serbia and the tobacco industry in all important matters concerning business conditions in the tobacco product market. The Foreign Investors Council strongly supports this kind of dialogue, based on the principles of participation, transparency, accountability, effectiveness, and coherence.

- The current excise calendar is set to expire at the end of 2025. It is necessary to continue a responsible and consistent excise policy that ensures predictability for all actors in the tobacco industry's production and distribution chain, anticipates gradual increases in excise burdens, and considers the different risk profiles of the products involved. Such an approach would ensure stable budget revenues and prevent the growth of illegal flows within the industry.

- Innovations in science and technology, along with the application of the highest standards in the tobacco industry, have contributed to the development of new categories of tobacco and related products that can reduce the negative effects compared to cigarette consumption. When creating a regulatory framework, it is important for the legislator to recognize the unique characteristics and specificities of these products, consider existing scientific evidence, and apply the principles of proportionality so that consumers have adequate access to information and can make informed decisions.

Disclamer: At the time of concluding this text, amendments to the Advertising Law and the Draft Law on Amendments to the Excise Law were in procedure. The changes will be addressed in the next edition of the White Book.

INSURANCE SECTOR

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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 and amend the regulation accordingly.	2022			√
LIFE INSURANCE – EXEMPTION FROM TAXABLE INCOME OF PERSONAL INSURANCE FEES				
Introduction of tax relief for life insurance in the Law on Personal Income Tax.	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			√
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				
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."	2023			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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				
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			√
HEALTHCARE LAW				
Enable health care providers by the Law on Health Care to diagnose or prescribe treatment by telephone or online consultations.	2021			√
LAW ON HEALTH INSURANCE				
Amendment to the Law on Health Insurance so that:				
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. 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."	2021			√
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."	2022			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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			√
INSURANCE OF EMPLOYEES AGAINST WORK INJURIES AND PROFESSIONAL DISEASES				
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	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:				
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".	2022			√
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". "				√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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			√
CONTRACTING CASH LOANS FROM BANKS THROUGH INSURANCE COMPANIES				
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:				
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.	2023			√
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.	2023			√
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				
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.	2023			√
SUBSIDY FOR COMPREHENSIVE VEHICLE INSURANCE FOR ELECTRICALLY POWERED VEHICLES, AS WELL AS VEHICLES THAT UTILIZE INTERNAL COMBUSTION ENGINE AND ELECTRIC PROPULSION (HYBRID DRIVE)				
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.	2023			√
SUBSIDY FOR INSURING APARTMENTS AND BUSINESS PREMISES IN BUILDINGS WITH ENERGY PASSPORT, AS WELL AS FOR INSURING HOUSES WITH SOLAR PANELS				
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.	2023			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
SUBSIDY WHEN PROPERTY/EQUIPMENT INSURANCE FOR LEGAL ENTITIES REGISTERED IN THE BUSINESS REGISTRY AGENCY UNDER THE CODES RELATING TO RECYCLING AND WASTE MANAGEMENT				
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.	2023			√
SUBSIDY WHEN PROPERTY/EQUIPMENT INSURANCE FOR TOURIST/ACCOMMODATION FACILITIES WHICH HAVE THE LABEL "TRAVEL SUSTAINABLE LEVEL 1, 2, 3"				
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.	2023			√
SUBSIDY FOR INSURANCE OF CROPS AND ANIMALS FOR ORGANIC PRODUCTION				
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.	2023			√

OVERVIEW OF THE INSURANCE MARKET

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

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:

- some insurance companies have recognized mediation as an effective method for resolving disputes where they are actively legitimized, and they initiate mediation proceedings before pursuing court actions.
- some insurance companies have recognized mediation as an effective way of resolving disputes in cases in which they are passively legitimized, so they initiate this procedure in those cases as well. Unfortunately, the parties still do not accept participation in these mediations to an insufficient extent.
- more frequently, in contractual relations, as a method of dispute resolution, mediation is primarily mentioned, while a court of appropriate jurisdiction is secondary.
- 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, as well as additional promotion of mediation as a peaceful way of resolving disputes with a comparative presentation of the advantages of the mediation procedure in relation to the court procedure.

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 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".

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."

LAW ON PREVENTION OF MONEY LAUNDERING AND FINANCING OF TERRORISM (PMLFT) – INSURANCE INTERMEDIARIES

CURRENT SITUATION

Insurance brokerage companies engaged in life insurance mediation are subject to the Law on Prevention of Money Laundering and Financing of Terrorism.

According to the indicators presented in the 2023 report of the National Bank of Serbia for the insurance sector, when analyzed by sales channels, the largest portion of the total premium in 2023 was achieved through: insurance companies (61.7%), brokerage companies (13.5%), vehicle inspection stations (9.0%), insurance agents (5.2%), and banks (5.3%). However, for life insurance premiums, most sales were achieved through insurance companies (64.4%), banks (15.9%), and insurance agents (13.4%). In its report the National Bank of Serbia does not provide data on the percentage of life insurance premiums achieved through brokers, leading to the conclusion that the involvement of brokerage companies in life insurance distribution is negligible.

Key Facts:

1. The insurance sector is generally not considered high-risk in the context of money laundering and terrorist financing, according to the opinions and official reports of relevant institutions in the European Union, as well as the results of previously conducted National Risk Assessments in the Republic of Serbia (in the previous National Risk Assessment, the insurance sector was classified as medium/medium-low risk for money laundering).

2. Insurance intermediaries, due to the nature of the business relationship they establish with clients and the obligations they assume towards their clients, represent a low-risk insurance distribution channel.

3. The insurance product "Term Life Insurance"—insurance solely for the case of death, particularly when agreed upon as group life insurance for employees of the policyholder (legal entities) — poses an extremely low risk in terms of money laundering and financing of terrorism.

4. By its characteristics, this insurance product meets all the criteria set out in the Rulebook on the Methodology for Performing Duties in Accordance with the Law on Prevention of Money Laundering and Financing of Terrorism ("Official Gazette of the Republic of Serbia, Nos. 80/2020 and 18/2022) to be classified as a low-risk product.

5. Under the legal framework and in accordance with European Union regulations and FATF, the principle of a risk-based approach is proclaimed.

It is important to note that the insurance intermediary does not collect insurance premiums on behalf of the insurance company and therefore does not come into direct contact with money. Additionally, the current situation is such that both the insurer and the intermediary undergo the PMLFT procedure (primarily the risk assessment), which is unnecessary, and in practice, this can lead to inconsistent procedures between the insurer and the intermediary, resulting in different risk assessments. However, in the end, the only correct one (which leads to the conclusion of the insurance contract) is the one prescribed by the insurer. Ultimately, this increases costs for the entire market, with no benefit from requiring the insurance intermediary to collect documentation from the client.

POSITIVE DEVELOPMENTS

No improvements.

REMAINING ISSUES

From all of the above, it follows that term life insurance for the case of death, especially when agreed as group life insurance should:

1. be exempt from the obligations under the Law on Prevention of Money Laundering and Financing of Terrorism; or

2. be subject to significantly simplified customer due diligence measures.

