WHITE BOOK

Proposals for improvement of the business environment in Serbia

2021

Foreign Investors Council

FOREIGN INVESTORS COUNCIL

WHITE BOOK

Proposals for improvement
of the business environment in Serbia

Editors:
Prof. Miroljub Labus
and Foreign Investors Council

2021

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

www.fic.org.rs/whitebook2021.html

CONTENTS

PILLARS OF DEVELOPMENT

LEGAL FRAMEWORK

SECTOR SPECIFIC

top

FOREWORD

Dear Reader,

Welcome to the new edition of the Foreign Investors Council's set of recommendations for improving the business climate in Serbia: the White Book 2021. As they do every year, our 121 members, highly skilled professionals investing over €36 billion and employing more than 100K people, have taken the pulse of what the most relevant stakeholders think, summarised it and made a solid basis for further concrete improvements in Serbia's business environment.

Before you is a serious analysis of 54 sectors of the Serbian economy, with 346 recommendations made by around 50 companies. This year, our scorecard system is back, while the overall analysis is structured around the areas that we see as priorities: taxes, labour, inspections and food safety, infrastructure and real estate, bankruptcy and Forex, with digitalization, health and e-commerce. I know that the experts have been anxiously anticipating our report and will highly appreciate it, so I invite you to browse through it, hoping it will motivate you to join us in making Serbia a better place to invest. Our members have given their best effort to advice on how to overcome the challenging times we are all facing, always with an eye on the benefits for all sides. Once again, I would like to thank them and the entire FIC office staff for their excellent work and express my highest gratitude to each and every one of them.

Although the pandemic has become the new reality, it is still setting the course for the rest of 2021 and 2022. The overall outlook depends on how effectively the economic policies deployed during times of high uncertainty can limit the damage. Our team acknowledges Serbia's determination to improve the business environment under tough times. Yet, there is much work ahead of us when it comes to Serbia's long-term recovery. Our joint mission should be to increase productivity and sustainable investments that stimulate economic growth.

These were the main topics of our intense conversations with the Government and other relevant stakeholders, including the European Union, international financial organisations, the diplomatic corps and relevant associations. During 2021, we have been providing concrete proposals for regulatory improvements through eight working committees, while various working groups have been identifying issues impeding our business operations and initiating ways to resolve them. Among our latest accomplishments are the launch of the initiative for Digitalisation of Financial Services, a conference on Personal Data Protection with the Ministry of Justice and the Commissioner's Office, and active participation in several public discussions about set of energy sector draft laws, Company and Bankruptcy Law, the Law on Electronic Communications, Safety and Health at Work and many others.

What we see as a positive signal is that accelerated digitalisation can help in driving a constructive shift, which was the FIC's main priority in 2021. Some international predictions say that frontier technologies could grow to $3.2 trillion by 2025, offering excellent opportunities for those ready to catch this technological wave. The world needs to think more about how to help advanced technology achieve its full potential. It fundamentally transforms the way we live and work, making a profound impact on businesses in all sectors through its effects on productivity, employment, skills and the environment.

To conclude, it is more than evident that, in 2022, the word "COVID" will still be in our vocabulary. The end of the pandemic may not be near, but this is no longer an unknown or scientifically dubious topic. So, we can't avoid COVID, but we must continue to focus on those activities that will accelerate further growth, while taking steps to support governments and the people as they continue to embrace new ways of living and working.

To that end, the FIC looks forward to continuing the positive trend by deploying the White Book Task Force as an institutional mechanism for continuous and successful dialogue between the Government and business. I want to assure you that the FIC won't stop looking for new opportunities to help and contribute, while being a strong ally, a unified voice and the driving force in making Serbia a great place to invest.

Enjoy reading and stay safe and healthy.

Mike Michel
FIC President

FOREWORD EU

Dear reader,

It is a privilege for me to contribute the foreword for the first time to the annual White Book of the Foreign Investors Council (FIC).

My compliments go to the FIC on its impressive growth, from 14 member companies in 2002 to over 120 in 2021 with their combined investments in Serbia standing at €36 billion with around 100,000 employees. One could dare to say that the EU in a certain way has an importance in the FIC, given that 68% of all companies in the Council are headquartered in the EU. We are glad to partner with the FIC, in particular in the light of the fact that its advice is very much in line with what we pursue with our assessments.

Unprecedented events and challenges have shaken the world we in live in. We have been fighting COVID-19 pandemic for almost two years now. Everyone had to adapt, be flexible and endure through these tough times. The crisis has had enormous economic consequences on the global economy.

Serbia responded in a timely manner with three economic stimulus packages that were well received and successful in mitigating the consequences of the crisis. The COVID-19 crisis thus led to only a mild contraction of the Serbian economy in 2020, and Serbia's economic performance turned out to be among the most favourable in Europe. Projections for the year 2021 are optimistic, with GDP growth rate expected to reach around 6-7%.

The EU has spent up to date more than 10 million Euros in emergency assistance for small and medium sized enterprises to mitigate the Covid-related impact. But the overall amounts in this field are much bigger. In real terms, out of more than EUR 200 million invested in the Serbian economy, the EUR 20 million guarantee facility will bring more than EUR 180 million in favourable credit lines for Serbian businesses, EUR 30 million is dedicated for innovation, research and development and we are thus pro-actively helping scientists to build a bridge to the market.

Serbia's economy also remained closely integrated with the EU as Serbia's most important trading partner, accounting for 61.4% of Serbia's total trade in 2020. This share remained stable at 61.2% in the eight months of 2021. Moreover, the EU is by far Serbia's biggest source of foreign direct investments (FDI). The EU investors remain undisputed leaders in Serbia accounting for 68% of total FDI in 2020. This is a continuation of decade-long trend with the EU investments comprising over 67% of total FDI to Serbia, reaching a total of €17.4 billion in the period 2010-2020.

The significance of the EU funds provided to Serbia is enormous. I would like to mention only several projects for illustration, for instance railway Corridor 10 (Belgrade-Nis-Presevo), the Peace Highway (Nis-Merdare), both vital for enhancing regional connectivity. Furthermore, construction of the gas interconnector or the Serbian leg of the Trans-Balkan Electricity Corridor. All these facts illustrate how the EU and Serbia are deeply interlinked.

How does the EU support Serbia to go further with reforms? One of our key instruments is the European Commission's Annual Report for Serbia that tracks progress in all areas vital for Serbia's EU accession process. The report evaluates state of reforms in relation to political criteria, rule of law and democracy, including economic criteria and the existence of a functioning market economy. It also presents state of play in 35 negotiating chapters. So far, Serbia has opened 18 out of 35 chapters that are divided into 6 clusters based on the revised enlargement methodology. The report indicates to the remaining reforms, consistently following developments year after year. Rule of law remains at the heart of the EU negotiation process.

Another vital tool for jointly planning economic reforms in Serbia is the Economic Reform Programme. It is one of the EU's key tools to monitor economic governance with medium-term macroeconomic projections, budgetary plans for the next three years and a structural reform agenda. The most recent European Commission's assessment of the Economic Reform Programme includes six reform recommendations: maintaining macro-fiscal stability, reducing grey economy, ensuring strong financial sector regulatory framework, improving business environment, developing long-term energy and climate strategy and reducing poverty.

How does the EU support Serbia's sustainable growth? The new Instrument for Pre-accession Assistance (IPA III) for the period 2021-2027 that was recently adopted envisages grants worth more than €14 billion to support candidate countries and potential candidates in key political, institutional, social and economic reforms. It will focus on the rule of law and the respect of fundamental values, strengthening democratic institutions and public administration

reform, promoting economic governance and reforms towards competitiveness.

The IPA III also includes the Economic and Investment Plan for the Western Balkans, aiming to boost the long-term economic recovery of the region, support a green and digital transition, foster regional integration and convergence with the EU standards. The Economic and Investment Plan sets out a substantial investment package worth €9 billion of grants for the region and it is expected to leverage another €20 billion of investments.

The EU plays an important role in driving Serbia's growth. Ranging from support to small and medium sized enterprises, through the push for a more digital future and development of innovative products. With the support of the EU's Horizon 2020 programme and Serbia's Innovation Fund, we supported numerous projects including digital farming and we are on the road to making the Novi Sad-based BioSense Institute a Centre of Excellence.

Another extremely important area for our support is the Green Agenda for the Western Balkans, part of the EU's new development strategy called the Green Deal. The Green Agenda includes: climate action, including decarbonisation, energy and mobility; circular economy; biodiversity; fighting pollution of air, water and soil and finally sustainable food systems and rural areas. Green is the key word for growth, jobs and health. Investing in environment and climate change is an investment for the future because the cost of non-action is much higher.

As you can see from the initiatives that I tried to outline above, there is still a lot of work to be done through reforms and joint projects. I would like to invite the decision makers to make use of these recommendations, as well as available financial resources to improve Serbia's economy and quality of life of its citizens in order to bring the country into the European Union family.

I look forward to seeing all of this happen!

Sincerely,

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

FIC OVERVIEW

The Foreign Investors Council has been advocating for better business conditions in Serbia for almost two decades. We can proudly say that since its establishment in 2002, the number of members has drastically increased, aligned with it the range and scope of our activities. At the time of its establishment in 2002, it had only 14 members gathered around to actively promote and develop a predictable, competitive and sustainable business environment through open dialogue with the authorities and other important social and business stakeholders. This is still the main task of the Foreign Investors Council, after 19 years. Since the FIC establishment, the circumstances in the Serbian and world economy have changed significantly, and the FIC followed, in order to adapt to these changes and engage in improving the business climate as effectively as possible. We are very pleased that the business community has recognized this, and the numbers speak for themselves: the Foreign Investors Council today has more than 120 members that have invested more than 36 billion euros in our country and employ more than 100 thousand people so far. As a rule, our members are foreign investors, although there are a small number of domestic business entities, which became members by precisely defined conditions, as well as organizations that play a significant role in the areas we deal with. We are also one of the first contact, in addition to state institutions, addressed by potential investors. This is a big honor for us, because it shows that we are recognized as a reliable interlocutor due to the experience and expertise of the members. Our main pillars are: independence, expertise, best international practices, cooperation and support for European integration. The coronavirus pandemic did not disrupt these basic features of the Council's work, on the contrary, confirmed their validity.

THE FOREIGN INVESTORS COUNCIL IN THE COVID-19 EPIDEMIC

In the conditions of the COVID-19 epidemic, the Foreign Investors Council proved to be a valuable partner to its members. The health and safety of members and employees was an absolute priority, but from the very beginning of this difficult situation we provided business support as much as the circumstances allowed, from forwarding timely information on new regulations and restrictions, through proposals to the Government to improve economic support measures, to initiatives about specific areas of business and acute problems faced by the economy. One of the main topics that emerged from the pandemic was the organization of work from home, and on which focus remained in 2021. In April, a round table "Year of Covid, Work Organization" was held, which aimed to clarify ambiguities in the implementation of the Guide to Safe and Healthy Work from Home. In order to further improve this area legal framework, in September 2021, the FIC participated in a public debate on the Draft Law on Safety and Health at Work.

FOCUS IN 2021 - DIGITALIZATION

Our commitment to digitalization has shown its true significance with the pandemic strike, when it has been shown how important it is to remove so-called business bottlenecks. We are proud of our members' initiatives and professional contribution who have produced results in this area. Some have already been applied in practice or can be expected in the near future, such as digital bill of exchange, video identification and implementation of the signature in the cloud. At the end of 2020, we launched an extensive and comprehensive initiative for the digitalization of financial services in Serbia. The goal is to enable most of financial services to be user friendly and available by electronic manner. Meetings and work on the additional changes are still in progress. The FIC also became a member of the Coordination Body for Digitalization of Health in Serbia.

COMMITTEES

The backbone of the work of the Foreign Investors Council is working committees. They gather experts from our member companies, interested in the specific committee working field. Committees are a platform for the knowledge and professional experience exchange: they analyze regulations and policies and make conclusions and proposals for their improvement. The Foreign Investors Council now has eight working committees: Anti-Illicit Trade & Food Committee, Financial Services Committee, Human Resources Committee, Infrastructure & Real Estate Committee, the Legal Committee, Pharma Industry Committee, Tax Committee and Telecommunications & Digital Economy Committee.

WORK PRINCIPLES OF THE FIC

Independence, expertise, best practices, cooperation and EU integration are the basic principles of the Council's work. These basic principles of our work have remained unchanged over the time and have withstood all temptations, including the current crisis caused by the COVID-19 pandemic.

INDEPENDENCE

Financial self-sustainability is a guarantee of our independent work so that we can represent the general interest of the wider business community. The FIC is supported by membership fees exclusively, without external donations and sponsorships. Membership fees are the same for all members with the exception of Board of Directors members. However, the BoD membership fee is clearly defined, as well as their role in the FIC. Equality of members is achieved through a two-stage decision-making process. The first decision is made within the working committees, with equal participation of interested members without restrictions, and with the aim of reaching the consent of all by agreement. The FIC BoD confirms this decision.

EXPERTISE

The White Book in front of you reflects the professional knowledge and practical experience of our members. It is our platform for dialogue with the authorities and other stakeholders. It includes our views and recommendations on a wide range of topics we deal with. Numerous members participate in WB preparation, which jointly form a huge knowledge and experience base in the domestic and international market in more than 20 sectors. This huge base also serves us to launch regular initiatives for changing the legislation, through position papers, i.e. formed positions of the FIC with recommendations for improving the existing or draft regulation. Professional knowledge is available to interested ones through a numerous projects and other activities, including appearances in the media. We believe that the wide range of knowledge and experience we have is the best guarantee for success, since it is a prerequisite to reconcile the views of different sectors and actors, and find a solution most suitable for all.

BEST PRACTICES

By coming to our country, foreign companies bring investments through projects, application of new technologies and high ethical and business standards such as strict corporate regulations, business ethics and the concept of sustainability. We are proud to say that our members are good employers, who take care of employees and the local community through various socially responsible projects.

COOPERATION

We firmly believe that cooperation is the key to change. We are trying to have as constructive dialogue as possible with the Government of Serbia and the regulatory bodies whose competence is the adoption of regulations and their implementation. In that sense, the Working Group for the Implementation of the Recommendations from the White Book, a body chaired by the Prime Minister of Serbia is of special importance, and whose goal is the most successful implementation of the recommendations from the White Book. We also attach great importance to cooperation with other relevant stakeholders, such as the EU, diplomatic corps, international financial institutions, development agencies, academia, as well as other business and public-private associations. The role of this dialogue is multiple - from exchanging opinions and information to joining forces to launch common initiatives.

EUROPEAN INTEGRATIONS

European integration is at the top of our priorities because we believe that this path is crucial for the economy development , given the geographical position of Serbia and its deep connection with the EU. The temptations posed to the whole world by the COVID-19 pandemic have only confirmed this commitment, since close cooperation is necessary to resolve crises of regional or global proportions. Our support is not limited at words. We advocate the harmonization of Serbian legislation with EU regulations, but we also support negotiations with the EU through dialogue on both sides, expert advice, but also promoting the importance of Serbia's European path. We do this because we believe that we are one of the organizations that have the most knowledge and experience to support EU integration. Namely, nearly 80% of our members come from the Europe, while the majority of others operate in the European market so they have extensive knowledge of EU business standards and the work that awaits Serbia in order to apply them.

EXECUTIVE OFFICE

Finally, let us introduce the Executive Office of the FIC. This is a small team that with its efficiency, knowledge and dedication enables the smooth functioning of the association, easy communication with members and associates of the FIC. It is in charge of implementing FIC decisions and communicates with members on a daily basis and is a very important part of our complex mechanism.

Key characteristics and values of FIC

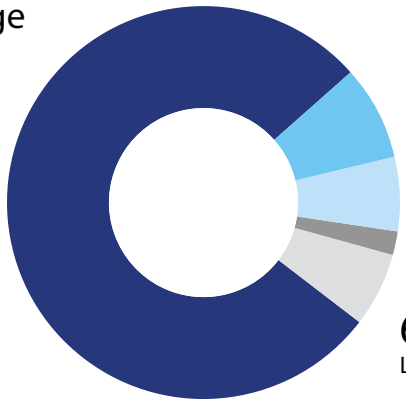
Independence	Regulatory expertise	Consistency
Best Practices	EU promotion	Cooperation

Key FIC figures

19 years since establishment

121 members from **23** sectors

Geo coverage



- 78% Europe
- 8% USA
- 6% Rest of the world
- 2% Local companies
- 6% Law offices

> €36 bil. of investments by FIC members in Serbia

>100,000 directly employed by FIC members in Serbia

White Book 2020 in numbers

CORPORATE SOCIAL RESPONSIBILITY MANIFESTO

As the driving force behind economic growth, the business sector is uniquely positioned to help establish a more equitable, inclusive, and sustainable society. As this understanding becomes increasingly common for both companies and social partners, we are witnessing increased corporate engagement in the society, as well as the rise of influential multi-sector initiatives.

From the COVID-19 crisis to the need for a better, greener and more digital society, it can be said that all the challenges we are facing are different parts of the same puzzle; the one that we are trying to jointly solve through the Sustainable Development Goals (SDGs). In the post COVID-19 context, it is time to witness a huge step forward - a step towards transforming role of the business in the society, where all social problems we are facing are not only a limitations, but also opportunities for business to offer an economically viable and efficient solutions that will be better, more ethical and more environmentally acceptable.

As Environmental, Social and Governance (ESG) standards become a more widely adopted investment assessment tool, the role of the corporate sector in the green transition becomes more tangible. Transparency and disclosure of information by large companies operating in Serbia is fostered by mandatory non-financial reporting introduced by Law on Accounting. Following the global practices, a number of companies in Serbia already has outstanding annual sustainability reports and the effects of expanding this practice under the provision of the legal obligation is to be counted in the forthcoming years.

The need for Increased Transparency and Disclosure of information, as well as complexity and sensitivity of certain social and environmental issues implies the need of a well-designed stakeholder engagement strategies and ongoing stakeholder dialogue. The goal of many modern companies is to create common values important for their business and for the society in which they operate. Venture philanthropy, as a high-engagement approach to social investment and grant making, combines business logic with philanthropy goals in bringing long term impact.

In order to bounce forward and create better societies, the impact of individual efforts made by companies and civil society organizations should be outlined into clear vision and joint sustainability strategy with the Government for the better post COVID-19 future. Joint challenges imply a greater responsibility of the state itself in defining public policies that will foster a competitive economy based on sustainable and responsible principles in accordance with the UN Agenda 2030 and European Green Deal. A strong strategic focus on enabling and fostering sustainable growth and development seems to be the focus of many countries around the world, recently, including Serbia. Ranked on good 34th place on the Global SDG Index 2021, Serbia however, still faces significant challenges, especially those in the domain of the environmental issues such as responsible consumption and production.

This is also an area in which data relevant for measuring indicators are missing, despite the recently made efforts of the Republic Statistic Office to contribute by establishing a devoted internet database on SDGs. Speaking of measurement and reporting on the progress at national level, after initial successful presentation of the Voluntary National Review (VNR) at the UN High Level Political Forum in 2019, Serbia, missed the opportunity to submit VNR in the last two years, and it is unlikely that the one will be submitted in 2022. Additionally, a new Inter Ministerial Working Group (IMWG) as the highest state body in charge of the implementation of the Agenda 2030 has not been formed yet. This may be justified by the occupied government's resources in order to fight the pandemic and establish social and economic stability in a turbulent and uncertain period behind us. However, the stronger commitment to the sustainable development in the forthcoming period must be outlined in the establishment of institutional state mechanisms for implementation and reporting on Agenda 2030.

On the other hand, it is encouraging that the dialogue on SDGs continued informally through the participation of the high-level state representatives in different dialogue formats. At the same time, a broad discussion among the Serbia's non-state actors, including civil society, corporate sector, academic and research community, media and the citizens, on aligning Serbia's development priorities within the objectives of the 2030 Agenda for Sustainable Development, has been taking place under the "SDGs for All" Platform. The platform offers resources and support in understanding the SDGs, opportunity for dialogue and definition of policy recommendations.

Finally, topics initiated within the Prime Minister' Philanthropy Council in the previous mandate, although this unique practice of institutional multi-sector cooperation was not continued with the beginning of the new mandate,

still stays important for the business and civil society which joins forces in advocating for the solutions from which will benefit the whole society and especially those the most vulnerable. One of the important issues advocated by Coalition for giving, relates to the urgent adoption of more enabling legal framework for the food surplus donations. This multi-sectoral issue has a sound European comparative practices and plays an important part within the circular economy that could bring multiple benefits for both, society and the protection of the environment.

OUR COMMITMENTS

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

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

INVESTMENT AND BUSINESS CLIMATE

1.40

The investment climate depends on many factors such as the international situation, risks, expectations of business people, the efficiency of institutions and the structure of the economy. Within the global economic crisis caused by the COVID-19 virus pandemic, the Serbian economy recovered relatively quickly, but the lasting negative consequences remained. They are visible in the current investment cycle.

INVESTMENT CYCLE

Serbia has had three investment cycles in the last 15 years. The first wave lasted between 2006 and 2009, peaking in 3Q2007. The second one had a peak in 3Q2012 and ended in 2016, while the third occurred in the period 2017-20 with a peak in 4Q2019 (see Fig.1.1). The pandemic abruptly brought down the third investment cycle, but regardless of that, the volume of investments from 2019 was not sustainable. It resulted from a transient expansion in construction and significant infrastructural investments in roads and a gas pipeline (Turkish Stream). In this sense, the investment cycle would go down independently of the pandemic (see Figure 1.2). However, the pandemic dropped the share of investments in GDP by 1% over this period, which is a significant adverse effect. True, the low share of investment of 19% in GDP from 2Q2020 recovered quickly, but the negative consequences for the investment cycle remained. The shaded area in Fig. 1.2 shows a long-term loss of investment due to the COVID-19 crisis.

Investments this year will be crucially affected by the exit from the recession caused by the COVID-19 virus pandemic. The decline in aggregate demand has been offset by the Government and the central bank interventions, while broken production chains were slowly repairing with a more significant presence of European suppliers. The trade war between China and the United States is still under control. Both countries will have high GDP growth rates in 2021, 8.1% and 7.0%, respectively. Globally, the world economy will grow by about 6.0%. Due to that, the risks for investing are slowly decreasing worldwide, which will aid Serbia in coming out of the investment cycle bottom.

SOURCES OF INVESTMENT

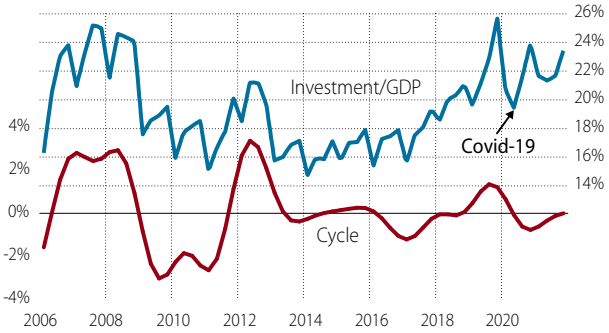
Long-term sustainable high GDP growth depends on investment. According to the Millennium Development Goals, countries such as Serbia should have at least a 25% share of investment in GDP, which would bring a sustainable GDP growth rate of 5% per year. Serbia only achieved that goal in 2006 in the last fifteen years, but this share of investment in GDP was not sustainable.

In the long run, the investment share curve has the shape of the Latin letter "U". The other end of this letter is slowly approaching the desired goal, despite the negative impact of COVID-19 in 2020. Before the outbreak of the crisis, the share of investment in GDP was 22.5%, to fall by 1% during the crisis. We estimate that the share of investments in 2021 will exceed the pre-crisis level and to be around 23%, primarily due to public investments.

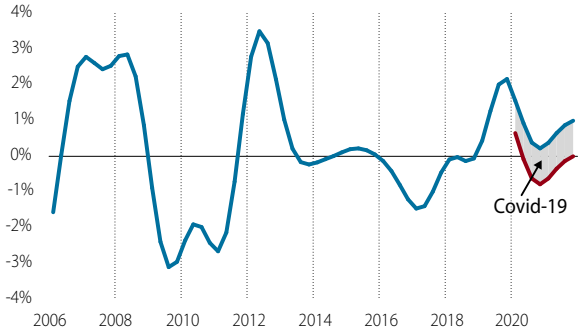
The problem remains with the low level of private investment. In 2006-11, private investments had the shape of the inverted letter "U" with the peak in 2008. After that, they

FIGURE 1: INVESTMENT CYCLES IN SERBIA

1.1. Investment cycle



1.2. Covid-19 impact



1 Private investment is calculated as the difference between total investment (data from the Republic Bureau of Statistics), government capital expenditure (data from the Ministry of Finance) and net foreign direct investment (NBS data).

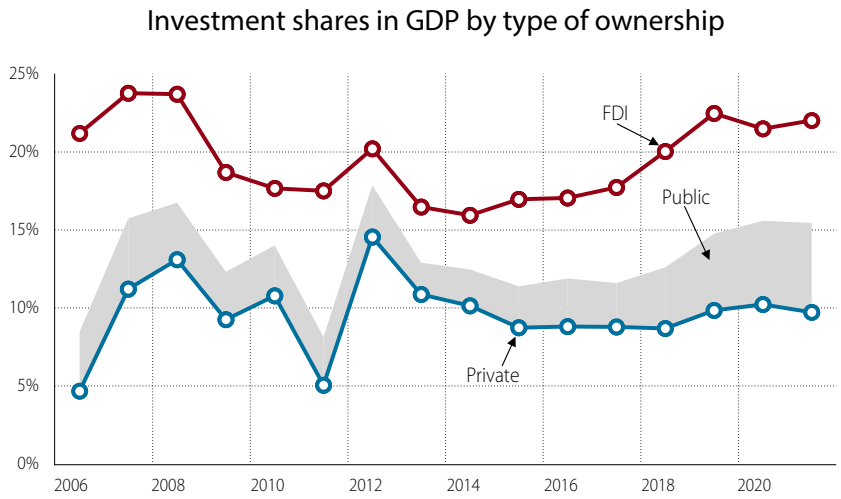


FIGURE 2: INVESTMENT IN SERBIA BY OWNERSHIP RIGHTS

have the shape of a flattened letter "U", which has not much changed in the last three years. Private investment was still below the historic peak in 2012-13.

On the other hand, public investments are growing and reaching 7.8% of GDP according to the second budget revision for 2021. Within that framework, 1.5% of GDP goes to unproductive investments in weapons and military equipment.

Foreign direct investment is likely to recover from the direct negative effect of the COVID-19 crisis but will be below 2018-2019 levels. In the last ten years, over 43 billion USD of direct investments have flowed into Serbia, as shown in Table 1. Most came from the Netherlands, followed by Austria, Germany, Cyprus and Russia. On the other hand, the outflow of direct investments from Serbia was ten times smaller. These investments mostly went to Bosnia and Herzegovina, Montenegro and Slovenia[2].

STRATEGY OF GROWTH

In our analysis, we use only official GDP statistics data, although they certainly require explanations. Figure 3 shows semi-annual data on contributions to the formation of the GDP growth rate on the production side and on the use side. In 2Q2021, Serbia achieved an extremely high GDP growth rate of 13.7% (which gives a semi-annual growth rate of 7.6%). That, in itself, is not strange because the Eurozone also had a growth rate in the same period of 13.6% and the United States of 12.2%. What attracts attention, however, is the fact that growth factors were fundamentally changing in a very short period. In 2019, growth

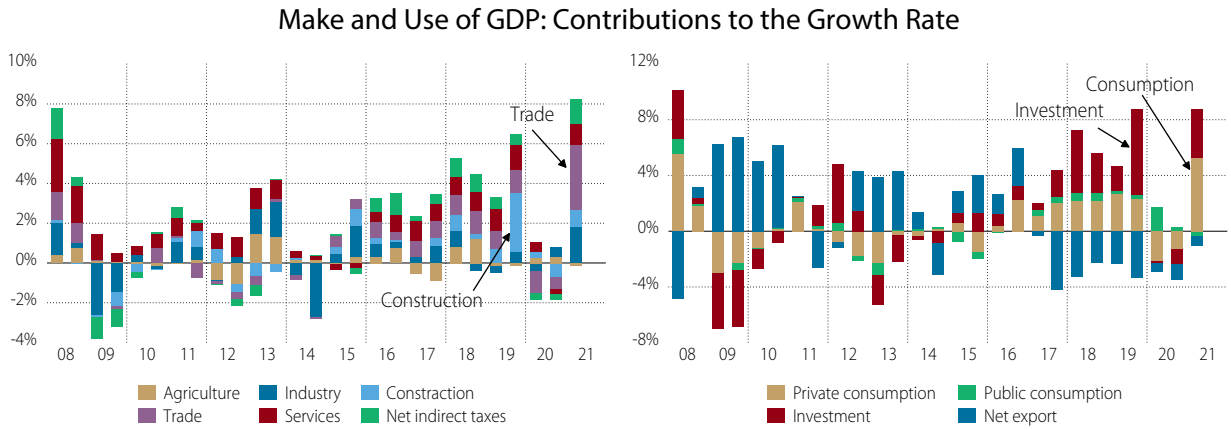
Inward Direct Investment		Outward Direct Investment	
The Nederlands	8,183	Bosnia and Herzegovina	1,027
Austria	4,574	Montenegro	742
Germany	2,919	Slovenia	659
Cyprus	2,791	Switzerland	244
Russian Federation	2,664	Russian Federation	212
Others	22,714	Others	2,884
TOTAL	43,845	TOTAL	4,123

TABLE 1: INFLOW AND OUTFLOW OF FDIS

2019, US Dollars, Millions
https://data.imf.org/?sk=40313609-F037-48C1-84B1-E1F1CE54D6D5&sId=14823310484112&sId=1482186404325

2 IMF, Coordinated Direct Investment Survey, https://data.imf.org/?sk=40313609-F037-48C1-84B1-E1F1CE54D6D5

FIGURE 3: FACTORS OF GROWTH IN SERBIA



depended on investments, on the side of GDP use, and construction, on the production side. However, in 2021, growth switched to consumption, on the side of GDP use and trade, on the production side.

Serbia's economic growth factors were changing dramatically in the short term. If there were a stable growth strategy, that would not be possible. In the absence of such a growth strategy, it is challenging to predict GDP developments because it is uncertain what factors will create GDP growth in the future. Will it still be the trade, even though agriculture's contributions to growth are non-existent, and industry is pretty weak? Will it be state investments in infrastructure, even though it causes unsustainable growth of the country's indebtedness? Will it be foreign investment, to the detriment of domestic private investment, as the trends in Figure 2 suggest? The answers to these questions will significantly affect the future investment climate in the country.

INTERNATIONAL CONJUNCTURE

The world economy has recovered from the COVID-19 crisis. What is especially important for us is that growth of 4.6% is projected for the Eurozone this year, while growth between 6.0% (IMF) and 6.5% (NBS) or 7.0% (Ministry of Finance) is projected for Serbia. We accepted the IMF forecast and presented it in Figure 4 at a quarterly frequency[2].

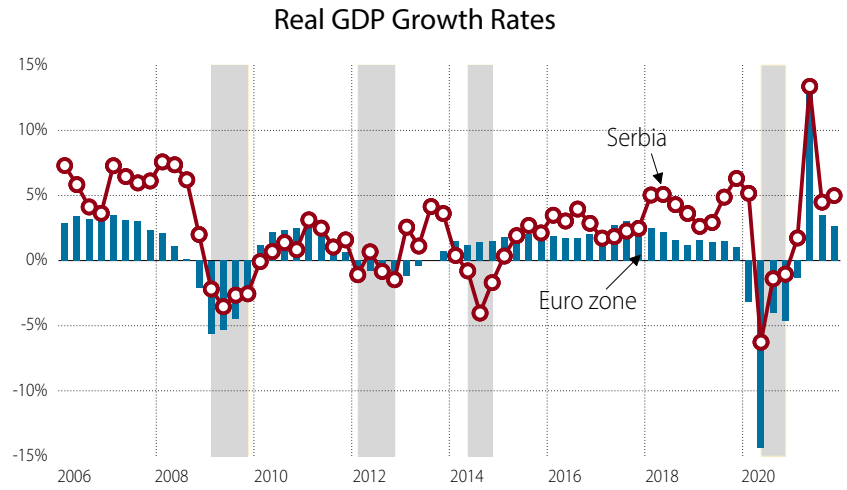


FIGURE 4:
REAL GDP GROWTH RATES IN EURO ZONE AND SERBIA

3 For the Eurozone see: https://sdw.ecb.europa.eu/quickview.do?SERIES_KEY=320.MNA.Q.Y.I8.W2.S1.S1.B.B1GQ._Z._Z._Z.EUR.LR.GY

The economies of Serbia and the Eurozone are highly integrated. That can be demonstrated by direct investments, exports and imports figures, as well as by the recession and expansion dynamics that are synchronised with a shift of one quarter. The only exception was the recession in Serbia in 2014, which Eurozone did not follow.

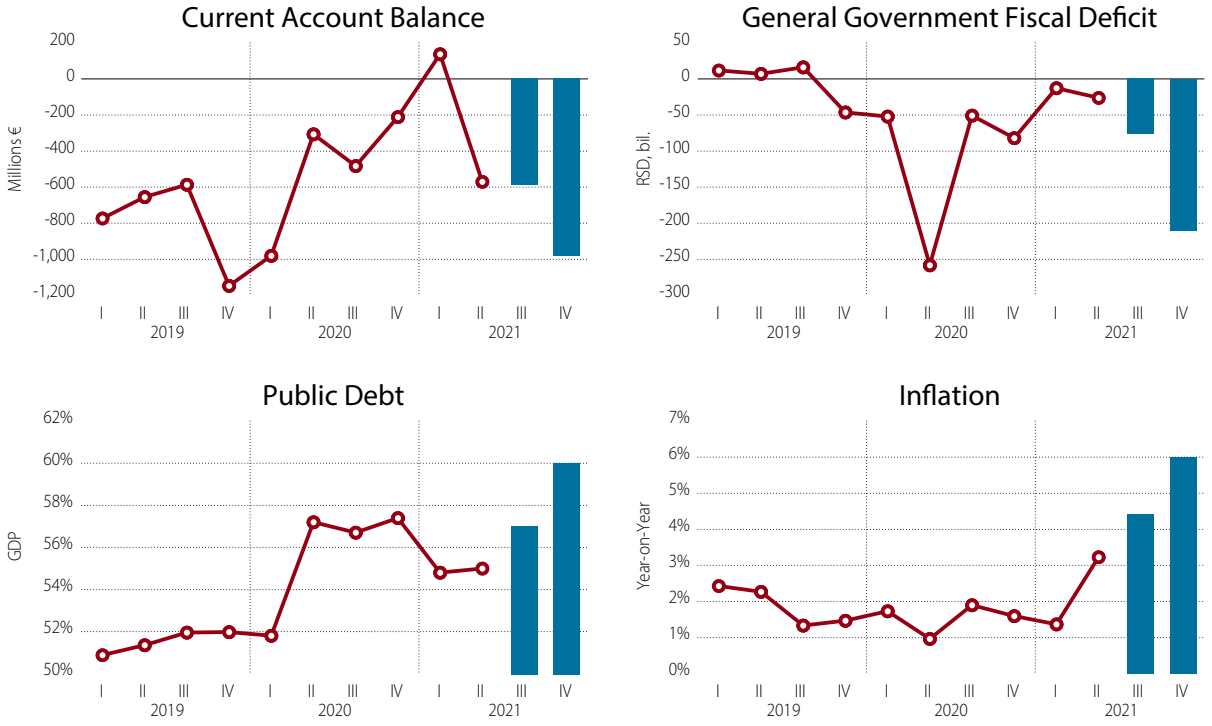
According to the IMF, the Eurozone will have relatively high growth this year, but much lower in the next five years (from 3.8% to 1.3%). On the other hand, stable growth of 4% to 4.5% was forecasted for Serbia. In any case, higher growth in the Eurozone would help Serbia achieve the projected GDP growth rates because the Serbian economy trades more than 50% of all its goods with the EU market. In the long run, we do not believe that economic activity in Serbia will move against the economic trend in Europe. That is why the recovery of the EU economy is of crucial importance for the domestic economy.

MACROECONOMIC STABILITY

Figure 5 shows the key macroeconomic aggregates. The Serbian economy is recovering from the shock caused by the COVID-19 virus and is returning to relatively stable growth. The expected GDP growth is quite high, triggering higher inflation. Inflation is approaching the upper limit of the target corridor. Aimed inflation is 3% +/- 1.5%. The average price increase in 2021 will be around 3.0% compared to 1.6% last year. Despite that, the exchange rate remained stable, contributing to contain price increase[4]. The average exchange rate in 2020 was 117.58 RSD/EUR, the same as in the first quarter of 2021. In the second quarter, the dinar nominally appreciated to 117.57, and in the third quarter to 117.56. In real terms, the dinar appreciated by over 3%.

The current account deficit is also stabilising and will be until the end of 2021 between - 5% and - 5.8% of GDP.

FIGURE 5: SHORT-TERM MACROECONOMIC INDICATORS (BARS SHOW FORECAST)



4 Granger's causality test shows that the exchange rate an inflation are highly integrated and influenced each other

Exports of goods and services in the first two quarters of 2021 increased by 28%, while imports soared by 20%. Significantly, secondary incomes increased by 30% in the same period, which strongly contributed to reducing the current account deficit.

On the other hand, the general government deficit, after a record high of -8.1% last year, is planned at -6.9% of GDP this year. Due to a better collection of public revenues in the amount of 3.3% of GDP, the second budget revision for 2021 envisages a reduction of the general government deficit to -4.9% of GDP. The reduction in the fiscal deficit is due to an increase in the tax burden that now amounts to 43.5% of GDP. Nevertheless, the public debt will increase in the third quarter, with a tendency to reach 60% at the end of the year.

According to official data on registered employment, it increased in the second quarter compared to the same quarter last year by 3.3%, thus neutralising the negative effect of the COVID-19 crisis.

Since S&P downgraded the country's credit rating from BB + / positive to BB + / stable in May 2020, it has not changed it further. Fitch retained a BB + stable rating from 2019, and Moody's raised its rating in March 2021 from Ba3 / positive to Ba2 / stable. All those grades are still below the investment grade.

FIC RECOMMENDATIONS

In June 2021, Serbia has concluded a 30-month arrangement with the IMF called the Policy Coordination Instrument. The IMF states that Serbia's recovery is on the right track due to significant state intervention, but the economic prospects remain highly uncertain. Higher and more sustainable growth in the medium term will require the improvement of the business environment, the rule of law, the efficiency of state-owned enterprises and environmental policy, all in line with last year's recommendations of the Foreign Investors Council.

The FIC maintains last year's recommendations with minor changes due to new circumstances:

- Restore fiscal stability and reverse the growth of the country's public debt,
- Complete the restructuring of infrastructure enterprises, including the closure of failed state-owned enterprises, thus reducing fiscal deficits,
- Realise public expenditures in infrastructure transparently and sustainably concerning the country's public debt,
- Continue negotiations with the EU on membership in order to harmonise domestic regulations with European standards, and
- Optimise the fiscal burden for countercyclical action, continue to improve and reorganise the tax administration and reduce uncertainty in applying tax regulations.

5 PCI is available to all IMF members who do not need the Fund's financial resources at the time of approval. It is designed for countries seeking to demonstrate a commitment to reform in order to secure funds needed from other official or private investors.

top

PILLARS OF DEVELOPMENT

ENERGY

This sector includes electricity generation and transmission, the market for renewable energy sources and energy efficiency. In 2021, Serbia supplemented the regulatory framework under the EU's Third Energy Package, and de jure liberalised the electricity market. Despite liberalisation, Elektroprivreda Srbije (EPS), as a state-owned company, remains the dominant supplier with about 98% market share.

In the case of renewable energy sources, new regulations have been adopted to encourage the production and sale of renewable energy. Incentives are provided in the form of a market premium system and feed-in tariffs for small plants. Both systems will be implemented through auctions and relate to the price of electricity, taking on balance responsibility and the right to priority access to the grid.

In the area of energy efficiency, new regulations have also been adopted. Implementing projects on contracting energy supply in public lighting in a significant number of local governments has begun. In contrast, the issue of cooperation between the public and private sectors regarding public facilities remains open.

Energy supply contracting for households and small consumers continue to operate at regulated prices, which have been partially adjusted in the past but are still below market levels. EPS is the leading supplier of electricity, although there are about 60 registered wholesalers. The number of members on the SEEPEX electricity exchange increased from 18 to 25.

Coal remains the dominant source of electricity production - more than 70% of annual production comes from coal-fired power plants. Coal mines are in relatively poor condition and need serious modernisation to meet demand.

Concerning electricity supply and efficiency of its use, COVID-19 had an initially negative impact that was eliminated by the end of the year. Electricity generation is higher by 2 per cent in the first half of 2021, relating to the same period before the outbreak of the crisis in 2019. The average FIC progress index in 2021 was 1.75 compared to 1.6 in 2019.

The Foreign Investors Council gave seven recommendations for improving the regulatory framework in this area. In the production of electricity, it is proposed to abandon price regulation; in the case of energy efficiency, the adoption of a functional contract for public-private partnership, and in the case of renewable energy sources, the specification of the incentive system.

TELECOMMUNICATIONS

The COVID-19 pandemic harmed the business of electronic communications operators in the Republic of Serbia in 2021. Only in the second half of this year, a gradual return of activities to more regular flows is noticeable. In the meantime, electronic communications operators continued their business aimed at developing the process of comprehensive digital transformation of society in order to meet the needs of citizens and the economy for "online" services ,i.e. remotely.

It is crucial for further developing the electronic communications market in the Republic of Serbia to improve the existing regulatory framework. Particularly to harmonise it with the needs of operators and users, along with harmonisation with the regulatory practice of the European Union. In this context, the Foreign Investors Council welcomes activity on the new Law on Electronic Communications. It also supports the joint construction of broadband communication infrastructure in rural areas of the Republic of Serbia.

One of the preconditions for accelerated digitalisation is constructing a 5G network in the Republic of Serbia. The Foreign Investors Council expects that the auction for allocating rights to use radio frequencies from the radio frequency bands 700 MHz, 900 MHz, 2100 MHz, 2600 MHz and 3500 MHz will be conducted quickly, transparently and efficiently. Within this framework, removing barriers to the efficient construction of base stations is the critical assumption. Barriers are related to the non-harmonized legal basis for the implementation of the environmental impact assessment procedure of each base station, as well as insufficiently specific provisions defining the "source of non-ionizing radiation of special interest".

It would be helpful to amend the Regulation establishing the list of projects for which an impact assessment is required (List I) and the list of projects for which an environmental impact assessment may be required (List II). Telecommunications facilities should be excluded entirely from List II. The Foreign Investors Council also expects a more active role of the Government in combating conspiracy theories and false news about 5G technology to prevent attacks and disrupt the critical telecommunications infrastructure necessary for the provision of essential electronic communications services.

top

The Foreign Investors Council gave twelve specific recommendations in this area for improving the regulatory framework in Serbia. The average FIC progress index in 2021. was 1.78 compared to same index 1.78 in 2019.

DIGITALISATION AND ELECTRONIC BUSINESS

This sector includes electronic commerce, electronic identification, issuance of electronic documents, and electronic business of administrative bodies, including the connection of public databases. Since last year, the whole world has started to adapt to the new situation caused by the coronavirus's appearance and turn to e-business due to a completely changed way of life and business. Many positive changes have also taken place in Serbia. Many companies organised work "from home", numerous citizens began to use the e-Government portal services, new services were developed, and unified data registers were formed.

It all started with the introduction of e-Government services through which citizens applied for vaccination. That was extended to the issuance of a digital green vaccination certificate, which was done according to EU standards, and based on which Serbian citizens could travel abroad without the need to have a negative PCR test. In the background of these innovations, a comprehensive infrastructure, technical and personnel capacities have been developed, which can offer new services in a short period and put them in the function of solving the burning problems of citizens.

When it comes to other services, the most crucial achievement in the previous period was completing the register of citizens, which brought together thirteen different databases from five different institutions. Hence, it will be possible to perform numerous procedures before public administration bodies more efficiently and cheaper. The centralisation of official data is one of the preconditions for introducing new e-Government services, which include simultaneous verification of facts from several different databases.

In the past period, registered electronic identification schemes started working, with the first registered provider of this service being the Office for IT and e-Government. As for schemes, high-level electronic identification schemes include a qualified certificate, while basic-level schemes are based on username and password. Between them, medium-level electronic identification schemes utilise the user's identification ID card that can be run on a mobile phone using the Consent ID application. Consequently, citizens can perform the second level of authentication after logging in on the e-Government portal with a username and password.

Changes in the issuance of electronic documents have led to the introduction of a qualified means for creating electronic signatures at a distance, the so-called qualified signature in the cloud. On the other hand, qualified trusted services from European Union providers and registered electronic identification schemes from the EU have been recognised. In that way, the legal representatives of foreign companies in Serbia can use without restrictions the personal certificates issued to them in their home countries based on electronic identification schemes from the EU.

The Foreign Investors Council points out that a great effort has been made, and significant progress has been achieved to enable further digitalisation of the economy and the public sector in the past period. Additionally, the readiness of all state institutions to continue in that spirit in the future is recognised. For its part, the Foreign Investors Council gave six recommendations in this area for further improvement. The average FIC progress index in 2021. was 2.60 compared to 1.6 in 2019.

REAL ESTATE AND CONSTRUCTION

The focus of the Foreign Investors Council remains the application of the Law on Planning and Construction, the application of a unified procedure for obtaining construction documents, legalisation of existing facilities following new regulations, conversion of construction land use rights into ownership, and implementation of cadastre regulations.

Construction as an activity made significant progress until the appearance of the coronavirus in 2020, but it experienced a severe shock that year. It has recovered from this shock this year, but rising prices of construction materials and apartments threaten to halt the growth. On the institutional side, the issue of land ownership remains a significant obstacle, with interference between state and private property. Regardless of that, there has been a noticeable increase in the number of issued building permits since introducing the unified procedure for their issuance.

The Foreign Investors Council proposes to amend the regulations on conversion with a fee to reduce the costs of the conversion. It is also necessary to improve the procedure of electronic submission of documentation, to specify the obligations of having a license for subcontractors hired by

contractors, and to continue the legalisation of illegally constructed facilities after 2023.

The sector as a whole is not homogeneous, and in 2021 its parts behaved differently. According to the Foreign Investors Council's estimate, in the area of mortgages and financial leasing, there has been no progress (FIC progress index 1.0); there has been some progress in the area of restitution, but at pre-crisis levels (index 1.33); in the real estate and construction sector, progress has decreased compared to the pre-crisis period (index 1.43), but it has increased in the area of cadastre functioning and the application of the new procedure (index 1.70). The average FIC progress index in 2021. was 1.48 compared to 1.39 in 2019.

WORKFORCE AND HUMAN CAPITAL

In the previous year, there were no improvements in the labour legislation nor the decision-making of courts in labour disputes. All this was followed by the coronavirus pandemic, which permanently changed the functioning of the labour market. The Foreign Investors Council notes that the existing regulations no longer meet the real needs of employers and employees and impose unnecessary administrative, organisational and financial burdens. In this regard, several improvements have been proposed.

They refer to the introduction of more flexible forms of work, such as work from home and teleworking, regulation of work practices when they are not part of the compulsory educational program, digitalisation and simplification of strictly formal communication between employer and employee, and simplification of complex salary structure and calculation.

In addition, specific changes are required in the legal provisions governing 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 redundancies. It is necessary to simplify further the procedure of employment of foreigners and the movement of labour in general, to identify activities that due to their specificity are subject to limited employment of persons with disabilities and to improve the hiring of labour and temporary employment agencies.

According to official data, unemployment did not increase last year, on the contrary, an increase in formal employment was registered. However, companies that did not apply for state subsidies began serious restructuring and optimization of the number of employees. The unemployment rate varies on the territory of the Republic of Serbia, which largely reflects the state of the economy in different parts of the country. At the same time, the demand for highly qualified staff cannot be met, and people with low education go abroad to work. The problem of the gray economy and undeclared work still exists.

In the area of the labour market and labour relations, the Council of Foreign Investors gave five critical recommendations for improving the regulatory framework (FIC index of progress in 2021 was 1.0); three recommendations for the work of foreigners (index 1.33), also three recommendations for sending employees to temporary work abroad (index 1.0), three recommendations for hiring labour (index 1.0), and three recommendations for professional rehabilitation and employment of persons with disabilities (index 1.0). The average FIC progress index in 2021. was 1.0 compared to 1.4 in 2019.

INFRASTRUCTURE

ENERGY SECTOR 1.75

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Electricity				
Regulation of electricity prices to be abandoned (but vulnerable customers to be protected), allowing new investments in the modernisation and revitalisation of coal and electricity production.	2016			√
Intra-day market to be introduced.	2020			√
Consider introducing carbon pricing instruments.	2020			√
Introduce grid connection reservation security mechanism e.g. bank guarantee or cash collateral by developers in order to avoid existing grid queues holding up capacity.	2020	√		
Renewables				
Incentive system to be tailored to accelerate investments in the renewables sector and follow the EBRD and Energy Community policy guidelines.	2018	√		
To improve the provisions of the Law on Agricultural Land pertaining to the utilization of the state-owned agricultural land for non-agricultural purposes, such as the development of renewable energy projects, in a way to regulate in more detail the conditions for granting the public agricultural land to renewable energy investors.	2020	√		
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 in respect of both energy performance contracting and energy supply contracting projects involving the public and private sector.	2017			√

CURRENT SITUATION

Electricity

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

The main authorities responsible for this sector are: (i) the Serbian Government; (ii) the Ministry of Mining and Energy (the "Ministry of Energy"); and (iii) the Energy Agency.

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.

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

latest increase was in December 2020. 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 98% of market participation.

The day-ahead market is operated by the joint-stock company South East European Power Exchange (SEEPEX). SEEPEX has not yet introduced intra-day market, however, they are actively working on it, and according to the announcements, it can be expected that it will be introduced during 2022.

Renewables

In April 2021, the Law on the Use of Renewable Energy Sources was adopted, which separated issues related to incentive measures for the production of electricity using renewable energy sources from the Law on Energy, that are now regulated by a separate law.

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

By replacing the old system that rewarded everyone by order and introducing auctions, it will be possible to attract a new cycle of investments and achieve a competitive price for the purchase of electricity. The next step is the adoption of bylaws that will regulate in detail the conditions and procedure for acquiring the right to incentive measures.

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

The "guaranteed supplier" (i.e. EPS) assumes balance responsibility for RES producers. Support is provided for the allowed percentage of balance deviation, which will be regulated by a bylaw. Balancing support for RES producers will exist until the establishment of an organized intra-day electricity market, as determined by the Energy Agency of the Republic of Serbia.

The Law on RES also introduces the concept of strategic partnership and provides the possibility of conducting a public call for the construction of power plants that produce energy from RES through the selection of a strategic partner. The Government may determine that the construction of a power plant using RES is a project of importance for the Republic of Serbia in terms of the law governing the construction of facilities, except for power plants in protected areas.

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).

The law envisages the establishment of the Directorate for Financing and Encouraging Energy Efficiency within the Ministry of Mining and Energy, the purpose of which is to provide funds to meet the objectives of the law.

Similarly as the previous law, 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, while the market is yet to see a successful cooperation between the public and private sector in the area of public buildings.

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. However, some of the implementation aspects, such as public budgeting, remain a point of misunderstanding for the public sector.

Unlike EnPC, ESC arrangements are still not governed by any by-law, nor is there a prescribed model available. The most notable difference between ESC and EnPC is in that EnPC implies backing the project with guaranteed savings, unlike the ESC, which focuses on a renewed arrangement regarding energy supply where the private partner guarantees the continuous provision of a certain minimum amount of energy. It is expected that, once the ESC model is regulated too, a much needed certainty will be brought into the sector, allowing for successful cooperation between the public and private sectors.

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

POSITIVE DEVELOPMENTS

Electricity

SEEPEX membership grew to 25 members.

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.

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.

Energy Efficiency

A new Law on Energy Efficiency and Rational Use of Energy has been adopted. The competent Ministry has already launched the first project in this area and announced a public call for local governments to allocate funds for the replacement of carpentry in households, which is expected to continue in the upcoming years and significantly contribute to reducing energy consumption.

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.

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

Renewables

In addition to the adopted base law, it is necessary to adopt bylaws on the basis of which tenders will be announced, investors will be attracted and, consequently, facilities for production of electric energy from renewables will be built.

The Decree on the Prosumer has been adopted, and work is underway on eleven more bylaws that should regulate the application of the provisions of this law in more detail.

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.

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 artificially low 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) would be very helpful in addressing projects involving both the public and private sectors and removing the existing ambiguities. The public sector is still overly careful in considering prospective projects, while the understanding of this concept and its practical implementation is still lacking on the authorities' side. 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. Even though the Ministry started working on a model ESC contract which would allow for a greater transparency and feasibility of projects on the market, the relevant model has not yet been adopted.

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

- capacities of the PPP Commission to be improved (including better understanding of EnPC and ESC projects' specifics);
- sharing of knowledge and existing know-how among various public entities to be strengthened and supported (especially in the case of minor Serbian municipalities);
- practical implementation of the rules relevant to determining the value of projects that are PPP-specific and of the rules of public budgeting needs to be improved, and the capacities of the public sector to be strengthened.

Implementation of the Law on Energy Efficiency and Rational Use of Energy has not yet been accompanied by relevant bylaws.

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.
- Intra-day market to be introduced.
- Consider 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.
- Introduce grid connection reservation security mechanism e.g. bank guarantee or cash collateral by developers in order to avoid existing grid queues holding up capacity;

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.

Energy Efficiency

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

TELECOMMUNICATIONS 1.78

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Improvement of regulations and their interpretation in the field of construction of radio base stations and protection against non-ionizing radiation: a) Issuance of guidelines to local self-governments by the Ministry of Environmental Protection would contribute to the cessation of excessive reference and arbitrary interpretation of the principle of prohibition of exposure to non-ionizing radiation sources and the principle of proportionality referred to in the Law on Non-Ionizing Radiation Protection by local environmental secretariats; b) In cooperation with the Ministry of construction and infrastructure and Ministry of State Administration and Local Self-Government, it is necessary to provide education to departments in local self-governments, in order to remove spatial restrictions for the construction and installation of mobile telecommunications infrastructure; c) in accordance with the comparative practice of developed EU countries such as Germany and Finland and countries in the region (e.g. Croatia), we propose to exclude mobile telecommunications facilities from List 2 of the Regulation on establishing the List of Projects Requiring a Mandatory Impact Assessment and List of Projects that May Require an Environmental Impact Assessment, so that instead of making an environmental impact assessment for each individual base station, it would be sufficient to provide the local self-government 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; d) abolition of the term "sources of special interest", given that all sources require control measurement, so there is no reason to single out sources of special interest; e) abolition of restrictions for base stations (especially for the roof top type) from urban plans, in terms of the minimum required distance where base stations can be placed in relation to neighboring facilities, since there is no basis for this, neither scientifically nor in regulations which regulate the field of non-ionizing radiation protection.	2019			√
Joint cooperation between the state and industry in choosing the model and period of public bidding for radio frequency spectrum intended for the development of 5G technology -operators propose and advocate a simple auction model to sell the bands that are most needed from the perspective of technologies used and market demands.	2019		√	
Adoption of the new Law on Electronic Communications and leaving sufficient time for the implementation of prepaid user registration and other innovations brought by the law.	2017	√		

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Revision of results and preparation of new strategic documents for the forthcoming period, in terms of electronic communications, information society and development of new generation networks, with active participation of operators in the process.	2018		√	
When negotiating international agreements in the field of electronic communications, 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			√
Adoption of the Rulebook on Amendments to the Rulebook on Number Portability for Services Provided via Public Mobile Communication Networks and the Rulebook on Amendments to the Rulebook on Number Portability in Public Telephone Networks at a Fixed Location within the shortest possible period of time.	2019			√
Enabling the provision of public electronic communications services at a fixed location using CLL technology in the Republic of Serbia, without restrictions.	2018	√		
More active role of the Government aimed at suppressing of conspiracy theories and false news about 5G technology in order to prevent attacks and disruption of critical telecommunications infrastructure necessary for the provision of basic electronic communications services such as voice and Internet access.	2020		√	
Issuance of a positive opinion of the National Bank of Serbia on the provision of Direct Carrier Billing service according to the EU model, in order to enable direct payment of digital content from Google Play and Apple Store via telecommunications operators according to the EU model.	2019			√

The COVID-19 pandemic caused by the SARS-CoV-2 virus in 2021 has also had a major impact on the business and activities of electronic communications operators in the Republic of Serbia. Electronic communications operators have continued the activities aimed at facilitating the process of faster and more comprehensive digital transformation of society, which has been further accelerated by avoiding contact to reduce health risks and expectations and needs of citizens and the economy during the pandemic that most services can be provided remotely. After the lack of mobile roaming traffic since the beginning of the pandemic, in the second half of 2021, after the stabilization of the epidemiological situation, a gradual return to regular activities in the field of telecommunications industry is noticeable.

The new Government of the Republic of Serbia was formed on October 28, 2020 and the Management Board of the Regulatory Agency for Electronic Communications and Postal Services elected a new Director of RATEL at its session on August 12, 2020. Also, at its session held on March 11, 2021, the National Assembly of the Republic of Serbia passed the Decision on the election of the President, Deputy President and members of the Management Board of the Regulatory Agency for Electronic Communications and Postal Services.

CURRENT SITUATION

The improvement of the existing regulatory framework and its alignment with the needs of operators and customers, along with harmonization with the regulatory practice of the European Union is of key importance for the further development of the electronic communications market in the Republic of Serbia.

In the first half of 2021, the drafting of a new Draft Law on Electronic Communications began, which will be largely harmonized with the provisions of the EU Directive on the European Electronic Communications Code. For the purpose of drafting the Law, the Ministry of Trade, Tourism

and Telecommunications has formed a working group that includes representatives of the Foreign Investors Council and other business associations in whose work electronic communications operators actively participate. The adoption of the new Law on Electronic Communications is a precondition for further growth and development, not only of the electronic communications industry, but also for further digital transformation of the society and economy of our country.

In the first three quarters of 2021, the Ministry of Trade, Tourism and Telecommunications started the implementation of the first phase of the project of joint construction of broadband communication infrastructure in rural areas of the Republic of Serbia, by organizing three public calls for selection of electronic communications operators for the implementation of the above project, whose construction phase is scheduled from the beginning of the second half of 2021 to the end of the first half of 2022.

One of the preconditions for accelerated digitization are the activities that will enable the development and construction of 5G networks in the Republic of Serbia. Considering that the processes were previously postponed due to the coronavirus pandemic, the Foreign Investors Council expects that the preparation for the auction and the auction itself will be carried out by the end of 2021 or early 2022, in a transparent and efficient manner in order to create the optimum conditions for sustainable construction and investment in 5G infrastructure throughout Serbia at the earliest possible time after the conclusion of the public bidding and obtaining of licenses.

For the purpose of preparation for the auction, in the middle of the year RATEL published a Public call for registration of entities intending to use radio frequencies from the radio frequency bands 700 MHz, 900 MHz, 2100 MHz, 2600 MHz and 3500 MHz, with the aim of determining the interest of business entities not only for the frequency bands primarily intended for 5G, but also the remaining parts of the spectrum within which current technologies operate.

This requires infrastructure and finding a model/pattern of joint action of the state and industry to overcome the current barriers. And in 2021, the operators are facing difficulties related to the construction of radio base stations. Problems that hinder the installation and construction of radio base stations due to inadequate interpretation and application of regulations in the field of environmental protection, as well as restrictions in local self-government regulations governing spatial planning, require improving the capacity of state administration to interpret regulations in the field of environment and their application by local self-government units in the environmental impact assessment procedure. The Foreign Investors Council emphasizes the need to settle these issues, bearing in mind that the elimination of obstacles to the efficient construction of radio base stations is of key importance for the upcoming development of 5G networks in the Republic of Serbia.

Obstacles regarding the construction of radio base stations are primarily related to the lack of regulations and legal basis for the implementation of the environmental impact assessment procedure, i.e. the preparation of the Environmental Impact Assessment Study for the installation of each individual radio base station, as well as insufficiently precise provisions defining the "sources of special interest":

- arbitrary interpretation of the Law on Non-Ionizing Radiation Protection and excessive reference to the principle of prohibition of exposure to non-ionizing radiation sources and the proportionality principle by local secretariats for environmental protection;
- arbitrary interpretation of the meaning and inadequate definition of sources of special interest; (this in practice leads to the ban on setting up radio base stations classified as sources of special interest);
- arbitrary introduction of restrictions in urban plans determining the minimum required distance for sites where radio base stations can be set up in relation to adjacent facilities, although there are no grounds for such restrictions in the law governing non-ionizing radiation protection;
- although the Law on Environmental Impact Assessment does not impose the obligation to develop an Environmental impact assessment study for setting up of each individual radio base station, and in practice, this assessment is almost always required by local environmental protection secretariats (we would like to emphasize that in Serbia restrictions on the permissible level of electromagnetic radiation are several times stricter than in the European Union member states and that the actual values of the electromagnetic field measured on site are often ten times below the maximum permissible values);

With regard to these issues and primarily concerning the spatial restrictions in the planning documents, in August 2020, a meeting of the Working Group for fulfilling the

White Book recommendations was held at the Government of the Republic of Serbia, in the presence of representatives of the City of Belgrade. In the above meeting, readiness to tackle the specified issue was expressed and an agreement was reached regarding the lifting of spatial restrictions in the General Regulation Plan (PGR) of the City of Belgrade. In August 2021, the Ministry of Trade, Tourism and Telecommunications established a Government Expert Group to improve the regulatory framework for the installation of mobile telephony base stations.

With effect from July 1, 2021, the last phase of the implementation of the Agreement on reduction of the prices of roaming services in public mobile communication networks in the Western Balkans region, which includes the implementation of RLAH ("roam like at home") principle, has started. Accordingly, the additional roaming fee on the retail price of services paid by customers in domestic traffic has been lifted, so that customers use the regional roaming services under the same conditions as in the domestic network, subject to the appropriate use policy.

Based on the proposal of the competent Ministry, the Government of the Republic of Serbia adopted the Strategy for the Development of the Information Society and Information Security in the Republic of Serbia for the period from 2021 to 2026 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 for the period from 2021 to 2023.

At the end of 2020 and the beginning of 2021, the Ministry of Trade, Tourism and Telecommunications conducted a public call for the selection of electronic communications operators for the implementation of the project of joint construction of broadband communication infrastructure in rural areas of Serbia, for which there was no commercial interest by operators to invest in the network. During February 2021, the Ministry made a decision on the selection of operators for the implementation of the first phase of the project of joint construction of the MIDDLE MILE segment in 89 settlements, which will be owned by the Ministry. A call has been issued for the next phase of construction of broadband network infrastructure in 555 settlements, which would provide up to 90,000 households in rural areas of the Republic of Serbia with access to the Internet with a maximum speed of not less than 100 Mbps.

In September 2021, the RS National Assembly adopted the Law on Consumer Protection, almost two years after the public hearing and the formation of the new Government on October 28, 2020.

POSITIVE DEVELOPMENTS

Activities on the adoption of the new Law on Electronic Communications make a significant contribution to the improvement of the regulatory framework in line with the market needs and the progress of the development of new technologies. It should be noted that through the formation and activities of the Working Group for drafting this regulation, a high degree of transparency and involvement of operators in the process of drafting the new law was ensured, who were able to contribute to the improvement of the legal framework that will ensure further growth and development of the electronic communications market.

The process of forming an expert group of the Government of the Republic of Serbia for the improvement of administrative conditions and the implementation of regulatory reform in areas of importance for the installation of mobile telephony radio base stations is underway. The primary objective of the expert group is to review the relevant regulations and administrative procedures for the installation of radio base stations and to propose the amendments to regulations and general policies with the aim of reducing administrative barriers. The expert group is expected to take into consideration the expert explanations and propose amendments to the Law on Non-Ionizing Radiation Protection, as well as amendments to the regulations on non-ionizing radiation sources in accordance with EU and ICNIRP recommendations (Rulebook on non-ionizing radiation sources of special interest and the period of their examination, as well as the Rulebook on limits of exposure to non-ionizing radiation), to review the grounds for prescribing metric restrictions for the construction of radio base stations in planning documents, and to seek to further improve the integrated electronic procedure through the introduction of a special electronic procedure for registration of non-ionizing radiation sources.

Activities related to the preparation for enabling the use of 5G technology in the Republic of Serbia represent progress in the development of the market and the creation of preconditions for the digital transformation of society, the realization of which requires an infrastructure based on new generation technologies. One of those activities is the

implementation of the Public Call for applications by entities intending to use radio frequencies from the radio frequency bands 700 MHz, 900 MHz, 2100 MHz, 2600 MHz and 3500 MHz and the adoption of bylaws related to the use of the radio frequency spectrum.

The Council expects that in the future a simple model of public bidding for radio frequency spectrum intended for the development of 5G technology will be selected (rather than a combined auction covering spectrum blocks of different bands), which will open space for necessary investments in network construction and introduction of innovative business models. Also, the preparation for the auction and the auction itself are expected to be carried out by the end of 2021 or the beginning of 2022, in accordance with previous announcements.

During 2021, the mobile operators started cooperation with the Prime Minister's Office and the Office for Information Technologies and Electronic Governance, which is being realized through the Foreign Investors Council. The objective of the cooperation is to achieve the largest possible use of the digital identity of citizens based on the electronic identification scheme of the Office for Information Technologies and Electronic Governance and the citizens could in this manner not only use 98% of electronic governance services but also enter into telecommunications contracts remotely.

In June 2021, RATEL issued a new decision on the requirements regarding allowing the provision of electronic communication services at a fixed location via public mobile network, using CLL technology throughout the Republic of Serbia, in all settlements, without restrictions on the number of inhabitants.

Allowing the provision of these services represents progress in the provision of electronic communications services based on technological neutrality in areas where there is no economic interest in building fixed electronic communications networks. The Foreign Investors Council positively evaluates Ratel's decision enabling the use of CLL technology without geographical restrictions.

The Foreign Investors Council welcomes the election of the new Managing Board of Ratel, which in the new convocation has a larger number of experts from the general sector and areas of importance for the telecommunications industry.

REMAINING ISSUES

After numerous technical challenges in the implementation of the RLAH+ regime in the Western Balkans in 2019, one of the key recommendations of the Council is to consult the industry representatives in a timely manner when negotiating international agreements, which did not happen in the case of signing the Memorandum on Reducing International Roaming Charges between Serbia and Greece in May 2021.

Considering the regulatory and legal barriers on the part of the EU for concluding roaming agreements between the EU and the Western Balkans region, there is a risk of introducing an obligation to unilaterally reduce prices for operators operating in the Western Balkans, without reciprocal implementation by EU operators.

Despite the huge contribution during the current health crisis, in the same period, mobile operators are facing an unprecedented negative campaign and a large number of unfounded claims about the alleged connection between the infrastructure of mobile operators, 5G base stations and the current pandemic. This irrational phenomenon leads to huge problems in the field, which are primarily related to the obstruction of works on the construction and maintenance of base stations. Thus, false news and conspiracy theories affect the availability and quality of mobile networks and services, lead to delays in work, increase costs and cause significant damage to operators. As a result, citizens are deprived not only of the usual use of mobile phones but also of vital calls to emergency services, while at the same time the efficiency of the economy and public services is impaired. In this regard, mobile operators have already addressed the Government, and we expect that in the coming period the state will take all measures to protect the critical telecommunications infrastructure. Also, we believe that it is very important that state institutions actively contribute to science-based education of the population on health aspects of telecommunications technologies and raising public awareness regarding the implementation of 5G technology from the perspective of positive impact on the country's economy and quality of life. In that sense, we hope that the Expert Group of the Government for the improvement of the regulatory framework for the installation of mobile telephony base stations, established in August 2021, will solve the described problems.

It is necessary to adopt a 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), which will specifically regulate issues such as coordination of current and planned construction works and real-time publication of data on works through a single information point (public portal under the jurisdiction of public sector bodies); regulating the operators' access rights to publicly owned facilities and the conditions for using public facilities and public infrastructure for the needs of telecommunications infrastructure (e.g. wireless short-range access points (WAS/RLAN networks)), as well as defining in detail the rights to use and access infrastructure.

The problem remains to make the procedure of setting up and improving the capacity (upgrade) of mobile telephony radio base stations more optimal and efficient, which implies liberalization of licensing, i.e. transition from a complicated administrative system of licensing to a system of registration (notification) through a single contact point in the form of a public portal under the jurisdiction of RATEL, which will establish a notification system about the installed RBS at a specific location and publish independent measurements of cumulative electromagnetic radiation at the relevant location, as evidence that the operator complies with the prescribed exposure limits, for all sources and not only for sources of special interest. To make the above possible, Regulation on Establishing the List of Projects Requiring a Mandatory Impact Assessment (List I) and List of Projects that May Require an Environmental Impact Assessment (List II) need to be amended, by completely excluding the telecommunications facilities from the List II. Additionally, it is necessary to abolish the powers of local self-government units - the Secretariat for Environmental Protection, except in the part of inspection supervision according to the Law on Non-Ionizing Radiation Protection. Also, it is necessary to consider the more significant role of RATEL, which has both professional capacities and key powers over electronic communications operators, as well as experience with the establishment of similar portals. If the powers of the inspection for environmental protection are added to this, we believe that in this way effective protection of the public interest and optimization of procedures and costs would be achieved, which is recommended by Directive 2014/61 / EU on measures to reduce the cost of deploying high-speed electronic communications networks

It is necessary to lift formal licenses for the use of radio frequencies within the licensed radio frequency spectrum (acquired through public bidding) relating to the fee for the issuance and renewal of an individual license for the use of radio frequency for a radio base station in a particular electronic communication service. However, when it comes to the so-called "licensed" radio frequency spectrum for mobile telephony, an individual license for the use of the same radio frequency according to the conducted public bidding procedure has been issued and a one-time fee referred to in Articles 89 and 90 of the Law on Electronic Communications has been paid. In addition, the operator pays an annual fee for the use of radio frequency spectrum according to the Law on Fees for the Use of Public Goods, Appendix 16, item 2.

Direct Carrier Billing (DCB) as the simplest, globally widespread way of purchasing apps from platforms such as Google Play, has not been enabled in Serbia yet. DCB involves the purchase of digital content for mobile devices in such a way that the billing of this content is done by charging payments to their mobile phone carrier bill. This model has been operating for years in the European Union, including the countries of the region, given that the Payment Services Directives (PSD1 and PSD2) recognize this transaction as an exception to payment services.

A new Law on Consumer Protection has been adopted, which envisages the introduction of the "Do not call" register to be established by RATEL, the idea behind this being that the citizens would sign up for this register through operators in order to object to being contacted by traders for direct advertising. Regarding the application of this provision, it is important to emphasize the negative impact of the register on the work of mobile operators in the form of major technical, organizational and financial issues, because all applicants from all over the Republic of Serbia would come to the operators' points of sale in order to give or withdraw consent to all traders in the RS, where the operators' employees would have to identify the applicants, receive requests, record and then send them to RATEL on a daily basis and at the same time be responsible for the accuracy of the entered data.

FIC RECOMMENDATIONS

- Improvement of regulations and their interpretation in the field of construction of radio base stations and protection against non-ionizing radiation:

  a) Issuance of guidelines to local self-governments by the Ministry of Environmental Protection would contribute to the cessation of excessive reference and arbitrary interpretation of the principle of prohibition of exposure to non-ionizing radiation sources and the principle of proportionality referred to in the Law on Non-Ionizing Radiation Protection by local environmental secretariats;

  b) In cooperation with the Ministry of construction and infrastructure and Ministry of State Administration and Local Self-Government, it is necessary to provide education to departments in local self-governments, in order to remove spatial restrictions for the construction and installation of mobile telecommunications infrastructure;

  c) in accordance with the comparative practice of developed EU countries such as Germany and Finland and countries in the region (e.g. Croatia), we propose to exclude mobile telecommunications facilities from List 2 of the Regulation on establishing the List of Projects Requiring a Mandatory Impact Assessment and List of Projects that May Require an Environmental Impact Assessment, so that instead of making an environmental impact assessment for each individual base station, it would be sufficient to provide the local self-government 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;

  d) abolition of the term "sources of special interest", given that all sources require control measurement, so there is no reason to single out sources of special interest;

  e) abolition of restrictions for base stations (especially for the roof top type) from urban plans, in terms of the minimum required distance where base stations can be placed in relation to neighboring facilities, since there is no basis for this, neither scientifically nor in regulations which regulate the field of non-ionizing radiation protection.

  f) enable the transition from a complicated administrative system of issuing individual licenses for the use of radio frequencies for base stations to a system of recording (notification) through a single point of contact (so-called "single point of contact") in the form of a public portal under the jurisdiction of RATEL.

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

- Adoption of the new Law on Electronic Communications and adoption of key bylaws for further market development within the shortest possible period of time. The new law is expected to bring significant progress in the digitization of the process of using telecommunications services, especially regarding the conclusion of contracts and invoicing in digital form.

- 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.

- Lifting of formal licenses for the use of radio frequencies within the licensed radio frequency spectrum (acquired through public bidding) relating to the fee for the issuance and renewal of an individual license for the use of radio frequencies for a radio base station in a particular electronic communications service.

- When negotiating international agreements in the field of electronic communications, 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.

- More active role of the Government aimed at suppressing of conspiracy theories and false news about 5G technology in order to prevent attacks and disruption of critical telecommunications infrastructure necessary for the provision of basic electronic communications services such as voice and Internet access.

- Amend Article 37 of the Law on Consumer Protection and abolish the obligation of operators provided for in this article.

- Involve the Foreign Investors Council in consultations for drafting bylaws for the implementation of Article 37 of the Law on Consumer Protection.

- Issuance of a positive opinion of the National Bank of Serbia on the provision of Direct Carrier Billing service according to the EU model, in order to enable direct payment of digital content from Google Play and Apple Store via telecommunications operators according to the EU model (using the billing model of the parking service).

- Adoption of the Rulebook on Number Portability for Services Provided via Public Mobile Communication Networks and the Rulebook on Number Portability in Public Telephone Networks at a Fixed Location within the shortest possible period of time after the adoption of the new Law on Electronic Communications.

- During the negotiation of international agreements for the implementation of the RLAH+ regime in the Western Balkans region, the representatives of the operators should be consulted in a timely manner.

DIGITALIZATION AND E-COMMERCE 2.60

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Following the example of a large number of EU countries, it is extremely important to use centralized databases and enable the exchange of data between the Tax Administration and companies (primarily financial institutions) in order to ensure that data on citizens' incomes, with the consent of citizens, can be used in online lending processes, which would significantly eliminate the need for paperwork and enable the purchase of credit products completely online.	2020	√		
It is important to facilitate the use of digital identities/signatures so that they become available to the widest circle of citizens, in a simple way and without high costs.	2017	√		
In order to emphasize the reliability and ease of use of digital identity and electronic signature, as well as their dissemination and promotion, citizens should be informed about all the possibilities, rights, and benefits of this channel through educational campaigns.	2017	√		
It is necessary to legally regulate the institute of "digital bills of exchange" so that as such it can be registered in a single register of bills of exchange, i.e. signed electronically.	2019	√		
It is necessary to create a database of already identified citizens that will enable a simpler and more cost-effective introduction of digital solutions.	2018			√

CURENT SITUATION

More than a year after the modern world was shaken to its core, we have the opportunity to review and look back at the initiatives related to adapting the way of life to the ever-present risk of COVID-19 infection that were promoted at the beginning of the pandemic and those that are being promoted now. Life as we knew it has completely changed from safety and social point of view. In Serbia as in the rest of world, changes are happening rapidly, and in some segments perhaps even faster. Continuing the 2020 initiative, in June 2021, the competent ministries reiterated that "digitalization" is one of the key priorities of the Serbian Government, stating that the greatest benefit from digitalization is achieved if "all citizens have the knowledge and access", and that digital literacy for citizens means that the eGovernment is available to them "24 hours a day, seven days a week, 365 days a year".

The key fact is that citizens' awareness has started to change, and the Government has started to act rapidly in accordance with these significant changes. We are witnessing a steep increase in number of transactions performed electronically, as well as wider application of contactless payment using digital "wallets", which are available in a large number of financial institutions.

The existing legal framework provides businesses with a framework for development of digital sales channels, and protection of consumers' rights in the online environment. Although this type of trade is constantly growing, e-commerce still has a great development potential. According to the data of the Statistics Office of the Republic of Serbia, in 2019, 43% of citizens have never bought goods and services online. For comparison, in 2010 this percentage was as high as 87%, which shows that this branch of business is recording continued growth. If we look at the Internet use, in 2010, over 54% of citizens never used the Internet, while this percentage in 2019 dropped to only 19.4%, which represents an improvement of 28% compared to 2018.

It is interesting to note that all age groups, from 16 to 74 years of age, are using the Internet, with a prominent increase of

Internet use among the oldest population (from 64 to 74 years of age) from 1.3% in 2007 to as much as 30.1% in 2019.

The epidemic has had a major impact on changing consumer behaviour and increasing the volume of online commerce. The National Bank of Serbia's data show that in 2020 the volume of online card payment transactions in dinar increased by more than 100% compared to 2019, while the value of these transactions during the same period was higher by about 80%[1].

On the other hand, electronic procedures are not sufficiently used in practice and administrative bodies are reluctant to use them in procedures where electronic form is not required, often insisting on the use of paper documents. The amendment to the Law on Companies abolished the use of seals for business entities, which repealed the provision 10 of the law and provision 107 of the bylaws that refer to seals. After this amendment was adopted, no institution, bank or organization shall have the right to demand a seal from companies or entrepreneurs.

The Government of the Republic of Serbia and the Office for IT and e-Government, as the central body competent for coordination of activities related to e-Government, management of public IT infrastructure and information security, continue with the implementation of the digital agenda. During the previous period, the Strategy for the Development of Artificial Intelligence in the Republic of Serbia for 2020-2025 was adopted, in accordance with which the Institute for Artificial Intelligence was established. In accordance therewith, the platform "Smart Serbia" was launched, which is to enable improved policy making and introduction of e-Government services designed based on citizens' needs through mass processing of data from various public sources and the use of artificial intelligence. This platform is hosted at the State Data Centre in Kragujevac, which was opened in 2019 with the aim of keeping a digitalized and centralized storage of all public databases from the state and local level, while in the previous year the Government of Serbia established a company to ensure better commercial use of State Data Centre's capacities and offer services to the private sector.

In addition to the above, we are witnessing significant progress in the part of the legal framework that enables further digitalization of financial services, through a series of decisions that the regulator, the National Bank of Serbia, prescribed in the previous period. Thus, in addition to the possibility of video identification of natural persons, with the relevant Decision having been extended, the identification of legal entities has recently been made possible as well. Furthermore, the national IPS system (Instant Payment System) makes it possible to pay monthly bills, make purchases in retail and online stores using a QR code in an extremely simple way.

At the end of 2020, the Law on Digital Assets, which for the first time recognizes digital assets as a legal category, was passed, whereby digital assets are a digital record of value that can be exchanged and invested, and their issuance, secondary trading, provision of services related to digital assets as well as the competence of the National Bank of Serbia and the Securities Commission are regulated. The subject of this law is not digital currency records that represent a legal tender, such as electronic money, but the intention to regulate the area of cryptocurrencies and other hitherto unregulated forms of intangible assets, which will contribute to legal security and further development of this area on a sound basis.

POSITIVE DEVELOPMENTS

One of the biggest logistical challenges in the history of healthcare in Serbia, which included different conditions of storage, transport and use of as many as 4 types of vaccines and their optimal distribution to health centres at ad hoc points throughout Serbia, was successfully overcome with the help of e-Government services that the citizens used to apply for vaccination. In that way, we can say that the e-Government system in Serbia has reached a critical point, where there is sufficient infrastructure, technical and personnel capacities, to develop new services in a short period of time and employ them in solving critical social issues. The vaccination and e-Government success story continued by enabling vaccinated citizens to easily obtain a digital green vaccination certificate, which was made according to the EU standards and which made it possible for Serbian citizens to travel this summer without having to bring a negative PCR test.

When it comes to other services, the most important achievement during the previous period was the completion of register of citizens which compiles thirteen different databases coming from five different institutions. In that way, it will be possible to perform numerous administrative

1 Payment transactions for online purchase of goods and services (https://nbs.rs/sr_RS/ciljevi-i-funkcije/platni-sistem/statistika/)

procedures at public administration bodies in a more efficient and cheaper way, and the centralization of this data is one of the prerequisites for introduction of new e-Government services, which often involve simultaneous verification of facts from several different databases. The current deficiency of compiled databases is accuracy, and to a greater extent the completeness of data on citizens, and consequently one of the future initiatives of this council will be focused on improving the quality of data in e-Government and providing further suggestions to relevant ministries related to these issues.