FIC RECOMMENDATIONS

Taking into account all the above, particularly the specific characteristics of term life insurance as a financial product, its clients, and beneficiaries when life insurance is contracted as group insurance for employees, as well as the characteristics of life insurance brokerage activities and the fact that intermediaries are considered a low-risk insurance distribution channel, we believe that the scope of application of the Law on Prevention of Money Laundering and Financing of Terrorism for this insurance product should be reconsidered.

Thus, the FIC recommendation would go in two directions:

- Reconsideration of all the facts mentioned in this Initiative and a possible amendment to the PMLFT Law and by-laws that would support the idea of fully exempting the subject insurance product from the application of anti-money laundering regulations; or

- Through amendments to the Law and the Rulebook on the Methodology for Performing Duties in Accordance with the Law on Prevention of Money Laundering and Financing of Terrorism, introduce a simplified procedure for determining the beneficial owner of the client when the policyholders are legal entities or other organizations that contract group life insurance policies for employees/members. This simplified procedure would still include the obligation to determine the beneficial owner of the client, but the process would involve collecting information on ownership structure and beneficial owners from the legal representative's declaration, along with submitting a photocopy of a relevant document containing all data on the beneficial owner(s). Additionally, each obliged entity would be required to verify the data in the Central Register of Beneficial Owners and save the search results from this register. This would significantly simplify the operational activities that obliged entities must perform for this extremely low-risk insurance product, fully aligning with the adopted risk-based approach.

AUTO INSURANCE MARKET

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

The latest amendments to the Road Traffic Safety Law ("Official Gazette of RS" 41/2009, 53/2010, 101/2011, 32/2013 - decision of the Constitutional Court, 55/2014, 96/2015 - other law, 9/2016 - decision of the Constitutional Court, 24/2018, 41/2018, 41/2018 - other law, 87/2018, 23/2019, 128/2020 - other law and 76/2023) define light electric vehicles as motor vehicles with at least two wheels, mechanical steering, no seating, with a continuous nominal power of no more than 0.6 kW, a maximum design speed not exceeding 25 km/h, and an unladen weight not exceeding 35 kg. Additionally, the regulations govern the movement of light electric vehicles on cycle lanes and paths, group travel of these vehicles, driving methods, restrictions and conditions under which a driver of a light electric vehicle may use certain infrastructure, and the prohibition of transporting other persons on light electric vehicles. Moreover, it mandates the use of protective cycling helmets for drivers of light electric vehicles, high-visibility vests to ensure visibility on the road, and prohibits crossing roadways except at designated cycle or pedestrian-cycle crossings.

All these measures will undoubtedly contribute to greater safety when operating light electric vehicles, both for drivers and third parties. However, the Law still does not require owners of light electric vehicles to have mandatory third-party liability insurance.

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. 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 Healthcare Law 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 seri-

ous 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 WHEN 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.

DECISION ON THE ACQUISITION OF QUALIFICATIONS AND TRAINING OF AUTHORISED INSURANCE BROKERS AND AGENTS

CURRENT SITUATION

CURRENT SITUATION

The sale of compulsory insurance carried out by technical review centres is not considered as insurance agency work, and the provisions of the Insurance Law do not apply to technical review. It is not economically viable for technical review centres to invest in training of their employees to obtain authorisation to perform insurance agency tasks for compulsory insurance sales. This is due to the high employee turnover in such roles and the duration, cost, and additional expenses associated with acquiring the qualifications to become an authorised insurance agent.

Given that the income generated from commissions on compulsory insurance sales does not justify such investments, technical review centres do not invest in their staff in this regard. Consequently, insurance companies handle a significant portion of the distribution of this type of insurance through their own employees, which increases acquisition costs.

POSITIVE DEVELOPMENTS

None.

REMAINING ISSUES

The liability of authorised personnel working in technical review centres is lower compared to when concluding other types of insurance (e.g. life insurance, which typically involves long-term contracts with specifics like surrender, capitalisation, and mathematical reserves – terms unfamiliar to the average insurance customer).

In this regard, the requirements for obtaining authorisation for employees at technical review centres who sell compulsory insurance should not be equated with those for individuals obtaining authorisation for selling other types of insurance. Technical review centres are not organisations that engage in insurance agency activities, so the requirements imposed on employees at these centres to obtain authorisation for compulsory insurance sales do not justify equating their authorisation with that of those working in dedicated insurance agencies.

FIC RECOMMENDATIONS

- The decision on acquiring qualifications and training of authorised insurance brokers and agents (Official Gazette of RS, 38/2015 and 11/2017)—hereafter referred to as the NBS Decision—should be amended to define the conditions under which employees at technical review centres may obtain authorisation to conduct compulsory insurance sales. These conditions for obtaining qualifications, as well as the method of training, should be simpler than those for other authorised agents, with the provision that this authorisation under "simplified" conditions would only apply to the sale of Motor Third-Party Liability (MTPL) insurance.

- Abovementioned amendments would significantly increase the distribution of MTPL policies at technical review centres, which conduct mandatory annual inspections of all vehicles and are the main distribution channel for this type of insurance. At the same time, it would reduce acquisition costs for insurance companies while maintaining the current level of customer protection. If the NBS Decision was amended as proposed, the interests of insurance customers would not be compromised, nor would the quality of services provided by authorised personnel at technical review centres be diminished. Supporting this is the fact that these individuals would sell only this specific type of insurance for which they would have obtained authorisation from the NBS. Additionally, the terms of MTPL insurance are the same across all insurers, as are the pre-contractual disclosures, meaning that policyholders are consistently well-informed about coverage and exclusions through various communication channels and by receiving the same information each year when renewing their MTPL policy, as it is an annual insurance.

INSURANCE LAW - INSURANCE BROKERAGE AND AGENCY SERVICES

CURRENT SITUATION

The provisions of the Insurance Act define both the terms "insurance broker" and "insurance agent," as well as their rights, obligations, and other significant elements of their business operations within legal frameworks.

Article 99 of the Insurance Act, under the section "Restrictions on Insurance Representation," states that an insurance agency, insurance agent, and legal entities referred to in Article 98, paragraph 2 of the Act, may provide insurance representation services for one insurance company or for multiple companies, with their written consent.

POSITIVE DEVELOPMENTS

No improvements have been made.

REMAINING ISSUES

In practice, an insurance agent is typically directly tied to an insurer and represents the insurer's interests, while an insurance broker acts as an independent advisor to the client—the policyholder—aiming to find the best product for the client. Brokers have a broader offering since they work with various insurance companies, whereas agents only offer products from the companies they represent.

This difference in legal status results in varying degrees of responsibility for brokers and agents, which in turn creates a space for unfair competition. Some agents exploit this situation, which is something that should be addressed to ensure fair competition, benefiting clients.