End of last year, the National Assembly adopted the Law on Fiscalization, which replaced the previous Law on Fiscal Cash Registers, and whose implementation will begin on 1 January 2022, with a transition period until 1 April 2022 for the economy to adjust. The most important novelty this law brought is a broader scope of fiscalization, then electronic recording of real-time transactions via the Internet connection between each fiscal device and the Tax Administration system, and unique electronic elements of each invoice that allow its verification. In addition, the state has allocated 3 billion dinars for implementation of the new fiscalization system, while the law itself brings technological neutrality in terms of devices used and combination of software and hardware that can be applied, which will save the businesses from high costs of digital, online fiscalization. The new law is expected to have a significant effect on increasing tax revenues, but also ensure more efficient control and risk analysis in order to prevent tax evasion. Also, in the domain of related regulations, the Law on Electronic Invoicing was passed, whose partial application will also begin in 2022, while the full application will begin on 1 January 2023. This law is expected to contribute to business efficiency, save time and costs in processing, storing, sending and receiving invoices, but also to provide greater transparency and legal certainty in working with invoices.

In 2020, Serbia received the first registered electronic identification schemes, with the Office for IT and e-Government being registered as the first registered provider of electronic identification services. Given that high-level electronic identification schemes involve a qualified certificate, and as such are not a more flexible identification mechanism, and that basic level schemes based on username and password have a limited level of reliability and trust by the public sector and the economy, the highest expectations in this area are connected with the registered mid-level electronic identification scheme. In that sense, the mid-level electronic identification scheme registered by the Office for IT and e-Government that is based on two-factor authentication has the greatest potential of application, not only for communication between citizens and the state, but also for concluding contracts with the private sector. The scheme is based on personal identification of the user, via the ID card, to whom the credentials necessary for the use of Consent ID application on the mobile phone are issued, and through which citizens perform the second level of authentication after logging in with the username and password at the e-Government portal.

On the other hand, in 2021, amendments to the Law on Electronic Business were passed[2], as well as the Law on Identity Cards, which brings novelties in the field of electronic identification.

The most significant change to the Law on Electronic Document is reflected in introducing the service of issuing means for remote qualified signing, the so-called qualified signature in the cloud. Previously, this service was planned as an additional service offered by providers of qualified electronic signatures, which were previously issued in the traditional way. With these changes, the scope of this service has been expanded so that its provider, initially, remotely issues a qualified electronic certificate without physical presence, which will contribute to a wider application and popularization of qualified electronic signatures. Another key change is automatic recognition of qualified trust services from the European Union providers and recognition of registered electronic identification schemes from the EU. This created the possibility for legal representatives of foreign companies in Serbia to use, without restrictions, their personal certificates issued in their home countries, or for international companies operating in Serbia that implement identification solutions based on electronic identification schemes from the EU on the level of their groups, to also use such solutions in Serbia. This change was recognized by this council as one of the key improvements of digital business in the Republic of Serbia, and with the EU. Given that the recognition of registered electronic identification schemes from the EU has not yet taken root, although it has been recognized in the regulatory framework, part of the council's initiatives will also focus on suggesting possibilities for faster practical implementation of this instrument.

2 Law on Electronic Document, Electronic Identification and Trust Services in Electronic Business

Amendments to the Law on Identity Cards stipulate that the ID card will be a mid-level electronic identification scheme, in addition to the fact that each ID card will already have all the software and hardware necessary to activate a qualified certificate. It remains to be seen what will this new mechanism for turning the ID cards into a remote identification instrument be, if the mechanism is not a qualified electronic signature.

We are witnessing major progress in the part of the legal framework that enables further digitalization of financial services, through a series of decisions that the regulator, the National Bank of Serbia, prescribed in the previous period. Thus, in addition to the possibility of video identification of natural persons, with the relevant Decision having been extended, the identification of legal entities has been made possible as well. Furthermore, the national IPS system (Instant Payment System) makes it possible to pay monthly bills, make purchases in retail and online stores using a QR code in an extremely simple way. After the implementation of these innovations, banks in Serbia have pointed out that the law regulates lending to citizens electronically and identification via a video link, but not obtaining collateral, which in practice is usually a bill of exchange that must be filled in and signed personally in paper form. In this regard, the initiative for digitalization of bills of exchange, which aims to optimize and digitalize this process, received a positive response from the National Bank of Serbia, which, in cooperation with the banks, began working on developing the Central register of e-bills of exchange that will enable compiling, filling, transfer, but also forced collection based on e-bills of exchange. In this way, the process of digitalization of financial services that started several years ago will be mostly completed.

It is important to mention that a new electronic service "My data for the bank" has been launched on the e-Government portal in order to simplify the procedure for concluding a loan product agreement between citizens and certain banks that have implemented this service. It allows the citizens to collect all the necessary documents from the bodies that keep the appropriate official records and then forward them to the bank electronically. With amendments to the Law on Foreign Exchange Operations some progress has been made in the field of electronic payments. Among other things, it is possible to receive foreign currency payments for charity purposes through services such as PayPal. Significant progress concerns the sale of software over the Internet, which is now included in the list of exemptions from making payment transactions exclusively in dinars, and includes transactions between residents. This enabled national IT companies to display prices in foreign currency and sell their services without fear of being in violation if the buyer is a resident of Serbia.

However, although this exception is limited to software and digital services, liberalization has not been fully implemented. Citizens have the possibility to make payments with cards or national electronic money institutions, but not through the most famous global payment services providers, such as Paypal or Skrill.

The system for instant payments – the IPS NBS system – was launched in October 2018, and its operator is the National Bank of Serbia. As participants of this system, the banks make it possible for their customers to transfer money in dinars at the branch, whereby the transaction is carried out immediately. Customers can perform transactions in real time 24/7/365, up to the amount of 300 thousand dinars per transaction. Banks also provide the option of instant payments on their digital channels.

The main progress has been made in the field of electronic payments at the e-Government portal, where card payments have been made possible, and now, for example, one can pay for vehicle registration in this way. Citizens can very easily pay for the services of the Ministry of the Interior online (payment cards), via e-banking, mobile applications, and for the first time, when submitting a request, they will not have to provide a proof of payment in paper form. In that way, one of the basic functions of e-Government was implemented, because without electronic payments it is not possible to get some of the most important services and switching to physical payment channels made the purpose and advantages of electronic services meaningless in the past.

REMAINING ISSUES

In addition to the identified space for improvement related to the quality and completeness of data at the eGovernment portal and finalizing the process of introducing eGovernment in the tax administration sectors, one of the key steps in the coming period is enabling the exchange of data on tax and utility obligations, primarily between tax administration and financial institutions, but also companies from other industries. In this way, using advanced, centralized databases, an automatic verification system could be established, e.g., for checking the level of income, reg-

ularity in settling tax obligations, which would, in the end, enable full digitalization of loan products' purchase by citizens, eliminating the need for any paper document (such as the current certificate of employment and the amount of income). The previous text states that great progress has been made in digitalization of financial services. In this regard, video identification as a mechanism for concluding distance contracts in Serbia is recognized exclusively by NBS regulations and as such is available only in financial institutions whose work is regulated by the NBS, while in other areas such as telecommunications there is no framework for this mechanism. Given that there are no similar regulations in telecommunications sector, we should look for the legal framework for application of video identification and, in general, other possibilities for concluding distance contracts in the general regulations on electronic business, given that identification mechanisms based on video identification can represent electronic identification scheme. In that sense, it is necessary to amend the Decree on electronic identification schemes[3] in such a way as to enable the identification of users remotely when issuing mid- and high-level electronic identification schemes, and not only in person, as is the case today, especially since recent amendments to the Law on Electronic Business have allowed issuance of qualified electronic certificates remotely (which is a high-level scheme). The Foreign Investors Council sent a proposal for amendment of the Decree to the Ministry of Telecommunications, which responded positively to that proposal, and we expect that the Regulation will be amended in the coming period.

Finally, having in mind great results achieved in digitalization of e-Government, we would like to emphasize here that there are areas where regulations in the public administration domain have been changed to encourage its digitalization, while the same mechanisms are not available to the private sector. For example, the Law on Electronic Government creates preconditions for tax and other decisions of state bodies to be delivered to citizens electronically without the need for prior special consent, while on the other hand, the Law on Consumer Protection and other regulations impose restrictions to the private sector, which would want to have the same option available.

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

3 Decree on detailed regulation of conditions that must be met by electronic identification schemes for particular levels of reliability

FIC RECOMMENDATIONS

- Following the example of a large number of EU countries, it is extremely important to make use of centralized databases and enable data exchange between the Tax Administration and companies (primarily financial institutions), in order to provide data, primarily on citizens' income, with their consent, for online lending processes, which would significantly eliminate the need for paper documentation and allow the purchase of loan products to be done completely online.
- It is important to facilitate the use of digital identities / signatures, so they become available to the largest number of citizens, in a simple way and without high costs. One of the ways to achieve this is to popularize the issuance of a national registered high and mid-level scheme, which should be applied in the conclusion of distance contracts, between businesses and citizens.
- In order to improve the use of digital identity, and all other opportunities offered to citizens by digitalization in Serbia, citizens should be informed about all the possibilities, rights and benefits of available channels through educational campaigns.
- It is necessary to enable the application of "digital bill of exchange" instrument, so that it can be registered as such in the unique register of bills of exchange, i.e., signed electronically.

- Amend the Decree on Electronic Identification Schemes[4], in such a way as to allow identification of customers remotely when issuing a high and mid-level electronic identification scheme, and not only in person as is the case today.
- We propose that all constructive solutions from regulations governing the work of public administration that contribute to further digitalization, such as the Law on Electronic Government, be applied in regulations governing the work of the private sector.
- Accelerate digitalisation of all administrative procedures for businesses listed in the recently launched Register of administrative procedures[5].

4 Regulation on detailed regulation of conditions that must be met by electronic identification schemes for particular levels of reliability.

5 https://rap.euprava.gov.rs/privreda/home

REAL ESTATE AND CONSTRUCTION

1.48

The impression from the real estate market is that investments in this sector continue this year, despite numerous unknowns and uncertainties due to the COVID-19 virus pandemic.

The issue of land ownership and mixed forms of state and private ownership still remains a significant obstacle to construction in Serbia. It is necessary to consider the possibility of amending the law regulating the issue of conversion with a fee, in the part concerning the payment of the conversion fee, so that the fee is either significantly reduced or completely abandoned as a concept, and in any case it is necessary to significantly simplify the conversion procedure. It remains unclear to what extent companies use the possibility of the lease of construction land as an alternative to conversion.

The electronic administration of the real estate cadastre and the line cadastre is facing numerous challenges that need to be overcome in a timely manner.

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Construction land and development				
The implementation of the Planning and Construction Law should be monitored by all relevant stakeholders.	2015		√	
Digitalisation of public administration and all administrative procedures	2020		√	
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.	2019			√
It is necessary that the Decision on legalization has the power of a construction permit and a use permit, which will be prescribed by the appropriate content of the decision (without an additional technical examination /obtaining of a special permit to use).	2019			√
Article 11(6) of the Law on Conversion for a Fee should be confined to cases where the conversion applicant is a company with majority public or state-owned capital.	2016			√
Creation of coherent legal practice and improvement of effectiveness in decision making in conversion procedures by the by the competent authorities, having in mind the latest amendments of the Law on Conversion for a Fee.	2020		√	
Enactment of rulebooks on issuance of licences and clarify the obligation of subcontractors engaged by a contractor to hold licenses which are already held by the contractor and vice versa should be clarified.	2019			√
Mortgages and Real Estate Financial Leasing				
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			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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 mortgage 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			√
Cadastral Procedures				
It is necessary to ensure uniform, transparent and clear implementation of laws for further acceleration and foreseeability of cadastral procedures, and to harmonize the laws according to which permits are issued with the laws related to the registration of real estate and rights to them, ie to establish legal continuity by recognizing permits obtained in accordance with the provisions of previously valid laws regulating this area.	2012		√	
Connectedness and promptness of information systems and exchange of data between cadastres and other state authorities.	2012	√		
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.	2019			√
Republic Geodetic Authority should conclude all unresolved first-instance and second-instance cases as soon as possible.	2018		√	
It is necessary to allow deployment of a party in the case which was opened by a notary, as it is the service performed by notaries.	2020			√
It is necessary to determine the number of unresolved cases which include registration and release of mortgages and resolve them as a priority in order to introduce legal certainty into business processes.	2019		√	
Establishment of an electronic base for Utility cadastre which will 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 cable duct cadastre (as it has been done with real estate folios that are issued from the real estate cadastre).	2019			√
It is necessary to register all lines in the utility cadastre without delay, but also the rights to them, which is of general importance (it is important to know who owns the line due to the needs of, for example, quick reaction in certain situations in order to protect life and health of people, property and the envionment) .	2019		√	
Online access to real estate cadastre data should be free and unlimited, with real-time update	2012		√	
Real estate sheets in electronic form from GKIS are illegible, primarily for plots with several objects, where it is not possible to get an overview of A list in which all objects / parts of one plot will be listed on one list / page. It is necessary to return the form in which LNs were issued by July 6, 2020.	2020			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Restitution				
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			√
State authorities should ensure that the acquired rights of foreign investors are protected in accordance with the law.	2015		√	

CONSTRUCTION LAND AND DEVELOPMENT 1.43

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. New investments, obtaining the necessary permits in the integrated procedure and the follow-up of the adopted legislation remain the FIC's main areas of interest.

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 to this land was a permanent right of use, or a long-term lease of 99 years.

Conversion of the right of use to ownership of construction land

The Planning and Construction Law provides for two types of conversion: no-fee conversion, set as a general rule, and conversion for a fee (governed by a separate law).

Conversion for a fee applies to holders of the right of use that are:

- entities which were privatized under the laws governing privatization, bankruptcy and enforcement proceedings, as well as their universal successors;
- entities which acquired the right of use on the land after 11 September 2009, through purchase of the building, with the accompanying right of use on the land, from the entities, which were subject of privatization in the past (as indicated immediately above);
- companies that acquired the right of use over state-owned undeveloped land which was acquired for development before 13 May 2013 or based on a decision of the competent authority;
- sport and other associations;
- socially-owned companies;
- entities incorporated in ex-Yugoslavia to which the Succession Treaty is applicable.

The Law on the Conversion of the Right of Use to Ownership of Construction Land for a Fee ("Law on Conversion for a Fee") prescribes conditions for the conversion of the right of use to ownership over publicly-owned construction land and the possibility of establishing a long-term lease on such land.

The conversion fee is set at the market value of land (by the local municipality) at the time of submitting the request for conversion. Reductions of the fee are possible, under the terms stipulated by law (the most notable reduction is in the case of developed land, where the fee is not payable for land under a building and for a regular use of a building). State aid clearance applies to reductions (to the extent applicable).

The Law on Conversion for a Fee allows for concluding a 99-year lease agreement with the owner of construction land until conversion. In this way, the lessee can obtain a construction permit before paying the conversion fee.

Construction

The Planning and Construction Law was amended several times in the past few years. The amendments may be generally considered as positive because their goal was to facilitate the procedures and to make clarifications, as well as to improve the regulatory framework.

Some of the most significant amendments are as follows:

- a construction permit ceases to be valid if the commencement of works is not notified within three years from the day when the decision on the construction permit becomes final, instead of the previously prescribed two-year period;
- concept of condominium is introduced;
- instead of the Serbian Chamber of Engineers, the Ministry competent for construction and spatial and urban planning issues licenses to the responsible planner, responsible urbanist, responsible designer and responsible contractor. The Ministry shall check whether foreign citizens meet the requirements to provide these services;
- establishment of Register of investment locations is prescribed;
- the Central Registry of Energy Passports (CREP) has been established. It contains a database of authorized organizations which qualify for the certificate issuance, of responsible engineers for energy efficiency who are employed at such organisations, and of issued certificates on energy characteristics of building;
- Instead of being held jointly responsible with the investor for all liabilities against third parties, the financier is responsible for liabilities towards third parties which are consequences of activities performed by it in accordance with its authorisations;

prescribing of a strict deadline for competent state bodies to adopt new planning documents, which would replace the planning documents adopted before January 1st, 1993 and envisaging monetary fine for the responsible person of the local self-government unit if the new planning documents are not adopted by May 24th, 2023.

Legalization

The legislators tried to cope with legalization issue by enacting various regulations, but none of these attempts were deemed successful. The Legalization Law from 2015 stipulates only two options for illegally built facilities – demolition or full legalization. This law was significantly amended in 2018, with the prohibition of disposal on illegal buildings and the 2023 deadline for the completion of the legalization process being the significant amendments.

POSITIVE DEVELOPMENTS

Conversion of the right of use to ownership of construction land

Provisions of Article 11, paragraph 6 of the Law on Conversion for a Fee, stipulated that the conversion process shall be immediately suspended by the competent authority if it is established that the plot of land is subject to restitution, until the final and legally binding completion of the restitution process.

Amendments of the Law on Conversion for a Fee from 2020 have changed the respective provisions in less strict manner and hence the conversion procedure shall be immediately suspend in the respective case, until the until the final and legally binding completion of the restitution process, or until the final decision on in-kind restitution is enacted, or until the confirmation that the natural restitution is not applicable is issued.

Amendments of the Law on Conversion for a Fee from 2020 in more detailed manner stipulate the cases to which the conversion with the fee applies, as well as the exceptions to the conversion with the fee regarding the real estate which belonged to entities which were privatized in the past.

Additionally, certain improvement was made regarding conversion procedures - the authorities are becoming more cooperative in this regard.

Construction

As for the number of issued construction permits, one may note an increase in the number of issued construction permits since the unified procedure was introduced.

REMAINING ISSUES

Conversion of the right of use to ownership of construction land

Article 9 of the Law on Property Restitution and Compensation provides that only a public enterprise or other legal entity (i.e. an entity founded by the Republic of Serbia, autonomous province or a local government unit, a company with a majority state-owned capital and cooperatives, including enterprises and cooperatives in the process of bankruptcy or liquidation) is obliged to return nationalized

property, and that restitution in kind is not possible in all other cases. Consequently, a stay of the conversion process in all these other cases is unjustified.

There are serious problems with inconsistencies in the calculation of the conversion fee by the relevant authorities. Consequently, investors cannot predict in advance the amount of the conversion fee for large-scale projects and plan the funds in their accounting records accordingly. The unpredictability of the costs of conversion proceedings significantly affects plans of investors to acquire locations that require conversion proceedings.

FIC RECOMMENDATIONS

Conversion of the Right of Use to Ownership of Construction Land

- The Law on Conversion for a Fee should be amended in order to reduce the costs of the conversion fee.
  - With regards to the undeveloped construction land, the holder of the right of use on the undeveloped construction land should be entitled to request registration of the ownership over such land, whereas the registration of the ownership in the Real Estate Cadastre should be accompanied with registration of annotation that the conversion fee has not been paid. This type of registration, would be a sufficient legal basis for the owner to acquire the construction permit, prior to payment of the conversion fee. Further, if such holder of right of use (i.e. newly registered owner) manage to obtain a construction permit and construct real estate on such land and register it in the Real Estate Cadastre within a period of 10 years, he should acquire the right of ownership on such land free of charge. Alternatively, if the real estate has not been constructed within the period of 10 years, such holder of right of use (i.e. newly registered owner) should be obliged to pay a reasonable fee in the fixed amount per square meter of the surface area of the subject land.
  - When it comes the developed construction land, possibility of abolishment of payment of conversion fees should be considered, if in the moment of the entry into force of the new law, there is a legal building constructed on such land. Alternatively, prescribing a reasonable fixed amount of fee per square meter of the land without determining the land for regular use of the facilities, would be also a good incentive for further development of this sector. The amount may be determined according to the size of the city or municipality. For example, in Belgrade, the conversion fee can be 10 euros per m^2, and in smaller cities and municipalities 3 euros per m^2.

- It remains unclear to what extent companies use the possibility of construction land leasing as an alternative to conversion. It is also unclear whether it is possible for a company that has the property right on the building with a corresponding right to use the land, to lease such (built) land instead of converting (for example, to demolish an existing building and build a new one), given that the institute of building land lease has so far generally been reserved only for undeveloped construction land.

- The state needs to take the necessary actions to promote this alternative (lease instead of conversion) and use the lease more often in practice.

Construction

- It is necessary to improve software solutions and capacities to facilitate and speed up the procedure of electronic submission of documentation.

- The competent authority in the integrated procedure should issue permits with the appropriate content which will, in accordance with the relevant legislation, enable the investors to register ownership rights at the newly constructed building(s) (especially when it is related to a complex with several buildings and lines/pipelines), and without being exposed to an additional consumption of resources and time in order to obtain some special documentation

(evaluation reports and etc.) by which it will be confirmed what building/s the construction and usage permits are related to (comparing the permits and projects based on which the permits have been issued). It is necessary that permits be forwarded without delay and in accordance with the official duty to the competent cadastre authority of immovable properties i.e. the office for the utility network cadastre (if it is related to the constructed pipelines).

Subcontractor's license

The lack of precision regarding the obligation to obtain a license for contractors and subcontractors leads to uneven and unclear practice. The question arises as to whether subcontractors are obliged to obtain the license in cases when the main contractor (an entity with whom the investor entered into a direct construction agreement for the whole works) holds the license and is the main contractor obliged to have license if all 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 rulebooks regulating issuance of the licences.

- Enactment of rulebooks on issuance of licences and clarify the obligation of subcontractors engaged by a contractor to hold licenses which are already held by the contractor and vice versa should be clarified.

Legalization

Prohibition on disposal has created a problem when the title holder of an illegal building and the title holder of the land are not the same person. The Law should be amended in order to enable the legalization of such buildings when there is consent of both sides. Also, it is necessary to reconsider whether the prohibition on the disposal of illegal buildings should be limited to buildings that cannot be legalized because in practice, the existing prohibition significantly complicates legal transactions in situations where legalization is possible and hence such prohibition is not justified. Also, prescribing the deadline for legalization which results in the rejection of a request for legalization is a principle that should be changed, because the procedure is conducted ex officio and does not depend on the will of the party, and therefore the owner of an illegal building should not bear consequences of the administration's inefficiency.

The Law is ambiguous on the issue of whether a decision on legalization substitutes a construction permit and a use permit. The practice has shown that a decision on legalization does not constitute, pursuant to the opinion of the competent institutions, a valid legal base for issuing an energy licence, which is why the energy licencing procedure requires performing a special technical acceptance procedure for buildings which have been subject to legalization, i.e. obtaining a special technical examination commission report in which it will be clearly stated that the building is fit for use in accordance with its purpose even though for such a building the purpose is stated in the decision. Furthermore, the owners of the buildings are exposed to additional expenses and are put into an unequal position compare to the owners of other buildings with different purposes for which it is not required to obtain an energy licence.

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

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

MORTGAGES AND REAL ESTATE FINANCIAL LEASING 1.00

CURRENT SITUATION

The Law on Mortgage, adopted at the end of 2005, was last amended in 2015.

We have to point out again that these latest amendments to the Law on Mortgage were not sufficiently far-reaching, the impression being that they lack additional clarifications, which could have been very useful. In addition, they also failed to introduce some new useful concepts.

Notwithstanding the fact that the Law on Mortgage has not been subject to amendments recently, the procedure on mortgage registration in the cadastre has been significantly amended by the adoption of the Law on the Registration Procedure with the Cadastre of Real Estate and Utilities in 2018, which reflected not only on the procedure for mortgage registration, but on the implementation of certain provisions of the Law on Mortgage as well.

The financial leasing of real estate, introduced by amendments to the Law on Financial Leasing in May 2011, is not yet operational in practice.

POSITIVE DEVELOPMENTS

Given that there were no legislative changes in longer period of time, there have been no manifest developments in this area. One point that can be mentioned here is digitalization process within the real estate cadastre which has positive effect on the speed of the mortgage registration procedure.

REMAINING ISSUES

A situation that is not uncommon in practice, i.e., 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.

The introduction of the institute of a "third party" (in effect "the security agent") is a positive step, but the existing provision does not elaborate on the role of the security agent in relation to the relevant authorities. We believe that, in practice, the security agent will probably need to obtain special authorizations for undertaking actions on behalf of mortgage creditors before the competent authorities.

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 pertaining to the secured claim are too excessive and inadequate for claims other than the loans. Further, such requirements are completely inadequate for future claims.

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 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 Obligations applies, meaning that the lease agreement survives out-of-court foreclosure if the tenant was already in possession of the mortgaged property.

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

As for real estate financial leasing, we point out that it still does not work in practice, as the legal framework has not been sufficiently developed.

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 mortgage 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.

CADASTRAL PROCEDURES 1.70

CURRENT SITUATION

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

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

The exact number of unresolved cases in the first and second instance is yet to be determined, but the assumption is that there are hundreds of thousands of them. The lack of capacity and untimeliness of the staff bring about piling of unresolved cases, and the priority is given to the requests submitted by notaries. The effects of COVID-19 pandemic have additionally contributed to otherwise notable tardiness, regardless of the efforts on digitalization of work of RGA services. Regardless of the potential effects of the pandemic or other unforeseen difficulties, it is essential to improve the organization of services in order to reduce the number of unresolved cases and speed-up the process of decision making as soon as possible.

There is still the problem of slow work of the utility cadastre departments, as well as the non-resolved issue of 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 individually all lines to which the permit refers). Addition problem with the utility cadastre is lack of adequate software which will connect a public notary with the cadastre (for example, it is not possible to file a request for the mortgage registration on the utility lines through the notary's office).

POSITIVE DEVELOPMENTS

In relation to the recommendations of the Council from the 2019 and 2020 White Book, significant improvements were

made in the digitalization of processes. A certain amount of progress has been made in relation to the following recommendations:

- It is necessary to ensure clearer and more transparent instructions on the implementation of laws and regulations with the aim of accelerating and improving the foreseeability of cadastral procedures – RGA website offers instructions, request forms, the possibility to monitor the status of the case and make an appointment with the person who processes the request
- Republic Geodetic Authority should contribute to the harmonization of practices of real estate cadastre offices/utility cadastre departments and strengthen control over their work, to ensure accessibility for the parties that request consultations, act more promptly upon complaints, and allow complaints about the work of utility cadastre departments to be filed via link on the RGA official website - the harmonization of practices was successful in certain cases,
- Software maintenance and improvement has to be more efficient – besides noticeable problems that are rapidly resolved, improvements have been made in the maintenance of the publicly accessible cadastre database.

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

The main problem lies in inconsistent interpretations of applicable regulations by different real estate cadastre services, which are often non-compliant with other laws and bylaws.

The deadlines for delivery of decisions upon clients' requests for registration in the cadastral registry represent one of the most significant problems, as the deadlines are routinely exceeded, due to the fact that cadastre offices are overloaded with unprocessed cases. Even though a certain amount of progress has been made, a number of cases from the past remains unresolved, some of which date years back. The aforementioned also applies to the 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.

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.

A major challenge for the cadastre is the beginning of complete digitalization as of 01/01/2021 – even though it is known for a while that this is the date from which requests cannot be submitted to the cadastre in hard copy, competent bodies and services have neither found effective, accessible nor economical mechanism for submission of requests, especially by natural persons, nor was the general public loudly and clearly informed and instructed on available alternatives.

Speaking of the cadastre of utility lines, it should be noted that it happens in practice that notaries do not have any access to this cadastre, hence cannot obtain a sheet of utility lines, nor they can electronically file a request for the mortgage registration on utility lines. On the other hand, hard-copy submission is not allowed.

FIC RECOMMENDATIONS

- It is necessary to ensure uniform, transparent and clear implementation of laws for further acceleration and foreseeability of cadastral procedures, including how to overcome the problems with registration of utility lines built according to old legislation.
- 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.

- Republic Geodetic Authority should conclude all unresolved first-instance and second-instance cases as soon as possible.
- It is necessary to allow full control of a registration procedure by the parties in the case which was opened by a notary, as it is just a service performed by notaries.
- Establishment of an electronic base for utility cadastre which will 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 folios that are issued from the real estate cadastre).
- It is necessary to register all lines (and rights to them) in the utility cadastre without delay,
- Real estate cadastre must be more accessible to general public and companies, such as, email communication with the real estate cadastre must be more efficient, the cadastre should work harder to make people more familiar with the electronic procedures, anyone should be entitled to easily schedule a face-to-face meeting in the relevant cadastre, etc.
- Software of the utility lines cadastre and a notary's digital platform must be harmonized in order to allow the notaries to file requests for mortgage registration or mortgage release towards the utility lines cadastre, as well as to enable them to obtain sheets on utility lines.
- Online access to real estate cadastre data should be free and unlimited, with real-time update.
- Property sheets in electronic form from Cadastral online database are not user-friendly, especially for plots with several objects, where it is not possible to get an overview of A sheet in which all objects / parts of one plot are listed on the same place. It would be beneficial to improve the format so as to be similar to the the form in which the hard copy property sheets were issued before 2020. This new format (because of which each part of the plot and each building/part of the building must have a separate sheet) has caused excessive fees for some companies who possess over several hundreds of land plots, for example, a huge agricultural site. The fee for sheets in such cases amounts several thousands of euros, given that each sheet is charged separately. Although the e-cadaster evidence has been established, banks and other institutions require the official and original excerpts to be obtained. Hence, this issue must be solved as soon as possible, as it causes significant burdens to the investors.
- Geodetic organizations should be entitled to issue official copies of cadastral plans and cadastral plans of utility lines.

RESTITUTION 1.33

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 have started processing individual requests, but still the impression is that this will take some time.

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

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

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

POSITIVE DEVELOPMENTS

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

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

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

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 that 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 a 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

Amendments to the Labour Law in 2014 led to significant improvements of labour law regulations. At the time, more than 65% of recommendations from previous editions of the White Book were adopted and the labour legislation was significantly adjusted to the needs of the labour market. There is still, however, room for improvement both in respect of the Labour Law in general and separate laws governing this area.

Priority in further reform of the Labour Law should be given to the need to recognize and regulate more flexible forms of work, such as work from home, and internship when it is not part of a mandatory educational program; as well as digitalization and simplifying the very formal manner of communication between the employer and the employee, the complex salary structures, and the calculation of compensation for wages. Additional legislative provisions amendments are needed that regulate employment termination, such as those governing the statute of limitations and notice period, as well as a clear definition of the resolving redundancies procedure.

It is necessary to further simplify and expedite the procedure for the employment of foreigners and labour mobility in general; recognize business activities which, due to their specificities, come with limited options for employing persons with disabilities. Staff leasing and staff leasing agencies' work have been regulated by adopting and entering into force Staff Leasing Act. However, there are still aspects in this area that could be improved. Finally, the COVID-19 epidemic onset highlighted the problems related to insufficiently legally regulated work from home and employers' obligations in the field of safety and health at work.

The continuation of reforms in the field of labour is a necessary prerequisite for creating a business environment in which the Serbian market will attract foreign investments and bolster the opening of new jobs. The HR Committee, by investing its knowledge and experience in the implementation of regulations, has strived to point out the priorities in the need for further improvement of this area.

LABOUR RELATED REGULATIONS 1.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
The Labour Law				
We suggest to prescribe that employee performance is only an option and not the mandatory part of salary. We also suggest the base for salary compensation during leave from work to be equal to the base salary increased for seniority. That would be a great relief to all employers to manage salaries and to have more flexibility when contracting a salary, but also regarding budget planning, while salary structure itself would be much more comprehensible.	2008-2009			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
We propose amendments to the Labour Law in the part regulating vocational training and development. This law should provide for appropriate modalities for the engagement of high school students, university students and other persons outside employment relationship (both in and outside the area of education) in order to acquire practical knowledge and experience in a real working environment, career development and easier future employment. Additional conditions limiting the possibility of such engagement should be removed from the existing provisions on vocational training and development, regardless of the activity of the employer and whether it is the public or private sector. The competent ministry may determine all necessary mechanisms to prevent the misuse of this institute, if this was the reason for imposing restrictions in Article 201. In this respect, in order to develop good and safe practice, it is necessary to harmonize and amend the provisions of the Labour Law so that they form a consistent labour regulation with the provisions of the Law on Dual Education and the Law on the Dual Model of Studies in Higher Education, which regulate the conditions of work practice for high school students and university students.	2016			√
We propose that the amendments to the Labour Law clearly define what are the elements or conditions for determining the base salary and which general act of the employer determines those elements, as well as to determine the conditions for offering an annex agreeing to change the base stipulated salary. Also, we would suggest that the amendments to the Law clearly define whether in the offer for concluding an annex to the employment contract, in order to transfer to another suitable job, it is necessary to explain in detail the "needs of the process and organization of work" that led to the offer for conclusion annex to the contract, i.e. to define by the Law that a detailed explanation is not necessary if the needs of the process and organization of work are real, and if the offered jobs are appropriate and the employee is trained to work on the offered jobs.	2020			√
Introduction of the possibility of editing the employment relationship during the establishment or during employment relationship to partially work outside the employer's premises (not only from home) as well as the possibility of changing the working regime during the employment relationship on a special basis for changing the agreed working conditions. The difference between work from home and remote work should be precisely defined (by workplace or work tools) and relativize the need to define the "workplace" as a compulsory element of employment contracts by introducing f.ex. "Primary place of work" for the case of work outside of employers' premises as well as to specify the mandatory item of the employment contract outside the employer's premises "Compensation of other labour costs and the manner of their determination" because legal certainty and security is necessary. The Occupational Health and Safety Law should define obligations of both the employer and employees for work outside the employer's premises. Work organization flexibility needs to be expanded to include the possibility of introducing overtime, not only in connection with unforeseen circumstances and emergencies. The employer and employees should be free to agree on the reason and purpose of overtime, while employers should be entitled to contract a management fee that would also include compensation for managers' overtime.	2018			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
It is necessary to: (a) extend the statute of limitation periods for the conduct of proceedings (the subjective period of 6 months to be extended to at least one year and the objective period to 3 years), (b) in the event of the employment contract termination, extend the maximum duration of the notice period from 30 to 60 days (c) enable employers to issue decisions in the form of an electronic document determining measures (dismissal or milder measure) or releasing employees from liability, as well as delivery these decisions are executed electronically, (d) the employee's refusal to receive the decision served on the employer's premises as if the act had been delivered, (e) enable the employer to unilaterally release the employee from work during the notice period (when the notice period is prescribed/contracted) with the salary compensation payment in the amount of the employee's basic salary, (f) regulate the procedure of termination of employment due to technological, economic or organizational changes - redundancy, 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 take measures for new employment, etc.	2018			√
For the purpose of keeping pace with trends, solutions and possibilities that the digitalization process entails, it is necessary to amend the Labour Law so as to define an alternative way of administration of rights and obligations arising from employment with the use of electronic documents (decisions' enactments and conclusion of contracts), alternative way of conducting formal communications between the employer and employees electronically, primarily through e-mail or other similar electronic communication channels, and use of the electronic bulletin board, electronic record keeping, etc. Also, we consider it important to amend the Law on Labour-Related Records as regards three key items: setting the document retention period at a maximum of five years from the date of employment termination, explicitly enabling electronic records and use different IT tools for this purpose, and regulating the proper way of disposing of the hard copy employee records.	2016			√
Law on Vocational Rehabilitation and Employment of Persons with Disabilities				
Classify business activities subject to a limited application of the Law, due to their specific nature (e.g. private security, manufacturing, construction, etc.), meaning that in these activities the number of PwD the employer must hire should be calculated relative to the number of employees in jobs that do not require special medical fitness pursuant to the law and/or nature of the business activity and that can be performed by employees with disabilities.	2016			√
The assessment of and the issuing of a decision on working ability should be performed by the same body to accelerate the procedure. We suggest that the procedure and decision-making should be accelerated and the list of documents required by the authorities from the employee be reasonably decreased.	2009			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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's certificate regarding whether an employer, prior to filing a request for a work permit, had dismissed employees as redundant should contain the exact job title of the redundant employee.	2015			√
The labour market test should be excluded in the case of hiring high-ranking managers.	2015			√
In the procedure for issuance of temporary residence permit, it is necessary to shorten the duration of the procedure, reduce the number of the required documents, as well as to enact a relevant bylaw and commence with the implementation of the provision which enables to submit the request for issuance/extension of temporary residence electronically.	2009		√	
Secondment of employees abroad				
Extend the maximum period employees at managerial positions are allowed to stay abroad on the basis of assignment to business trip, without application of the Secondment Law to, up to 180 days in total, in course of a calendar year, instead of the currently applicable 90 days.	2016			√
Allow secondment abroad for the purpose of vocational training also to entities which are not necessarily related to the employer by equity or control.	2018			√
Allow the 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			√
Human capital				
Improvements of the educational system should be continued. To this end, regular contact between the FIC and the Government, the ministers of education, youth and sport, as well as the universities. The FIC and the business community in Serbia are ready to provide support and put their experts at disposal. Based on an analysis of needs of the economy and the real sector, new educational profiles should be created and implemented, and the university enrolment quotas should be adjusted in line with the market needs.	2008		√	

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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			√
Due to COVID-19 situation and upcoming economic effects of it, consider to support employment through reducing employment costs regarding taxes and contributions.	2020		√	

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

In particular, everyday life in the field of labour relations requires improvements or changes to the 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 inconsistent with EU Directives;
- Employers and employees face numerous problems related to the practical application of the Labour Law and

other labour law regulations that are systematically related to the Labour Law. This is a clear indication that it is necessary to amend the provisions of the Labour Law that create doubts regarding their interpretation and application, as well as to amend the provisions whose application requires complicated or lengthy procedures;
- Judicial practice is still inconsistent in terms of application of the provisions of the Labour Law, which is partly a consequence of unclear or vague provisions of the Labour Law.

POSITIVE DEVELOPMENTS

There was no improvement in the previous year, bearing in mind that the 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 impossibility/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 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 expenses incurred in connection with work outside the employer's premises. Namely, employers have doubts regarding the interpretation of the provision of the Law which prescribes that, in the case of work outside the employer's premises, the employment contract should stipulate the so-called compensation for other labor costs and the manner of their determination. The mentioned provision leaves a room for different interpretations regarding whether the employer is obliged to determine by a general act, i.e. to stipulate these costs by an employment contract, or the employment contract could provide for a free will of the parties 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.** When it comes to engaging persons outside employment for the purpose of professional

development, the Labour Law in Article 201 envisages the possibility of engaging persons 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 passing 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, so employers in practice have difficulties with engaging young people, for their work engagement which should be legally secure, and which would include learning through practice. 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 often use the contract on performing temporary and periodical jobs, since its flexible legal nature in a certain manner allows it, although 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.** Mandatory criteria (education, work experience, working conditions and contribution at work) determined by the Law for increasing statutory minimum for annual leave for employers are impractical and administratively burdensome. Instead 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, whereby the amendments to the Law may stipulate that the employer may determine by a general labour act the criteria for annual leave increase.

5. **Modification of the agreed working conditions in order to change the elements for determining the base salary.** Employers have difficulties in applying Article 171 Paragraph 1 Item 5) of the Labour Law, which stipulates that the employer may offer the employee amendments to the Employment Contract (Annex) in order to change the elements for determining the base salary. Namely, in order to eliminate ambiguities and for the purpose of legal safety, it would be necessary to adopt amendments to the Law, prescribing the elements for determining the basic salary. Also, Article 107 Paragraph 1 of the Law determines that the base salary is determined on the basis of conditions, determined by the rulebook, that are necessary for work on jobs for which the employee has concluded an employment contract and the time spent at work. Therefore, it is not clear from the Law whether the elements for determining the base salary are the same as the conditions for determining the basic 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, a large number of employers have not determined or clearly determined the elements or conditions for determining basic 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 transfer 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 basic 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 increasingly important place in the development 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 notion of the "work place" as obligatory element of the Employment Agreement, 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 in a way so that it prescribes that: (a) Annex to the Employment Agreement contracts 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 Agreement 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. As concerns the work outside employer's premises, changes are necessary to the Law on Occupational Health and Safety, which would define obligations of not only the employer, but also employees for such type of work. Furthermore, irrespective of the type of employees' engagement, provisions which regulate overtime are rather restrictive and should be amended in a way so as to enable employers greater flexibility when deciding on introducing overtime and manner of compensating for overtime (through increased salary or days off). This is particularly important when we speak of employees at managerial positions.

9. **Termination of employment due to technological, economic or organizational changes, subjective and objective statutes of limitations, notice period in case of dismissal by the employee** - Labour Law does not regulate clearly: the procedure of termination of employment due to technological, economic or organizational changes -

redundancy. 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). Also, there are numerous doubts related to the redundancy program itself, and it is unclear whether the employer should first change the rulebook on job systematization or adopt a redundancy program. There are also some doubts regarding the application of measures for employment, especially the additional qualification and retraining. Furthermore, subjective and objective statute of limitations for termination of employment contract - six months from the date of learning about the facts / one year from the date of occurrence of the fact, is too short defined, which is especially evident for 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.

10. **Digitalization in labour regulations** – With a view to efficient and flexible administration of labor-legal documents, it is necessary to explicitly define in the Labor Law the equality of the use of electronic documents and electronic signature. Article 7 of the Law on Electronic Documents, Electronic Identification and Trust Services in Electronic Business, prescribes that electronic form is one of the forms of written format, whereby the electronic form is fully equalized with traditional written form, which implies 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 Agreement is concluded in written form, with personal signature of the authorized person of the employer and the employee. Identical is the situation with general labor-legal documents and general solutions, 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 form. Also, the problem is rigid attitude of the Labor Inspectorate on this question – Employment Agreements, decisions on employees' rights and obligations, notice of dismissal by the employee, have to be in paper form, personally signed, while the employers are still required to provide a stamp, although under the Company Law, the stamp is no longer obligatory. Therefore, digitalization in business operations has to be recognized through modernization of the Labor Law provisions which will equitably make it possible:

- to adopt all labor-legal documents (Employment Agreements, Rules of Procedure and other general enactments, individual decisions on the use of annual vacation, leaves, dismissal 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 labor-legal documents on internal employer's online platforms and/or by e-mail correspondence, sending information and documents in electronic way);

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

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 harmonize with the trends, solutions and possibilities brought by the digitalization process, it is necessary to amend the Labour Law in order to define an alternative way of administering employment rights and obligations by using electronic documents and electronic signature (adoption of acts and concluding contracts), alternative formal communication on the relation employer - employee electronically, primarily via e-mail or other similar channels of electronic communication and with the use of electronic bulletin board, electronic records as well as submission of documentation electronically, etc., as ways and forms that would be completely equal to the currently valid forms. Also, we believe that it is necessary to amend the Law on Labour Records in relation to 3 key items: determining the maximum retention period up to 5 years after termination of employment, explicitly enabling electronic records and using various IT tools for this purpose, and prescribing the correct way disposal of employee files made in paper form.

- **Flexible conditions of work outside employer's premises.** Introduction of a possibility of regulating employment when establishing it or in its course so that the employee would work one part of his working time outside the employer's premises (not only from home), as well as a possibility of changing the work regime and concluding and Annex to the Employment Agreement during employment, i.e. without the obligation to conclude the Annex (in case when the transition to work regime outside employer's premises is occasional or short-term, in which case employer's provisions of general enactments would directly apply to conditions of work from home). It is necessary to precisely establish the difference between the work from home and remote work (by the place of work or means of work), and relativize the need to define "Place of work" as obligatory element of Employment Agreement by introducing, for example, "primary place of work" in case of remote work, as well as introduce general principles for the compensation of costs for work outside employer's premises, since legal certainty and security are required. Within the flexible organization of work, possibility of introducing overtime should be expanded so that it is not linked only to extraordinary and unexpected circumstances. The employer and employee should have the freedom to agree on the reason for and purpose of overtime, and the employers should be entitled to contract a manager's fee that would also cover overtime fee for the overtime work of company managers.

- **Rational salary structure and salary compensation.** We suggest that work performance be envisaged only as an option, and not as a mandatory part of earnings. Also, the proposal is that the basis for calculating the salary compensation during the absence from work be equal to the basic salary increased by the seniority pay. This would make it much easier for all employers to manage salaries and have more flexibility in both the salary contracting and the budget planning, and the salary structure itself would be more understandable. Also, we propose that the amendments to the Labour Law clearly define what the elements or conditions for determining the basic salary are and which general act of the employer determines those elements, as well as to determine the conditions for offering an annex which stipulates a change the basic agreed salary.

- **Flexible engagement of students in practice.** We propose amendments to the Labour Law in the part that regulates professional training and development. These amendments should provide for appropriate flexible modalities of engaging high school students, students and other persons outside employment (both in the field of education and outside the field of education) in order to gain practical knowledge and experience in a real work environment, career advancement and easier future employment. Additional conditions limiting the possibility of such engagement should be removed from the existing provisions on vocational training and development, and the same should be provided regardless of the employer's activity and whether it is the public or private sector. The competent ministry may establish all necessary mechanisms to prevent abuse of this institute, if this was the reason for the introduction of restrictions by Article 201. In this regard, in order to develop good and safe practice, it is necessary to harmonize the

provisions of the Labour Law so that they form a consistent labour law regulation with the provisions of the Law on Dual Education and the Law on the Dual Model of Studies in Higher Education, which regulate the conditions of work practice of high school students and university students.

- **More flexible conditions and procedures for employment termination.** It is necessary to: (a) extend the statute of limitation periods for the conduct of proceedings (the subjective period of 6 months to be extended to at least one year and the objective period to 3 years), (b) in the event of the employment contract termination, extend the maximum duration of the notice period from 30 to 60 days (c) enable employers to issue decisions in the form of an electronic document determining measures (dismissal or milder measure) or releasing employees from liability, as well as delivery these decisions are executed electronically, (d) the employee's refusal to receive the decision served on the employer's premises as if the act had been delivered, (e) enable the employer to unilaterally release the employee from work during the notice period (when the notice period is prescribed/contracted) with the salary compensation payment in the amount of the employee's basic salary, (f) regulate the procedure of termination of employment due to technological, economic or organizational changes – redundancy in cases when program is not mandatory, clearly stating the obligations of the employer or whether the employer is obliged to address a representative union within the company and the republic organization responsible for employment, whether he is obliged to apply measures for new employment and how they are being applied, especially additional qualification and retraining, etc.

LAW ON VOCATIONAL REHABILITATION AND EMPLOYMENT OF PERSONS WITH DISABILITIES 1.00

CURRENT SITATION

Since the adoption of the Law in 2009, the goal of the legislature has been to raise awareness and increase employment of persons with disabilities (PwD) in all industries, by applying the same rules to all industries, regardless of their key differences. In that respect, the legislature's disregard of the fact that some industries require full working ability caused significant challenges for employers, which will be difficult to overcome. Having in mind the COVID-19 pandemic, companies may find themselves in an extremely difficult situation to meet all necessary measures for employment of persons with disabilities.

POSITIVE DEVELOPMENTS

There were no changes in the field of PwD employment and inclusion in relation to the previous period. The impression is that neither the legislature, nor the implementing institutions have made this legislative area a focus of their attention.

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 1.33

CURRENT SITUATION

Employment of foreigners is regulated by the Employment of Foreigners Act from 2014 and the Foreigners Act from 2018. Last amendments of both entered into force in May 2019.

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

The Employment of Foreigners Act envisages two types of permits to work: (i) personal work permit, enabling foreigners who have a permanent residence permit, as well as refugees and other special categories of foreigners, to work, be self-employed, and exercise unemployment rights in

Serbia; and (ii) work permit which can be: for employment, for self-employment, and for special cases of employment (seconded staff, movement within the company, independent professionals and vocational training and development). A personal work permit is issued at the foreigner's request, while a work permit (except for the work permit for self-employment) is granted at the employer's request. Necessary documentation and conditions for issuance of the work permit is different for each type of work permit. Work permit is issued by the National Employment Service ("NES").

A foreign national who seeks employment in Serbia may be granted only one type of permit to work at a time, and s/he may only perform the jobs for which s/he was given the work permit. A requirement for obtaining a work permit is a temporary residence permit, or visa for longer stay issued on the ground of employment ("Visa D"). A work permit is issued for the period of validity of the temporary residence permit/Visa D. The work permit based on Visa D is issued for 180 days at most, and for its extension, the foreigner must first obtain temporary residence permit. The Serbian employer may submit the application for work permit for the foreigner, while the procedure for issuance of Visa D is still ongoing, which enables the foreigner to commence with work in Serbia immediately after entering the country. As of 1 December 2020, it is possible to personally submit a single application for issuance/extension of temporary residence permit and work permit. Visa D is issued by the Serbian diplomatic-consular authority in the country of the foreigner's residence or another foreign country that has a Serbian diplomatic - consular mission whereas temporary residence permit is issued by the Foreigners' Office within the Ministry of Interior.

POSITIVE DEVELOPMENTS

During the previous period, the procedures for applying for the permits which regulate foreigners' status in Serbia have been significantly simplified. Namely, the Rulebook on the joint application for issuance or extension of temporary residence permit and work permit ("Official Gazette of RS", no. 144/2020) ("Rulebook"), adopted in November 2020, introduced the possibility of submitting joint application for issuance/extension of temporary residence permit and work permit ("Joint Application"), as envisaged by Article 41a of the Foreigners Act.

As of 1 December 2020, foreigner can submit the Joint Application at the relevant police station. Documents required for the issuance/extension of temporary residence should be submitted together with this application. After determining that the conditions for granting temporary residence are met, the Foreigners' Office forwards the application to the NES to determine whether the conditions for granting work permit are met. Thereafter, the foreigner or the employer, depending on the type of work permit, submits to the NES the required documentation necessary to determine whether the conditions for the issuance of work permit are fulfilled. This documentation can be submitted by e-mail, regular mail, or in person at the NES' headquarters. If the NES establishes that the conditions are met, each authority issues a separate permit. The content of the Joint Application and the submission procedure are prescribed by the Rulebook.

As a further simplification of the procedure, as of 1 April 2021, it is possible to submit an application for temporary residence permit electronically, using the e-Government portal. When temporary residence permit is granted, the Foreigners' Office will notify the foreigner electronically of the date and the location in Serbia where s/he can collect the permit in person. This enables foreigners to apply for temporary residence permit even before arriving to Serbia.

REMAINING ISSUES

According to the provisions of the Employment of Foreigners Act, a work permit for employment will only be issued if the employer had not dismissed employees as redundant within the period of three months prior to the filing the application for work permit for employment. This is confirmed by a certificate issued by the Central Registry of Mandatory Social Insurance. However, in practice, the Central Registry of Mandatory Social Insurance does not monitor redundancies as per the specific work post but can only issue a certificate if no redundancies occurred in the company within the relevant period, irrespective of the specific work post. For that reason, the employer must submit, along with such certificate, a statement that no employee has been declared and dismissed as redundant from the specific work post for which a work permit is requested;

A labour market test is still required for every work permit for employment, including when senior management is employed, which is is impractical, in particular when it comes to hiring senior management;

The one-year maximum period of validity of residence and work permits is too short, especially taking into account

that according to the Employment of Foreigners Act, a work permit may be issued on the basis of an approved temporary residence, which obliges the foreigner to start the complicated and lengthy procedure for extension of residence permit much before its expiration. . Also, although Article 41a of the Foreigners Act stipulates that Joint Application may be submitted electronically or in person, in practice, it is still not possible to submit this application electronically.

FIC RECOMMENDATIONS

- The Central Registry of Mandatory Social Insurance's certificate on whether an employer, prior to filing an application for a work permit for employment, had dismissed employees as redundant should contain the exact job title of the employee who was declared redundant.
- The labour market test should not be a condition for issuing a work permit in case of hiring senior managers.
- It is necessary to shorten the duration of the procedure for issuance of temporary residence permit, allow a longer validity of temporary residence permit and work permit, and reduce the number of the required documents. Also, it is necessary to provide the possibility to submit the Joint Application electronically in accordance with Article 41a of the Foreigners' Act.

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 concluded with a foreign partner; (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. The Ministry of Labour has 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 an annex to the employment agreement regulating the terms of secondment abroad (the mandatory elements of the annex 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 insurance ground in the Central Registry of Mandatory Social 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

The lawmakers adopted the previous recommendation that staff leasing should be regulated by a separate law which would regulate all important issues in this area and be harmonized with accepted international standards (primarily ILO and EU documents), as well as with the legislation of the Republic of Serbia (Labour Law).

REMAINING ISSUES

The Staff Leasing Act prescribes that a beneficiary can engage leased employees who are on a fixed-term employment contact with the staff leasing agency only if the number of such leased employees does not exceed 10% of the beneficiary's total workforce. This provision has many negative effects. Prior to the adoption of the Staff Leasing Act, one of the reasons for staff leasing was that there are industries in which the volume of workload is uncertain, i.e. there are sudden decreases and sudden increases of workload. In such industries, the beneficiary needs to engage leased employees for a fixed-term, during the increase of the workload, and during such times the number of the leased employees the beneficiary needs can easily exceed 10% of the beneficiary's total workforce. With the adoption of the Staff Leasing Act, this can no longer be done because it is not realistic that staff leasing agencies will employ people for indefinite-term in order to lease them to the beneficiaries for a fixed-term. This leads to an increase in the number of persons engaged on the basis of the agreement on temporary and periodical work (directly or through a youth cooperative). Workers engaged on this basis are less protected than leased employees under the Staff Leasing Act (persons engaged based on the agreement on temporary and periodical work are not guaranteed the same work conditions as comparative employees at the beneficiary). Reduced flexibility in engaging staff in Serbia certainly discourages potential and existing investors. Limiting the number of fixed-term employees that a beneficiary can lease from a staff leasing agency practically obviates the need for staff leasing agencies on the Serbian 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 basic salary cannot be less than the basic 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 basic 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 engagement agreement with another employer, is considered a leased employee unless proven otherwise. The Staff Leasing Act, therefore, does not recognize situations in which a beneficiary and another employer have a business cooperation agreement, service agreement, construction agreement etc., on the basis of which the employees of another employer work for the beneficiary or at the beneficiary's premises. The possibility to rebut the presumption ("unless proven otherwise")

does not offer sufficient legal certainty, i.e. it unnecessarily shifts the burden of proof to the beneficiary. Having in mind that the Staff Leasing Act defines staff leasing in detail, and determines who can be considered a leased employee, the staff leasing presumption is unnecessary, and can result in practice in unwarranted misdemeanor proceedings and expose the beneficiaries to unnecessary costs of overturning the statutory presumption.

FIC RECOMMENDATIONS

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

HUMAN CAPITAL 1.33

CURRENT SITUATION

The state of the labour market in comparison to the previous year is pretty dependable on epidemiological situation which is challenging for some industries in particular. The unemployment rate varies across Serbia, reflecting to a great extent the economic conditions in different parts of the country. The lowest unemployment rate was again registered in Vojvodina, which poses a great challenge to employers in terms of recruiting and selecting adequate staff.

What has severely affected the labour market in Serbia, as well as in region and the whole world is COVID-19 pandemic. As of March 2020, the market has drastically changed - the economy is struggling to stay alive and due to state subsidies many companies did not conduct severe layoffs. Those companies that did not apply for the government subsidies are mainly go through restructuring and optimization of resources.

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

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

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

POSITIVE DEVELOPMENTS

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

REMAINING ISSUES

Despite the many efforts of the Government and legislators to put a stop to the harmful phenomena of the grey economy and unregistered employment, they are still present. The number, age structure and qualification of labour inspectors are among the key challenges the state has to

address. Unfair competition, the uneven playing field in the market in various, especially low-profit industries, and a large number of companies that fail to comply with basic legal and fiscal obligations toward employees and the state, as well as unforeseeable labour costs, are a major obstacle to the development of the market and human capital.

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

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

With the current situation and the agreed and planned changes of Labour Law in 2022, there is great need of amendments to be done in various areas.

FIC RECOMMENDATIONS

- Improvements of the educational system should be continued. To this end, regular contact between the FIC and the Government, the ministers of education, youth and sport, as well as the universities. The FIC and the business community in Serbia are ready to provide support and put their experts at disposal. Based on an analysis of needs of the economy and the real sector, new educational profiles should be created and implemented, and the university enrolment quotas should be adjusted in line with the market needs.
- Define the legal framework for the employer-student relation to simplify the implementation of vocational internships in parallel with regular education.
- Define the legal framework for preparing persons with high education profiles to work independently in their profession, regardless of whether they meet the requirements for taking an expert exam and/or taking part in an internship program.
- The National Employment Action Plan should clearly define, redefine and widen the range of educational profiles that are going to be included into the action plan and employment policy, i.e. be attuned to the needs of the market and employers.
- Design a human capital internal migration plan for Serbia to evenly develop underdeveloped regions and lessen the gap in the economic needs of different parts of the country, prevent migration from Serbia and stimulate citizens to search for a better place for life and work in the country, and not abroad.
- Due to COVID-19 situation and upcoming economic effects of it, consider to support employment through reducing employment costs regarding taxes and contributions and thoroughly regulate legislation that's considerers work from home.

SAFETY AND HEALTH AT WORK

CURRENT SITUATION

The outbreak of the infectious disease COVID-19 in March 2020 is the reason for opening certain topics on which the Foreign Investors Council in previous years pointed to the Ministry of Labour, Employment, Veterans and Social Affairs and the Directorate for Safety and Health at Work, and certainly one of those would be work from home and the need to regulate work from home through relevant laws. One of the main reasons why work from home has become so relevant at the time of the outbreak of the infectious disease COVID-19 is the extent to which it is used, all because work from home is perceived as practically the most effective measure to prevent the spread of this infectious disease, at least on workplace.

The current Law on Safety and Health at Work ("Official Gazette of the RS", No. 101/2005, 91/2015 and 113/2017 - other law), but also the draft of the new Law do not contain provisions that specifically regulate issues related to safety and health at work of employees when working from home, nor working remotely. According to the above, the conspicuous legal gap and the risks that employers need to take in order to enable work from home for their employees, with the epidemic of the infectious disease COVID-19, have become even more noticeable.

The rights of employees and employers, obligations and responsibilities of employers and employees when working from home and all actions related to it, these are all issues that should be regulated by the law on safety and health at work because we believe that it is not entirely possible to apply general principles and provisions on different models of work engagement. Finally, regulating this topic by law would lead to the exclusion or at least reduction of the risks that employers take in order to protect employees and business in general.

POSITIVE DEVELOPMENTS

During January 2021, the Directorate for Safety and Health at Work developed and published a Guide to Safe and Healthy Work from Home, with the aim of making it easier for employers and employees to work in a situation caused by the COVID-19 epidemic. Clearly, the great effort that has been made to address this extremely complex topic (from the point of view of labor relations, safety and health at work, psychological and sociological aspect, perspectives of corporate governance, etc.) to a certain extent.

The Guide for Safe and Healthy Work from Home identified the obligations of employers on the topic of safety and health at work which represent the duty of the employer, and also identified guidelines, recommendations and other suggestions for employers. In relation to the employee-employer relationship, we consider the adopted practice (checklist, self-assessment, etc.) and the proclaimed principle of "cooperation" between employees and the employer to be a positive development. The Foreign Investors Council believes that the views of labour inspectors are in line with the views set out in the Guide for Safe and Healthy Work from Home, as well as that legal security and certainty, at least in that part, would not be lacking.

However, the Guide for Safe and Healthy Work from Home, unfortunately, cannot fill the legal gap that exists in relation to work from home in the current regulations of the Republic of Serbia, and for that reason we believe that regulating this topic through law has no alternative.

REMAINING ISSUES

Legal underregulating. At the moment, working conditions from home or remotely are not regulated by law and bylaws. On the other hand, it is uncertain whether the current draft amendments to the Law on Safety and Health at Work would include defining the workplace and working environment for work at home or remotely, defining an injury at work while working from home or remotely, mutual rights and obligations of the employer and employees, as well as conditions for safe and healthy work from home / remote work. In the absence of legal norms, there are no bylaws that would be necessary to regulate more in detail: procedures related to the implementation of preventive measures for safe work from home / remote work; minimum conditions for ergonomic work from home; training of employees for safe work from home / remotely; rules of communication between employees and their managers in working conditions outside the employer's premises; procedure related to injury at work and filling in the injury check-list, in case of injury while working at home or at another location; the procedure for drafting an act on risk assessment for work performed from home or remotely.

Legal uncertainty. The absence of laws and bylaws further leads to legal uncertainty, because employers, even

with the professional support of licensed companies for safety and health at work, do not have enough professional knowledge and previous practice to regulate all the above issues by general acts. Even employers would have professional knowledge and experience in practice, regulating these issues by a general act of the employer would lead to diversity and inconsistency in terms of definitions and in terms of mutual rights and obligations of employer and employees, as well as in terms of the procedures.

Risks related to the control of safe work from home or remote work. In the absence of laws and regulations, the question is raised as to how employers could ensure safety and health at work in the premises where the employee resides and works, since that would be a place of work that is not under the direct control of the employer. Risks of legal uncertainty are especially open in cases when employees would perform jobs outside the territory of Serbia.

Risks related to injuries at work when working from home or at a distance. The Rulebook on the content and manner of issuing the form of the report on injuries at work and occupational diseases ("Official Gazette of RS", No. 72/06, 84/06 - correction, 4/16, 106/18 and 14/19) does not prescribe a code for work from home, and also the existing form of the report on injury at work cannot be applied in the conditions of injury during the work at home i.e. remotely. Also, there is a risk related to the correct determination of the causes and manner of injuring at work when working from home or remotely, given that in that case it would be necessary to provide for the constitutional right to inviolability of the apartment. On the other hand, in regular circumstances when the employee works in the business premises, the employer performs a physical inspection at the location where the injury occurred. Physical insight into the location of the injury is almost necessary in order to correctly determine the cause and manner of the injuring hence this issue opens a challenge for the legislator in relation to finding possible solutions. Also, we believe that the "workplace" in working conditions at home does not include only the work space in the employee's home where the employee performs the contracted work, but also includes the kitchen, dining room and bathroom / toilet.

FIC RECOMMENDATIONS

Adoption of laws and bylaws. In the absence of legal norms, there are no bylaws that would be necessary to regulate in more detail:

- procedures related to the implementation of preventive measures for safe work from home / remote work, control mechanisms for the application of measures for safe and healthy work and mechanisms for determining the causes and manner of injuring when working from home, i.e. remotely (here we primarily refer to the preventive measures related to: ergonomics of work, lighting of the working space, microclimate in the working space, passability, stress management, maintenance of work space, electrical installations, fire protection, prohibited activities and behavior, and the actions of the employee in case of injury at work),
- training of employees for safe work from home / remotely,
- procedure related to injury at work while working at home /remotely and filling in the injury list in case of injury while working at home or at another location,
- clear division of rights, obligations and responsibilities between the employer and the employee, in connection with the application of measures for safe work from home or remote work, as well as in case of injury at work or the occurrence of occupational diseases,
- the procedure for drafting the act on risk assessment for the jobs that are performed from home or remotely. We believe that the kitchen / dining room and bathroom / toilet in the employee's home should be included in the risk assessment, because these are premises that regularly exist in the employer's business premises and that the employee regularly uses them during working hours, hence those premises should also be subject to the risk assessment and measures for prevention / minimization of injuries at work in the circumstances of work from home / remotely.

LEGAL FRAMEWORK

During 2021, significant legislation changes occurred, while the factor that influences the social and legal trends remains pandemic COVID-19 disease caused by virus SARS-CoV-2, which continues to effect legal, social and economic life of all citizens. In accordance with efforts to mitigate economic difficulties that Republic of Serbia is facing, the National Assembly of the Republic of Serbia has passed several important laws aimed to increase liquidity of business entities.

One of the most significant changes in legal system represents the introduction of remote identification as a way of verifying identity when registering a user of a qualified electronic certificate for electronic signature, which has not been possible until now, given that the identification of the user was possible solely with the physical presence of the user. Also, the new Law on Consumer Protection provides new innovation with the aim of improving consumer protection and position in relation to previous solutions.

As the most important novelties introduced into the legal system of the Republic of Serbia, we may point out the following:

- **Law on Consumer Protection** - The National Assembly of the Republic of Serbia passed a new Law on Consumer Protection on September 11, 2021. One of the most significant innovations is improvement of the mechanism of out-of-court settlement of consumer disputes before out-of-court bodies registered in the List of bodies for out-of-court settlement of consumer disputes, licensed by the Ministry of Trade, Tourism and Telecommunications. A significant change relates to the shifting burden of proving of the non-conformity of the goods that occurs within two years from the date of transfer of risk to the consumer, which now falls on the seller.

- **Law on Amendments to the Law on Money Laundering and Financing of Terrorism** – Amendments to the Law on Prevention of Money Laundering and Financing of Terrorism entered into force on December 29, 2020 in order to harmonize provisions of this Law with the provisions of the Law on Digital Assets. The most important innovations are: the change of definitions and introduction of new terms, special provisions related to transactions with digital assets, exemptions from the obligation to collect data when issuing electronic money, establishing and verifying the identity of a natural person through a qualified electronic certificate, specified video identification procedure.

- **Law on Amendments to the Law on Electronic Document, Electronic Identification and Trust Services in Electronic Business** – entered into force on June 1, 2021. The new solutions introduced by this Law concern the introduction of remote identification in process of registration of users of qualified trusted services, as well as the possibility of using the registered electronic identification scheme from the European Union in the Republic of Serbia. The provisions of the Law that apply to the work of public authorities and the provisions on the compliance assessment of means for generating of a qualified electronic signature, i.e. seal, have also been amended.

- **Law on Establishment of Financial Support to Legal Entities for Maintaining Liquidity and Working Capital in difficult economic conditions due to COVID-19 pandemic caused by SARS-COV-2 virus** – This Law entered into force on July 29, 2021. Purpose of this Law is the preservation of the stability of the financial and economic system of the Republic of Serbia in conditions of potential risks due to the danger of spreading the infectious disease COVID-19. This Law regulates the allocation of credit funds to business entities that submitted loan applications to the Development Fund of the Republic of Serbia by December 10, 2020 in accordance with the Decree on Program of Financial Support to Business Entities for Maintaining Liquidity and Working Capital in Aggravated Economic Conditions due to the COVID-19 Pandemic.

- **Law on determining a second guarantee as a measure of additional support to the economy due to the prolonged negative impact of the COVID-19 pandemic caused by the SARS-CoV-2 virus** – entered into force on April 30, 2021. This Law regulates the conditions, procedure, amount and manner of funds for issuing guarantees of the Republic of Serbia in connection with the guarantee scheme defined by this Law. This Law determinates criteria, conditions and the manner of approving loans by the banks, reporting, as well as other issues of importance in connection with the guarantee scheme as a measure of support to the economy, in order to increase the liquidity of business entities.

top

LAW ON BUSINESS 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 Company Law.	2013			√
The provisions in the Company Law that deal with limitations to the authority of a company's representatives should be harmonized with the provisions of the Law on Contracts and Torts.	2011			√
Common practical issues should be resolved, such as regulating members' additional payments, the reduction of the value of the share, etc.	2018			√
Clearly defining reasons for lifting the corporate veil.	2018			√
Corrections of technical flaws in the Company Law should be made to eliminate inconsistencies and provide clear procedures and competencies.	2013			√
The increase in the share capital through debt-to-equity swap (conversion) should be clearly regulated.	2016			√

CURRENT SITUATION

The Law on Companies ("Official Gazette of the Republic of Serbia", Nos 36/2011, 99/2011, 83/2014, 5/2015, 44/2018, 95/2018 and 91/2019) (hereinafter: the Company 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 European Union, Chapter 6 – Company 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 European Union market, simplified procedures and the possibility of establishing new forms of economic entities. The Company 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 European Union.

The main characteristics of the Company 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 Law have been resolved;
- precise determination of certain legal concepts;
- the distinction between joint-stock companies and other forms of business organization and
- single-tier and two-tier management systems.

By the latest amendments to the Company Law, which came into force in 2020, it was introduced the institute of reserved own share of a limited liability company, as well as term, emissions / issuance, registration, clearing of a financial instrument – the right to acquire a share of a Limited Liability Company that may be granted to employees. These amendments also allow the distribution of the remaining profit in the form of payments to the employees of the company by the decision of the General Meeting. These institutes provide an opportunity for the LLC to stimulate its employees to perform their jobs in the best way possible in a way not previously envisaged, by giving them the opportunity to become members of that company, following the example of joint stock companies and economic systems of the European Union and the United States of America.

Proposal of the law on amendments to the Company Law (2021), tends to prevent abuses of by members and director, through the institutes of approval of legal work in which there is a personal interest, and by increasing scope of activity of the General Meeting and control over the director through the availability of data on the amount and structure of the director's remuneration and incentives, as well as to ensure the resolution of such disputes amicably by prescribing that the company is obliged to try to mediate in resolving disputes between a member of the company and the company itself. Proposal of the law on amendments to the Company Law tends to regulate fees in public joint stock companies as well as special rules regarding the encouragement of long-term engagement of shareholders in public joint stock companies.

POSITIVE DEVELOPMENTS

There are no improvements in terms of fulfilment of the recommendations published in last year's White Book, but there are some improvements as a result of the latest amendments to the Companies Law.

Amendments to the Company Law that are in force, contributed to the approaching economic systems that exist in comparative law countries with developed market economies through institutes financial instrument - the right to acquire shares, which is a non-transferable financial instrument issued by a limited liability company that gives the consenting holder the right to acquire a share on a particular day (maturity day) at a certain price and the manner of acquiring this financial instrument - the institute of reserved own shares. This way of stimulation has not existed in Serbia so far, and it has proven to be especially effective in the information technology industry, having in mind that these companies have limited funds in the initial phase of business and therefore are not able provide high salaries to quality staff.

Positive progress has also been made through the BRA's cooperation process with the National Bank of Serbia, the Tax Administration, the Anti-Money Laundering Administration and the market inspection in a manner which enables fast and efficient exchange of information on business entities.

Also, with the introduction of the possibility of founding a single-member and multi-member limited liability company electronically the establishment procedure has been significantly simplified.

REMAINING ISSUES

One of the disadvantages of the Company Law is 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 provisions of the Company Law restricting the powers of representatives to represent the company are still inconsistent with the relevant provisions of the Law on Contracts and Torts, which is sedes materiae for this area.

An issue that still remains unresolved is the situation when a shareholder leaves a company and the additional payments he made are not paid back to him, when this issue is not regulated in the share transfer agreement.

Other inconsistencies of the Company Law include the provision prohibiting a single-member LLC from acquiring own shares, which is contrary to the Company Law's provisions on status changes. Also, the FIC pointed out the need for changing the Company Law, Article 150 in particular, in order to avoid interpretation according to which the value of a share cannot be reduced, so an explicit prescription of this possibility would be a significant improvement.

One of the insufficiently clear institutes of the Company Law is "lifting the corporate veil". When stating the reasons for the application of the related provisions, legislators made a clumsy formulation creating a dilemma on whether those reasons are the only applicable ones or are given exempli causa.

Another issue to be underlined is the increase in a company's share capital through a debt-for-equity swap, provided by Article 146, paragraph 1, item 3 and Article 295. Specifically, the Company Law does not provide a precise explanation in terms of the procedures and conditions of such a swap, and this should certainly be regulated.

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

FIC RECOMMENDATIONS

- Limited liability partnerships (LLPs) should be prescribed by the Company Law.

- The provisions in the Company Law that deal with limitations to the authority of a company's representatives should be harmonized with the provisions of the Law on Contracts and Torts.
- Common practical issues should be resolved, such as regulating members' additional payments, the reduction of share capital of a single-member limited liability company, etc.
- Clearly defining reasons for lifting the corporate veil.
- Corrections of technical flaws in the Company Law should be made to eliminate inconsistencies and provide clear procedures and competencies, harmonizing provisions within the Law itself.
- The increase in the share capital through debt-to-equity swap (conversion) should be clearly regulated.

CAPITAL MARKET TRENDS

1.75

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
The issuance of state and municipal bonds for the financing of infrastructural and other large communal projects, including green bonds, should be stimulated, while IPOs and issuance of corporate bonds in the private sector should be encouraged.	2015		√	
The legal framework for performing operations with financial derivatives and more complex financial instruments should be improved, including in relation to establishment of regulatory framework in connection with Employee Share Plans, and crowd financing and its manifestations.	2015		√	
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			√
Establish a close and timely dialogue with business associations and other relevant financial actors on prioritizing measures for capital market development in Serbia.	2020		√	

CURRENT SITUATION

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

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

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

The COVID-19 pandemic outbreak also had a negative impact on the Serbian capital market, where the Belgrade Stock Exchange recorded a notable drop in turnover in 2020, according to publicly available data.

POSITIVE DEVELOPMENTS

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

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

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

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

We would like to commend most recent amendments to the Law on Capital Markets, also enacted with the aim to simplify the procedure for compiling a prospectus for issuing debt securities, which can result in reliving issuers from

some unnecessary administrative burdens.

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

Although this is not new, significant event was the issuing of RSD 2.5 billion worth of dinar bonds by EBRD in December 2016, which boosted investors' confidence in Serbia's capital market.

- The legal framework for performing operations with financial derivatives and more complex financial instruments should be improved, including in relation to establishment of regulatory framework in connection with Employee Share Plans, and crowd financing and its manifestations.

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.

Additional developments:

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

Moreover, we welcome the adoption of the National Strategy for the Development of the Capital Market for 2021 – 2026 period, which may have an important impact on growth of the capital market in Serbia.

We note the readiness of competent authorities, especially the Securities Commission and the Central Securities Depository and Clearing House, to enable the further growth of the capital market in Serbia by adopting the required by-laws and issuing relevant opinions. In this context, we commend the round table about the development of the capital market in Serbia organised last year.

REMAINING ISSUES

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

Although state bonds are being successfully issued in the practice, municipal bonds are still rare, and these bonds were not traded on the secondary market. The same applies for the corporate bonds market, which is still in development. Certain types of bonds are still not present on the market, such as so-called green bonds.

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.

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

FIC RECOMMENDATIONS

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

1.20

WHITE BOOK BALANCE SCORE CARD

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

CURRENT SITUATION

During 2019 and in the first quarter of 2020 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.

Important institutions and changes in the legal system, such as public bailiffs, notaries public, a new organizational scheme of courts, and the regulation of the right to a trial within a reasonable time, have already been legally established and are functioning on a stable basis.

The Law on Civil Procedure (RS Official Gazette Nos. 72/2011, 49/2013, along with the Decision of the Constitutional Court 74/2013 and the Decision of the Constitutional Court 55/2014, 87/2018 and 18/2020) now applies to a substantial number of active judicial proceedings, so there is not a significant number of active judicial proceedings to which the previous Law applies. The latest amendments to the Law on Civil Procedure, adopted in 2020, concerned exclusively inclusion of paragraph 3 to Article 355 of the Law on Civil Procedure (the article of the law that regulates the obligatory elements of the verdict), while other provisions of the Law on Civil Procedure were not amended in any way.

The Law on Enforcement and Security (RS Official Gazette No 106/2015 and 106/2016 - authentic interpretation,113/2017- authentic interpretation and 54/2019) has not been significantly changed.

The number of courts established by the Law on the Seats and Territorial Jurisdictions of Courts and Public Prosecutor's Offices (RS Official Gazette No 101/2013) from 1 January 2014 remains unchanged, so there are 66 basic courts, 44 misdemeanour courts, 25 high courts, 16 commercial courts and 4 appellate courts.

The Law on the Protection of the Right to Trial within a Reasonable Time (RS Official Gazette No 40/2015), which entered into force on 1 January 2016, is increasingly applied in practice, having in mind that courts are still overburdened with cases (which has already become a chronic problem of justice), especially in civil litigation, which often leads to breaches of adjudication deadlines.

During 2021, a Working Group for Amendments to the Law on Civil Procedure was formed, which in May 2021 presented a draft of a new Law on Civil Procedure. Although the draft has made a positive step forward in certain areas (relief of courts in so-called mass proceedings, electronic submission of submissions), criticism of a certain part of the general, but also of the professional public regarding certain proposed legal solutions, led to the draft being returned for revision by the Working Group (this primarily refers to the provisions on payment of court fees which prescribed that all submissions for which fees are not duly paid are considered withdrawn).

Dispute Resolution

Certain provisions of the Law on Civil Procedure, such as simplified rules on the service of court documents, the shortening of the evidence-producing procedure, the equal treatment of the parties (i.e. setting the same deadline for the submission of and response to the legal remedy), the expansion of the circle of representatives of parties in proceedings, and the reduction of the threshold for the submission of a review, were all met with positive reac-

tions from courts and parties, and their application in practice is widespread. On the other hand, some of the solutions envisaged by this law have not been applied in practice even after several years of its implementation. Thus, subpoenas and other information are still not delivered by email, and the use of audio and video equipment in hearings is rare because courts are not adequately equipped.

Appellate courts do not comply with the deadlines for deciding on appeals. The new law requires setting a deadline to complete the main hearing (a concept aimed at ensuring that evidence is produced in a time-efficient manner), but in practice judges either fail to comply with the set timeframes or set unreasonably long timeframes, of two or more years.

In accordance with the Legal Practitioners Law, the Bar Academy has been introduced as a special body established by the Bar Association of Serbia, responsible for the professional education and specialization of attorneys and graduate lawyers, but its work so far has not been noteworthy. Ever since its establishment the Bar Academy has organized seminars only sporadically, but in the past year it has intensified its activities, primarily by organizing lectures and professional trainings for lawyers and law graduates, and today we can say that the situation has significantly improved.

During the declared state of emergency due to the COVID-19 pandemic, the courts were obliged to postpone hearings except in the cases of urgent proceedings (interim measure proceedings etc.), so the courts operated with the reduced capacity. After state of emergency has been lifted the courts continued to operate on the normal basis, although certain limitations are still in force, so in certain instances a number of people in courtrooms has been restricted.

POSITIVE DEVELOPMENTS

All courts in Serbia have established online databases showing the status of ongoing cases, which has facilitated access to information on the status of cases. The databases are regularly updated, so in most situations it is possible to promptly obtain information on the status of a case. From 2014, when the Commissioner for Information of Public Interest and Personal Data Protection banned any processing of data contrary to the Law on Personal Data Protection, database search by personal/ business names of parties is no longer possible, and there are no signs that it will be introduced again.

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 request for a revision 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 (amounts calculated according to the median exchange rate of the National Bank of Serbia (NBS) on the filing date of the lawsuit).

Enforcement

The new authentic interpretation of Article 48 of the Law on Enforcement and Security, issued by the National Assembly at the end of 2017, was a last significant development in the application of this Law. According to the interpretation of the Parliament, the provisions of the Article 48 should be understood in a way that the legal term "transfer" of a claim or obligation also encompasses the assignment of a claim or obligation. The "transfer" of a claim or obligation has a general meaning and 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. Therefore, the "transfer" of a claim or obligation should be proven by a public or certified document, or, if this is not possible, a binding or final decision rendered in civil, misdemeanour or administrative proceedings.

In this way, the problem in practice has been finally resolved. Specifically, entities that used to buy claims, and subsequently initiate enforced collection proceedings, were facing problems when courts denied their enforcement motions because of the misinterpretation of the provisions of the Article 48 and because there was no uniform understanding of the concept of the "transfer" of claims.

Electronic auction

Starting in 2020, public auctions in the enforcement process are conducted exclusively electronically through the website of the Ministry of Justice. The system is quite simple and intuitive, and all that is needed is to have a qualified electronic signature. The system should improve transparency and prevent abuse. All participants are anonymous.

Payment of court fees

During 2021, the Ministry of Justice enabled the payment of court fees through the ePayment portal. Payment is made by payment and credit cards, and the court automatically

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

REMAINING ISSUES

Education of judges and better mechanisms for the liability of judges in wrongful decisions.

The specialization of the portfolio of judges should be introduced in an efficient and definitive manner. Also, case files should be made more accessible to all interested parties and the use of electronic means for recording or photographing the case file should be facilitated to save the courts' and parties' resources, respectively. The hearings should be set in shorter time periods, and the length of appellate proceedings in practice should be aligned with legal provisions.

Flexibility of the timeframe and deadlines for certain actions.

Electronic communication between the parties and the court is still not possible due to the lack of clear regulations and by-laws in this field, as well as the lack of funds necessary for the technological equipment for the courts. The timeframe, although potentially very promising in terms of an efficient completion of litigation, is not flexible enough, since litigation is often unpredictable, and legal possibilities for extending deadlines are insufficient. On the other hand, judges either fail to comply with the timeframe or set unreasonably long timeframes, of two or even more years, which again contributes to the prolongation of proceedings and defeats the purpose of the concept of procedural timeframes. Some of the deadlines are unrealistically short, and the deadline for providing evidence is too strict, which may lead to abuse by parties.

Amendments to the Law on Civil Procedure enacted in 2020 fail to address the subject issues.