The key differences between the two are:

Insurance Broker:

- Works in their own name on behalf of the insurance contract holder/policyholder: The broker is independent of the insurance company, with the primary duty of protecting the interests of his clients. A broker helps clients find the optimal insurance product/service on the market by presenting multiple options.
- The broker's offering consists of providing multiple products/services from different insurers: Brokers typically sign agreements with several insurance companies, whose offers they present to clients, allowing them to offer a variety of products and services that can be tailored to the client's specific needs.
- Compensation (brokerage commission): A broker may receive a commission from the insurance companies with which they cooperate (only within the Republic of Serbia), but their regulatory duty is to protect the client's interests by assessing their needs and finding the best offer for the client (the insurance contract holder/policyholder).
- An insurance brokerage firm cannot engage in insurance agency services.
- An insurance broker is responsible for their business activities and must hold a valid and active insurance policy in accordance with the legislation.
- The educational requirements for a broker's licence, as prescribed by the National Bank of Serbia, are higher compared to those for an insurance agent.

Insurance Agent:

- Works on behalf of the insurer/ represents insurer: An insurance agent operates directly for one or more insurance companies. Their primary role is to represent the interests of the insurer, not the client (the insurance policyholder or insured party).
- Sale of insurer's products: The agent can only sell insurance products from the company or companies with which they have a contract. They may perform insurance representation tasks for one or multiple insurers, but only with their written consent.
- Compensation: Agents usually receive a commission from the insurance company for every policy they sell. Their income is directly tied to the sale of the insurer's products.
- Liability: The insurer is responsible for the actions of the insurance agent.

In practice, there are situations where agents may act as if they are a broker, despite the fact that these are two entirely different legal entities with distinct rights, duties, authorisations, and liabilities, as outlined by insurance regulations.

FIC RECOMMENDATIONS

- Amendment to Article 99 of the Insurance Act, which currently states:

  Restrictions on Insurance Representation

  Article 99

  An insurance agency, insurance agent, and legal entities referred to in Article 98, paragraph 2 of this Law may perform insurance representation tasks for one or more insurance companies with their written consent.

  The person referred to in paragraph 1 of this Article is required to prominently display the business name of the insurance company they represent in their business premises.

  Proposed amendment:

  Restrictions on Insurance Representation

  Article 99

  An insurance agency, insurance agent, and legal entities referred to in Article 98, paragraph 2 of this Act may perform insurance representation tasks for only one insurance company, whith their written consent.

  The person referred to in paragraph 1 of this Article is required to prominently display the business name of the insurance company they represent in their business premises.

LEASING

1.00

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			√
To establish the Operating Leasing Register with BRA, within which the concluded operating lease agreements would be registered.	2020			√
The solution to use the so-called the state electronic exchange line, which has already been developed between the APR and the Ministry of Interior, to submit the documentation required for vehicle registration in electronic form.	2021			√

CURRENT SITUATION

There are currently 13 leasing companies actively operating in 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. The attractiveness of the market is indicated by the fact that 4 new leasing houses have appeared on the market. 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. A year-on-year growth of 12.4% was recorded in 2023, and the trend in 2024 indicates even greater double-digit growth.

POSITIVE DEVELOPMENTS

In the previous period, during 2024, there have not been crucial 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 accepted by the Agency for Business Registers and the Ministry of Economy and is currently being implemented.

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 improvements. Positive examples are the Decrees of the Government of the Republic of Serbia on determining support to small enterprises for the procurement of equipment, in which the Program of support to small and medium enterprises for the procurement of equipment has been determined for several years. In addition to banks, this program also includes leasing companies and has been implemented very successfully.

Regarding the recommendation for linking the data of the Ministry of Interior and the Parking Service in order to increase legal security in the country, the exchange has been established and is functioning.

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 4,3 million dinars. This tax "illogi-

cality" 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 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 APR 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 APR through the web service, and then to submit the APR to the MUP. The solution is supported by the eGovernment (eUprava).

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 leasing companies can submit the necessary data for authorization of registration to the Ministry of the Interior through the Business Register Agency (BRA) via automated means (e.g., web service), it is necessary to further develop the solution by enabling communication with vehicle technical checks.
- To establish the Operating Leasing Register with BRA, 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 APR and the Ministry of Interior, to submit the documentation required for vehicle registration in electronic form.

INDUSTRY OF CRUDE OIL, GAS AND PETROLEUM PRODUCTS

1.14

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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.	2023		√	
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			√
Reducing the level of excise taxation for LPG in order to increase the consumption of this petroleum product.	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			√
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 2023, the oil and gas sector was under significant impact of external factors that shaped the production, logistics and final consumption of crude oil and petroleum products. The macroeconomic trends in Europe and globally, under the influence of high inflation, high interest rates and the consequent economic decline, influenced the gradual decline of crude oil prices compared to the previous year. The geopolitical situation, changes and stabilization of trends in global trade, new technology in energy production and use as well as regulations in the field of energy transition have also contributed to the declining trend of demand for oil and petroleum products.

The price of Brent crude oil in 2023 was relatively stable and averaged around USD 83/bbl, which is around USD 18 less than the 2022 average price. The highest price during the year was around 98 USD/bbl in September, while the lowest price was around 71 USD/bbl in March.

Companies operating in the oil and gas sector in the Republic of Serbia, in their energy transition processes in 2023, continued to invest in renewable energy sources, primarily to increase the production of electricity from solar panels at fuel supply stations. In order to accelerate the process of green transition in the Serbian energy sector and the entire economy, it is necessary to continue the process of adopting appropriate regulations in consultation and cooperation with the economy.

Please note that the price limit of motor fuels in the Republic of Serbia, which was initially introduced on 10 February 2022 through the Regulation on limiting the prices of petroleum products to prevent negative effects resulting from global market disruptions, is still in force, although fuel supply and prices stabilized compared to 2022. 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 has been extended for a second time in October 2023.

According to the Energy Balance of the Republic of Serbia, oil production in the country is carried out at 870 oil and 69 gas wellbores in operation. In addition, in 2023, 42 new wellbores were put into operation (41 development wellbores and 1 exploratory wellbore). In the area of production of petroleum products in the country, NIS a.d. Novi Sad is the

only one that owns a refining complex in Pančevo with a total refining capacity of 4.8 million tons of crude oil per year.

The production of liquefied petroleum gas (LPG), as a natural gas product, takes place at NIS a.d. Novi Sad Oil and gas preparation and transportation unit in Elemir, at Standard gas d.o.o. units in Odžaci and Hipol a.d. units, which use imported gas condensate, i.e. a broad fraction of light hydrocarbons, as a raw material. The production of propane-butane mixture and autogas, as component mixture, is carried out at Petrol LPG d.o.o. Belgrade in its Smederevo unit, while VML d.o.o. Belgrade does the same thing at Jakovo unit.

Transportation of petroleum products in the Republic of Serbia is carried out by rail, ship and road. Transport from the refineries to terminals mainly goes by rail and ship, while transport to final consumers takes place by road. Transnafta AD Pančevo is the only company in Serbia that transports crude oil using pipeline at regulated prices, considering that the above activity is of general interest. The company transports crude using oil pipeline that stretches from the Danube River at Sotin on the border with the Republic of Croatia to the Pančevo Refinery and its total length is 154.5 km. The section Bačko Novo Selo - Refinery Novi Sad is 63.3 km long, while the section Refinery Novi Sad - Refinery Pančevo is 91 km long. The 2023 estimated quantity of imported crude oil transported to the refinery using the DN-2 pipeline section (Novi Sad - Pančevo) is 2,850 million tons, with 0,700 million tons of domestic crude oil. This oil pipeline is part of the main Adria oil pipeline (JANAF), put into operation in 1979. The associated pipeline infrastructure consists of Novi Sad terminal with four crude oil tanks of 10,000 m3 each and two tanks of 20,000 m3 each, a dispatch centre and a pumping station, a measuring station in Pančevo and eight block stations along the pipeline route.

The total supply of domestically produced crude oil and intermediate products intended for refining in refineries in 2023 was about 3.882 million tons, which is by about 5.3% less compared to 2022. What is more, in 2023, about 0.830 million tons of crude oil were produced (21.4% of the total consumption), and 3.052 million tons (78.6%) were imported. 4,081 million tons of petroleum products were produced in 2023, which is about 10% less than in 2022. The import of petroleum products amounted to 0.900 million tons as in the previous year, while export was 0.559 million tons, or about 16.3% less.

The total production of natural gas in the country in 2023 was 312,848 million m3, about 5.4% less than the previous year, while the import was 2,645,490 million m3, or about 6.9% less.

POSITIVE DEVELOPMENTS

First of all, the supply of petroleum products on the global market stabilized, judging by their availability and supply possibilities, which certainly had a positive effect on the region of Southeast Europe, as a result of which the vast majority of countries in the region abolished the price limit of petroleum products.

The state bodies' activities in the field of energy transition continued. There was a public hearing on the Draft Regulation on the establishment of the Integrated National Energy and Climate Plan of the Republic of Serbia up to 2030 with projections until 2050, and its adoption is expected soon. In the following period, a public hearing is expected on the Energy Development Strategy of the Republic of Serbia until 2040, with projections until 2050.

There have been improvements in establishing a system of fuel supply subsidies to farmers at a preferential price; namely, in early 2024 excise tax refund was introduced, which after latest increase of May 1, 2024 amounts to RSD 53.8 per litre, up to 100 litres per hectare of registered area, up to 100 hectares of area at most. This created the preconditions for solving the issue of price limits on petroleum products.

REMAINING ISSUES

The price limits on petroleum products in the Republic of Serbia in 2022 had a negative impact on companies and disrupted the petroleum product market. Although the supply of petroleum products has significantly improved compared to 2022 and is running smoothly, Serbian state authorities still regulate the prices of petroleum products.

The non-market price of Eurodiesel for registered agricultural holdings remains a related and very significant problem, established as binding for one supplier on the market, which has led to a significant redistribution of market shares in the agricultural supply segment. As stated, in early 2024, farmers got excise tax refund for dedicated fuel consumption as a type of subsidized price, which is another reason why the price of Eurodiesel should no longer be regulated.

Please note that as of 2026, the Carbon Border Adjustment Mechanism (CBAM) will be applied to certain goods exported to the EU, i.e. a cross-border tax calculated on the basis of

emissions of carbon dioxide or other gases with a greenhouse effect during production. Certain companies are also obliged to measure carbon dioxide emissions as of October 2023. What Serbia lacks at the moment is harmonized national regulations in the scope of preparation for CBAM mechanism implementation, as well as the possibility of emissions trading.

Currently, the majority of vessels in domestic water transport are being illegally supplied with derivatives via tank trucks, in places that do not meet the minimum safety and environmental criteria. By introducing the marking of petroleum products sold to vessels in domestic water transport, misuse of unmarked (customs) goods in cabotage would be prevented, which would have a positive impact on the revenues of the budget of the Republic of Serbia and enable a simple check of ships in domestic traffic regarding the place of supply.

Re-introducing of an excise refund on fuel used in domestic water transport, for which shipper provides an evidence of supply at places envisaged for the supply of vessels with fuel, would positively impact the river transport competitiveness as an ecologically safe way of transport. Also, excise refund on this type of fuel would make refuelling at legal bunkering stations an attractive option for shippers, eliminating safety and environmental risks that exist in the current way of refuelling via truck tanks.

The intensive and continuous control of illegal trade in petroleum products in the country needs to continue, including capacity building of inspection authorities to perform control.

Due to the high LPG excise duty, which is among the highest in the region, the use of this environmentally friendly derivative is discouraged.

The lack of excise duty and a lower tax rate of 10% for trading in compressed petroleum gas, CNG, on the other hand, makes it more competitive compared to other motor fuels.

Vehicles in international passenger and freight road transport in Serbia buy smaller quantities of fuel, while, on the other hand, there is an increasing number of domestic carriers who buy fuel outside of Serbia due to more favourable excise policies in neighbouring countries.

FIC RECOMMENDATIONS

- Bearing in mind the refund of excise duties for agricultural holdings in 2024, consider abolishing the fixed price of Eurodiesel in the Regulation on limiting the price of petroleum products.
- Repeal the Regulation on the limitation of the price of petroleum products.
- Harmonize national regulations for the implementation of the Carbon Border Adjustment Mechanism (CBAM) and the introduction of the emissions trading system.
- Introduce the marking of petroleum products sold to vessels in domestic water transport.
- Re-introduce excise refund on fuel used in domestic water transport.
- Reduce the level of excise taxation for LPG in order to increase the consumption of this petroleum product.
- Apply a general 20% VAT rate on CNG consumption and introduce an adequate level of excise taxation, in order to eliminate the effects of CNG's preferential status compared to other motor fuels.
- Conclude bilateral agreements on carriers' right to VAT refund on fuel purchased in Serbia with Bulgaria, Turkey, Greece, North Macedonia and Montenegro, as well as with other countries whose trucks use Serbia as a transit country.

PHARMACEUTICAL INDUSTRY

1.70

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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			√
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 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.	2023			√
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	√		

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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			√
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		√	
Timely payment.	2020	√		
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.	2023		√	
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		√	

CURRENT SITUATION

The health of a nation is one of the fundamental pillars of stability and prosperity for any society. A healthy population is crucial for economic growth and development as it directly influences workforce productivity, reduces healthcare costs, and improves the quality of life. Quality healthcare allows people to work more efficiently, take fewer sick days, and contributes to greater overall productivity. On the other hand, inadequate healthcare can significantly burden the national health system, increase healthcare costs in the long run, and reduce the nation's working potential.

The economy of a country is closely linked to the health of its population. Various illnesses and health challenges can lead to a reduction in the available workforce, increase disability rates, and cause premature mortality, all of which collectively hinder economic growth. A healthy population not only contributes to higher economic output but also eases the strain on public finances by reducing expenses on treatment and rehabilitation.

Investing in healthcare is not just a moral obligation but also a strategic economic decision that can bring significant benefits to society. Therefore, developing effective

health policies and ensuring access to healthcare and modern therapeutic options for all citizens should be a priority for any Government striving for sustainable economic development and social well-being.

An essential and extremely important part of the healthcare system is the regular supply of medicines and the availability of the most advanced therapies, which are a basic prerequisite for positive outcomes in the healthcare system of any country. For the healthcare system to function optimally, in addition to uninterrupted supply of medicines and access to the latest therapies, there needs to be a systematic and efficient connection among the three pillars on which the entire pharmaceutical market rests: manufacturers, wholesalers, and healthcare institutions (private and public).