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

Article 204 of the Law on Civil Procedure, which provides the possibility to complete a litigation case 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 – according to which the respondent could be obliged to pay the assignee at the request of the claimant. However, such reasoning is not uniformly accepted by the entire jurisprudence, which leads 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. Finally, even though Article 204 was amended with the previous amendments of the Law on Civil Procedure, only time will show whether the envisaged 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 the case of a failure to comply with the deadline for submitting an objection or appeal in the procedure of contesting the decision on enforcement based on a directly enforceable title. Although the scope of the application of this concept has been significantly narrowed, abuse of this concept can be reasonably expected. Also, it is not clear why the legislature has foreseen the application of this concept only in the enforcement procedure based on a directly enforceable title.

The Law on Enforcement and Security does not prescribe what happens with the paid advance costs in a situation 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, which in some cases may be extremely high, is not acceptable.

Although the new Law explicitly stipulates that extraordinary legal remedies may not be used in the enforcement procedure, the Law itself has in fact introduced an extraordinary remedy in the enforcement procedure. In a situation where the decision dismissing an appeal is based on the facts which are disputed between the parties and which pertain to the claim itself, the enforcement debtor may initiate a litigation proceeding declaring the enforcement inadmissible within 30 days of receipt of the decision dismissing the appeal. Even though litigation will not postpone enforcement, it is a further procedural burden on the enforcement creditor.

As mentioned before, the concept of postponement has been restored to the enforcement procedure. Although the post-

ponement 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 broadly set, 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.

FIC RECOMMENDATIONS

- Additional education and specialization of judges and the introduction of better mechanisms for the liability of judges in wrongful decisions.
- 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.

ARBITRATION PROCEEDINGS 1.33

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.	2016			√

CURRENT SITUATION

The regulatory framework for arbitration proceedings in Serbia is comprised of the Law on Arbitration 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 and the fact that Serbian courts rarely annul arbitration decisions, Serbia should be perceived as an attractive arbitration destination.

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. 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. Also, 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 court practice and therefore relevant judicial 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

1.44

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Regulate the issue of delivery in bankruptcy proceedings in a way to make it faster and more efficient and to specify the provisions related to the finality date and starting date for the implementation of the reorganization plan so that all participants can know with certainty when the adopted plan begins to be implemented.	2016		√	
Regulate additionally the position of secured and pledged creditors in a way that provides the two-instance procedure with respect to their settlement from the sale of pledged property.	2016		√	
To regulate in detail the procedure of electronic sale, if possible, by following the example from the Law on Enforcement and Security.	2020			√
Due to the COVID-19 pandemic, to consider legal regulation of digitalization process in operations of creditors' bodies and communication between bankruptcy bodies.	2020			√
Stipulate that the opening of bankruptcy proceedings produces effects as of the date of publishing the notice of the opening of bankruptcy proceedings in the Official Gazette.	2017			√
The provisions on automatic bankruptcy in the case of a debtor's permanent insolvency should be incorporated into the bankruptcy regulatory framework, but in a form that would be in accordance with the Constitution of the Republic of Serbia.	2012			√
Stipulate the possibility and procedure for amending the adopted reorganization plan.	2016		√	
Regulate the procedure of personal insolvency either by amendments to the current Law on Bankruptcy or the adoption of a separate law.	2016		√	
To establish electronic sale of debtor property	2020			√

CURRENT SITUATION

According to data available on the website of the Bankruptcy Supervision Agency, as of 1 July 2021 there were a total of 1,808 pending bankruptcy proceedings under way 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 jurisdiction of the Deposit Insurance Agency. The average duration of the procedures initiated under the Law on Bankruptcy Proceedings is about 3 years and 10 months, while average duration of the proceedings initiated under the Law on Bankruptcy is about 1 year and 8 months.

In the first six months of 2021 there were 178 bankruptcy proceedings initiated. This means that approximately 29 bankruptcy proceedings were averagely initiated per month. Compared to 2020, when the monthly average was 24 initiated bankruptcy proceedings, the increase in the number of initiated bankruptcy proceedings is noticeable. That number is still significantly below the monthly average of 80 initiated proceedings in 2012. The grounds for such a decrease in initiated bankruptcy proceedings 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.

Public consultations on the Draft Law on Amendments to the Law on Bankruptcy as well as on the Draft Law on Amendments to the Law on the Bankruptcy Supervision Agency, prepared in 2020, were held from 15 January 2021 to 3 February 2021. The drafts should enter the procedure of discussion

and adoption before the National Assembly of the Republic of Serbia during this year. These are the fifth amendments to the Law on Bankruptcy since its entry into force in early 2010.

Additionally, the Ministry of Economy has formed a working group intending to prepare a draft of a law that will regulate (previously introduced then abolished) the bankruptcy of entrepreneurs, following the Program for resolving problem loans for the period from 2018 to 2020 of the Government of the Republic of Serbia.

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

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

POSITIVE DEVELOPMENTS

In addition to the improvements indicated in the previous edition of the White Book made by the last amendments to the Law on Bankruptcy at the end of 2018, given that a new change in bankruptcy regulations is expected in the coming period, we can point out to certain potential improvements that are the subject of the Draft Law on Amendments to the Law on Bankruptcy and the Law on the Bankruptcy Supervision Agency.

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

Improved position of secured and pledged creditors

In the previous edition of the White Book, it was pointed out that one of the remaining problems related to the lifting of the ban on enforcement against pledged property in the reorganization procedure was the provision according to which the bankruptcy judge would not make a decision on lifting the ban on enforcement if the bankruptcy administrator proves that pledged property is crucial for reorganization of the debtor or for the sale of the bankruptcy debtor as a legal entity. It is pointed out that this wording gives the bankruptcy administrator the opportunity to avoid lifting the enforcement ban because it seems that the bankruptcy administrator can easily prove that some of the property is necessary for reorganization or sale of a legal entity, while a secured creditor can hardly prove otherwise. Additionally, one of the recommendations in the last year's White Book was to additionally restrict possibilities for banning enforcement against the bankruptcy debtor's property during the procedure of the adoption of a pre-packaged reorganization plan, in order to prevent bankruptcy debtors from averting an enforcement settlement over an indefinite period of time and without the support of the majority of creditors through multiple consecutive bankruptcy filings.

The proposed amendments to the Law on Bankruptcy envisage the introduction of the authority for a bankruptcy judge to make a decision 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. It is additionally proposed that the bankruptcy judge may, when making this decision, request the opinion of an expert whether the pledged property is crucial for the reorganization.

If the proposed amendments to the law are adopted, the possibility for the pledge and security creditor to get settlement from the value of the pledged property within the bankruptcy proceedings or outside of it, will be significantly improved, and the possibility for abuse will be at least partially reduced in terms of multiple submission of a pre-prepared reorganization plan with a proposal for determining the measure of prohibition of enforcement against the pledged property of the debtor.

Additional increase of transparency and efficiency of the proceedings

Amendments to the Law on Bankruptcy have been proposed in order to expand the principles of publicity and information, to collect, process and analyze statistical data related to bankruptcy proceedings and now, in addition to allow all creditors to explicitly request and receive all information related to the bankruptcy debtor, on the course of the bankruptcy procedure, on the property and management of the property of the bankruptcy debtor and all state authorities have the obligation to submit to the bankruptcy administrator data on the property, rights and interests of the bankruptcy debtor, free of charge. Also, it is proposed to introduce the sale of the bankruptcy debtor's property electronically, through the portal of the authorized organization for the sale of property. It is proposed to shorten the deadline for filing bankruptcy claims from 120 to a maximum of 60 days, as well as to shorten the deadline for scheduling hearings to decide and vote on the reorganiza-

tion plan from 90 to 60 days. In addition, the draft Law on Amendments to the Law on the Bankruptcy Supervision Agency proposes, among other things, the addition of two new articles, which regulate the implementation of actions in bankruptcy proceedings through an electronic portal, and collection and statistical processing of the data related to bankruptcy proceedings.

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

REMAINING ISSUES

As mentioned in section related to positive developments, the proposed amendments to the Law on Bankruptcy, if adopted, would significantly resolve the problems of secured and pledge creditors regarding possible abuses of legal gaps by bankruptcy debtors regarding the rendering and revocation of ban of enforcement against the pledged property of the debtor, especially in the procedure initiated on the basis of a pre-packaged reorganization plan.

However, the proposed amendments to the law do not cover all the problems pointed out in previous editions of the White Book, so we hope that this will be done in the coming period.

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, because it may happen that a bankruptcy debtor's business activity is not on the expected level after the adoption of the plan and therefore 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.

We also underline the problem with the procedure of 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 secured and pledge 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 as decided by the bankruptcy judge of first instance, and no appeal is allowed against this decision of the court. The legal solution which envisages the right to appeal for unsecured creditors may seem unfair, while secured and pledge creditors are not only deprived of a second-instance review of the legality of the decision of the bankruptcy administrator, but also of a first-instance review.

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. In order to eliminate uncertainties, it is recommended that the opening of bankruptcy proceedings produce effects as of the date of the publication of the notice of the opening of bankruptcy proceedings in the Official Gazette.

The huge number of companies that have been insolvent for a long time hinders economic development, so although the Constitutional Court of the Republic of Serbia has declared automatic bankruptcy unconstitutional per its decision in 2012, we consider it reasonable to find the appropriate legal solution which would enable a kind of automatic bankruptcy proceedings in the case of permanent insolvency.

One of the outstanding issues where no progress was seen is that of personal insolvency. Specifically, we believe that the resolution of this issue would benefit both creditors and insolvent debtors. The existing options available to creditors regarding insolvent debtors who are natural persons do not lead to the most favourable collective settlement. On the contrary, they result in the settlement of the claims of some creditors through some kind of enforcement procedure, while other creditors, in most cases, do not have any possibility to settle their claims with over-indebted natural persons. In that sense, we consider that the introduction of the concept of personal insolvency would ensure creditors higher settlement amounts, while at the same time protecting the integrity and basic needs of over-indebted individuals.

Finally, the situation caused by the COVID-19 pandemic, which duration is uncertain, definitely imposes the need for increasing digitalization in the field of court proceedings and especially in bankruptcy proceedings, which often require the presence of a large number of people at hearings, meetings of creditors, public sales, etc. In that sense, it would be useful to regulate in more detail the procedure of electronic sale, as well as the way of functioning of creditors' bodies and communication between the bodies in bankruptcy procedure electronically.

At the end, many other questions arise with regard to 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, paragraph 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 the issue of delivery in bankruptcy proceedings in a way to make it faster and more efficient and to specify the provisions related to the finality date and starting date for the implementation of the reorganization plan so that all participants can know with certainty when the adopted plan begins to be implemented.
- Regulate additionally the position of secured and pledged creditors in a way that provides the two-instance procedure with respect to their settlement from the sale of pledged property.
- To regulate in detail the procedure of electronic sale, if possible, by following the example from the Law on Enforcement and Security.
- To consider legal regulation of digitalization process in operations of creditors' bodies and communication between bankruptcy bodies.
- 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.
- The provisions on automatic bankruptcy in the case of a debtor's permanent insolvency should be incorporated into the bankruptcy regulatory framework, but in a form that would be in accordance with the Constitution of the Republic of Serbia.
- Stipulate the possibility and procedure for amending the adopted reorganization plan.
- Regulate the procedure of personal insolvency either by amendments to the current Law on Bankruptcy or the adoption of a separate law.
- To establish electronic sale of debtor property.

INTELLECTUAL PROPERTY

1.20

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
COVID-19: - The Customs should enable full electronic communication; - The software operated by the IP office should be enchased, so that it can enable full electronic communication, along with the changes of the Law on Trademarks, if it imposes hindrances for such digitalisation. - Use the opportunity this opportunity to amend the provisions of the Law on Trademarks that regulate exhaustion of rights.	2020		√	
State authorities should enhance efforts to combat online copyright infringements, especially with respect to the software, music and film industries.	2010			√
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 beginning of 2021, a draft law on new amendments to the Law on Patents was published, and a new Law on the Protection of Confidential Information was passed. 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 and 2019);
- 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, videograms, 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);
- The Law on Special Powers for the Efficient Protection of Intellectual Property Rights (2006, amended in 2009);
- The Criminal Code (2005, amended in 2009, 2012, 2013, 2014,2016 and 2019);
- The Customs Law (2010, amended in 2012, 2015, 2016, 2017, 2019 and 2020); and
- The Law on Optical Discs (2011).

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

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

- Registration of changes for multiple trademarks at once, even though the Law on Administrative Fees envisages payment of lower administrative fees in case of multiple registrations;
- Requesting validity certificates for internationally registered trademarks; and
- 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 Law on Copyright introduced provisions that regulate software interoperability and it granted new rights to the creators of databases. Latest amendments seem to ensure more transparency in regard to the activities of collective management organisations, through more detailed and stringent procedures of fee determination, and transfer of management authorisations from the organisations' founders to their members in line with their natural position of stakeholders in this area.

The Law on Trademarks introduced the opposition system during the trademark examination procedure. This partially slowed down the registration procedure. However, the IP

Office will keep on examining both absolute and relative grounds for refusal itself, as well. In terms of the procedure before the IP Office, the online portal was improved, and e-filling services are made easier. 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. Improvements regarding the length and quality of court proceedings through the creation of special court panels for intellectual property within the Commercial Court and the Higher Court in Belgrade are now clearly visible, with first-instance proceedings lasting up to a year on average.

The court specialisation will also facilitate the standardisation of judicial practice in the field of intellectual property rights.

Despite the pandemic, the number of inspection controls on the basis of intellectual property protection has increased (by 20%) and the number of seized goods suspected of violating these rights increased (by 10%). In addition, there was an increase in domestic trademark applications, compared to 2019.[1]

REMAINING ISSUES

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

Despite the fact that the relevant intellectual property legislation has already been in place in Serbia for several years, the efficiency of its enforcement is still not satisfactory. The authorities are still reluctant to apply the reasoning in IP matters that was 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 a high-tech crime need more human and technical resources to be as productive as necessary.

1 Institue Anual Report for 2020

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 in paper). Use this opportunity to amend the provisions of the Law on Trademarks that regulate exhaustion of rights.
- Cybercrime:
  - State authorities should enhance their efforts to combat online copyright infringement, concerning the software, music, and film industries.
  - The Government needs to provide more resources to the courts, prosecutors and police units dealing with cybercrime.
  - Adoption of further amendments to the Law on Copyright and Related Rights in terms of TV broadcasting and re-transmission, in line with the changes of EU SatCab Directive passed in 2019.
  - Amendments to the Criminal Proceedings Law and related legislation with regards to cybercrime.

PROTECTION OF COMPETITION

1.44

COMPETITION LAW

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Adoption of the new Competition Law as soon as possible	2020			√
In order to enhance transparency and legal certainty, the Commission should issue clear guidelines and instructions containing the manner of application of certain provisions of the Law, with the involvement of interested parties in commenting proposed documents.	2010		√	
The fees in the Tariff Rules should be decreased to a reasonable sum, especially in the merger control area.	2009			√
The Commission should publish issued opinions and decisions on individual exemptions, 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			√
The Commission should invest more resources into further digitalisation of its processes in order to ensure undisrupted and efficient work in the COVID-19 pandemic.	2020		√	
Judges of the Administrative Court should complete advanced training in both competition law and economics. All rulings of said court should be made publicly available, and explained in detail in terms of the substantive issues of the Commission's decisions.	2010			√
The Commission must allow legitimately interested third parties to comment on procedures which affect their business, for the complete and correct determination of facts.	2019			√
The Commission's practice should be consistent with respect to all market players. 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.	2017		√	

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 the Submission of Merger Notifications ("Merger Control Regulation") in 2016.

In 2020, there were no developments in the field of the adoption of the new law and bylaws that started in 2017, most likely due to the coronavirus pandemic.

Given that the annual report of the Commission has not yet been published at the time of writing this text, the information below is presented in accordance with the information available on the Commission's official website. The number of notified concentrations dropped significantly due to a general decline in economic activity caused by COVID-19 pandemic. Out of 106 resolved concentrations, 103 were cleared in summary proceedings, one was cleared after

Phase III in-depth investigation while the Commission opened three Phase II in-depth investigations.

The Commission was very active in enforcement of competition rules in 2020 as it initiated nine new investigations in total. The Commission has continued the trend of launching investigations after conducted sector inquiries and analysis of specific conditions on the relevant markets. It is noticeable that the Commission put special emphasis on resale price maintenance since the Commission launched even six new resale price maintenance investigations. Two investigations are initiated against manufacturers/wholesalers of milk and beer and their retailers on the market of sale of daily fast-moving consumer goods. The Commission started three separate investigations against major manufacturers/wholesalers and their significant customers/retailers on the market for sale of consumer electronics. The Commission opened an investigation against wholesaler of motor vehicles and its distributors/retailers on the market for sale and maintenance of motor vehicles as well. The Commission continued the trend of opening investigations for abuse of dominance on the market for provision of bus station services since it had already fined local bus station services operators for this type of infringement. The Commission has kept an accent on ex officio examination of concentrations that were implemented without the clearance of the Commission. This time the Commission opened an investigation against a pharmacy chain owned by natural persons for the alleged implementation of a concentration without the approval of the Commission based on a concession agreement. It is an indicator that the Commission closely observes all concentrations falling within its scope irrespective of the size of an acquirer and a target, their ownership, and the legal basis of the concentration.

The Commission imposed fines in four restrictive agreements cases, one fine in an abuse of dominance proceedings. The Commission terminated two antitrust proceedings in 2020 for resale price maintenance against numerous smaller retailers having a weaker market and financial power who could not influence the content of restrictive resale price provisions imposed by the suppliers due to its weak bargaining power. This is a significant step towards aligning the practice of the Commission with the fining practice in the EU case law in resale price maintenance cases.

The Commission's fees have not changed and they are still very high in the area of merger control.

POSITIVE DEVELOPMENTS

There is a noticeable improvement in the number of opened investigations and the Commission resumed trend of opening investigations after sector inquiries and analysis of the conditions of competition on the relevant markets.

In 2020, the results of sector inquiries:

- for the fast-moving consumer goods market for 2017-2018,
- for the rail freight transport for 2016-2018, and
- for the wholesale market for synthetic mineral fertilizers for 2017-2019 were published.

The Commission should be praised for including the representatives of the World Bank in the work on the sector inquiry for the rail freight transport within the Project for improvement of business environment in Serbia by which cooperation of the Commission and business environment is strengthened. However, the Commission in the sector inquires evidently does not present clear conclusions about possible competition law infringements (except many useful economic parameters) which prevents market undertakings to act preventively and comply their behaviour with competition law.

In 2020, the Commission continued making progress in competition advocacy and public relations. The Commission regularly informs the public on its activities, and publishes a great majority of its decisions on its official website. However, 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. The cause for particular concern is that the Commission in 2020 stopped publishing decisions in individual exemption proceedings (in 2020, no single decision in individual exemption proceedings was published). The Commission published on its webpage a video about the possibility of usage of leniency programme with the aim of further application of this institute in practice.

The Commission has published a guidance on the parties to concentration and merger filing thresholds. It clarified who is considered a party to a concentration and how merger filing thresholds are calculated, since these questions raised significant doubts in practice.

REMAINING ISSUES

Relevant court 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. The entire lack of opinions and individual exemptions published represents a step back given that this poses a significant obstacle to transparency and free access to information on key decisions of the Commission. Another shortcoming is the fact that the database of the Commission's decisions does not allow for advanced search (with more detailed criteria). Additionally, the Commission does not publish information on submitted initiatives, even after the decision on such initiatives have been made. Annual reports are published with delay.

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 in 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.).

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 for the assessment of a concentration. If the Commission uses its broad discretionary powers in requests for additional information, the Commission must elaborate the aim and purpose of the requested information and its relevance for the assessment of the concentration.

As for dawn raids, the Commission's decisions on dawn raids still lack explanations of reasonable suspicion that evidence will be removed or altered, which is a statutory condition for carrying out dawn raids. 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 regards to its previous practice in certain cases, without proper reasoning for doing so.

On the other hand, judges of the Administrative Court 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 a 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 of practices, while it also jeopardizes further appeal proceedings in cases when an extraordinary legal remedy is lodged. A detailed reasoning of the decisions of the Commission and the court, with a 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 the position to misuse its powers and independence.

As for the leniency programme, the Commission continued efforts concerning the promotion and development of this institute by publishing the video on its website to acquaint market participants with the possibility of using the leniency programme. However, the use of this institute is unlike in the EU still hardly noticeable in practice and is still fairly underdeveloped.

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 a clear and timely guidance from the Commission in respect of future practices, which still do not exist, i.e. are not published.

It is noticeable that the Commission has been applying a more complex methodology in analysing the individual exemption of restrictive agreements, It is essential that complex analysis in individual exemption proceedings should not adversely affect the efficiency of the Commission's decision-making process, in terms of avoiding any unjustified delay. In practice, the review period of individual exemption requests is

often prolonged beyond the 60 days deadline as envisaged by the Competition Law (and in some cases even lasts for 4-5 months). This is causing practical problems to 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 several years ago. In the last 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 Foreign Investors Council.

Finally, 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 a 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 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 a significant progress with regards to previous situation.

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 fees in the Tariff Rules should be decreased to a reasonable sum, especially in the merger control area.
- The Commission should publish issued opinions and decisions on individual exemptions, i.e. to altogether improve transparency and predictability of decisions.
- The Commission should issue publications of the relevant definitions of product markets grouped by industries every six months, with the aim of harmonizing practice.
- Sector inquiries should contain more precise findings related to possible infringements of competition and competitive concerns to enable market participants to immediately comply behaviour in accordance with the findings of the Commission.
- Judges of the Administrative Court should complete advanced training in both competition law and economics. All rulings of the Administrative court and the Supreme Court of Cassation should be made publicly available, and explained in detail in terms of the substantive issues of the Commission's decisions.
- The Commission must allow legitimately interested third parties to comment on procedures which affect their business, for the complete and correct determination of facts.

- The Commission's practice should be consistent with respect to all market players with detailed reasoning in relation to exceptions from the previous practice and the EU practice. In merger control cases, requests for additional information must be related to the assessment of the concentration having in mind broad discretionary powers of the Commission. Considering the penal nature of decisions in the area of competition protection and the significant powers of the Commission, predictability as well as consistency and legal certainty are of crucial importance for all market players.

STATE AID 2.60

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Increasing and strengthening personnel capacities of the CSAC.	2009	√		
Securing a timely adoption of the relevant bylaws that are aligned with the EU acquis (especially with regards to companies in the process of privatization), as well as a proper implementation of the Law in the area of transparency (registries, reports).	2020	√		
Effective state aid control – utilizing different mechanisms envisaged in the Law in order to monitor granted state aid and also impose measures for incompatible state aid.	2016		√	
Consistent application of state aid rules, EU standards and practices and the harmonization of the fiscal schemes with the EU acquis.	2011		√	
Continued advocacy efforts towards aid grantors, beneficiaries and third parties alike.	2020	√		

CURRENT SITUATION

The legal framework regulating the granting of state aid in the Republic of Serbia consists of the Law on State Aid Control – newly adopted in October 2019 (the"Law"), and its bylaws.

The total absolute amount of state aid granted in 2019 amounted to RSD 110,724 million (EUR 939.6 million) while its share in gross domestic product was 2.0%.

Of this amount, in 2019 the agricultural sector was granted state aid in the absolute amount of RSD 33,983 million (EUR 288.4 million), which compared to 2018 represents an increase of 29%. State aid was granted to the industry and services sector in 2019 in the absolute amount of RSD 76,741 million (EUR 651.2 million). The share of this aid in the total state aid granted in 2019 was 69.3%, while in 2018 it was 71.6%, and in 2017 it was 72.6%.

Although in relation to the absolute amount the aid records an increase, in relation to the GDP, the aid granted to the industry and services sector in 2019 amounted to 1.4% remaining at the same level as in 2018, while in a slight decline compared to 2017.

The most common instrument for granting state aid in 2019 were subsidies, with a share of 55.4% in total state aid, to encourage the achievement of goals in both agriculture and industry and services, followed by tax incentives with a share of 22.2%.

The COVID-19 pandemic was fought on the State aid front too, through financial measures of the Government aimed at helping the affected businesses stay afloat. This also led to an increased activity of the CSAC in the first half of 2020.

Following the footsteps of the European Commission, in March 2020, the CSAC issued a Notice on the application of Article 5 of the Law, thereby harmonizing its interpretation with the position of the European Commission regarding the interpretation of Article 107 of the Treaty on the Functioning of the European Union to the new circumstances. In addition to the Law, this notice was the first step towards harmonization with the EU acquis and its interpretations.

The Government's package of economic measures that followed in April 2020 was accompanied by the adoption of three regulations setting out the conditions and criteria for compliance with granted COVID-19 related state aid , which relate to liquidity, elimination of harmful consequences and recapitalization, thus fully transposing the European interim framework, including its further amendments. Applying these rules, the CSAC assessed the harmonization of economic measures during the pandemic, especially tax delays, subsidizing employees' salaries, guarantee schemes, as well as sectoral assistance in the field of catering and tourism, relying in many cases on the practice of the European Commission.

POSITIVE DEVELOPMENTS

The new Law which aims to regulate this area in more detail, align local rules with the EU acquis and remove some of the main concerns the European Commission previously flagged its Progress Reports.

Under the Law, the CSAC functions as an independent body and is accountable to the National Assembly. This amendment removes one of the European Commission's main objections to the previous framework, which brought into question the old CSAC's independence, bearing in mind that the members were elected as representatives of the state aid grantors, and the organizational structure as an occasional working body of the Government to which the Ministry of Finance represented a professional service. Significant budget funds and new premises for the work of the Commission have been provided, and the number of employees has doubled compared to the previous reporting period. However, the number of employees still does not meet the needs, bearing in mind the serious reforms that have been started in this area, according to which the CSAC should continue to work on increasing and strengthening its capacities.

The new 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. These rules, aimed at achieving a higher level of transparency of the CSAC's work and thus legal certainty too, seem to be yielding results - since its constitution in January 2020 the CSAC is more prudent with the publication of notices and decisions. The development of the aid register is financed from European funds provided by the technical support projectand has yet to be established.

The practice of introducing draft bylaws on the Commission's website in the form of public consultations before adoption has been introduced, which is a significant step towards the legal predictability of new control regulations and harmonization with the EU acquis. Many bylaws have meanwhile been adopted (upon the reporting period), repealing parts of the 2014 Regulation on State Aid Rules. It is necessary to continue further alignment with the EU acquis.

REMAINING ISSUES

Significant progress was highlighted in the annual report for 2019, which covers most of 2020. Progress was praised regarding the operational independence of the CSAC, the new legal and by-law framework, as well as co-operation with the European Commission in individual cases. However, the main obstacles to further progress have been the lack of a list of state aid schemes and an action plan for their harmonization, especially fiscal schemes, further harmonization with EU regulations as well as the lack of a regional map.

The CSAC adopted 39 decisions, of which 35 ascertain the existence of state aid and assess the compliance of state aid, while 3 decisions refer to the rejection of state aid applications due to the fact that the allocation of public funds does not constitute state aid.Also, 10 binding opinions on draft regulations were adopted, i.e., 4 binding notifications on the obligation to harmonize regulations. In the reporting period, the CSAC has not yet made a negative decision (prohibi-

tion of allocation, conditional allocation, or order of refund). Although this is not completely atypical for young state aid control bodies in the period before EU accession, given the same practice of all candidate countries prior to accession, but also the lack of awareness among grantors, full regulation of this area is achieved when fully self-assessing the behaviour of all grantors, while those whose behaviour is not harmonized are obliged to bear the consequences.

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 legal certainty of state aid beneficiaries when allocating funds.

FIC RECOMMENDATIONS

- Increasing and strengthening personnel capacities of the CSAC.
- Securing a timely adoption of the relevant bylaws that are aligned with the EU acquis (especially with regards to companies in the process of privatization), as well as a proper implementation of the Law in the area of transparency (registries, reports).
- Effective state aid control – utilizing different mechanisms envisaged in the Law in order to monitor granted state aid and also impose measures for incompatible state aid.
- Consistent application of state aid rules, EU standards and practices and the harmonization of the fiscal schemes with the EU acquis.
- Continued advocacy efforts towards aid grantors, beneficiaries and third parties alike.

CONSUMER PROTECTION AND PROTECTION OF USERS OF FINANCIAL SERVICES

CONSUMER PROTECTION 2.25

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Active participation and involvement of FIC in the drafting of the announced new Law and Consumer Protection Strategy until 2024, in order to improve this area.	2021	√		
Building the capacity, expertise, and role of consumer NGOs.	2014		√	
Continue work on consumer education and the implementation of topics related to consumer protection in the primary and secondary schools curricula.	2014		√	
Promotion of consumer protection rights and interests on the local government level.	2013		√	

CONSUMER PROTECTION

CURRENT SITUATION

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

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

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

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

number to RATEL (The Regulatory Agency for Electronic Communications and Postal Services).

The new law also improved and more precisely defined the complaint procedure (after two years from the purchase, the complaint is declared to the issuer of the guarantee and the law introduces the obligation to receive the complaint for the seller), the obligation to prepare a calculation and specifications of the sale price of the service (for value of services greater than RSD 5,000). the necessary parts of the invoice issued for services of general economic interest is prescribed, and the prohibition of unfair business practices covers all phases of purchase.

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

POSITIVE DEVELOPMENTS

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

Also observed is the higher engagement of the Consumer protection association through educations of consumers on their rights, organizing round tables during which significant topics in this area were discussed as well as testing consumer products and informing consumers on perceived irregularities etc.

Positive improvements have also been visible on the at the level of local administrative units and competent state institutions (including primarily ministries, inspection departments and courts), where, various types of education on consumer protection were organized, such as trainings for employees, conferences and round tables, all with the aim of raising the level of their expertise and implementation of EU standards, as well as government activities to improve the framework for e-commerce development. According to the research of the Serbian Chamber of Commerce, e-commerce has doubled during the state of emergency compared to the time before the COVID-19 pandemic, and the growth of online commerce is expected in the coming period.

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

REMAINING ISSUES

Although the Law formally establishes a greater balance in the relations between traders and consumers, the results in practice still attest to the fact that this relationship is still far from equal. According to the data of the Ministry of Trade, 22,213 consumer complaints were registered in the regional consumer counselling centres in 2020, and only two were resolved out of court, while 16 lawsuits were filed against traders. This trend is to be expected to continue, especially given the increase in e-commerce

Consumer protection associations point out that the competencies of bodies dealing with consumer protection in Serbia are not well regulated, and that the chance to protect consumers more efficiently through the introduction of the institute of collective lawsuits has been missed.

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

FIC RECOMMENDATIONS

- Active participation and involvement of the Council in monitoring the implementation of the new Law and the Consumer Protection Strategy until 2024, in order to improve this area;

- Increasing the capacity, expertise and role of the non-governmental sector in the field of consumer protection;
- Ongoing work on consumer education and implementation of topics in the field of consumer protection in primary and secondary education curricula;
- Promoting the protection of consumer rights and interests at the local level.

PROTECTION OF USERS OF FINANCIAL SERVICES 1.33

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Further educating financial services consumers on their rights, as well as insurance service users.	2014		√	
Educating judicial officers on banking operations and insurance sector.	2020		√	
Resolving disputes initiated by loan processing fees via a special law or the authentic interpretation of the existing law.	2020			√
Permitting the electronic issue of bills of exchange.	2020			√
Regular workshops and seminars are proposed in cooperation with the NBS and insurance companies, and for the purpose of constructive discussions, exchange of opinions and obtaining instructions and guidelines in the field of finding the best solutions in the field of protection of rights and interests of insurance users.	2020			√
Increasing the limit stipulated in Article 3, paragraph 3 of the Law on the Protection of Financial Services Consumers in Distance Contracts.	2020			√

CURRENT SITUATION

The rights of financial services consumers provided by the banks, issuers of financial leasing and merchants, and the terms/conditions and manner in which these rights are exercised and the protection of these rights are regulated via the Law on the Protection of Financial Services Consumers (hereinafter: the LPCFS) with its latest amendments of 2015. In addition to the aforementioned law, overall technological development and the increasing significance of doing business electronically in modern society, has contributed to the development of new ways of sending offers and advertising financial services, which has created a need for additional regulation in this area through the rendering of the Law on the Protection of Financial Services Consumers in Distance Contracts, which entered into force in September 2018. The advantages of this regulation are strengthening the trust of financial services consumers in distance contracts, reduced costs of financial services providers, and the establishment of a unique legal framework for the protection of users in negotiating distance contracts on the provision of financial services. For the purpose of creating a legal framework that acts as a unique solution to the issue of loans indexed in Swiss Francs, the Law on the Conversion of Housing Loans Indexed in Swiss Francs (hereinafter: the Law) was adopted, which entered into force on May 2019. The Law applies exclusively to private individuals who have concluded housing loan agreements with banks indexed in Swiss Francs (CHF), while this Law does not apply to those who have already converted their debt into the Euro, in accordance with some earlier available model.

To ensure that the rights and obligations of financial services consumers and providers are clearly and comprehensively regulated, the National Bank of Serbia (hereinafter: the NBS) has rendered a set of decisions regulating the area of the protection of financial services consumers. The following are the most significant of these Decisions. From April 2019, the Decision on Detailed Conditions of Financial Services Advertising, which regulate, in detail, the overall and specific conditions of advertising financial services and the obligations and responsibilities of financial services providers which refer to this type of advertising. In line with the decision, the NBS shall control how financial services providers advertise, whether or not they act in accordance with the decision, i.e. whether the advertising message lasts long enough so that the average consumer can read it unhindered, and/or hear the message, uses the right font which must be used depending on the advertising form, etc. Furthermore, the Decision on Handling Complaints of Financial Services Providers, the latest version of which entered into force in July 2019, regulates the manner of submitting complaints of financial services consumers to the providers of financial services and the NBS, and how these institutions are to respond to these complaints. Financial services providers are, inter alia, obliged to issue confirmation of the receipt of a complaint, to allow clients to submit complaints via the providers' websites, as well as to visibly display on their websites, notifications containing information on the protection of the consumer rights process. Pursuant to this Decision, financial services providers are considered to be banks, financial lessors, payment institutions, electronic money institutions, and the public postal operator in relation to payment services provision and electronic money issue.

On the other hand, the manner in which the rights and interests of the insured, policyholders, insurance beneficiaries and third injured parties and the manner of mediation in the settlement of claims for damages, complaint filing by the insurance service consumer and the handling of such complaints is regulated via the Decision on the Manner of Protecting the Rights and Interests of Insurance Service Consumers which entered into force in November 2015. Additionally, the protection of insurance service users is regulated by the Law on Insurance from 2014. An important segment of informing insurance policyholders is pre-contractual information, defined in Article 82 of the Insurance Law. In the pre-contractual information, the insurer / insurance company transparently provides all relevant information before concluding the insurance contract, including the manner of protection of the rights of insurance policyholders and protection of interests of insurers, manner and deadline for filing claims, information on the supervisory body for insurance companies. Both the manner and the protection of the rights of the insurance contractor with that body. Pre-contractual information must be signed by the policyholder, and must be part of each case. If the policyholder and the insured are not the same person, and it is a case of collective insurance or insurance that is a related contract, the insurer is obliged to provide the insured with a set of pre-contractual information, as well as to provide the insured with insurance conditions applicable to the insurance contract. Furthermore, the National Bank of Serbia has published Guidelines on minimum standards of conduct and good practice of participants in the insurance market, which, along with more detailed recommendations regarding the manner of pre-contractual information, create preconditions for harmonization with EU regulations, ie the Insurance Distribution Directive. The implementation of the Directive on the distribution of insurance at the EU level in 2018 was postponed by 7 months, at the initiative of a number of Member States, because neither industry nor supervisory authorities were fully prepared to respond to the requirements of the Directive. This is an illustrative example of the complexity of the new rules and the warning that the implementation of these rules needs to be approached carefully.

In 2019, the implementation of the Law on Personal Data Protection began, which is especially important for clients - individuals. The field of personal data protection in recent years in the world and in Europe is very actual, and all market participants (banks, insurers, pension funds) strive to comply with this topic and regulations, use various tools / software, provide mandatory notices on the processing of personal data, it is possible to file complaints, consents are collected for contacting for marketing purposes. All of this is important so that both customers and operators are aware and understand the importance of processing personal data, to reduce the risk of misuse of personal data and to make the processing consistent with the purpose. Personal data processed by financial market participants are numerous: name, surname, identification document number, address, telephone, e-mail, but also data such as health status.

Not intending to diminishing the significance of other NBS decisions in terms of the protection of financial services consumers, we would like to emphasise the importance of the Decision on Terms and Method of Calculating the Effective Interest Rate and on the Layout and Content of Forms

Handed out to Consumers, with the latest amendments which apply as of January 2019. The aforementioned decision clearly prescribes which elements are included in the calculation of effective interest rates, as the true price and cost of funds thus allowing financial services consumers to clearly compare the offers of various financial services providers. Furthermore, by prescribing the various forms that are given to the consumer in the process of concluding an agreement, we believe that the financial services consumer is fully informed both in terms of all costs related to the product in question, and in terms of foreign currency borrowing risk and the variable nominal interest rate.

The outbreak of the pandemic caused by the COVID-19 virus, perhaps now more than ever has imposed the need for financial services to be digitalised to the highest degree possible, which is evident in particular, in the area dealing with payment services where the NBS (by issuing various instructions) regulated the payment of funds to consumer who were not able to personally visit the banks' premises and did not have the established payment instruments in place through which to initiate transactions. In this regard, the NBS is working on the digitalization of bills of exchange, in the first step for legal entities, and then for individuals, which is necessary to complete the digital process of marketing bank products.

Insurers / insurance companies even before the outbreak of extraordinary circumstances started selling policies through various online services (through sites for certain types of insurance, eg travel, property), but also additionally enabled the submission of claims, as well as the submission of complaints via e-mail addresses and via the site, in addition to the already standard ways of sending by mail or delivery in organizational units in person.

POSITIVE DEVELOPMENTS

As regards the recommendations provided in last year's text on the further education of financial services consumers in regard to their rights, we believe that said has been partially fulfilled. The NBS, as strategists in the field of financial education, has a section on its website dedicated to financial services consumer protection, whereby financial services consumers can find detailed information on all the concepts of financial services as well as their rights. In this regard, it cannot be said that no progress has been made. However, data from NBS's 2019 Report show that less than 15% are well-founded complaints (a total of 1,976 complaints were filed, 1,297 complaints were unfounded, 280 complaints were founded, 399 complaints are ongoing). This data clearly indicates that financial services consumers remain unaware of the rights and obligations of providers and financial services consumers, and, we believe that further efforts of the NBS are necessary to educate said consumers (not only through information posted on the website, but also through further education available via other media forms).

Regarding the last year's recommendations to define clearly and unambiguously the possibility for contracting fees for financial service providers, we acknowledge that certain progress has been made by adopting an amended legal position on the admissibility of contracting loan costs at a session of the Civil Department of the Supreme Court of Cassation, held on September 16, 2021.

With this position, Supreme Court of Cassation has recognized the right of banks to collect costs and fees for banking services, which means that the provisions of the loan agreement which obliges the borrower to pay the loan costs to the bank are not null in case that the bank's offer contained clear and unambiguous data on loan costs and also that they can be expressed as a percentage and charged through the calculation of the effective interest rate, without the obligation of banks to prove the structure and amount of costs covered by the total amount of loan costs, which are stated in the offer accepted by the borrower.

Additionally, one of the recommendations was that it was necessary to harmonise case law with the new regulations in force, such as the Law on the Conversion of Housing Loans Indexed in Swiss Francs, bearing in mind that prior to the adoption of the cited law, the Supreme Court of Cassation took the position whereby it established that the clause on the indexation of loans in the CHF is deemed null and void, unless the bank has reliable written proof that it obtained the lent dinar funds through its own borrowings in this currency and that before concluding the agreement, it provided the borrower with complete, written information on all risks arising from negotiating the application of such a clause. As the law failed to include all categories of consumers indexed in Swiss Francs, disputes are continued to be filed against the banks, in particular, by consumers who repaid their obligations prior to the entry of said law into force or those who did not accept conversion, however the number of this second type of dispute is significantly less. Therefore, it would be necessary to amend the Law on the Conversion of Housing

Loans Indexed in Swiss Francs to resolve all doubts that are the subject of litigation.

REMAINING ISSUES

From the sector report, it is possible to observe that a large number of unfounded complaints in the total number of complaints indicates that consumers still turn to the NBS, even if there has been no violation of their rights, which in turn indicates the fact that many financial services consumers remain unfamiliar with the regulated rights and obligations in the area of financial services consumer protection. In this regard, the need for constant education of financial services consumers is still necessary, not only through the NBS website, but also through other forums where information is made available to the public through various types of education.