According to the Health Insurance Law, mandatory health insurance covers illness and injury cases, early disease detection, medical examination, treatment, rehabilitation, medications, medical aids, and supplies. However, some analyses and certain medicines are not covered by the National Health Insurance Fund (NHIF), which forces patients to turn to the private sector and pay for treatment out of their own pockets. This has led to a rapid growth of the private healthcare sector in the past decade.

In the previous period significant progress has been made in improving the availability of the most advanced therapies. The next step would involve establishing a regular annual allocation of funds from the central budget to the NHIF specifically for financing new therapies.

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, with increased preventive examinations and raising the awareness of patients about their importance.

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, whose adoption has been postponed for several years. 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

1. Over the last seven years, from 2017 to today, 80 innovative drugs for various conditions (oncological and haematological diseases, multiple sclerosis, psoriasis, hepatitis C, heart failure, diabetes) have been added to the Reimbursement List, with 26 of them added in 2022, for which about 5.8 billion dinars were allocated. This trend is encouraging, but introducing innovative medicines to the list should not be a one-time investment; it is necessary to secure funds for therapies continuously every year and to apply a similar model for innovative medical devices. In 2023, off-label use of drugs was permitted, allowing the NHIF to cover treatments for conditions for which the drug is not officially registered but has proven to be effective and safe in practice, increasing the number of therapeutic options for various diseases.

2. The adoption of the Law on health documentation and records in the field of health continues the efforts towards digitalization in healthcare and the establishment of the Republic Integrated Health Information System, which will integrate data about all healthcare resources alongside electronic services for healthcare institutions and patients, significantly improving the efficiency of the healthcare system and decision-making processes.

3. ALIMS continues with the digital transformation of regulatory processes in the field of medicines by introducing and implementing the Regulatory Information Management System (RIMS), which is already operational for registration processes, expert opinions, clinical trial requests, and approval of control stamps. For the implementation of this system, ALIMS established a best practice pilot project in collaboration with and through testing with marketing authorization holders.

4. In the past period communication and joint efforts between representatives of the pharmaceutical industry and the Ministry of Health/NHIF continued, focusing on all business-related issues, particularly addressing challenges related to drug shortages and ensuring regular supply.

REMAINING ISSUES

1. A lack of a systemic solution for financing the introduction of New Drugs on the Reimbursement List

As noted, there is a positive trend in the availability of innovative drugs, which should also apply to innovative medical devices. Continuous introduction of new drugs to the Reimbursement List requires an annual allocation of targeted funds from the central budget to the NHIF. Before this, all relevant medical commissions within the Ministry of Health/NHIF should evaluate all submitted requests for listing drugs/medical devices on the Reimbursement List and determine the exact amount needed to meet the needs of patients across 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.

Although the NHIF announced an update to the Reimbursement List with new generic (non-budget) drugs by the end of 2022 or at the latest in the first quarter of 2023, this has not occurred as of September 2024. For the sake of business predictability, as well as ensuring the stability of supply and the availability of essential therapies, it is necessary for the NHIF to establish clear deadlines, timelines, and a process for updating the Reimbursement List.

3. Policy of medicine prices and distribution costs

The ongoing global conflicts, coupled with the resulting economic crisis and inflation, are having a significant and negative impact on the pharmaceutical industry. 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 the above has a major impact on the continuous supply and availability of medicines, which has been reflected in global shortages of a significant number of medicines.

The challenges in medicine supply and potential market withdrawals have also been recognized by the European Commission, which addressed these issues in its proposed new Pharmaceutical Directive in April 2023. The proposal calls for cooperation between institutions and industry at the EU member state level, as well as timely notifications of shortages and potential market exits. As an example, the Government of the Federal Republic of Germany increased drug prices in 2023 to ensure supply stability and prevent further shortages.

In Serbia, introducing Greece as a reference country for drug pricing, alongside Italy and Slovenia, is expected to reduce drug prices, but the concrete effects will only be known once new prices are published. Wholesale distributors, whose distribution costs are included in the price of medicines, are particularly burdened by the rising costs of fuel, other energy sources, and increased operational expenses that are essential for regular and safe supply. Given the specific circumstances and challenges facing the pharmaceutical industry in Serbia, it is necessary to involve all relevant stakeholders in the decision-making process to ensure stable and continuous medicine supply 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 insti-

tutions 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 do not exist in practice. Such delays, despite ALIMS undertaking a series of activities and measures since the beginning of the year to expedite procedures within legal deadlines concerning new indications and variations related to drug safety, significantly affect the availability of the latest information regarding drug use for both healthcare professionals and patients, as well as the availability of the drugs themselves in the market.

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 preparation of this regulation.

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 because of 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

The Government should:

- Provide steady funding for innovative medicines/ medical devices 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.

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.
- To provide wholesalers with more favourable conditions for fuel procurement for the transportation of medicines.

NHIF should:

- Ensure the acquisition of the funds required from the central budget for introducing new medicines on the Reimbursement List.
- To enhance the process of ensuring predictability in decision-making, with clear timelines 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.
- Additionally improve 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.

ALIMS should:

- Adhere to the existing time frames established by the Law on Medicines regarding new registrations, renewals and variations of licences.
- To promptly activate the procedure for variations and renewals of licenses through RIMS.
- Revise and harmonize the amount of certain tariffs; pharmacovigilance 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 delays, especially in resolving accumulated variations for medicines.

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, especially during and after the COVID-19 pandemic, 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 around one third[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 and 2023, when a record 4.2 million tourist arrivals and around 12.4 million total overnights were recorded.[5] Foreign tourists' overnights were about 39% higher than the pre-pandemic level.[6] In 2023, a record foreign exchange inflow from tourism was achieved and amounted to EUR 2.55 billion, which is EUR 1.1 billion more than in the pre-pandemic year 2019.[7] The same trend continued in 2024 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 with about 20%[8] of total service export in Serbia. In 2023, (according WTTC) it is estimated that the participation of the tourism industry (total) in the GDP was around 6.4%.[9] According to the same source, for the period 2024-2034, the contribution of tourism to the country's GDP is expected to grow at a rate of 2.7%.[10] Furthermore, in 2023, this industry had about 81.9 thousand employees.[11] 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)[12], 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 which was adopted for the period from 2016 to 2025, due

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 WTTC Assesment
11 Statistical Office of the Republic of Serbia
12 WTTC Report and Assesment

to the context of the time, insufficiently covered the issues of digital and green transformation of the tourism industry, as well as the impact of climate change. In addition, the market segments were not determined based on special market research, so a clear connection between (the promotion) of certain tourist products and the specific market segments for which these products are planned is lacking. During 2023, the development of a new strategic framework for the tourism sector was started; however, by the conclusion of the White Book 2024 (October), the new TDS was not adopted.