The rationales of a large number of court judgments regarding loan processing fees, indicate that the judicial functionaries do not have the necessary knowledge to make legal decisions in the field of banking. Here, it is necessary to organise the constant training of judicial officers, in order to educate and acquaint them with banking regulations.

If it turns out in practice that the scope of the Legal Position of the Supreme Court of Cassation on the admissibility of contracting loan costs did not contribute to relieving the judicial and banking system, it would be necessary to consider adopting a legal or any other institutional solution regarding the problem of disputes arising from this situation, especially bearing in mind that the current leads to paradoxical situations that clients file a lawsuit against banks within a few days after the bank pays off the loan and collects the fee. This increases the pressure on the court system on a daily basis due to the daily increase in new lawsuits and the inability to process them all.

The pandemic caused by the COVID-19 virus has additionally stimulated the need for digitalisation, and it is therefore necessary to create a legal and IT framework for the electronic issuance of bills of exchange for individuals. In practice, a bill of exchange is a widespread means of securing loan agreements and other, non-banking products, and it is necessary that the method of issuing bills of exchange follows the development of modern society and in that direction, it is necessary to enable the electronic issuance of bills. Namely, without the electronic issuance of bills of exchange, just signing a loan agreement with a qualified electronic signature is not practical, as a personal visit to the branch is required for the issuance of bills of exchange.

Furthermore, the pandemic caused by the COVID-19 virus has imposed a need to increase the legal limit for the negotiating of remote financial services without the use of a qualified electronic signature. The Law on the Protection of Financial Services Consumers in Distance Contracts has provided for the possibility of negotiating financial services by using means of distance communication, and therefore including the negotiating of a distance loan agreement. The cited law has envisaged that "If the law requires a specific type of financial service contract to be concluded exclusively in writing, the distance contract may be concluded also by using a means of distance communication in the form of electronic document, bearing a qualified electronic signature, in accordance with the law governing electronic signature." It is evident in this provision that any financial services agreement, regardless of its amount, may be concluded at a distance, with the necessary qualified electronic signature. However, the legislator has recognised that a large number (especially private individuals) do not have a qualified electronic signature certificate, and it is therefore envisaged that a distance contract "with a value of up to RSD 600,000 may be concluded by a consumer without using his/her qualified electronic signature, if he/she gave consent to conclude that contract using at least two elements of consumer identity verification (authentication) or using an electronic identification scheme with a high level of reliability," We feel that digitalisation in the provision of finance services on the one hand, and the fact that a large percentage of private individuals do not have a qualified electronic signature, on the other, imposes a need to increase the given limit and thereby allow for financial services of greater value to be concluded using at least two elements of consumer identity verification (authentication) or using an electronic identification scheme with a high level of reliability, as, the use of, for example, e-bank and OTP (one time password) for concluding agreements, fulfils all security standards.

Also, there are no clear instructions or guidelines on how to enter a case in the Register of Complaints where the complainant expresses dissatisfaction on several grounds. In that case, the insurer should enter only one complaint and choose one of several grounds prescribed by the NBS instruction, and assessing it as primary, or for the same complainant should enter several consecutive complaints, entering each basis of complaint separately, even if it is the same applicant. objections and the same insurance contract. In practice, it is most common for clients to file an objection in an improper form without often providing

primary data or evidence to substantiate their allegations, which puts insurers in a position to defend the unfoundedness of such allegations in later statements of the NBS. by the objector.

In addition, an increase in the number of both reported damages and complaints filed by lawyers on the basis of material and non-material damages from liability insurance due to the use of a motor vehicle was noticed, which increases the costs of processing such requests to insurers in settling attorney's fees. The insurer often encounters premature complaints, especially in the part of the amount of future insurance compensation, when the processing of the request for compensation is still in progress and the first instance decision has not been made.

Regarding the insurance sector rules of market behaviour, since it is planned to significantly improve the regulations governing this matter, and as these rules are of great practical importance because they affect the core business of insurance companies (from supervision and management of insurance products to placement and product distribution), continuous and constructive communication between industry and the NBS would be useful before implementing and prescribing new obligations in order to properly assess the level of market development as well as the achieved level of user protection by current regulations and rules.

FIC RECOMMENDATIONS

- Further educating financial services consumers on their rights, as well as insurance service users.
- Educating judicial officers on banking operations and insurance sector.
- Permanent resolving disputes initiated by loan processing fees in line with above mentioned manner.
- Amendments to the Law on Conversion in terms of specifying norms that would clearly define the rights of clients and banks
- Permitting the electronic issue of bills of exchange for individuals
- Regular workshops and seminars are proposed in cooperation with the NBS and insurance companies, and for the purpose of constructive discussions, exchange of opinions and obtaining instructions and guidelines in the field of finding the best solutions in the field of protection of rights and interests of insurance users.
- Continuous exchange of opinions and constructive discussions with insurance companies regarding the implementation of rules on insurance distribution, ie regulatory requirements regarding market behaviour.
- Increasing the limit stipulated in Article 3, paragraph 3 of the Law on the Protection of Financial Services Consumers in Distance Contracts, that is, enabling the conclusion of a contract through two-factor authentication or an IT solution that would enable the security without the use of an electronic qualified signature.

PUBLIC PROCUREMENT

2.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Urgent adoption of the new Law, harmonized with the EU Directive 2014/24.	2018	√		
Active cooperation between the PPO, the Ministry of Finance, the Ministry of Economy, the Anti-Corruption Agency, the budget inspectorate, the State Audit Institution and the Government of Serbia in the implementation of the Public Procurement Law and the Memorandum on Cooperation of 15 April 2014.	2015		√	
Expansion of the administrative and expert capacities of the Public Procurement Office and State Audit Institution to effectively oversee the planning and execution of public procurements by contracting authorities and combat corruption.	2013		√	
Strengthening the Law in relation to the Public Procurement Office's and the Commissions' authorities in cases of suspected "bid rigging," (the ability to implement special procedures to control the implementation of awarded contracts and submit proposals for the annulment of a public procurement contract).	2014			√

CURRENT SITUATION

On December 23rd 2019, the Serbian Parliament adopted the new Law Public Procurement Law (RS Official Gazette No 91/2019), 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 idea of the law maker was to harmonise Serbian Public Procurement Law with 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.

Due to short period of application of the New Law, FIC is not in the position to comment possible effects of the New Law on wellbeing of commerce and citizens. However, the New Law is expected to bring more transparency in public procurement procedures and create more favourable framework for competition and accordingly provision of improved quality of goods to citizens. FIC has many times insofar urged for better coordination of stakeholders to implement relevant provisions of the Law on Public Procurement and other applicable laws to combat corruption in public procurements efficiently. Unfortunately, there was no progress since the first Public Procurement Law in 2002 was enacted. The same applies to providing effective mechanisms to control fulfilment of public contracts, reduction of percentage of intergovernmental agreements with third countries in public procurement sector and more active role of stakeholders to promote application of the Public Procurement Law by annulling awarded public contracts which have not been subject to relevant public procurement procedure.

As the New Law creates more favourable to promote competition in public sector, FIC expresses optimism that condition in public procurement sector will move in positive direction.

POSITIVE DEVELOPMENTS

The main novelties provided in the New Law are as follows:

1. Exceptions in the application of the New Law can be challenged before the Republic Commission for Protection of Bidders' Right in Public Procurements ("the Commission"). The request for annulment of the awarded contract shall be submitted along with a request for protection of the right. In case the Commission annuls the contract, it shall sentence the contracting authority to fine in the amount up to 30% of the awarded contract;

2. Financing procurements under donation is not provided as an exception in the application of the New Law;

3. New thresholds for application of the Law are prescribed:
   a) Above estimated value of RSD 1.000.000, 00 for procurement of goods and services;
   b) Above estimated value of RSD 3.000.000, 00 for procurement of works;
   c) Above estimated value of RSD 15.000.000, 00 for procurement of goods and services and above the estimated value of RSD 650.000, 00 for procurement of works for diplomatic missions and diplomatic and consular office abroad;
   d) The above-estimated value RSD 15.000.000, 00 for procurement of social and other special services conducted by the public contracting authority and above estimated value RSD 15.000.000, 00 for public procurements conducted by the sectorial contracting authority.

4. The contracting authorities shall publish amendments of public procurement plan on Public Procurement Portal and their website within ten days since its amendment;

5. Contracting authority can limit the number of lots to be awarded by one bidder even in the case when the bidder can submit offers for several or all lots, under the condition that maximal number of lots is determined in the public invitation;

6. The general rule that all communication and exchange of documents in public procurement procedures shall be performed electronically on Public Procurement Portal is established;

7. The new public procurement procedure is prescribed – partnership for innovation, in case when the contracting authority needs innovative products, services, or works which are available on the market;

8. There are differences in the procedure - negotiation procedure without publishing the public invitation concerning grounds for initiation (new repetitive services and works awarded to the prior bidder with whom the basic contract is concluded and procurement of goods for research purposes, experimenting, examination or development) and manner to conduct this procedure;

9. Negotiation procedure with a public invitation can be conducted only by sectorial contracting authorities;

10. Framework agreement cannot last more than four years (this period does not apply to contracts concluded on the ground of framework agreement);

11. Sectorial contractual authorities may establish and maintain system of qualification for companies;

12. The New Law introduces new services subject to public procurements – social and other special services for which less formal regime is established (certain health services, social services, education services, etc.);

13. Collateral for seriousness of bids in public procurement procedures is reduced to 3% of the value of offer (VAT excluded);

14. Terms for contracting authorities to provide clarifications to bidders in regard tender documents are extended;

15. Contracting authorities may publish on their profile prior informative notification to inform companies its intention to execute certain public procurement procedure to reduce terms for submission of offers while sectorial contracting authorities may publish on their profile periodical indicative notification for the same purposes;

16. Bidders are not obliged to provide documents to prove fulfilment of conditions to participate in tender procedure; they can provide statement on fulfilment defined tender requirements; contracting authority is obliged to request from selected bidder to submit documents proving fulfilment of conditions to participate in tender procedures for which estimated value is above RSD 5.000.000, 00 (non-certified copies);

17. Bidder may prove tender conditions by capacities of subcontractors (financial, economic, HR, references and technical requirements) - not only as single or joint bidders, while, on the other side, technical requirements (technical equipment) can be proved by capacities of other companies which do not joint bidder or subcontractors);

18. Criteria for awarding the contract must be most economically favourable offer;

19. Awarded contract may be amended/value of contract

increased for not more that 50% of the contract for the following reasons:
a) change of the awarded bidder is not possible due economical or technical reasons (compatibility requirements with existing equipment, services or works procured in the prior public procurement;
b) change of awarded bidder may cause significant difficulties or costs for the contacting authority

20. Awarded contract may be changed due to unpredicted circumstances and contractual party may be changed as well to status changes on side of the contractual party;

21. Scope of the awarded contract may be changed for less than 10% for goods and services and 15% for works and the value of change must be lesser than RSD 15.000.000, 00 for goods and services and RSD 50.000.000, 00 for works;

22. Subcontractors can be replaced under certain conditions;

23. Terms for submission of request for protection of right ("request") are amended;

24. Foreign applicants must appoint proxy for receipt of documents;

25. The applicant must submit the proof on paid fee along with the request, otherwise, the request shall be rejected;

26. The contracting authority must deliver the request to selected bidder which can provide its opinion on the request.

PPO enacted by laws necessary for application of the New Law, conducted two webinars for usage of new Public Procurement Portal and issued guidelines for preparation of tender documents and submission of bids through new Public Procurement Portal.

REMAINING ISSUES

In the previous year, no progress was made in the field of fight against corruption in public procurement or in the sanctioning of criminal offences in the field of public procurement. There is no evidence of the implementation of the numerous information-sharing agreements concluded between anti-corruption state bodies, with the aim of prosecuting the perpetrators in cases of corruption, bid rigging, restrictive agreements and unusually low bids.

A remaining issue is the application of the rules on an "unusually low bid." Despite FIC's effort to draw attention of inadequate provisions with regard to "unusually low bid" and proposal to set limits i.e. percentage in the New Law defining what exactly "unusually low bid" and obligation of the contracting authorities to reject "unusually low bids", FIC proposal was rejected. The point is, that the official position of the Commission is that the contracting authority has the discretionary right to assess whether a bid is unusually low, i.e. whether a bid differs from the comparable market prices and raises doubts as to the ability of the bidder to execute the procurement in accordance with the offered terms. The lack of clear criteria that would oblige the contracting authority to demand a detailed explanation of all the elements of the bid brings uncertainty in public procurement procedures. Bidders who suspect that a contract has been awarded to an unusually low bid have an opportunity to protect their rights before the Commission, however, the Commission has regularly refused such requests so far.

The mechanisms for the enforcement of the New Law in cases when the public procurement eligibility criteria in a particular procedure are changed with respect to the previous year's criteria are also at issue. This particularly relates to the amendment of criteria with respect to financial indicators in cases of awarding framework agreements of significant importance for the state. In this particular case, filing a request for the protection of rights due to the criteria set in the tender documentation is not an efficient legal remedy.

In addition, 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.

The monitoring of the execution of contracts awarded in public procurement procedures is completely neglected. The Foreign Investors Council is not aware of any cases where the Commission has exercised the power envisaged in Article 163 of the previous Law, to file a lawsuit for the annulment of the contract on grounds set forth in this article.

Bearing in mind the limited capacities of the PPO, it is questionable whether it will be able to control public procure-

ment plans and amendments to such plans. In accordance with the New Law, the contracting authority may initiate a public procurement procedure if procurement is foreseen in the annual plan of public procurement. However, in accordance with New Law, the possibility of misuse, in the event that exceptional cases where public procurement cannot be planned in advance or for urgent reasons, the contracting authority may initiate the public procurement procedure and if the procurement is not foreseen in the public procurement plan.

FIC RECOMMENDATIONS

- Active cooperation between the PPO, the Ministry of Finance, the Ministry of Economy, the Anti-Corruption Agency, the budget inspectorate, the State Audit Institution and the Government of Serbia in the implementation of the Public Procurement Law and the Memorandum on Cooperation of 15 April 2014.
- Expansion of the administrative and expert capacities of the Public Procurement Office and State Audit Institution to effectively oversee the planning and execution of public procurements by contracting authorities and combat corruption.
- Strengthening the Law in relation to the Public Procurement Office's and the Commissions' authorities in cases of suspected "bid rigging," (the ability to implement special procedures to control the implementation of awarded contracts and submit proposals for the annulment of a public procurement contract).

PUBLIC-PRIVATE PARTNERSHIP

1.25

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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 proactive 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			√
Take advantage of the International Financial Institutions' (IFI) support for project preparation and their knowhow on PPPs. Resources from the European Investment Bank's (EIB) European PPP Expertise Centre (EPEC), the International Finance Corporation's (IFC) advisory services in PPPs or the European Bank for Reconstruction and Development's (EBRD) Infrastructure Project Preparation Facility (IPPF) can be used for project preparation.	2017		√	

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

Serbia has already established somewhat of a tendency in continuing to promote the need for investing in its infrastructure and public services, to which end public-private partnerships (hereinafter: "PPP") appear to be considered a feasible option for realising such investments alongside more traditional models such as public procurements and bilateral investment treaty direct awards.

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 180[1] public private partnerships.

POSITIVE DEVELOPMENTS

Given the global impact that the COVID-19 pandemic has had, it is no surprise that the effects have also spilled over into the progress with PPPs in Serbia, being rather stagnant during this period. New investments in public infrastructure and services were halted during 2020/2021.

However, 2020 had presented several positive developments: the new Public Procurement Law came into force, which in large part has been aligned with relevant EU legislation, which should bode well in terms of positive legislative amendments in Serbia.

Also, the National Assembly of Serbia issued an authentic interpretation on the application of the Law on General Administrative Procedure stating that the provisions of the Law on General Administrative Procedure (LGAP) will not apply to contracts procured under other laws which do not expressly categorise such contracts as "administrative". The interpretation of the National Assembly helped relieve concerns as to the potential implications of the LGAP for PPPs.

In other positive developments, 2020 is also the year in which another large-scale PPP reached financial close, namely the PPP project for waste management in Vinca.

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.

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

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. Furthermore, the provisions of the PPP Law regarding the submission of the self-initiative proposal by a potential private partner creates dilemmas and perplexities with regards to the vaguely defined mandatory content of such a proposal and proven problems in recognition and collection of costs incurred by private partner in preparation of self-initiative PPP proposal PPP when such private partner is not awarded a PPP contract.

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.

ILLICIT TRADE AND INSPECTION CONTROL

2.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Continue with the implementation of the National Programme for Countering the Gray Economy and its associated Action Plan for 2019/2020.	2019	√		
Prescribe and implement a prompt and effective procedure of regulating the storage of seized goods between the public and private sector.	2019			√
Improve import and export procedures.	2020		√	
In order to increase the efficiency of the punishment system in the field of illicit trade, introduce the specialization of judges for misdemeanor offences in business.	2019		√	
Improve the level of fiscal burden on businesses operating in the Republic of Serbia with further regulation of parafiscal charges by creating a registry of fees payable by businesses.	2018			√
Create a system of reporting on measures and effects of flowcharts, and continue with the adoption of a new flowchart for the control of LPG as well as other products of interest.	2020		√	
Introduce online fiscal cash registers.	2019	√		

CURRENT SITUATION

The COVID-19 epidemic and its socio-economic consequences marked the year 2020, with a slowdown in economic activity and in the volume of trade in the Republic of Serbia as well as in the region and the world. Consequently, the focus of state bodies and businesses was primarily on protecting the health of the population and preserving economic activity.

Apart from the measures introduced by state bodies to tackle the COVID-19 epidemic, we would like to mention continued efforts towards institutional improvements to the business environment and the system of illicit trade controls, especially in the second half of 2020 and in 2021.

POSITIVE DEVELOPMENTS

The end of March 2020 saw the opening of the Unified Contact Center for reporting illegalities to national inspection authorities followed by the expansion of its functionality through its tie-in with local government inspections in October. The contact center helped significantly simplify the procedure for citizen petition submission.

Checklists and inspection forms are published on www.inspektor.gov.rs. Inspections are carried out in accordance with the above documents and their availability provides businesses with a simplified access to information on the requirements for operating a business in accordance with regulations.

In 2021, the Government of the Republic of Serbia formed a new Coordination Body for the Suppression of the Grey Economy. The Coordination Body decided to start drafting a National Program for the Suppression of the Grey Economy for 2021-2025. The development of the program is planned to involve representatives of the economy, citizens and the non-governmental sector with the aim of identifying priorities and adequate measures to combat illicit trade in the country.

The Coordination Commission for Inspection Supervision within the Ministry of Public Administration and Local Self-Government have continued their activity following a new election at the end of 2020.

The Law on Fiscalization was passed at the end of 2020 and the Law on Electronic Invoicing in 2021, with both envisioning the use of modern technologies for the purpose of digitalization of transaction recording, electronic exchange of invoices and a simpler and more efficient control by state bodies. Phased implementation of these regulations is planned to start on 1st of January 2022, while the preparation of bylaws is in progress. With the full enforcement of these regulations, positive effects are expected in reducing the scale of illicit trade.

Regarding improvements to import and export procedures, we would like to mention that UNECE (United Nations Economic Commission for Europe) has prepared a study entitled "Regulatory and Procedural Barriers to Trade in Serbia" which was officially presented in July of 2021 (Regulatory and Pro-

cedural Barriers to Trade in Serbia: Needs Assessment (ECE/TRADE/460) | UNECE). The study was prepared in cooperation with representatives of the Serbian economy and contains numerous recommendations for improving the subject procedures. Additionally, the implementation of the World Bank's Western Balkans Trade and Transport Facilitation Program with the application of a Multiphase Programmatic Approach is underway, where we would like to highlight the subcomponent of the project "National One-stop Shop (NOSS)". The implementation of NOSS is aimed at providing businesses with a possibility to electronically submit to and receive from state bodies all documents that are necessary for performing foreign trade activities through a single portal. It was estimated that NOSS could start operating within a framework of three years, given that the implementation requires extensive activities in order to identify and provide necessary infrastructure and adequate software solution.

REMAINING PROBLEMS

Due to objective reasons (the outbreak of the COVID-19 epidemic), the implementation of the recommendations from the National Program for the Suppression of the Grey Economy for the period 2019-2020 has slowed down.

As part of further improvements to the e-Inspector software functionalities, we would like to emphasize the importance of the announced tie-in with the Unified Contact Center for reporting illegalities to inspection authorities.

Activities to ensure an adequate number of new inspectors and necessary equipment, as well as to improve the performance appraisal system in order to increase efficiency and earnings of inspectors, should remain among top priorities.

A public electronic register and portal with valid fees and charges, as one of the important elements of predictability of the business environment, have not been implemented either.

A reporting system for the results of the implementation of adopted flowcharts for controls of illicit trade in certain sectors/goods has not been finalized yet, and no data on the outcome of such controls is available to stakeholders.

One of the most important preventive measures is setting up an adequate system of penalties for illicit trade so further improvements are needed regarding the efficiency of communication between control bodies and courts, as well as further specialization of commercial courts.

Having in mind the estimated scope of activities and the goal of simplifying the import and export procedures, it is recommended that the state authorities should keep this topic among the priorities.

FIC RECOMMENDATIONS

- Adopting the National Program for the Suppression of the Grey Economy for the period 2021-2025 and the accompanying Action Plan for the implementation of this program.
- Continuing with activities to improve the inspection oversight system.
- Introducing specialization of judges for misdemeanor offences in business in order to increase the efficiency of the illicit trade penal system.
- Improving the system of fiscal burden for companies operating in the Republic of Serbia by creating a register of applicable fees, in order to further control parafiscal levies.
- Establishing a system of reporting on the measures and effects of Action Plans (flowcharts), while communicating the results of controls to stakeholders from the economy.
- Establishing and implementing a fast and efficient procedure for regulating the storage of seized goods between the public and private sectors.
- Maintaining the continuity of the process of improving import and export procedures.

CUSTOMS

1.40

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Transparently communicate the planned liberalization of customs preferences with the interested industries and ensure the industry's consent at least 12 months prior to the commencement of the preference.	2018		√	
We propose the following changes to customs declarations: (1) the date of issue of the customs invoice - it is recommended that the date of issue of the customs invoice should be the final date of clearance of goods and not the date of the acceptance of a declaration; 2) allow the use of a comprehensive guarantee with a reduced reference amount for several customs procedures, as well as relief from the obligation to provide the guarantee, in the manner prescribed for the transit procedure.	2018			√
A significant number of legal provisions require a further specification through by-laws as well as compliance with other relevant laws, such as: (1) alignment of customs procedure with VAT Law, regarding the treatment of a foreign legal entity in a customs procedure; (2) decrease the frequency of sample-taking for core products and accept the analysis of accredited foreign laboratories; (3) adopt new Explanations of the Customs Administration related to the inward processing procedure and the procedure in free zones. Also, the opinions of the Customs Administration should contain an interpretation, and not just a citation of regulations; (4) specify the procedure for determining and changing the customs value in the event of a goods' price change; (5) by adopting an appropriate Explanation from the CA, change the interpretation that the implementation of temporary export requires the approval of the customs authority, as this is contrary to the legislation or harmonize the regulations; (6) adoption of an act of the CA which would explain the procedure for determining and changing the customs value in case of transfer prices.	2018		√	
Increase the efficiency at all levels of administration: efficient handling of requests that are in the administrative procedure; a better on-line information system available to all parties involved in customs process; introducing a simplified correction of a customs document based on the correction of the quantity of goods cleared, improve the risk analysis system according to which goods and / or importer type would be identified for an accelerated or simplified import procedure.	2018			√
Align the Decree on Customs Procedures and Customs Formalities with the new Customs Law, in such a way that the additional costs of the laboratory analysis are not borne by the applicant for the issuance of a binding information and abolish the fee for using customs terminals.	2019			√

CURRENT SITUATION

The Customs Law significantly aligned customs procedure with EU customs law, in particular for legal entities that link the simplified customs procedure to the process of an Authorized Economic Operator ("AEO").

The Customs Tariff is harmonized with the EU nomenclature each year in November.

The Free Trade Agreements (FTA) have positive effects on economic growth enabling legal entities in Serbia to increase the volume of production and, in turn, com-

petitiveness in the regional market, in particular with EU, CEFTA, UK, Turkey and new EAEU.

Based on Stabilization Agreement with EU, Serbia has accepted more liberal rules of origin and movements of goods, which shall enhance the trade between Serbia and PAN-EU members.

The so-called "Green corridors" are implemented for faster flow of all goods, firstly with CEFTA and later with EU countries.

By the time this edition is published, the Government has adopted new Draft Law on Amendments to the Customs Law. The impact is yet to be assessed.

POSITIVE DEVELOPMENTS

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

- Further alignment with the EU regulations and more flexible rules on goods origin between Serbia and PAN-EU members have been adopted
- Ratification of the FTA concluded between R.Serbia and the EAEU and UK.
- The invoice in electronic form was accepted as a valid document, although the obligation to submit a paper copy was retained.
- Explanations of the Customs Administration regarding the treatment of a foreign legal entity in the customs procedure and the procedure in free zones were adopted.

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 new 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. It has been noted that this option is not used in practice, therefore no process improvement has been made.

- 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 effected by applying the transit procedure. This restricts the rights of holders of the AEO authorization.

- The Foreign Exchange Law, stipulates that the middle exchange rate of the Dinar used for the calculation of the customs duties is determined on the last day of the week preceding the week in which the duties are levied. Consequently, the period for lodging the supplementary declarations is limited to only 10 days, even though this deadline could be extended up to 31 days, having in mind that the goods released to one person during the period which may not exceed 31 days, may be covered by a single entry into accounts at the end of that period and the opportunity can be given to a debtor to pay duties globally after the period of aggregation.

- The fee for the parking at the terminals where the customs formalities are performed, in the amount of RSD 1,200, it is contrary to the new Customs Act, which stipulates that customs authorities do not charge fees for performing customs controls, which should include the possibility of access to customs premises at no additional cost.

- 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, iii) very restrictive approach when it comes to discounts still insists on submitting contracts in writing although it is no longer necessary.

- When performing financial analysis deciding on the approval of simplified procedures (so-called "home customs clearance", AEO), not all facts relevant to the decision are taken into account, but the decision is based solely on Altman's method, which is based on financial results. This can put new businesses that initially have large investments at a disadvantage.

- 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.

- The new customs regulations do not define temporary export as a special customs procedure, which means that the temporary export of goods (unchanged) 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.

- It is necessary to prescribe a simplified procedure which defines the process of correction of the customs value of previously imported / exported goods for a longer period of time.

- 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) adopt new Explanations of the Customs Administration related to the inward processing procedure. The opinions of the Customs Administration should contain an interpretation, and not just a citation of regulations; (4) specify the procedure for determining and changing the customs value in the event of a goods' price change; (5) by adopting an appropriate Explanation from the CA, change the interpretation that the implementation of temporary export requires the approval of the customs authority, as this is contrary to the legislation or harmonize the regulations; (6) adoption of an act of the CA which would explain the procedure for determining and changing the customs value in case of transfer prices; (7) ensure the full applicability for "new" rules of origin on trade with PAN-EU members; (8) improve efficiency for issuing "BTI" documents.

- 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

1.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Establishment of a common platform of banks for the exchange of information in the process of changing accounts and in opening and maintaining accounts with basic services.	2018			√
Longer deadlines for the implementation of regulations that require system solutions (including complex technical solutions) for payment service providers.	2019			√
Amendments to the Law on Interbank Fees and Special Business Rules for Payment Transactions Based on Payment Cards in such a way that the issuance of cards that are not processed in domestic payment transactions in the Republic of Serbia is not conditioned by the previous issuance of a payment card for domestic payment transactions.	2015			√

CURRENT SITUATION

The use of qualified electronic signatures in the Republic of Serbia is permitted via the Law on Electronic Signature adopted in 2004, and the Law on Electronic Document, Electronic Identification and Trust Services in Electronic Business adopted in 2017. QES is fully equated with the handwritten signature of a private individual (natural person) and used for various processes which may be concluded in electronic form. It is a digital replacement for a handwritten signature and thus ensures that a document remains exclusively in electronic form for further use. At the same time, a QES confirms the identity of the signatory, which prevents the possibility of misuse.

In 2018, a new law was passed, the Law on the Protection of Financial Service Consumers in Distance Contracts. This Law allows financial institutions to identify new clients remotely i.e., without the need for the Client to visit the bank branch, even when the parties do not have an established business relationship. The Law prescribes the process of remote client identification and remote contract signing in the amount of up to RSD 600,000 by applying two-factor confirmation of identity as verification.

In 2020, there were no significant amendments to the Law which would impact last year's recommendations of the Council. Amendments and Decisions rendered relative to payment services were specifically related to fees for Covid dedicated accounts, and the Decision stipulates that fees and other costs cannot be charged for services provided in payment transactions upon payment.

On 15 March 2020, a State of Emergency was declared as a consequence of the COVID-19 pandemic caused by the SARS-CoV2 coronavirus. The State of Emergency and measures imposed to stop the spread of the epidemic led a certain number of consumers to redirect their shopping to internet channels and payment via eBanking/mBanking.

The Decree on Fiscal Benefits and Direct Benefits to Private Sector Companies and Financial Assistance to Citizens to Mitigate the Economic Consequences of COVID-19 came into effect on 10 April 2020. This Decree served to regulate fiscal benefits for legal entities and entrepreneurs through the postponement of the payment of taxes and contributions, and direct benefits for entrepreneurs and legal entities through the payment of non-refundable funds from the budget. On the grounds of instructions issued by the NBS, the Bank successfully opened dedicated (special-purpose accounts) for this purpose despite the technical complexity of such a task and the short deadlines. In addition to assistance to legal entities, a payment was made to all adult citizens of the Republic of Serbia in the form of one-off financial assistance.

Then, from 31 July 2020, the Government of the RS published a Conclusion which approved additional fiscal benefits and direct benefits to legal entities due to the COVID-19 pandemic.

The right to additional benefits was granted to legal entities that qualitied and in July 2020 they received a final payment of direct benefits in line with the Decree. The payment was executed onto the COVID-19 dedicated accounts to which the previous payments were made in prior months.

Furthermore, clients were given the option to place a mora-

torium on the loans, in line with a Recommendation issued by the NBS and the expressed interest of the clients.

POSITIVE DEVELOPMENTS

RECOMMENDATIONS FROM THE PREVIOUS YEAR

In terms of last year's recommendations, there have been changes to the following degree:

- The establishment of a joint platform through which the banks can exchange information concerning the process of changing accounts and in terms of opening and maintaing basic accounts – in this area there have been no developments as a joint platform was not established, changing accounts is still conducted in the same way it was done before.

- Extended deadlines for the implementation of regulations which require systemic solutions (including complex technical solutions) for payment service providers. In this segment there have been some developments but none of significance, especially in system solutions relative to COVID-19 and aid to the population and legal entities. On the one hand it is understandable that it was necessary to act fast to the situation, but on the other, the banks had short deadlines and had to implement system solutions with very limited sets of information and unclear instructions on who to turn to when things were unclear (Ministry of Finance, NBS, etc.).

- Amendments to the Law on Multilateral Interchange Fees and Special Operating Rules for Card-based Payment Transactions are such that the issue of a card which performs domestic payment transactions is not processed in the RS, is not conditional to the prior issue of a payment card for the purpose of executing domestic payment transactions – Article 9, paragraph 2 of the Law on Multilateral Interchange Fees and Special Operating Rules for Card-based Payment Transactions (RS Official Gazette No. 44/2018) (hereinafter: the Law) envisages the following:

"A payment card which may be used to initiate current account payment transactions, where in domestic payment transactions, the activities referred to in paragraph 1 of this Article are not performed in the Republic of Serbia – may be issued only on a separate request from the user of payment service in writing, only if the user, for the purpose of initiation of payment transactions from the same current account, was already issued the payment card referred to in paragraph 1 of this Article. "

Relative to this recommendation, there were no changes nor developments.

OTHER DEVELOPMENTS

INSTANT PAYMENTS – development

In 2019, the last bank joined the IPS system and on 27 February 2020 instant payment via QR code was introduced at points of sale via IPS Scan and IPS Show functionalities, which the Banks implemented into their m-banking applications. This payment method allows the merchant's account to be credited immediately for the payment while at the same time allowing clients to complete their payment transactions both quickly and easily.

QUALIFIED ELECTRONIC SIGNATURE CERTIFICATE – wider application

An electronic signature is a digital replacement for a handwritten signature. With an electronic signature, it is possible to sign documents online or directly on the computer it was created on, in the original version. A document signed in this way (invoice, contract, tax return, etc.) is valid and has the same legal effect as a document in hardcopy form. By introducing the use of electronic signatures, the process of concluding contracts between the Bank and the client has been made much faster and easier, has reduced the amount of paper needed and the need for all signatories to be physically present in the Bank at the same time. The significance of remote signing has gained in importance during the pandemic.

ONLINE CLIENT IDENTIFICATION

The online identification of clients is possible via the end-to-end (E2E) onboarding of new clients, without the need to visit the Bank. This includes opening a current account and agreeing on financial service (contracting) in amounts of up RSD 600,000. Once the client has filled in the basic information online, he/she is directed to a video call with a Bank employee, where the client's identity and personal document are verified. The processes have been simplified and are faster, both available to the client at any time from any location.

REMAINING ISSUES

1. Increase of the threshold (amount) to which an electronic signature applies

The RSD 600,000 threshold for contracting financial services which can be approved online with an electronic signature should be increased, given that, for example, banks approve cash loans in amounts of up to as much as RSD 3,000,000.

Based on certain banking indicators, the average loan amount in Serbia's loan consumer category is just above EUR 5,000. This initiative will result in a higher level of digital lending, because clients that apply for loans in amounts above EUR 5,000 will also be able to receive these loans via digital 'end-to-end' (E2E) channels. The process itself would be easier for clients if they were able to complete the entire process via digital channels, with reduced amounts of paper and without having to wait at the branch. This will also impact the contracting of other financial products, such as deposits.

2. Qualified signatures

Where legal entities in Serbia are concerned, there are no provisions regulating the use of digital signatures and their application in banking operations.

This would allow legal entities to use their own electronic signature in the same way private individuals do without having to physically visit the bank and open and account or apply for a loan.

The current solution to qualified electronic signatures is provided by the use of smart cards (or USB), and this requires certain types of reader devices. The basic functionality of remote qualified signatures can be a qualified electronic signature designed as a Cloud solution, such that it can be remotely obtained and linked to a specific device, i.e. mobile phone which makes it easy to use. This would lead to the expanded use of digital signatures.

3. Acceptance of electronic documents by government bodies

Banks can offer their clients required Letters of Confirmation/Certificates via their e-banking platforms, however, this makes no sense if many government institutions fail to accept certificates in electronic form, but only in hardcopy. This initiative would require an arrangement with the Ministry of Internal Affairs to find a solution to this issue and to change their policies relative to accepting electronic Letters of Confirmation/Certificates. Also, digital processes are ecologically acceptable as the signing of documents is done without having to print the documents and document storage is in digital form.

4. Revising the NBS transactions pricelist – after the introduction of all IPS services an increase in the number of transactions performed was recorded. The NBS has the opportunity to harmonise its pricelist referring to fee collection per transactions and to reduce the price of transactions it charges the banks. This would serve to promote IPS payments and would attract even more users of these services.

5. Amendments to the Law on Multilateral Interchange Fees and Special Operating Rules for Card-based Payment Transactions are such that the issue of a card which performs domestic payment transactions is not processed in the RS, is not conditional to the prior issue of a payment card for the purpose of executing domestic payment transactions.

We propose the amendment of Article 9, paragraph 2 of the Law such that in said Article the following obligation is stricken: the obligation that payment cards, in which processing, netting and settlement of transfer orders issued on the basis of its use are not performed in the Republic of Serbia, may be issued only at the special request of the payment service user and provided in writing.

Our proposal is that Article 9, paragraph 2 of the Law states the following:

"A payment card that can be used to initiate payment transactions from a current account and in which transactions referred to in paragraph 1 of this Article are not performed in domestic payment transactions in the Republic of Serbia – may be issued only if this user for initiating the payment transaction from the same current account has already been issued or will be issued at the same time, the payment card referred to in paragraph 1 of this Article."

Rationale:

We believe that the proposed amendment in no way changes the meaning as stipulated in the Law, of which one objective is the protection of payment cards processed in domestic payment transactions, netting and settlement of transfer orders issued on the basis of its use performed in the Republic of Serbia. On the other hand, excluding the special request in writing will reduce the need for Bank

administration in a manner that requires forming and signing additional documentation, and issuing a payment card required by payment services users in order to perform payments at foreign POSs and online. Also, in line with the applicable regulations the defined steps further complicated the process of issuing and delivering 'foreign' payment cards as it means issuing these cards only when an existing payment card has already been issued which is linked to the current account of the card which is processed in the domestic payment transactions, netting and settlement of transfer orders issued on the basis of their use in the RS payment system.

FIC RECOMMENDATIONS

- Increase the threshold (amount) to which the electronic signature is applicable
- Qualified signature – possibility of signing via the Cloud, possibility of offering legal entities an electronic signature.
- The acceptance of electronic documents by government bodies
- Revision of the NBS transactions pricelist
- Amendments to the Law on Multilateral Interchange Fees and Special Operating Rules for Card-based Payment Transactions

FOREIGN EXCHANGE OPERATIONS

1.44

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Adapt the wording of the Law and interpretation in practice so that prohibited operations are explicitly prescribed as such, whereas all other activities are considered permitted.	2017			√
Switch to ex-post reporting of the cross-border loan transactions.	2020			√
Ensure better public availability of opinions of state authorities in charge of forex operations, in particular NBS, for the consistency in application of regulations by all participants (e.g., to introduce the publication of official opinions on the regulator's website, introduce a section of responses to questions on the website, publish on the website questions and answers from consultations with commercial banks in which representatives of regulators participate, etc.).	2016	√		
Reconsider the wide scope of NBS' discretion to restrict a resident from granting securities or guarantees in relation to foreign loans, especially in relation to regular foreign loans and further regulate the procedure thereof, as envisaged by the by-law of the NBS which was adopted last year in parallel with amendments to the Law under the amended Article 23.	2019			√
Simplify the set-off rules from the Article 6 of the Law (and relevant by-laws) for all types of current and capital transactions and allow cash pooling between affiliated parties.	2012			√
Reconsider Articles 7, 20 and 33 of the Law so that the transfer, payment and collection of receivables and debts are resolved adequately for all types of current and capital transactions.	2013			√
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 threw commercial banks (e.g. monthly, quarterly, etc.) For natural persons, enable automatic distribution of all inflows from abroad, ie without exceptions regarding the notification of the Bank on certain bases of inflow.	2018		√	
Further liberalisation of foreign deposit transactions of residents, especially for companies subject to project financing by foreign banks and international financial institutions.	2018			√
Further relaxation of administrative requirements (e.g. delivery of documentation via email instead in hard copy) due to obstacles caused by COVID-19 pandemic.	2020		√	

CURRENT SITUATION

As of 28 April 2018, when the amendments to the Law on Foreign Exchange Operations (Official Gazette of RS Nos. 62/2006, 31/2011, 119/2012, 139/2014 and 30/2018) (Law) entered into force, no significant changes in the field of foreign exchange regulations have occurred.

Since the last edition of the White Book, several by-laws have been adopted and amended. The changes were primarily to equalize the position of certain international financial organizations with the position of non-residents headquartered in the member state of the European Union regarding, inter alia, the cancelation of minimum deadlines for loan repayment, as well as the possibility of providing guarantees and other types

of security by residents under the credit operations between non-residents (international financial organizations and/or non-residents headquartered in the member state of the European Union). In addition, in July 2021, the National Bank of Serbia adopted amendments to the Instructions for the Implementation of the Decision on the Conditions and Manner of Performing International Payment Transactions, which supplemented the Codebook of Basis for Collection, Payment and Transfer in International Payment Transactions with a new code for inflows or outflows for services related to virtual currencies, ie digital tokens, as well as the extended application of existing codes to relevant transactions provided by the Law on Digital Property, which is a significant step in the effective implementation of the law that has recently entered into force.

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. The exceptions are the changes described in the previous section, which are a welcome clarification of the loan regime granted by international financial institutions. In general, development is to the large extent slowed down due to COVID-19 outbreak during 2020.