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. However, it should not be forgotten that creating a new strategic document, including the Tourism Development Strategy, implies the improvement of the overall regulatory framework (laws, by-laws, etc.) after its adoption. In addition, after the adoption of the new TDS, which will define the new vision, mission, and objectives of tourism development in Serbia, it is necessary to start drafting the new Strategic Marketing Plan for Tourism of the Republic of Serbia as soon as possible (the valid one was adopted for the period from 2021 to 2025), if Serbia wants not only to improve but also to maintain its existing competitive position on the international tourism market.

The further development of European and Serbian tourism in the coming period will continue to face numerous challenges, such as:[13]

- 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. **Insufficiently Developed Awareness of the Importance of the Image and Market Positioning of Serbia as a Tourist Destination**

Strategic decisions on the marketing of the Republic of Serbia were made based on the valid TDS but without impact analysis and necessary corrections for half of the period of validity (of the Strategy), bearing in mind that the Strategic Marketing Plan of Tourism of Serbia was adopted in 2021, and the SRT in 2016. The vision of the tourism development in Serbia until 2025 includes that by then, the Republic of Serbia will have a recognizable image in the domestic, regional, and global markets, with clearly defined target segments to which market it offers and a coordinated marketing system at all levels - national, regional and local. Consequently, the marketing mission in Serbian tourism is defined as the need to continuously shape, maintain, and improve the country's pos-

13 Economist Intelligence Unit (EUI), WTTC and UNWTO

itive image as a tourist destination. Although the mission and vision are clearly defined and ambitious, there is not enough critical insight into the reality of achieving those goals. These issues become particularly significant when considering previously identified weaknesses and risks, such as limited budget resources and insufficiently developed awareness of the importance of the destination's image and market positioning. With the existing deficiencies in professional capacities in tourism (insufficient professional training and investment in human resources), realizing a defined mission and vision by the end of the planned period does not seem realistic.

3. 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.

4. 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 causing an economically rational reaction of employers: part-time jobs, reduction of service (self-service, etc.), and even hiring unregistered employees to reduce labor costs. In addition, the structure of the labor 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 Labor 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 labor 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.

5. 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.

6. 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.

7. 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 the new Strategic Tourism Marketing Plan of the Republic of Serbia (following the new Tourism Development Strategy) with a clearly defined Action Plan (KPIs, responsible persons/institutions, implementation deadlines, etc.).
- 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

1.22

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Constant monitoring of the implementation of the Law on Private Security, and continuous insistence that its bylaws 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.	2009			√
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.	2020		√	
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.	2016		√	
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.	2017			√
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.	2023			√
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.	2023			√
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.	2020			√
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.	2023			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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.	2023			√

CURRENT SITUATION

After the adoption of the Private Security Law (("Official Gazzette RS, no 104/2013, 42/2015 and 87/2018; hereinafter: Law), 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 standardise 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.

POSITIVE DEVELOPMENTS

The Ministry of Interior (MOI) has opened channels of communication with industry, which is of utmost importance. The amendments to the Law also made it easier to obtain a licence for certain categories of persons with appropriate qualifications, but the deadlines for obtaining a licence 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 organisations 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 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. The service provider is obligated to perform services based on the Security Plan, which is developed following a Risk Assessment for the protection of individuals, property, and business operations. The preparation of both documents is conditioned by the methodology prescribed by the relevant Serbian standard. A strict interpretation of these provisions implies that the Security Plan cannot be created without a prior Risk Assessment, which can only be conducted by companies holding a license for private security services. Under a narrow interpretation of the Law, these companies would not be permitted to provide the services for which they are registered in the absence of the Security Plan. Furthermore, the preparation of the Risk Assessment is closely associated with gaining access to the business secrets of the entity being assessed, as it involves examining the organization, matters related to business, contractual, and Labour Law, criminal offenses, misdemeanours, and other elements required by the prescribed methodology. It is evident that private security companies cannot independently carry out the Risk Assessment, but only

with the consent of the legal entity being assessed.

- Condition for attending training - Considering the current availability of licensed physical security officers, we believe that lowering the required level of education to elementary level would increase the number of candidates available for training. Our experience with employees who had only an elementary education before the Law came into effect has been extremely positive and does not differ from our experience with those who have a secondary education. We believe that individuals with elementary education have been placed at a disadvantage by this regulation, and their constitutional right to work has been violated. The training for security officers is not complex enough to exclude people from this educational background from the opportunity. Since an examination is held after the training, every candidate, regardless of their educational level, should have an equal opportunity to attempt to pass it. The tasks performed during service provision are not complicated, and anyone can master them and perform them impeccably with adequate training.

- 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 licences for private security; providing security for public gatherings (ie sporting events); handling of firearms etc.

- The process of training and obtaining licences 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.

- Identification Obligations for Individuals, Not Legal Entities - The current regulation complicates the operations of legal entities providing private security services and the Ministry of Interior by exposing them to unnecessary administration involving numerous changes that are difficult to monitor. We believe that individuals who have obtained a work license should simultaneously receive identification that would serve their identification at the workplace, as it is important to note that the identification does not include the employer's name. In this scenario, employers would only be required to report the employment contract of their employees to the Ministry of Interior. In practice, the time required to issue identification is sometimes significantly longer than the actual employment period. Implementing this solution would prevent a previously encountered situation in which a license was revoked during a supervisory procedure, but the identification was not, allowing the security officer to continue working without the employer's knowledge that the license had been revoked. If this change were accepted, during supervision, both the license and the identification would be revoked, thereby eliminating the conditions for employment with the employer.

- The money transport service must be subject to more precise regulations through special by-laws;

- Licenses for CIT Vehicles - In the current situation, private security companies can obtain a license for the transportation of cash and valuables based solely on the possession of a single specialized vehicle, which has been inspected by the competent authorities of the Ministry of Interior. However, for all other vehicles used in the transportation processes, such inspections are not conducted, and thus, there is no adequate confirmation of compliance with the legal requirements for their use for these purposes. By applying a similar principle to that of requiring each employee to possess the appropriate license, licensing each vehicle designated for cash transportation would provide assurance that these vehicles meet the legally prescribed prerequisites, as verified by the Ministry of Interior. This would help avoid situations in which inadequate vehicles are used for the transportation of cash and valuables, thereby jeopardizing the safety of the crew and the valuables being transported.

- The MOI is not obliged to inform companies, as employers, whether their employees have received a licence, or their licences have been revoked due to non-fulfilment of some requirements.

- Notification of the employer about the 'revocation of the license for performing security officer duties with and without firearms' and the need to amend chapter X of the Law. This situation occurs when an officer's license is revoked due to a conviction for a criminal of-

fense during the validity period of the license, without the employer being notified or the license being simultaneously revoked in that process.

To prevent this situation, we propose adding a provision that specifies this as an obligation of the supervisory authority (linking the license and the identification).

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 licence 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 riskiest 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 benefit 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 harmonised to the greatest extent possible with the models of EU legislation, at the same time considering local specificities. By-laws 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.

- It is necessary to amend Article 20 of the Law with a provision obligating the legal entity that intends to use or is using the services of a private security company to prepare a Risk Assessment and make it available for the development of a Security Plan. In this case, the penalty provision that defines misdemeanours would also need to be aligned accordingly.

- Support the Ministry of Interior in order to compel all entities in the grey zone to implement the adopted Law in full through inspection supervision.
- The checklist of inspection requirements to be created and published at Ministry of Interior website, to provide transparency and equality to all inspected parties.
- In the conditions for attending training and obtaining a licence, change the condition of professional education, that allow persons with elementary school to obtain a licence 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.
- Amendment of Article 63, paragraph 1, to allow individuals who have obtained a work license to simultaneously receive identification for their identification at the workplace.
- Introduce the internship employment under the supervision during the licencing process. 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 licence in accordance with the Law 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 licence 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 harmonised, that is, the terminology should be harmonised so that the obligation to have a patrol and not a team should be harmonised.
- 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.
- We propose an amendment to Article 36 of the current Law, which defines the conditions that special vehicles for the transportation of cash and valuables must meet, to stipulate those licenses be issued for all vehicles used by private security companies for these purposes. The license would be issued by the competent authorities of the Ministry of Internal Affairs after inspecting each individual vehicle to confirm that it meets the legally adopted prerequisites defined in Article 36 (excluding paragraph 1).
- 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 offences committed.

- In accordance with the initiative at the state level regarding the reduction of firearms, abolishing 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. Furthermore, existing law is not recognising enough application of new technologies in specialised CIT vehicles and companies cannot have interest to invest in this kind of vehicles. For example, new technologies in CIT vehicles are making access to money in cars literally impossible - CCTV system, active alarms, panic buttons, interlocking of vault, safe, doors, anti-cut technologies, safes within the vehicle with dye pack systems, one time code locks etc - crew cannot open vault or safe by themself. In case that CIT company is using this kind of cars and with obligations for dye pack containers, Law requirements for weapon usage are becoming obsolete. Amendment to Law, regarding obligation of weapon usage would be recognition of technological solutions in vehicles and in case that request is fulfilled, crew in that kind of cars would not be obliged to carry firearms during CIT service.

MINING AND GEOLOGICAL EXPLORATION

1.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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.	2023			√
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.	2023			√
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.	2023			√
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).	2023			√
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.	2023			√
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.	2023			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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.	2023			√
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.	2023			√
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.	2023			√
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.	2023			√

CURRENT SITUATION

The legal framework for geological explorations and mining in the Republic of Serbia is given in the Law on Mining and Geological Explorations (the "Law"), with the most recent amendments adopted in 2021 as part of legislative reforms in the energy and mining sectors.

The latest amendments significantly improved the existing legal framework and introduced numerous innovations aimed at further modernization and closer alignment with international practices in this field. A draft of new amendments to the Law is currently in preparation and its finalization and adoption is expected soon.

The Ministry of Mining and Energy (the"Ministry") is responsible for the implementation of the Law and oversight of its provisions.

More than 40 by-laws in the field of geological explorations and mining are currently in force. Some of these by-laws were adopted under earlier laws in this field and have not been harmonized with later amendments to the Law, which further limits their application and creates difficulties in practice.

The field of geological explorations and mining is complex and multidisciplinary. For this industry, harmonization of the Law with regulations from other related areas such as planning and construction, waste management, environmental protection, and occupational safety and health is crucial. Despite obvious progress in the legislative framework and the involvement of the competent Ministry, geological and mining companies in Serbia continue to face numerous challenges in practice when applying the Law, due to 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 this in mind, the following recommendations are presented to improve the legislative framework applicable to the geological explorations and mining sector.

POSITIVE DEVELOPMENTS

In the past year, there have been no improvements, as the Law has not been amended and the issues related to its implementation remain the same. Improvements in the field of geological explorations and mining require amendments to the Law and the relevant by-laws, as well as broader social consensus and close cooperation among all stakeholders in the field of geological explorations and mining.

REMAINING ISSUES

Geological Explorations

Bearing in mind that the Law does not specify deadlines for issuing approvals for applied geological explorations, the Ministry, as the competent authority, is obliged to act within the general deadline prescribed by the Law on General Administrative Procedure. Given the nature of the administrative procedure that involves issuing the aforementioned approval, the general deadlines (30 days) seem short for the Ministry to efficiently make decisions within the deadline, considering the large volume of work under its jurisdiction. In practice, the Ministry often makes decisions within deadlines longer than the general deadline. Therefore, it would be purposefully that the Law specifies a deadline for issuing approvals for applied geological explorations in line with the realistic capacities of the Ministry, and for this deadline to be longer than 30 days, while ensuring the Ministry adheres to it for legal certainty and in the best interest of further developing geological explorations in the Republic of Serbia.

Additionally, in practice, further geological explorations may be hindered or prevented by external events or circumstances that could not have been foreseen, avoided, or resolved (such as natural disasters etc.). This results in the inability of the exploration holder to carry out the necessary scope of approved works and thereby qualify for an extension of the exploration period in accordance with the Law. Therefore, it would be beneficial for the Law to introduce a "force majeure" mechanism in regulating geological explorations, as well as in the part of the Law dealing with the exploitation of mineral reserves and the execution of mining operations.

Moreover, it has been noted that the allowable quantities of mineral raw materials that can be taken for technological testing during approved geological explorations for certain mineral raw materials are inadequate. For example, 2,000 tons are allowed for lithium ores, the same as for polymetallic ores, but lithium is present in ore in much smaller concentrations than metals in polymetallic ores, and therefore requires a larger scope of technological testing.

In terms of the harmonized application of regulations in the field of geological explorations and regulations from other areas in accordance with their competencies, practice has shown that strict adherence to the competencies of state authorities (e.g., the Ministry and the Ministry of Agriculture), as well as consistent application of regulations, is of vital importance for the efficient and timely execution of geological explorations and the elimination of potential threats to the investment rights of exploration holders and other indirect participants in the geological exploration process.

Finally, the Rulebook prescribing the conditions, criteria, content, and method for classifying resources and reserves of mineral raw materials and other geological resources, and the method for presenting them in an elaboration, which is still in use and was adopted in 1979, does not contain criteria for determining the reserves of solid mineral raw materials or the conditions for classifying lithium and boron into categories and classes. This creates practical difficulties when lithium and boron are the subject of geological explorations, which is particularly significant given that these are mineral raw materials of strategic importance to the Republic of Serbia.

Mining

In the previous practice of developing geological exploration and mining projects, certain challenges have been noticed that, despite last year's recommendations, remain under consideration. Furthermore, the current regulations, in the form of the Law and accompanying by-laws, reflect potential legal risks in the subsequent phases of managing and operating mining projects. In this regard, it is necessary to eliminate legal uncertainties regarding the continuity and rights related to the approvals issued for a project (e.g., exclusivity rights over the exploration area, introduction of force majeure as a basis for extending statutory deadlines that bind approval holders) and improve the efficiency of procedures required for the development of geological exploration and mining projects, meaning the clear division of institutional competencies, simplification of certain administrative procedures for subsequent modifications of approved studies and clarification of conditions and procedures in the area of mining waste. Lastly, it is necessary to harmonize the technical requirements and regulations with best available practices and new solutions in the geological and mining industries.