A significant improvement in terms of transparency and availability of opinions of the National Bank of Serbia (NBS) in interpreting the provisions of the Law was achieved in the first half of 2021 when the NBS began posting on its website responses to the most frequently asked questions about the application of foreign exchange regulations. Although it is 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 knowledge of stakeholders of the regulator's views, what is important for planning transactions. Additionally, in a comment published in April 2021, the NBS confirmed the possibility of pledging the receivables between residents, as a security for loan granted by a non-resident-creditor to the resident-debtor. This confirmation by the NBS represents a significant contribution to legal certainty in securing cross-border loans.

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. This principle has already been set out in Articles 3 (1) and 10 (1) of the Law, however, due to the legislative approach prescribing, in other parts of the Law, which transactions residents and non-residents may perform, the predominant interpretation in practice, as well as by the NBS, remains that all other unregulated activities are not in accordance with the Law. Legal transactions and the market continuously evolve, and it is neither possible nor expedient to apply a legislative technique that lists the allowed operations, while regarding the others as unpermitted. In practice, this perennial approach results in situations where certain operations, which the legislator does not seem to intend to exclude, cannot be performed due to the lack of governing norms. In addition, it is noticeable that, in certain matters, the competent authorities' interpretation narrows down the scope of application of certain rules, thereby constraining the operations of participants in the field of forex operations. However, if a list of permitted transactions is retained, we believe that it needs to be expanded wherever justified and feasible, especially when it comes to groups of affiliates, which seek to simplify financial relations within the group. Therefore, the issue of liberalisation of foreign credit and deposit operations remains open, and such liberalization is necessary to enable the provision of more sophisticated banking services, such as cash management, cash pooling and similar packages.

Certain practical difficulties in conducting cross-border loan transactions arise from the ex-ante reporting procedure of the NBS on financial loans, which is a precondition for utilization of funds by resident companies. Given the purely statistical purpose of reporting, we believe in need of further simplification of the said procedure 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.

We emphasize that the issues of transfer, payment and collection of receivables based on current and capital transactions are not adequately regulated, since only Article 33 sets the rule for all types of permitted current and capital operations, but only in transfers between two non-resi-

dents. Articles 7 and 20 regulate transfers in 'realised' foreign trade and credit transactions, while similar rules are missing for all other types of transactions - for example, for receivables arising out of direct investment, guarantees, real estate, etc. The very concept of realised foreign trade is not clear and brings into question the possibility of transfer under Article 7 when it comes to claiming an advance payment refund before the performance of the transaction. 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 when it comes to the assignment of non-resident's receivables. In addition, the term "state-owned company" used in these articles is not defined and not clear and should be defined and specified so as not to include companies with indirect state capital or minority state capital (in which cases it appears inappropriate to be required to obtain approval from the Government).

Moreover, 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, in accordance with the general rules of contract law. The current set-off rules are defined only for certain types of operations, while there remains a gap when it comes to 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, including for companies that are the subject of project financing by foreign banks and international financial institutions.

Furthermore, the by-laws regarding foreign cash inflows do not fully allow the automation of international payment transactions. In order for a resident to realise foreign cash inflow, it must first provide the bank with information for statistical purposes regarding the basis for collection and in certain situations documentation for justification of the basis of collection. Only certain types of inflows of up to 1,000 euros have been exempt from the procedure as part of the gradual liberalisation process. In addition, as of 1 April 2021, the implementation of the amended provisions of the Guidelines for Implementing the Decision on Terms and Conditions of Performing Foreign Payment Transactions (amendments from July 2020) has begun, which prescribes the obligation to enter data on invoice in payment/collection order in accordance with the single customs document for operations of import and export of goods. The change required significant changes in bank systems and adds an administrative burden in carrying out international payment transactions.

It also remains unclear why the possibilities of providing guarantees i.e. collaterals by residents are limited only to credit operations between non-residents, and not for the guarantees pursuant to Article 26. of the Law. Therefore, further liberalisation of the Law in this direction is also required. Additionally, the restriction on residents to approve a financial loan to a non-resident only if it is majority owned by a resident is still applicable to non-residents outside of the EU member states. Moreover, the discretion of the NBS to restrict individual residents from providing guarantees and other types of security for foreign loans or from granting loans to non-residents creates significant legal uncertainty. The restriction procedure itself and the moment at which the NBS may render the decision on restriction are not further defined. Furthermore, the wide scope of this discretion of the NBS applies not only to foreign loans granted by a resident to a non-resident and guarantees/securities for foreign loans, but also to guarantees/securities provided by residents for foreign loans taken by residents (for which the amendments from 2018 practically tightened the legal regime). Also, it remains an open question what specific type of security for collection of receivables need to be obtained from non-residents in case of granting loans to a non-resident or providing guarantees and other types of securities under foreign credit operations between non-residents, so additional specifying is required in order for the parties to be timely aware of what is an acceptable collateral for the NBS before structuring the credit transaction, and not after receiving comments from the NBS in this regard after the signed loan agreement and reporting thereof.

With the UK's exit from the EU completed, the NBS is expected to harmonise its stance towards UK-based banks in the coming period with the position of EU member states and with any bilateral documents that are or will be in force between Serbia and the UK.

Finally, Article 32 of the Law allows legal entities and entrepreneurs to perform cross-border payment transactions 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

(which indirectly indicates 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 amendments to the Law in order to fully enable legal entities and entrepreneurs to perform cross-border payment transactions through a payment institution and the public postal operator.

Therefore, the policy in the area of forex operations should be directed towards the further liberalisation of current and capital transactions in order to harmonise the applicable Serbian legislation with EU regulations and international standards in this area. It should also be ensured that the application and interpretation of the regulations by the competent authorities is accompanied by adequate amendments.

FIC RECOMMENDATIONS

- Adapt the wording of the Law and interpretation in practice so that prohibited operations are explicitly prescribed as such, whereas all other activities are considered permitted.
- 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.
- 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.
- Reconsider the wide scope of NBS' discretion to restrict a resident from granting securities or guarantees in relation to foreign loans, especially in relation to regular foreign loans and further regulate the procedure in accordance with Article 23 of the Law and relevant bylaws. Additionally, the clear instructions are required regarding the type of securities for receivables collection that are to be obtained from non-residents in case of granting loans to a non-resident or providing guarantees and other type of securities under credit operations between non-residents.
- Simplify the set-off rules from the Article 6 of the Law (and relevant by-laws) for all types of current and capital transactions and allow cash pooling between affiliated parties.
- Reconsider Articles 7, 20 and 33 of the Law so that the transfer, payment and collection of receivables and debts are resolved adequately for all types of current and capital transactions.
- 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 threw commercial banks (e.g. monthly, quarterly, etc.) For natural persons, enable automatic distribution of all inflows from abroad, ie without exceptions regarding the notification of the Bank on certain bases of inflow.
- Further liberalisation of foreign deposit transactions of residents, especially for companies subject to project financing by foreign banks and international financial institutions.

PREVENTION OF MONEY LAUNDERING AND FINANCING OF TERRORISM

1.50

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Develop a system that would enable better cooperation between the Administration, supervisory bodies and obliged entities, with the aim of better implementation of regulations with emphasis on prevention of money laundering and funding of terrorism and not burdening obliged entities with numerous formalities e.g. establishing a Task Force that would meet regularly to monitor the implementation of regulations with the participation of representatives of the competent authorities.	2009		√	
Create an analysis of new changes to the regulations in this area and recommend a meeting with the Government of RS in order to further improve the legal framework.	2020			√
Accept and adopt initiatives of professional associations to exempt certain business relationships from obligations prescribed by law (e.g. risk insurance).	2019			√
Continue organizing adequate seminars and workshops with the purpose of conducting certain training for the persons to whom the New Law with the purpose of increasing the efficiency of its applicability.	2011		√	

CURRENT SITUATION

After amendments in 2019, near the end of 2020, new changes have been made to the Law on the Prevention of Money Laundering and Financing of Terrorism (Off. Gazette of RS No. 153/2020, hereinafter: „Law") foremost, in order to enable harmonization with the Law on Digital Property ("Official Gazette of RS", No. 153/2020), to regulate in a comprehensive and thorough manner the issuance and trading of digital property, to regulate services that can be provided in connection with digital property, as well as the conditions for performing business related to digital assets. Also, full compliance with FATF Recommendation 15 was implemented and the EU Fifth Directive on the Prevention of Money Laundering and Terrorist Financing was taken into account.

The Law does not set out too many novelties (at least not compared to the previous Law), but certain changes have been made, of which we draw attention to the following: change of definitions and introduction of new terms, special provisions related to transactions with digital assets (obligations of service providers, definitions of initiators and users of transactions, etc.), exemptions from the obligation to collect data when issuing electronic money, establishing and verifying the identity of a natural person through a qualified electronic certificate , specified video identification procedure (not only for the National bank of Serbia - NBS but also for other supervisory bodies), ban on providing services that enable concealment of the party's identity, specified certain competencies but also punitive measures for non-compliance with the Law.

It is specifically stipulated that the NBS is the supervisory body for entities which provide services related to virtual currencies and that the Securities Commission will be the supervisory body for entities dealing with services related to digital assets that provide services related to digital tokens.

In accordance with their obligation to adopt bylaws, state authorities have already adopted certain regulations, of which we single out the adoption of a decision on guidelines for the application of the provisions of the Law for obligors supervised by the NBS, decision on conditions and manner of determining and verifying the identity of a natural person using electronic means of communication as well as the rulebook on conditions and manner of determining and verifying the identity of a natural person using electronic means of communication regulating conditions and manner of establishing and verifying the identity of a natural person those parties, a party that is an entrepreneur and a natural person who is a representative of a party that is a legal entity and without the obligatory physical presence of particular person.

POSITIVE DEVELOPMENTS

The competent authorities were very active not just regarding the amendments to the Law but also, the necessary regulations and bylaws, taking into account to some extent

the comments made on the earlier draft of the Law by obligors and the interested public (especially those concerning the introduction of the video identification procedure, the possibility of keeping documentation in electronic form, better regulation of the form of consent of the top management).

Amended Law 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, taking into account the specificities of the legal framework.

REMAINING ISSUES

Although the amendments to the Law were (again) adopted practically without a proper public debate, FIC emphasizes that it is necessary to achieve good cooperation between all competent state bodies and investors, companies, professional associations and business organizations, in order for the Law to be successful.

The application of the Law, above all, depends on the activities of the Administration and other competent bodies (NBS etc.). Standards and rules established in EU countries are largely accepted and incorporated into the new text of the Law and the next step would be to find mechanisms for their implementation in cooperation with business entities.

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 (i.e. impossibility to determine ultimate beneficial owner through other sources), 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 (which there are potentially more of, given the growing number of regulations and their frequent change).

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 in order to further improve the legal framework.
- Accept and adopt initiatives of professional associations to exempt certain business relationships from obligations prescribed by law (e.g. risk insurance).
- Continue organizing adequate seminars and workshops with the purpose of conducting certain training for the persons to whom the New Law with the purpose of increasing the efficiency of its applicability.

LAW ON THE CENTRAL REGISTER OF BENEFICIAL OWNERS

1.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Significant changes should be made to the procedure of registration of the respective data in the Central Register using the certificate.	2019			√
The sanctions prescribed by the Law should be reduced.	2018			√

CURRENT SITUATION

The Law on Central Register of Beneficial Owners ("Official Gazette of the Republic of Serbia", Nos. 41/2018 and 91/2019) (hereinafter: Law) came into force on 8 June 2018.

In accordance with this Law, two rulebooks have been adopted that regulate its 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 referred to as: BRA), other State Authorities and the National Bank of Serbia in order to register Beneficial Owners. Both rulebooks began to apply on 15 December 2018.

Central Register is a public, unique, electronic and centralised database of natural persons who are beneficial owners of a legal entity or another entity registered in the Republic of Serbia (hereinafter referred to as: registered entity). Central Register was established on 31 December 2018.

The Law applies to the following registered entities: (i) legal entities, other than public joint stock companies; (ii) cooperatives; (iii) branches of foreign companies; (iv) business associations and associations other than political parties, trade unions, sport organizations and associations, churches and religious communities; (v) foundations and endowments; (vi) institutions; (vii) representative offices of foreign companies, associations, foundations and endowments.

The latest amendments to the Law, which came into force on 1 January 2020, prescribe that the supervision over the recording, accuracy and updating of recorded data and storage of data and documents is performed by the BRA, 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 misdemeanour proceedings against the registered entity and the responsible person in the registered Entity - legal entity. Supervision over the implementation of this Law and supervision over the work of BRA in connection with the Central Register is performed by the ministry in charge of economic affairs.

With these amendments the deadline for the registration of beneficial owners of registered entities in Serbia was extended until 31 January 2020, BRA is authorized to check whether the registered entities have recorded the data on the beneficial owner in the Central Register by January 31, 2020, BRA is also authorised to file a request for initiating a misdemeanour proceedings against a registered entity that has not recorded the data on the beneficial owner in the Central Register by January 31, 2020.

Until March 19, 2021, 180,743 natural persons were registered in the Business Registers Agency as the beneficial owner. According to citizenship, the real owners in the largest percentage (89.65%) are domestic natural persons, and 10.34% are foreigners. By that date, just over 85% of registered entities had entered their data in the Central Register of beneficial owners.

The Draft Law on Amendments to the Law, which is under preparation, intends to expand the concept of an authorized person in the sense that the founder in the process of establishing a registered entity electronically is considered an authorized person, in addition to the person who is a legal representative of a registered entity. The Draft Law defines the responsible person in the registered entity as an authorized person designated in the above manner.

Also, the Draft Law on Amendments to the Law envisages a new misdemeanour in case of establishing a registered entity electronically.

POSITIVE DEVELOPMENTS

There was no improvement of the Law during the previous year.

REMAINING ISSUES

When the basis for registration is the establishment of a registered entity, it is necessary to register the data in the Central Register using the certificate of a legal representative of a registered entity, not later than 15 days upon the establishment of a registered entity. This means that in cases when the legal representative is a foreign citizen, who does not have a residency address on the territory of Serbia, his/her visit to Serbia is required, since the takeover of the certificate from an authorized body for issuing qualified electronic signature certificates has to be performed exclusively by the personal presence of the legal representative, which may represent an additional logistical challenge for potential investors.

In addition, 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

- Significant changes should be made to the procedure of registration of the respective data in the Central Register using the certificate.
- The sanctions prescribed by the Law should be reduced.

LAW ON PERSONAL DATA PROTECTION

1.08

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		√	
Render/amend laws governing specific forms of personal data processing, such as video surveillance, processing employees' personal data, and processing for the purpose of scientific and historical research and for statistical purposes.	2019			√
Harmonize Article 55 paragraph 10 of the new Law with Article 36, paragraph 5 of GDPR.	2019			√
Amend Article 65, paragraph 2 of the new Law in line with Article 46, paragraph 2, item c of GDPR and ECJ judgement (Case C-311/18) providing for the possibility to transfer personal data from a controller to a controller and a controller to a processor registered in third countries without authorization from the Commissioner on the basis of standard contractual clauses drafted by the Commissioner, based on best European practice.	2019			√
Amend Article 77 of the new Law and provide for the obligation of the Commissioner to draft standard contractual clauses for the transfer of personal data from controllers in Serbia to controllers in third countries, applying best European practice.	2019			√
Provide an official interpretation of the legislator as to what can be considered a legitimate interest and provide other interpretations for all other issues closely explained in the recitals of GDPR, including impact of ECJ judgement (Case C-311/18) on data transfer of personal data to countries which do not provide adequate level of protection of personal data.	2019			√
Amend Decision on List of Countries, Parts of their Territories or One or More Sectors of Certain Activities in these States or of International Organisations for Which It Is Considered that Adequate Level of Protection Personal Data is Provided – deleting formulation "United States (limited to Privacy Shield Framework".	2020			√
Issuance of guidance in regard to application of the new Law in relation to remote work and other measures implemented by companies to prevent spread of SARS-CoV-2 virus in working environment.	2020			√
Enact conditions for the issuance of licenses to certification bodies by the Commissioner.	2020			√

CURRENT SITUATION

The Parliament of the Republic of Serbia enacted a new Law on Personal Data Protection, (RS Official Gazette No 87/2018), (hereinafter: "the new Law") on November 13, 2018. The new Law entered into force on 21 November 2018, to be applied in nine months from the day of entering into force, i.e. on 21 August 2019. The new Law represents a translation of the General Data Protection Regulation 2016/679 (GDPR), without its recitals and with minor specifics reflecting features of the legal system of the Republic of Serbia. Although the new Law has been assessed as a robust document, which does not take into account specifics of Serbia's legal system, the FIC is of the opinion that it may serve as solid legal ground for the promotion of European values in Serbia.

Legal solutions in the new Law clarify ambiguities, which existed in the previous Law on Personal Data Protection such as manner of providing consent for processing of personal

data, introducing legitimate interest as the ground for processing, recognising new rights for data subject (data portability, right to objection, right not to be subject to automated processing) or improving or improving content recognized by the old Law on Personal Data Protection. The controllers now have to implement additional measures to protect rights of data subjects: when the processing is likely to result in high risks for rights and freedoms of data subjects, controllers have to perform data protection impact assessment and to cooperate with supervisory authority in case organisational and technical measures proposed in data protection assessement cannot mitigate risks for rights and freedoms of data subject to acceptable level. The most important novelty is that controllers and processors have to perform risk assessment to identify risks for information security, personal data and rights and freedoms of data subject and to define and implement adequate organisational and technical measures proportional to risk identified to mitigate risks to acceptable level. In addition, controllers shall demonstrate that they implement adequate organisational and technical measures. Controllers have obligation to report data breach to supervisory authorities and in certain case to inform data subjects affected by data breach. Apart form this, controller must have written data processing agreements with controller processors in which they shall define subject and nature of processing, data which are processed, relation with sub processors, organisational and technical measures applied and manner how controllers verifies their implementations and obligations of the contractual parties in regard to data protection impact assessment and data breach etc. The Law introduces obligations to controllers and processors to appoint data protection officer in certain cases and to establish and maintain records of processing activities.

The legal regime applying to the transfer of personal data is now more liberal. Personal data can be transferred to countries which have not ratified the Council of Europe Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data and to countries which the European Union (EU) considers to provide an appropriate level of personal data protection (third countries) on the ground of contractual clauses approved by the Commissioner for Information of Public Importance and Personal Data Protection ("the Commissioner"). New legal grounds for the transfer of personal data to third countries are codes of conduct and certificates issued by certification bodies. In addition, personal data can be transferred to companies belonging to multinational companies and having registered seats on the territory of third countries, based on binding corporate rules. The new Law introduces the possibility of setting up certification bodies authorized to verify the level of compliance of companies with the new Law and to issue certificates of compliance.

The new Law has abolished the provision of the still applicable law prescribing that the provisions of the Law on Personal Data Protection do not apply to data that are available to everyone and published in public media and various other publications., as well as data that a person capable of caring for his/hers interests, has published about himself/herself. The above should improve data protection regarding telesales (a form of sales widely present in Serbia), so vendors of such companies will no longer be able to contact persons whose data is publicly disclosed on websites or in different publications for the purpose of concluding various types of contracts and selling various types of goods. A data subject can now be contacted for marketing purposes in cases where it can be reasonably expected, due to an existing relationship with data controllers, that they may be contacted (legitimate interest of controllers or third parties) or when a data subject, in the course of establishing a business relationship, gives consent for personal data collection for marketing purposes.

POSITIVE DEVELOPMENTS

The Commissioner has continued to participate in public explaining importance of privacy and data protection for citizens and controllers and processors and to publish extracts from its opinions on implementation of the Law on its websites. It has published certain explanations in regard to application of legitimate interest as legal ground for processing of personal data. The number of the Commissioner's staff has been increased for 15 full time employees.

REMAINING ISSUES

Despite slight increase of the Commissioner's staff, a major issue is that the state does not allocate sufficient funds for the activities of the Commissioner remains. Such practice is contrary to commitments outlined in the Action Plan for Chapter 23 (on Judiciary and Fundamental Rights) of the EU acquis, released by the Government of Serbia in September 2015, proclaiming the strengthening of the Commissioner's resources as its goal.

The other important issue is whether and to which extent the state has the intent to promote values proclaimed in

the new Law. The state should put much more efforts in raising data subjects' awareness of the significance of the abovementioned values by organizing broadcast public debates or public conferences where data subjects can learn more about their rights contained in the new Law. The Commissioner is not the only state body which has obligation to promote implementation of the new Law. In addition, the state bodies should put more efforts to implement the new Law. Lack of implementation of the Law by state bodies creates atmosphere that other addressee of the Law should not implement the Law. Despite the official warnings of the Commissioner that most of the controllers have not appointed data protection officers, many of them still have not fulfilled this obligation.

The new Law does not regulate specific forms of personal data processing, such as video surveillance, processing employees' personal data, and processing for the purpose of scientific and historical research and for statistical purposes. The absence of regulations creates legal uncertainty for controllers that will significantly hamper their ability to conduct business. The provision stipulated in Article 100 of the Law – provisions of other laws which are related to processing of personal data will be harmonised with provisions of this Law until the end of 2020 is not implemented. The statement of the official of Ministry of Justice that working group has been formed with the task to work towards the harmonisation of other laws with this Law seems to be irrelevant.

From the statements of the officials of the Commissioner and the Ministry of Justice in regard to application of Articles 41 and 50 of the Law, FIC came to conclusion that these provisions seem to be inapplicable. These articles are crucial for implementation of the Law. Namely, the substance of the provisions is that controller must implement adequate organisational and technical measures to ensure and to be able to demonstrate that processing is performed in accordance with the Law. Implementation of adequate organisational and technical measures identification of risks of varying likelihood and severity for security of processing and the rights and freedoms of natural persons. There is no official attitude of both state bodies how controllers shall perform risk assessment to identify risks for security of processing and risks for rights and freedoms of natural persons, i.e., which risk assessment methodologies shall be applied for such assessments. Moreover, there are no sanctions prescribed in the Law for non-compliance with the mentioned provisions. Absence of clear guidance for implementation of these provisions creates enormous space for improvisation and leads to absence of legal certainty for controllers.

Gap in new Law in regard authorisation of the Commissioner in Law to render standard contractual clauses to enable transfer to controllers located in countries which do not ensure adequate protection of personal data make transfer in these situations impossible. Moreover, referencing to authorisation of the Commissioner to render standard contractual clauses for transfer in internal market in case of standard contractual clauses which serve as ground for transfer of personal data to countries which do not ensure adequate protection of personal data is inadequate. The Ministry of Justice must consider content of the new standard contractual clauses under the GDPR for data transfers from controllers or processors in the EU/EEA (or otherwise subject to the GDPR) to controllers or processors established outside the EU/EEA (and not subject to the GDPR) issued by European Commission on June 4, 2021.

The Commissioner amended its Decision on processing activities for which data protection assessment shall be performed and request for opinion of the Commissioner must be submitted in terms request for opinion of the Commissioner must be submitted only in cases when a data protection impact assessment indicates that the processing would result in a high risk in the absence of measures taken by the controller to mitigate the risk. Such amendment is not in line with Article 55 paragraph 10 of the Law which authorises the Commissioner to render and publish the list of processing activities for which requests of his opinion must be submitted and in line with Article 36 paragraph 5 of GDPR which prescribes that Member States may require controllers to consult with, and obtain prior authorisation from, the supervisory authority in relation to processing by a controller for the performance of a task carried out by the controller in the public interest, including processing in relation to social protection and public health. Instead of defining processing activities for which request for his opinion must be submitted due to high risks of such processing activities for rights and freedoms of data subjects, the Commissioner pointed out to situation when measures proposed in data protection assessment cannot mitigate risks in data protection assessment. This solution is not in line with his authorisation in Article 55 paragraph 10 of the Law.

By the time this edition of the White Book was closed, the Commissioner had not yet consummated its authorisation to prescribe conditions for the issuance of licences to certi-

fication bodies. In addition, ambiguities in Article 60 of the new Law in regard to accreditation of the legal entity which supervises implementation of codes of conducts and competencies of the Commissioner makes supervision over implementation of codes of conducts impossible.

FIC expects that the Government of Republic of Serbia, in the context of the judgment of European Court of Justice C-311/18 amends the its Decision on List of Countries, Parts of their Territories or One or More Sectors of Certain Activities in these States or of International Organisations for Which It Is Considered that Adequate Level of Protection Personal Data is Ensured and deletes formulation: "United States (limited to Privacy Shield Framework) and that competent bodies (Commissioner and the Ministry of Justice) provide guidance on impact of this judgement on transfers of personal data to countries which do not ensure adequate protection of personal data.

FIC RECOMMENDATIONS

- Provide the Commissioner with better working conditions, equipment and staff to ensure an effective implementation of the new Law.
- Render/amend laws governing specific forms of personal data processing, such as video surveillance, processing employees' personal data, and processing for the purpose of scientific and historical research and for statistical purposes.
- Harmonize Article 55 paragraph 10 of the new Law with Article 36, paragraph 5 of GDPR.
- Amend Article 65, paragraph 2 item 2 of the new Law in line with Article 46, paragraph 2, item c of GDPR, ECJ judgement (Case C-311/18) and new standard contractual clauses under the GDPR for data transfers from controllers or processors in the EU/EEA (or otherwise subject to the GDPR) to controllers or processors established outside the EU/EEA (and not subject to the GDPR) issued by European Commission on June 4, 2021 providing for the possibility for transfer personal data from a controller to a controller and a controller to a processor registered in third countries without authorization from the Commissioner and in internal market on the basis of standard contractual clauses drafted by the Commissioner, based on best European practice.
- Amend Article 77 of the new Law and provide for the obligation of the Commissioner to draft standard contractual clauses for the transfer of personal data from controllers in Serbia to controllers in third countries, applying best European practice.
- Provide an official interpretation of the legislator as to what can be considered a legitimate interest and provide other interpretations for all other issues closely explained in the recitals of GDPR, including on impact of ECJ judgement (Case C-311/18) on data transfer of personal data to countries which do not provide adequate level of protection of personal data,
- Provide an official interpretation including interpretation of Articles 41 and 50 of the new Law;
- Provide sanctions for non-compliance with Articles 41 and 50 of the new Law;
- Amend Decision on List of Countries, Parts of their Territories or One or More Sectors of Certain Activities in these States or of International Organisations for Which It Is Considered that Adequate Level of Protection Personal Data is Ensured – deleting formulation "United States (limited to Privacy Shield Framework").

- Issuance of guidance in regard to application of the new Law in relation to remote work and other measures implemented by companies to prevent spread of SARS-CoV-2 virus in working environment.
- Enact conditions for the issuance of licences to certification bodies by the Commissioner and resolve ambiguities in Article 60 of the new Law in regard to competences of competent authorities for accreditation of the legal entities supervising implementation of codes of conduct.

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 should be made and certain provisions should be more precise (as elaborated in the Remaining Issues above) in order to minimize, to the extent possible, the possibility that the Law is 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 envisages the establishment of 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 will contain 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 Serbian Business Registers Agency (SBRA) for filing in the Central Register.

The intention to introduce stricter discipline in the operations of business entities in the Republic of Serbia and to minimize the possibility of malpractices and damages to third parties, that is, the introduction of sanctions for those who abuse their position in business entities – is a highly positive goal and is fully supported by the FIC, which has been advocating that same goal ever since its establishment.

The coordination of various authorities (such as, for example, the National Bank of Serbia and the Ministry of Interior) takes place ex officio, in the sense of a timely exchange of data on business entities and their shareholders and bodies, resulting in an increase in the number of entities registered in the Central Register.

There were only several dozens of these entities when the Central Register was established, but in time this number grew to several tens of thousands.

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 SBRA 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 SBRA 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 also contains information on enforced collection provided by the NBS.

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 view 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 due to the fact that 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 it was withdrawn, so the topic of these fraudulent situations still remains open.

FIC RECOMMENDATIONS

- Significant changes should be made and certain provisions should be more precise (as elaborated in the Remaining Issues above) in order to minimize, to the extent possible, the possibility that the Law is applied to business entities and their members/bodies acting bona fide.
- It is necessary to regulate liability for entering incorrect data into the Central Register.

LAW ON WHISTLEBLOWERS

1.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
The concept of "authorized body" and the relationship between internal and external whistleblowing should be specified.	2015			√
Criminal offences in connection with whistleblowing, as well as any special penal responsibility for the grave violations of the rights of whistleblowers should be appropriately envisaged.	2015			√
Introduce rules on remuneration of whistleblowers to effectuate the purposes of this Law.	2017			√

CURRENT SITUATION

The Law on the Protection of Whistleblowers (hereinafter: the Law) entered into force on 4 December 2014 and has been in application since 5 June 2015.

The Law regulates whistleblowing, the whistleblowing procedure, the rights of whistleblowers, the obligations of the state and other bodies and organizations, and legal entities and individuals in connection with whistleblowing, as well as other issues of importance for whistleblowing and the protection of whistleblowers.

The Law prohibits retaliation against whistleblowing and protects all persons in work engagement. Besides whistleblowers, under certain conditions, the Law also protects persons connected to the whistleblower, as well as any person wrongly labelled as a whistleblower, holders of public office, and persons seeking information regarding a specific whistleblowing case. The Law also envisages the protection of the whistleblowers' personal data. Abuse of whistleblowing is prohibited.

Whistleblowing can be internal (disclosure to the employer), external (disclosure to an authorized body) or public (disclosure of information to the media, through the Internet, at public meetings, or in any other manner in which information can be made available to the public). The employer and the authorized body are also obliged to act based on anonymous tips regarding the disclosed information, within their authority.

The Law requires employers to notify all employees in writing about their rights under the Law, and to appoint a person authorized to receive information from whistleblowers and conduct proceedings in connection with whistleblowing. On the other hand, employers with more than ten employees are required to regulate an internal whistleblowing procedure by means of a general act and to display it in a visible location, as well as on the employer's website, if technically possible.

The Law regulates the general procedure for internal whistleblowing initiated by disclosing the information to the employer. Employers are obliged to act upon the information without delay and no later than 15 days of the receipt of the information. They are obliged to inform the whistleblower about the outcome thereof, within 15 days after the completion of the procedure.

External whistleblowing starts with disclosing information to an authorized body, but the Law does not specify which body.

The Law envisages judicial protection of whistleblowers. A claim must be filed within six months of the date of learning of the undertaken adverse action (subjective term), and within three years from the date when the adverse action toward the whistleblower was taken (objective term).

The Ministry of Justice has adopted two by-laws in this field. The By-law on the Programme for the Acquisition of Specialized Knowledge Concerning the Protection of Whistleblowers to ensure that judges receive additional theoretical and practical knowledge in the area of whistleblowing and the protection of whistleblowers, and acquire the skills required for professional and efficient proceedings relating to the protection of whistleblowers. The other one is the By-Law on the method of internal whistleblowing, the method of assigning the employer's authorized person, and on other issues of importance for internal whistleblowing in the workplace when the employer has more than ten employees.

POSITIVE DEVELOPMENTS

There were no improvements compared to previous recommendations.

However, since the enactment of the Law, there has been an increase in the number of filed lawsuits and reports, while courts have been issuing interim measures significantly faster than the prescribed legal time limit. Also, the first final verdicts in this field have been delivered, and two verdicts of the Supreme Court of Cassation, as an extraordinary legal remedy. One of the most significant first verdicts is the verdict of the Court of Appeals in Novi Sad no. Gž Uz 7/2017 (2) from Jun 20th, 2017 and the judgment of the Supreme Court of Cassation no. Rev2 Uz 1/2018 from July 5th, 2018, who awarded the whistleblowers compensation for non-pecuniary damage for mental anguish for offended reputation and honour and for fear suffered. Today we have more and more court proceedings. The foregoing shows that judges and other responsible persons understand the importance of enforcing the Law and of the urgency of action. It is obvious that progress has been made in the education of judges, attorneys, prosecutors and individuals subject to the Law and that they are familiar with their rights and obligations.

In addition, regarding the strengthening of the institutional framework in relation to the fight against corruption, we also note that the new Law on Organization and Jurisdiction of Government Authorities in Suppresion of Organized Crime, Terrorism and Corruption started to apply as of 1 March 2018, when the special court departments and prosecutor's offices started to work. The training of staff was conducted by the Judicial Academy, covering 610 judges, police officers, prosecutors, and financial forensic experts who will make up the task forces against corruption. Concrete results are yet to be seen.

REMAINING ISSUES

While the adoption of this Law was an important step for Serbia, the assessment so far is that some of its provisions are contradictory or incomprehensible, so the Law should be more specific in some segments.

The Law does not specify in more detail the nature and function of the authorized body, and fails to define the relationship between internal and external whistleblowing. The Law remains powerless in cases of reprisals against whistleblowers by a third party who is not the employer. In addition, the Law does not envisage criminal offences in connection with whistleblowing, or specific offences in cases of serious violations of the rights of whistleblowers and other persons entitled to the same protection. Furthermore, the Criminal Code has not been amended, as an alternative to the aforementioned option, to include the prescription of such criminal offences. We believe that this can be extremely important, especially in whistleblowing related to corruption and threats to the environment and human health.

The Law does not provide any rules on the remuneration of or the explicit right of whistleblowers to claim fair compensation instead of the annulment of the act constituting adverse action. The right of whistleblowers to fair compensation, coupled with the already incriminated abuse of whistleblowing, would yield far better results in the implementation of this Law.

However, to date, there have been no changes in the legislative framework in this area, including by-laws.

FIC RECOMMENDATIONS

- The concept of "authorized body" and the relationship between internal and external whistleblowing should be specified.
- Criminal offences in connection with whistleblowing, as well as any special penal responsibility for the grave violations of the rights of whistleblowers should be appropriately envisaged.
- Introduce rules on remuneration of whistleblowers to effectuate the purposes of this Law.

LAW ON PUBLIC NOTARIES 1.20

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Appointment of public notaries in eight underdeveloped cities in Serbia. Continue with the process of digitization and networking of the state administration with public notaries, in order to enable the implementation of all legal competencies of public notaries.	2019		√	
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			√
Further 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			√

CURRENT SITUATION

The Law on Public Notaries (RS Official Gazette No 31/2011, 85/2012, 19/2013, 55/2014 – as amended, 93/2014 – as amended, 121/2014 and 106/2015) (hereinafter: "the Law"), in application since 1 September 2014, introduced public notaries as a legal profession within the Serbian legal system.

Public notaries provide the following services:

- Drafting and notarization of documents important for legal transactions performed by natural persons and corporate clients, such as the notarization of various types of contracts in the area of corporate law, torts and obligations, inheritance and family law, lien mortgage statements and other statements establishing, changing or terminating a legal relationship. Depending on the type of document, the form varies from signature notarization to the strictest forms of notarial records. Since 1 March 2017, the notarization of signatures, transcripts and writs has become a part of the services provided by public notaries.
- Transactions and procedures assigned to public notaries by courts. These are primarily probate proceedings, the assignment of which has significantly unburdened courts, out-of-court proceedings for determining boundaries, proceedings regulating the management and use of, or the division of a common asset or property.
- Deposit-related transactions. Parties may entrust a public notary not only with court deposits, but also with cash, securities, writs, documents, art objects, jewellery, and other valuables, except those prohibited by law. When receiving a valuable to be kept in a safe, a public notary is required to issue a notarial deposit certificate.
- Notaries are the so-called "reporting entities," meaning that they are obliged to send each relevant document which is the subject of the notarization to the relevant cadastre.

POSITIVE DEVELOPMENTS

With the adoption of the Law on the Procedure of Registration in Real Estate and Public Utility infrastructure Cadastres (RS Official Gazette No 41/18,31/19 and 15/2020) and the Law on Electronic Documents, Electronic Identification and Confidential Services in Electronic Transactions (RS Official Gazette No 94/2017 and 52/2021), public notaries became the so-called "reporting entities", meaning that for the notarization of any document the content of which is subject to registration in the cadastre of real estate or cadastre of public utility infrastructure, public notaries are required to send a copy of that document to the cadastre within 24 hours of notarization, so that it can be registered, and to issue a confirmation thereof to the client. Additionally, a public notary is also required to deliver copies of tax returns to the cadastre, for the purpose of determining the amount of tax on transfer of absolute titles, and taxes on inheritance and gifts and copies of tax returns, for the purpose of determining a property transfer tax, and also a record that a taxpayer does not agree to have the tax return sent through the public notary's office.. Subsequently, the cadastre officially forwards the tax returns to the tax authorities and forwards the document which is the basis for change of ownership over real

estate to the public utility bill collection company. A major step forward has also been made in the process of digitization and interconnection of the public administration and interconnection between the public administration and public notaries. after January 1, 2021 documents are sent to the cadastre in electronic form, through the so-called "electronic counter.", which reduce the use of paper documents and instead of having to go to a counter three-four times, one visit to a public notary will suffice to complete the notarization, the registration of a document in the cadastre, the submission of the tax returns and the notification of the public utilities company.

In addition, as of December 31, 2020, notaries are also authorized to issue excerpts from the Real Estate Cadastre (or utility list), which relieves the real estate cadastre services in the part related to this service and enables citizens to obtain the necessary excerpts on the spot, without unnecessary waiting.

REMAINING ISSUES

The prices of public notary services remain an acute problem in this area. The public notary fees are somewhat higher than those once paid for the same services at courts and municipalities, especially for the notarization of lien statements, whose price goes as high as several thousand euros.

It is necessary to continue the process of digitization and networking of public notaries with the state administration. Namely, there are still no technical capabilities for notaries to carry out some of their legally established competences. For example, the cadastre of lines ("katastar vodova") has not been properly established, and it is not possible to electronically send a document notarized by a public notary to the cadastre. Also, new legal solutions have created a problem in practice, so when the delivery of a document is carried out by a public notary ex officio, the client on whose behalf the registration is made, in practice, is no longer in a position to dispose of the request or to withdraw it or modify, or to postpone the sending of a certified document (for example, the client does not have a possibility to use a release statement as a necessary document for the disposal of an unreleased mortgage). This problem has existed for a long time, but little has been done to solve it.

Important problem is the inconsistent practice and approach in the work of different public notices, meaning that one notary public refuses to verify a particular document, while the other one accepts the verification of the same document. Although the Chamber of Notary Publics issues the opinions on acting of the notaries in certain situations, such opinions is not obligatory for the notaries.

Another big problem is that some notaries often require the submission of documentation for the purpose of verification in order to determine circumstances that are not their obligation by the law to determine and contribute to the unpredictability of the legal environment, given that parties are exposed to additional requests from notaries.

After the introduction of the possibility for notaries to issue excerpts from the real estate cadastre, a dispute arose between the cadastre and the Public Notary Chamber over the appearance and content of these excerpts.

FIC RECOMMENDATIONS

- 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.
- Reducing charges for services provided by public notaries, and their harmonization with the purchasing power of companies and natural persons.
- 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)
- Unification of the practice of notary publics to obligatory implementation of the opinions of the Chamber of Notary Publics.
- Preventing notaries from denying verification due to circumstances that they are not obliged by law to determine for a certain form of certification.

TAX

1.29

Same as in other aspects of business life, COVID-19 pandemic significantly marked the previous year in the area of taxation as well. Taxpayers were facing difficult conditions for conducting business while the Government was focused on supporting the economy and alleviating the negative impact of the pandemic. After the initial set of economic and fiscal measures to help the economy and mitigate the negative effects of the pandemic, a set of additional measures followed - albeit of a lesser scale. The Government support was aimed at helping taxpayers to cover some of the employment costs and also deferral of certain tax liabilities. At the beginning of 2021 repayment of the previously postponed tax liabilities, which requires special caution and continued careful management of liquidity in a situation where there pandemic is still on and there is a level of undertainty regarding its econimic impact, despite optimistic prognoses of the economic rebound.

Considering the situation, there was a lower level of activity in the domain of improvement and changes of the tax laws as expected. Key novelties include amendments of the VAT Law and a new comprehensive VAT bylaw which replaced a number of different acts, with the goal to ease understanding and navigating the VAT rules for the taxpayers and the Tax Administration. Amendments of the VAT Law, amongst others, include change of the rules regarding VAT treatment of construction activities, which helped address some of the uncertainties and problems, but also opened some new questions and doubts. Other changes include VAT treatment of the investment funds, digital assets, transfer of entire or a part of a business etc. There were also a few amendments to the Corporate Income Tax and Personal Income Tax at the end of 2020, also in relation to investment funds and digital assets. New Free Trade Agreement was signed with the United Kingdom after its separation from the EU, as well as the Free Trade Agreement with the countries of Eurasia Economic Union. New PEM Convention rules related to of origin have been adopted for all trade with EU and CEFTA members.