Since the provisions of paragraphs 15 and 16 of Article 69 of the Law on Planning and Construction have simplified certain steps related to the construction of facilities under the general construction regime (particularly energy facilities), mining sector investors believe that these provisions should be transferred to the Law to the extent that they are applicable to the construction of mining facilities. Specifically, on land above underground parts of facilities such as linear infrastructure (e.g., oil pipelines, product pipelines, gas pipelines) and land below overhead power lines and wind turbine blades, the investor has the right of passage underneath or flight over the land, with the landowner or holder of that land being obligated not to obstruct the construction, maintenance, and use of the facility. In the mentioned cases, proof of resolved property-legal relations is not submitted, nor is a construction plot formed for the land in question, regardless of the purpose of the land, which is expected by the amendment to the Law in the case of the construction of mining facilities.

In addition, if a request is made for the issuance of an approval for an exploitation field on a previously approved exploration or exploitation field or area, or for an approved retention of rights over an exploration area, the Ministry, in accordance with Article 70 of the Law, will refuse to issue the approval for the exploitation field. However, in practice, it often happens that the applicant already holds an exploitation approval or exploitation field on the same area for a different mineral raw material, in which case overlapping exploitation fields should be allowed. This is particularly relevant when oil and natural gas reserves overlap below the Earth's surface, which is a common occurrence in the Republic of Serbia, and it would be useful for the Law to provide for this exception to allow the unhindered exploitation of these mineral raw materials.

Related to the exploitation of groundwater and geothermal resources, the issue of transferring approvals for exploitation spaces for groundwater resources from one legal entity to another remains unresolved and unregulated by the Law. The Law needs to clearly provide for the possibility of transferring such approvals (including approvals issued under earlier regulations).

FIC RECOMMENDATIONS

- Harmonization of the Law and regulations from other related areas such as planning and construction, waste management, environmental protection, and occupational safety and health

Geological Explorations

- The Law should define deadlines for issuing approvals for applied geological explorations that the competent authorities will adhere to.
- In the part of the Law concerning geological explorations, the concept of "force majeure" should be defined in the same way as recommended in Mining of this text.
- The provisions of the Law regarding the allowable quantities of mineral raw materials that can be taken for technological testing (Article 45), particularly for mineral raw materials of strategic importance to the Republic of Serbia, should be amended.
- Harmonized application of regulations in the field of geological explorations and other areas in accordance with the respective competencies is necessary. For example, inconsistency is evident in the actions of agricultural inspectors under the Law on Agricultural Land, who, during inspections on agricultural land where geological explorations are conducted, do not distinguish between geological explorations and exploitation. In this context, they require the approval for the conversion of land use (from agricultural to non-agricultural) and impose other measures in accordance with the relevant law, even when exploitation or the construction of infrastructure facilities is not in question, in line with the general procedure for obtaining construction permits.
- A Rulebook should be adopted, prescribing the conditions, criteria, content, and method for classifying resources and reserves of mineral raw materials and other geological resources, as well as the method for presenting them in an elaboration (in accordance with the Law).

Mining

- The Law should explicitly stipulate that a request for an exploration approval will be rejected if another entity holds a certificate of resources and reserves for the same area and the six-year period for obtaining exploitation rights has not expired.
- The Law should be amended to more precisely regulate the relationship and order of preparation of studies and projects under the Law and the obtaining of permits and preparation of studies in the field of environmental impact assessment. The Law should provide for the possibility of conducting a simplified procedure for subsequent amendments to feasibility studies for the exploitation of mineral deposits in certain cases without the need to repeat the procedure for obtaining exploitation rights and determining the scope and content of the environmental impact assessment study. The Law should recognize the force majeure concept (especially civil protests, strikes, delays, or non-compliance by authorities and holders of public powers in accordance with legal deadlines) in the provisions on the validity periods or deadlines for obtaining approvals. The Law should more precisely regulate the conditions under which security measures can be enforced for the execution of land remediation and reclamation tasks due to exploitation.
- In order to harmonize the legal solutions provided for by the Law on Planning and Construction and this Law, the Law should be amended in such a way that investors who are obliged to obtain approvals in accordance with

this Law, and in connection with the construction of mining facilities, especially facilities, plants and devices in oil and gas fields that are directly related to the transportation of oil and gas as well as linear infrastructure facilities to the extent that their construction is approved under this Law, including already existing mining facilities built in accordance with previously valid regulations on which the rights of investors are registered, shall not be obliged to submit proof of settled property-legal relations on the land (including agricultural and forest land) with the obligation of the investor to compensate for the damage caused by the execution of works, passage and transportation, i.e. to return the land to its original state.

- In the case of oil and gas exploitation, the Law should be amended to allow for the approval of an exploitation field on a previously approved exploration or exploitation field or area, as well as for the retention of rights to the exploration area by an applicant who already holds an exploitation approval or exploitation field or area for another mineral raw material on the same site.

- The Law should provide for the possibility of transferring rights for the exploitation of groundwater and geothermal resources arising from approvals for exploitation spaces and quantities of groundwater and/or geothermal resource reserves (including approvals issued under earlier regulations).

- The competencies of the MRE and the Ministry of Environmental Protection should be harmonized regarding the accreditation of laboratories and the execution of characterization and classification of mining waste. Mining waste regulations should be harmonized and the area of mining waste should be more precisely and comprehensively regulated in the by-laws of the Law.

- The existing Rulebook on Technical Standards for the Underground Exploitation of Metallic and Non-metallic Mineral Raw Materials should be amended to allow for: (i) the transport of people and materials in the same shaft when skips are separated by a steel partition from other containers for transporting personnel, in accordance with ISO Standards (ISO 19426 – Shaft Infrastructure and ISO 22111 – Fundamentals for the Design of Steel Partitions); (ii) the use of steel structures such as Technogrid, which has proven to be applicable in underground mining instead of thickened wooden guides; (iii) connecting fitting devices and ropes using epoxy resin instead of liquid metal, in accordance with ISO 3108 and ISO 2408 Standards, and harmonizing with ISO 17893, which defines several potential methods for connecting; (iv) the application of SANS 10208 Standards, used globally as the most modern safety system for guides and guide supports; and (v) the detailed specification of automatic control of hoisting equipment and replacing the signaling system with more modern alternatives.

- A new Rulebook on the Classification and Categorization of Resources and Reserves of Oil, Condensates, and Natural Gas should be adopted.

- It is proposed that new solutions be envisaged through amendments to existing or the adoption of new by-laws that would: (i) introduce the application of ISO 7243 Standards for defining effective temperature in mines; (ii) regulate all types of backfilling for mined-out areas (e.g., dry backfill, paste backfill, etc.); (iii) more closely regulate the use of emulsion mixtures for blasting in underground mines (storage of components of emulsion explosives before their mixing in underground storage as chemical components, as well as their mixing and charging of blast holes with prepared blasting holes) and initiation devices (new methods used for initiating explosives, including EDK (Electronic Detonator Cap), Boosters, and electronic initiation); and (iv) enable and regulate the use of battery-powered underground mining machinery and hybrid vehicles.

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