Foreign Investors Council is emphasizing lack of transparency and public debate in the area of tax law changes for years now. There was certain progress in this respect before the pandemic started, through activites of the Working Group for Implementation of the FIC White Book Recommendations and open dialogue with the Ministry of Finance about important tax questions and issues. However, despite our expectations there was no continuation of a constructive dialogue with the Ministry of Finance in the previous year. Some of the above mentioned amendments of the tax laws were adopted without a proper and timely insight of the public and substantial public discussion. Therefore, one of the FIC priorities for the coming period will be focus of improvement of tax laws and practice with greater transparency and timely disclosure of draft tax legislation to the public. We will continue insisting on resolving the most pressing tax issues from the previous periods which were sidelined due to the pandemic, but which are still very acute – like the changes to the property tax law, fair value of property for corporate income tax purposes, electronic invocies, etc.

Difficult business environment caused by the pandemic also imposed to the Tax Administration and taxpayers alike the need to quickly shift to electronic communication and use of new technologies. This puts even greater emphasis on the importance and necessity of quick completion of the reform and modernization of the Tax Administration.

A. CORPORATE INCOME TAX (CIT)

1.38

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, investment funds, treatment of liquidation or bankruptcy remainder that is below the threshold of invested capital, and through by-laws, provide guidelines on taxation of permanent establishments. Consistent interpretation and application of the domestic tax law and provisions of the international tax treaties on transactions with a foreign element should be ensured.	2010-2016		√	

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.	2012-2016			√
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/ 2016/ 2017			√
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			√
To regulate in proper way the tax credit for banks in relation to The Law on conversion of housing loans denominated in CHF. To avoid introduction of tax incentives in legislation other than tax laws.	2020	√		

CURRENT SITUATION

The taxation of companies in Serbia is governed by the Law on Corporate Income Tax (hereinafter: the CIT Law) and ratified international agreements. The implementation of certain provisions of the CIT Law is regulated by several by-laws.

The CIT Law was last amended in late 2020 (RS Official Gazette No 153/2020). As for international treaties, in August 2020 Serbia signed a Double Taxation Agreement with Hong Kong, which entered into force on January 1, 2021.

By the time this edition is published, the Government has adopted new Draft Law on Amendments to the Corporate Income Tax. The impact is yet to be assessed.

POSITIVE DEVELOPMENTS

With latest CIT amendments introduced, the CIT Law was aligned with the laws and regulations governing open-ended investment funds and alternative investment funds. CIT amendments also introduced the manner in which income derived from a transfer of digital assets should be taxed i.e. as income subject to capital gains tax. This was followed by Ministry of Finance opinion No 401-00-509/2021-16 issued on February the 1st 2021 that contained explanations regarding accounting recognition, valuation and manner of recording digital assets in the business books of taxpayers.

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 immediately cancelled or amended.
- 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 calculating tax depreciation for assets acquired before 2019 continuously create discrepancies and permanently unrecognized expenses in the tax balance sheet in cases where, at the moment of disposal of an asset, the current accounting value is lower than the current tax value of that asset, as well as in cases where a fixed asset is being disposed of, where that asset was not previously depreciated for tax purposes, as its cost value at the moment of purchase was lower than the average salary in Serbia. The Ministry of Finance issued an opinion in 2017 which gave rise to additional dilemmas about the cessation of tax depreciation for written-off assets.
- Tax depreciation is not calculated on fixed assets purchased before changes to the CIT Law from the begin-

ning 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.
- Tax incentives can only be introduced through tax laws. The Law on Conversion introduced a tax credit for banks and prescribed additional evidence that must be submitted with the corporate income tax return. However, detailed rules for the application of the tax credit will be regulated through the CIT Law.

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.
- Properly regulate the application of the tax credit for banks defined by the Law on the Conversion of Housing Loans Indexed in Swiss Francs. Avoid introducing tax incentives in regulations that do not constitute tax regulations.

B. PERSONAL INCOME TAX 1.25

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 of compensation for transportation costs of employees for arrival and departure from work, and amend the Law so that the documentation requirement is revoked or harmonized with an 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 individuals. Therefore, the Government of Serbia should consider the introduction of a synthetic taxation system, which is present in many advanced tax systems.	2008			√
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			√
Recommendation is that the Ministry of Finance take a clear position regarding the tax treatment of interest-free loans (i.e. loans with lower interest rates lower than market ones) and to publish such position through an official opinion that would lead to greater legal certainty in this respect.	2017			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
It is necessary to establish cooperation between the Ministry of Finance and the Ministry of Labour, Employment, Veterans and Social Affairs in order to properly ensure the application of relevant regulations, i.e. to treat compensation for unused vacation as damage compensation (as it is recognized by the Labour Law) and not as salary.	2017			√
Considering that social security rights are represent one of the basic social and economic rights of workers, we point out the importance of harmonizing certain provisions of regulations which would allow foreign nationals posted to Serbia (without entering employment) and Serbian nationals employed with foreign employers in Serbia to register for mandatory social security. Additionally, we note that Republic of Serbia needs to expand the network of international agreements that regulate the issue of social security, with the aim of avoiding double payment of contributions.	2017		√	
It is necessary to align annual personal income tax form with Article 12 of the Law (the right to use tax credit) and agreements on the avoidance of double taxation, i.e. the taxpayer should be allowed the right to use the tax credit.	2019			√
Although some progress has been made in terms of electronic communication, we believe that there is significant room for increasing the functionality of the E-porezi platform, but also communication between taxpayers and the Tax Administration via e-mail. It is necessary to expand the number of actions that can be carried out through the E-porezi platform and to introduce digital profiles of taxpayers.	2020		√	

CURRENT SITUATION

Taxation of personal income in Serbia is based on the schedular income tax system which has been abandoned by many advanced tax jurisdictions as unclear and unfair.

The Personal Income Tax (PIT) Law as the key regulatory instrument recognizes several categories of taxable income. Depending on each individual case, personal income tax is paid: (i) as withholding tax, (ii) based on the decision of the relevant tax authority or (iii) by self-assessment.

We would like to highlight in particular the latest amendments to the PIT Law, adopted in late 2020: (i) the PIT Law has been aligned with laws governing open investment funds and alternative investment funds, ii) the tax treatment of income of physical persons from transfer of digital assets, as income subject to capital gain tax, has been specified in detail iii) a new legislative solution has been introduced for the taxation of income of foreign nationals seconded to work in Serbia, based on the income they receive from an employer in or from another state, iv) a detailed explanation is provided of the tax treatment of the income of physical persons from remunerations for work performed (freelancers), on which tax is paid by applying the self-assessment method, and a new method of taxation is prescribed for the remunerations for work performed earned in the period from 1 January 2015 to 31 December 2022.

In addition, the latest amendments to the PIT Law provide for a 50% tax exemption of the capital gain tax for taxpayers who invest the proceeds from the sale of digital assets in the share capital of a company domiciled in Serbia in accordance with the law governing corporate income tax (CIT), or in the capital of an investment fund established under the laws governing investment funds whose central business and investment activities are located in Serbia, or a tax credit, proportional to the investment made by the taxpayer in the share capital of the company, or in the capital of the investment fund.

By the time this edition is published, the Government has adopted new Draft Law on Amendments to the Personal Income Tax. The impact is yet to be assessed.

POSITIVE DEVELOPMENTS

The latest amendments to the PIT Law and its implementing by-laws have led to some positive developments:

- The PIT Law provides for a tax exemption of income from the transfer of digital assets, when the taxpayer invests the proceeds or part of the proceeds from the sale thereof in the share capital of a company domiciled in Serbia in accordance with the law governing corporate income tax, or in the capital of an investment fund in accordance with the laws governing investment funds, if the fund's business and investment activities are located in Serbia,

- The PIT Law is aligned with laws governing open investment funds and alternative investment funds,

- The method of taxation of income of a physical person from transfer of digital assets is set out in detail,

- The method of calculation and payment of taxes by means of self-assessment is set out in detail, in cases when a domestic legal entity makes payments to an employer domiciled in another state, to cover the costs of the remuneration of an employee seconded to work in the domestic legal entity.

- An explanation is provided of the method of taxation of the income of physical persons from remuneration for work performed on which tax is paid by self-assessment (i.e., the so-called freelancers) and the new amounts of eligible standardized costs are prescribed.

- The PIT Law prescribes a new method of taxation of income of natural persons from remuneration for work performed (i.e., freelancers) in the period from 1 January 2015 to 31 December 2021, on which the tax is paid by self-assessment.

- It is envisaged that a sole proprietor's notification of his/her decision to pay themselves wages is to be made electronically.

REMAINING ISSUES

- While the latest amendments to the PIT Law stipulate that transportation costs for commuting to and from work must be documented in order for the reimbursement thereof to be tax-free up to a certain threshold, they fail to specify what is considered as a "documented cost". This has contributed to aggravating the problem created by the publication of the controversial opinion of the Ministry of Finance from 2019, which caused negative reactions of the business sector and imposed unnecessarily complicated requirements on taxpayers regarding the documentation of such costs.

- No progress has been seen in the area of reimbursement of expenses to employees for business trips abroad. This area has not yet been properly regulated, nor have there been any amendments to the Law that would help to resolve this problem. The same disputable provisions are in force, prescribing that the amount of per diem shall be determined in line with and in the way stipulated in the decision of the relevant authority, which leaves ambiguities regarding which acts of the authorities this refers to. Consequently, when performing tax audits, tax inspectors often rely on the provisions of the Regulation on the reimbursement of costs and severance pays of state officials and employees, despite the fact that this Regulation only applies to the public sector.

- Furthermore, not even these latest amendments to the PIT Law mention tax treatment of no-interest loans (i.e., loans with interest rates below the market ones) granted by the employer to its employees. It remains unclear whether approving such loans should be considered as a benefit or not.

- Compensation for unused annual leave paid to an employee who did not use paid leave in the course of employment is still treated as salary. Considering that the Labour Law stipulates that this payment is a compensation for damage and not salary, the reasons why the Ministry of Finance opted for such tax treatment remain unclear. This further clearly implies that a satisfactory level of cooperation between the two relevant ministries has yet to be achieved, at least in terms of the tax treatment mentioned herein.

- Due to the way in which the method of calculation of taxable net income for the purposes of calculating the annual tax is defined, taxpayers who have already paid tax abroad on income earned from abroad, are unable to use this tax as a tax credit in full and are exposed to double taxation. This arrangement directly affects experts whose expertise is in demand abroad, who, because of their wish to continue living and working in Serbia, suffer the burden of double taxation for the same type of income.

- Due to the introduction of item 18 in Article 85, paragraph 1, stipulating that remuneration for work performed, on which the tax is paid by self-assessment, shall be taxed as "other income", and the Opinion of the Ministry of Finance No. 011-00-689/2021-04 of 23 July 2021, the impression is that all income from abroad related to work, even if it is earned under an employment contract, will be taxed as "other income". There are a number of tax residents in Serbia who have employment contracts with foreign companies that are not recognized as employment contracts by the Ministry of Labour. Despite this, these people are, as a matter of fact, employed, their employer determines their working hours, annual leave, provides professional training and similar. Based on the foregoing provision alone, their income, which is in actual fact their salary, will be unfairly treated as "other income" and will be taxed at a higher tax rate and subject to payment of mandatory social insurance contributions without the possibility of applying the maximum monthly base. Also, these persons are discriminated against in relation to natural persons seconded to work in Serbia, whose income from abroad is treated as salary for tax purposes.

- Article 85, paragraph 1, item 18 of the Personal Income Tax Law was amended to remove the eligible standardized costs of 20% when determining the basis for calculating the tax on remuneration for work performed (on which the tax is paid by self-taxation), with the intention of regulating the taxation of the so-called "freelancers", consequently, the tax burden falls on workers who receive their remuneration for continuous work performed for a foreign payer, irrespective of whether these are salaries, which due to the position of the Ministry of Labour were renamed to "remuneration for work performed" or whether they are, indeed, remunerations. Specifically, these workers have been unjustifiably placed in an unequal position in relation to persons who receive remuneration for work performed from domestic payers (and who are entitled to 20% of standard costs). In total derogation from the Government's initiative to retain domestic experts in Serbia and reduce the brain drain, specifically, we refer to the initiative for the return of our experts, the so-called "newly domiciled taxpayers" (Article 15c of the Personal Income Tax Law and Article 15a of the Law on Compulsory Social Insurance Contributions), local experts who wish to work for foreign employers while being based in Serbia are additionally burdened with the abolition of the 20% standardized cost rate and the introduction of fixed standardized costs (3 x 18,300 per quarter) and on top of all that they pay the annual personal income tax.

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 that the Ministry of Finance should take a clear position regarding the tax treatment of interest-free loans (i.e., loans with interest rates below market ones) and publish their position in the form of an official opinion that would lead to greater legal certainty in this respect.

- We believe that cooperation should be established between the Ministry of Finance and the Ministry of Labour, Employment, Veterans and Social Affairs to ensure the proper application of relevant regulations, i.e., to treat

compensation for unused leave as compensation (as recognized by the Labour Law) and not as salary.

- Considering that social security rights are among the basic social and economic rights of workers, we would like to stress the importance of harmonizing provisions of regulations to allow foreign nationals seconded to work in Serbia (without entering employment) and Serbian nationals employed with foreign employers in Serbia to register for mandatory social insurance. Additionally, we note that Serbia needs to expand the network of international agreements regulating the issue of social security, to avoid double payment of contributions.

- It is necessary that annual personal income tax return form be aligned with Article 12 of the PIT Law (the right to tax credit) and agreements on the avoidance of double taxation, i.e., the taxpayer should be allowed the right to use the tax credit.

- While some progress has been made in terms of electronic communication, we believe that there is significant room for improving the functionality of the E-porezi platform, as well as the communication between taxpayers and the Tax Administration via e-mail. The number of tasks that can be carried out through the E-porezi platform should be expanded and digital profiles of taxpayers should be introduced.

- Types of income should be clearly differentiated according to their intrinsic nature and adequate taxation methods should be applied to income of persons working for foreign employers under other types of contracts (as remuneration for work performed along with eligible standardized costs of 20%) as well as of persons who work for foreign employers under employment contracts (as salary). We believe that, in this case, it is necessary to amend not only the tax laws, but also the regulation governing the field of labour and compulsory social insurance, in order to have this issue regulated properly.

- In order to eliminate discrimination against taxpayers on the basis of whether the entity paying their income is a domestic or foreign entity, we propose to either amend the provisions governing the calculation of the tax base for the remuneration for work performed, on which the tax is paid by self-assessment, or define the categories of taxpayers that are considered freelancers because of whom this provision was introduced in the first place, while other taxpayers, specifically, domestic experts paid by a foreign entity for their work, receiving regular and higher payments, should have equal tax treatment as taxpayers whose remuneration is paid by domestic entities.

C. VALUE ADDED TAX 1.38

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
The Ministry of Finance should adopt a comprehensive rulebook on the application of the VAT Law to replace the large number of rulebooks treating only individual provisions of the Law. Such a comprehensive rulebook would detail the application of the entire Law, as has been done in other countries. This would allow for the majority of problems observed in practice to be resolved through amendments to the rulebook. It would increase the legal certainty of taxpayers and simplify the application of regulations not just for taxpayers, but also for tax inspectors. The Tax Administration should issue comprehensive guidelines for tax inspection procedures, to address various issues which have repeatedly been the source of problems in practice. Changes in regulations should not impose an additional administrative burden on taxpayers, such as the introduction of additional paperwork or the introduction of certain forms and records that are not common in business practice, etc.	2007	√		
With respect to the application of the reverse charge mechanism, it should be specified that for supplies by a foreign entity, the obligation of the recipient of goods and services to account for the VAT due should occur either at the moment when: 1) an invoice is received for goods or services provided by the foreign entity; or 2) when an advance payment is made to the foreign entity, whichever of these two events occurs earlier.	2013			√
VAT legislation should provide that a credit note may be issued either by the supplier or recipient of goods/ services. This practice is in line with VAT rules in other countries and a common business practice. This cannot jeopardize VAT collection in any way. On the other hand, this would help companies decrease their administrative costs. Additionally, it is necessary to specify clearly that in the case of mistaken delivery of goods in a smaller quantity than was previously invoiced, the taxpayer may either issue a new invoice or credit note. This practice also corresponds to a customary business practice. Insisting on exclusively one approach imposes additional costs, whereas from the VAT collection point of view, there is no reason why both approaches cannot be applied. With respect to above, in case of return of goods, it is also necessary to define that irrespective of the expiration date, the supplier can issue a credit note or the buyer can issue an invoice/debit note in accordance with their mutual agreement. This approach can not jeopardize VAT collection since the same VAT rate is applied irrespective of who issues the credit note.	2014			√
The Law should specify that the obligation to account for VAT lies with the transferee of goods and services in the following instances: 1) in the case of in-kind contributions, when the supply of goods and services as an in-kind contribution is subject to VAT; and 2) in the case of a change in status, when the supply of goods and services is subject to VAT.	2015			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
It is necessary to specify that in the case of supplies in the field of construction, parties may choose taxation in line with the general principle – that is, VAT charged by supplier. Also, in the case when a supplier calculated and paid VAT, and the tax authority considers that the recipient should have calculated VAT, as the tax debtor, the recommendation is for the supplier's invoice to be considered the correct invoice, and that administrative proceedings should not be initiated against either the supplier or the recipient. Namely, in the Member States of the EU, for the supply in the field of construction, the recipient is the tax debtor because of the prevention of evasion and fraud relating to VAT assessment, where the subject, special rules apply when the supply is performed by a construction subcontractor, but not when the supply is performed by the main contractor to the investor. We emphasize that the biggest problem in practice occurs precisely with respect to supplies between main contractors and investors, given that in this case the investor can be an entity that purchases services of the current maintenance of facilities and similar services (i.e. the investor does not have to be active in construction). Bearing in mind this motive for designating the recipient as tax debtor, there is no reason to prevent the supplier from assessing and paying VAT, or to penalize any of them because the general rule on taxation is applied instead of the special rule according to which the recipient is the tax debtor.	2017		√	
With respect to VAT records and the preparation of VAT calculation reviews, we believe it is necessary that the adopted Rulebook and User manual be reconsidered, and especially the requirements with regard to the POPDV form contents and the method for presenting certain transactions, such as the final invoice and invoice for advance payment.	2017			√
The processing of requests for refunds reported in VAT returns should be harmonized with the VAT Law and the Law on Tax Procedure and Tax Administration, meaning that the initiation of a tax audit cannot constitute grounds for delaying a VAT refund. The Ministry of Finance needs to issue a binding explanation in line with the VAT Law and the Law on Tax Procedure and Tax Administration, and the Tax Administration should comply with it.	2017			√
We suggest that in Article 10a, paragraph 6 of the Law on Value Added Tax, the words: "issuance of invoices" are deleted.	2020			√

CURRENT SITUATION

The value added tax is governed by the Law on Value Added Tax (RS Official Gazette No 84/2004, 86/04 – correction, 61/05, 61/07, 93/12 and 108/13, 142/2014, 83/2015, 108/2016, 7/2017, 113/2017, 13/2018, 30/2018, 4/2019, 72/2019, 8/2020 and 153/2020; hereinafter: the "VAT Law").

In the previous period (December 17th, 2020), amendments to the VAT Law were adopted, which apply, with a few exceptions from, January 1st , 2021. The most recent changes comprise, among others, of the following amendments:

- the applicability of a special rule for supply in area of construction whose value is higher than RSD 500,000 without value added tax (VAT) has been narrowed,
- the exemption with the right to deduct the input tax for the sale of goods that are in the process of inward processing for which the taxpayer-acquirer would have the right to deduct input tax if he procured them with calculated VAT has been prescribed,
- exemption without the right to deduct input tax for the transfer of virtual currencies and the exchange of virtual currencies for funds in accordance with the Law on Digital Property has been prescribed,

- invoice can also be issued in electronic form under certain conditions (Amendment made in connection with the Law on Electronic Invoicing),
- the term taxpayer has been expanded to include alternative and open investment funds registered in the relevant register in accordance with the law, which do not have the status of a legal entity (in order to comply with regulations on investment funds and other tax laws recognizing these entities (although they do not have the status of a legal entity) as taxpayers),
- auxiliary supply is regulated more precisely in certain situations,
- occasional supply that are not included in the supply of goods and services for the purposes of calculating the percentage of proportional tax deduction are considered to be a maximum of two transactions of equity, securities, postal securities, taxes and other valid securities in one calendar year,
- the correction of higher calculated tax in the case when the invoice should not have been issued has been regulated in a more detail manner,
- the right to opt for taxpayers engaged in the sale of second-hand goods (second-hand motor vehicles, works of art, collectibles and antiques) to determine the tax base as the difference between the sale and purchase price of these goods, minus the VAT contained in that difference has been introduced.

In relation to amendments to the VAT Law, during 2021, numerous VAT Rulebooks were amended and entered into force on 1 January 2021, as follows:

- Rulebook on determining goods and services in the area of construction for the purpose of determining the tax debtor for value added tax,
- Rulebook on the manner of determining the tax base for the calculation of VAT in the supply of goods or services which is carried out without renumeration,
- Rulebook on the manner and procedure of exercising tax exemptions for VAT with the right to deduct input tax,
- Rulebook on the manner of determining and correcting the proportional tax deduction,
- Rulebook on the form and content of the application for registration of VAT payers, the procedure of registration and deletion from the records and on the form and content of the VAT tax return,
- Rulebook on the form, content and manner of keeping records on VAT and on the form and content of the review of VAT calculation,
- Rulebook on determining goods that are considered second-hand goods, works of art, collectibles and antiques.

The respective amendments were made for the purpose of aligning the by-laws with previous changes of the VAT Law.

In addition, during April 2021, after numerous announcements, a new unified Rulebook on Value Added Tax (Rulebook) was adopted, which has been in force since July 1st, 2021.

The Rulebook regulates the previously regulated through 27 separate VAT Rulebooks in one place, which ceased to be valid on the day of application of the new Rulebook, but will continue to apply to supply in goods and services for which the advance payment was exercised up to June 30th, 2021.

However, we point out that taxpayers during 2021 were exposed to significant changes in the area of VAT twice, first through changes in a large number of rulebooks in early 2021, and finally by the adoption of a unified Rulebook, which has a great impact on the analysis of comprehensive practical consequences for the tax system and adjustment of taxpayers' business models to comply with legal regulations.

In addition to merging all VAT Rulebooks into one legal act, the Rulebook also brings certain novelties that can be roughly divided into three groups:

- terminological harmonizations,
- specifying and incorporating the rulings of the Ministry of Finance into the existing regulatory framework,
- amendments of existing rules.

Some of the significant amendments brought by the new Rulebook are:

- Prescribing the list of activities that do not fall under the supply in the area of construction,
- In order to apply a special rule for the transfer of a business unit, it is no longer necessary that the transfer of the business unit must be such as to prevent the transferor from performing the business activity from the moment of transfer,
- Providing catalogs, brochures, flyers and similar goods intended to inform potential customers about the activities of taxpayers free of charge is not considered subject to VAT,
- It is specified that the replacement of goods within the warranty period (in accordance with Article 6 of the Law) is not considered the replacement of spare parts within the repair of a particular good,

- Clarification of rules on real estate services supply according to which the installation or assembly of machinery or other equipment, as well as maintenance, repair, control and supervision of such machinery or other equipment are considered services directly related to real estate if a particular machine or equipment after installation or installation is considered an integral part of real estate,
- The Rulebook prescribes that if the value of packaging is not charged to the VAT base, and the buyer does not return the packaging within the prescribed period, it is considered that there was a special supply of packaging, and it is necessary to issue a new VAT invoice for that supply,
- It is additionally specified in which cases it is considered that there has been a change in the VAT base,
- The conditions for exercising tax exemptions with the right to deduct previous VAT are regulated more precisely,
- The possibility of omitting the supply date when the invoice date is the same as the supply date is prescribed,
- It is stipulated that in case the fee is charged in foreign currency, for individual items the base and VAT can be stated in foreign currency, but the total amount of the base and the total amount of VAT on that account must be stated in dinars.

POSITIVE DEVELOPMENTS

A very significant improvement is the adoption of the new unified Rulebook, which regulates in one place the matter previously regulated through 27 separate VAT rulebooks. This change will significantly facilitate the application of VAT regulations in practice. Additionally, by previously prescribed amendments certain clarifications of the existing rules have been made, which will facilitate the further application of VAT regulations in certain situations.

REMAINING ISSUES

VAT is accounted for by the recipient of goods and services performed by a foreign supplier (applying the so-called reverse charge mechanism) at the moment when the supply takes place or at the moment when advance payment is made, depending on which occurs earlier. In case there is no advance payment, VAT should be accounted for at the moment the service is rendered, something often unfeasible in practice, especially in the case of services for which the price in the contract was not specified as a fixed amount, but rather depends on a contractually specified calculation. At the moment of supply, or up to the deadline for filing a tax return, the VAT payer frequently does not have the supplier's invoice or information on the amount of the compensation, and so cannot know what the taxable amount is.

VAT legislation provides that in cases where taxable amount has changed after the supply of goods and services has taken place (e.g. subsequently approved discounts), the supplier should issue a document containing certain obligatory items. VAT legislation does not provide the possibility for the recipient of goods/services to issue this document, as is the business practice in other countries. Because of this, additional costs are imposed on companies since they have to change their business practices due to Serbian VAT rules.

In practice, there is an issue with VAT treatment of in-kind contribution of goods and services and status changes. Specifically, in such instances the VAT accounted for by the transferor of assets is income for the transferor and an expense for the transferee, and consequently in-kind contribution and status changes are not neutral from the perspective of the income statement, as they should be, essentially. For this reason, in such instances, the transferee should be the one to account for the VAT (applying the so-called reverse charge rule).

The VAT Law defines new rules regarding the assessment of VAT in the case of supplies in the field of construction. The rules relate to the classification of business activities, which results in numerous questions and uncertainties in practice, because, in substance, the classification was not drafted for tax purposes. Consequently, taxpayers have to deal with legal uncertainty due to the different interpretation of regulations by taxpayers and by Tax Administration alike. Due to diverging interpretations, taxpayers face the risk that Tax Administration will hold the supplier accountable for output VAT, although the recipient as the taxpayer accounted for the VAT, or that the recipient who accounted for the output VAT is denied his right to input VAT deduction because tax authorities deem that the obligation to assess VAT is on the side of the supplier, even though none of these two approaches is to the detriment of the state budget. The latest amendments have made significant changes in terms of supply in area of construction (introduction of a threshold of 500,000 dinars, prescribing a list of supplies that are excluded from application, etc.). However, the basic principles on which the supply in the area of construction is regulated (the rule is still related to the classification of activities) have not been changed. Also, linking the classification of supply to its value does not contribute to solving tax problems. On the contrary, in some borderline cases, such a provision leads to many dilemmas

among taxpayers. In addition, in general, the new rules have opened a number of practical issues and further increased the effort required for economic operators to adequately implement the regulations in question.

The Rulebook on the Form, Content, and Method of Keeping VAT Records and the Form and Content of the VAT Calculation Review (RS Official Gazette No 90/2017, 119/2017, 48/2018, 60/2018 and 75/2019) prescribes the method of keeping VAT records and preparation of VAT calculation review (POPDV Form). Since the harmonization of accounting programmes with new requirements is financially and time-demanding, a significant share of VAT payers is preparing VAT records and POPDV Forms manually. This considerably increases the VAT payers' costs. According to an internal survey conducted within the FIC, the introduction of this method, the VAT liability calculation and reporting take three to five times longer to complete. In addition, due to significant number of categories, the risk of error in categorizing invoices is high (even if VAT treatment is correctly determined), giving rise to the question of the informative value of this data for the Tax Administration. Having in mind the limited value of data provided in particular fields of the POPDV form and the significant expenses of VAT payers related to preparation of the POPDV form, it is recommendable to reconsider simplifying the POPDV form and its filling procedure (presentation of certain types of transactions). The user manual published on the website of the Tax Administration succeeded in facilitating the application of the new rules by providing a number of examples and clarifications. On the other side, it introduced some additional requests that are difficult to implement in practice, e.g. displaying the final invoice issued after the advance payment invoice so that the final invoice state the full amount of the VAT base and the difference in VAT stated on the final and advance payment invoice. Generating data from the accounting records in this manner is extremely demanding so that, as a rule, even those VAT payers who have adjusted their accounting programs to the new method of keeping VAT records, generate/enter these data manually. In addition, the informative value of showing the full amount of the base and the difference of VAT for the Tax Administration is questionable since it is not possible to reconcile the advance payment invoice with the final invoice from the POPDV form.

The Law specifies that a VAT refund shall be made within 45 days of the deadline for filing the tax return, or within 15 days for predominant exporters. It has been noted that in practice the Tax Administration is late in making VAT refunds. Also, it has been noted that VAT is not refunded because a tax audit has been initiated. Neither does the VAT Law, nor the Law on Tax Procedure and Tax Administration specify that VAT shall not be refunded for the duration of the tax control. In addition, VAT refund audit is not prescribed as precondition for VAT refund, the Tax Administration has a right to audit VAT regardless on executed VAT refund until expiration of period of limitation. Moreover, the Law on Tax Procedure and Tax Administration specifies that if no refund is made to the VAT payer within the deadline specified by the VAT Law, interest shall be accrued as of the next day after the expiry of such a deadline. We emphasize that a VAT refund is not the result of error or oversight on the part of the taxpayer, but a key mechanism for the functioning of this form of taxation. All delays in VAT refunds directly impact the liquidity of companies that are required to make payments that include VAT to their suppliers by statutory deadlines, and on which depends the ability of their suppliers to regularly settle their tax liabilities.

Article 10a paragraph 6 of the Law on VAT stipulates that the tax representative of a foreign person in the name and on behalf of a foreign person registered for VAT performs all tasks related to fulfilling obligations and exercising the rights that a foreign person has as a VAT payer . We believe that the relevant wording of Article 10a paragraph 6 of the Law on VAT "invoicing" should be deleted, because the provision in question is not precise, it creates a bang in which customers receive two invoices (one commercial issued by a foreign person) and the other VAT invoice to submit a VAT proxy and create unnecessary additional administration and legal uncertainty. The VAT representative is certainly jointly and severally liable for the obligations of a foreign person who is registered as a VAT payer through him.

FIC RECOMMENDATIONS

- With respect to the application of the reverse charge mechanism, it should be specified that for supplies by a foreign entity, the obligation of the recipient of goods and services to account for the VAT due should occur

either at the moment when: 1) an invoice is received for goods or services provided by the foreign entity; or 2) when an advance payment is made to the foreign entity, whichever of these two events occurs earlier.

- VAT legislation should provide that a credit note may be issued either by the supplier or recipient of goods/ services. This practice is in line with VAT rules in other countries and a common business practice. This cannot jeopardize VAT collection in any way. On the other hand, this would help companies decrease their administrative costs. Additionally, it is necessary to specify clearly that in the case of mistaken delivery of goods in a smaller quantity than was previously invoiced, the taxpayer may either issue a new invoice or credit note. This practice also corresponds to a customary business practice. Insisting on exclusively one approach imposes additional costs, whereas from the VAT collection point of view, there is no reason why both approaches cannot be applied. With respect to above, in case of return of goods, it is also necessary to define that irrespective of the expiration date, the supplier can issue a credit note or the buyer can issue an invoice/debit note in accordance with their mutual agreement. This approach can not jeopardize VAT collection since the same VAT rate is applied irrespective of who issues the credit note.

- The Law should specify that the obligation to account for VAT lies with the transferee of goods and services in the following instances: 1) in the case of in-kind contributions, when the supply of goods and services as an in-kind contribution is subject to VAT; and 2) in the case of a change in status, when the supply of goods and services is subject to VAT.

- It is necessary to specify that in the case of supplies in the field of construction, parties may choose taxation in line with the general principle – that is, VAT charged by supplier. Also, in the case when a supplier calculated and paid VAT, and the tax authority considers that the recipient should have calculated VAT, as the tax debtor, the recommendation is for the supplier's invoice to be considered the correct invoice, and that administrative proceedings should not be initiated against either the supplier or the recipient. Namely, in the Member States of the EU, for the supply in the field of construction, the recipient is the tax debtor because of the prevention of evasion and fraud relating to VAT assessment, where the subject, special rules apply when the supply is performed by a construction subcontractor, but not when the supply is performed by the main contractor to the investor. We emphasize that the biggest problem in practice occurs precisely with respect to supplies between main contractors and investors, given that in this case the investor can be an entity that purchases services of the current maintenance of facilities and similar services (i.e. the investor does not have to be active in construction). Bearing in mind this motive for designating the recipient as tax debtor, there is no reason to prevent the supplier from assessing and paying VAT, or to penalize any of them because the general rule on taxation is applied instead of the special rule according to which the recipient is the tax debtor.

- With respect to VAT records and the preparation of VAT calculation reviews, we believe it is necessary that the adopted Rulebook and User manual be reconsidered, and especially the requirements with regard to the POPDV form contents and the method for presenting certain transactions, such as the final invoice and invoice for advance payment.

- The processing of requests for refunds reported in VAT returns should be harmonized with the VAT Law and the Law on Tax Procedure and Tax Administration, meaning that the initiation of a tax audit cannot constitute grounds for delaying a VAT refund. The Ministry of Finance needs to issue a binding explanation in line with the VAT Law and the Law on Tax Procedure and Tax Administration, and the Tax Administration should comply with it.

- We suggest that in Article 10a, paragraph 6 of the Law on Value Added Tax, the words: "issuance of invoices" are delted.

D. PROPERTY TAX 1.40

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
It is recommended that the provisions of Article 7 of the Law should specify that the fair value is the property tax base for entities applying the fair value measurement according to the IAS/IFRS for SMEs and accounting policies.	2015			√
To ensure the adequate calculation of the market value of immovable property, it is necessary to harmonize the zoning criteria of local municipalities; prescribe corrective factors to differentiate between immovable properties in terms of quality, year of construction, purpose and characteristics; consider the adequacy of the methodology used for calculating the average prices of immovable property.	2014			√
It is advisable that the property tax return form and supporting documents be simplified by linking the Portal with the Cadastre 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 and to summarize all facilities of the same type in a single sub-annex (e.g. all taxpayer's warehouses in the territory of a particular local municipality). In line with the above, make appropriate improvements within the Portal, and make technical adjustments after which, it would be possible, based on the data saved from the Cadastre, 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		√	
Rephrasing provisions regulating: a) 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; b) double taxation of land beneath the leased building.	2018		√	
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 2020, we consider that the latest amendments to the Law on Property Tax (hereinafter: "the Law") that are in effect from January 1, 2021 generally did not resolve the important issues (recommendations) that we pointed out in the previous edition of the White Book, but certain clarifications have been provided regarding the doubts that have also arisen in practice, and we will refer to some of these solutions below.

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.

The latest amendments to the Law stipulate that taxpayer of property tax is considered an open-end investment fund, i.e. an alternative investment fund, which does not have the status of a legal entity, and which is entered in the appropriate register in accordance with the Law, and which has certain rights to real estate on the territory of Republic of Serbia, on which property tax is paid in accordance with Article 2 of the Law.

Dilemma has been resolved that in practice caused certain problems when determining the subject of taxation in the case of land ownership rights, i.e. the right to use construction land with an area of over 10 acres. The latest amendment of the Law defines that in the case when several persons are taxpayers of property tax, each of those persons is a taxpayer in proportion to his share in relation to the total land area, even when the proportional share of an individual taxpayer is less than 10 acres.

In Article 6a of the Law, for the purposes of determining the property tax base, the legislator introduced an additional group of real estate which is defined as "garages and ancillary facilities", and provided a more detailed explanation of what is considered by this type of real estate. Also, other groups of real estate defined in Article 6a of the Law are explained in more detail.

The latest amendment to the Law defines in more detail "manufacturing plants" and "storage and warehouse facilities", so we expect that this amendment will lead to significant relief in classifying various facilities, for the purpose of determining the property tax base.

By the time this edition is published, the Government has adopted new Draft Law on Amendments to the Law on Property Tax. The impact is yet to be assessed.

POSITIVE DEVELOPMENTS

Having in mind FIC recommendations in 2020, we would point out that the latest amendment to the Law adopted a recommendation to prescribe the right to tax exemption for land for the area under the building on which property tax is paid in the case of real estate leased for more than 183 days in 12 months period, thus solving the problem double taxation of the area under the building on which the property tax is paid in this particular situation.

Technical changes to the electronic format of the PPI-1 Form enabled the transfer of part of the general data from the previous to the active tax year, which partially improved the efficiency of data entry.

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 returns is technical improved, 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 Local Tax Administrations have been given exclusive rights to determine the property transfer tax base. In practice, the tax base is determined in accordance with internally determined market prices on territories of specific unit of local municipality (so called parities), unknown to taxpayers, so in most cases, it remains unclear whether or not the contractual price is equal to the market price.

As for the provision of the Law which defines exemptions from the absolute rights transfer tax, and in accordance with which the absolute rights transfers on which VAT is paid are exempt from the payment of absolute rights transfer tax, we consider the term ''paid'' is not appropriate, because VAT is calculated and reported in the VAT return, where certain transactions subject to VAT may be exempted from VAT for reasons prescribed by this Law.

FIC RECOMMENDATIONS

- It is recommended that the provisions of Article 7 of the Law should specify that the fair value is the property tax base for entities applying the fair value measurement according to the IAS/IFRS for SMEs and accounting policies.
- To ensure the adequate calculation of the market value of immovable property, it is necessary to: harmonize the zoning criteria of local municipalities; prescribe corrective factors to differentiate between immovable properties in terms of quality, year of construction, purpose and characteristics; consider the adequacy of the methodology used for calculating the average prices of immovable property.
- It is advisable that the property tax return form and supporting documents be simplified by linking the Portal with the Cadaster and storing of such data enabled. Also, it should be possible to list more than one cadastral parcel in a single municipality in Annex 1 on the territory of a specific local municipality, then automate the following data entries: a) all facilities of the same type (e.g. all taxpayer's warehouses in the territory of a particular local municipality); b) calculation of quarterly installments (e.g. based on Sub-Annexes); and c) amended tax returns. In line with the above, make appropriate technical adjustments after which, it would be possible, based on the data saved from the Cadaster, to automatically fill in the appropriate forms (PPI-1, Annex 1, sub-annex), for the purpose of filing property tax returns for each year.
- 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 1.13

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
The electronic services of the Tax Administration should be further improved and developed in a way to enable the taxpayer to download all tax returns in a form customized to user, as well as to enable all taxpayers to electronically obtain TIN and all tax certificates.	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, 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			√
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			√
Amending Article 147(1) of the PTA Law, so as to read that an appeal suspends the enforcement of the decision.	2016			√
Eliminate legal uncertainty in the process of issuing of opinions of the Ministry of Finance by amending Article 80 of the Law on State Administration with regard to whether the ministry's opinions are legally binding if so prescribed by a separate law; amending the PTA Law to prescribe that the ministry's opinions are binding only if they are published or available to all parties in a public-legal relationship; defining a 30-day deadline for issuing an opinion defining the consequences in a situation where previously issued opinions are changed or disregarded; amending the PTA Law to prescribe that opinions of the Tax Administration sent by email are binding for the Tax Administration, and introducing provisions to the PTA Law to govern the liability of authorized officers and adequate penalties for failure to issue a binding opinion within the 30-day deadline.	2017			√
Abolishing the provision of the PTA Law which prohibits the SBRA from erasing a taxpayer from the register, registering status changes, or amending information for the duration of a tax audit or procedures undertaken by the Tax Police.	2014			√
Strengthen the capacity of the Administrative Court in terms of expertise, specialization and speed in resolving tax disputes.	2020			√

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).

In 2020 PTA Law was amended. The most important amendments relate to:

- Introduction of an investment fund in tax legal relations in the capacity of a taxpayer. In accordance with proposed amendments, the investment fund has all the rights and obligations under the tax legal relations, where all the tax obligations of the fund and all activities in relation to the execution of its tax obligations are fulfilled by the company in charge for the management of the fund.
- Introduction of special penalties for tax fraud related to VAT and tightening of penalty provisions for unfounded claims for VAT refunds.
- Tightening of tax audit measures. The right to confiscate goods in the process of tax audit is introduced, if such goods are located in premises for which the taxpayer has not notified the Tax Administration.
- Specifying the manner of submitting requests / delivering acts electronically - through the government portal e-Government. Additionally, amendments introduce option to submit a tax refund/rebooking request via the Tax Administration portal.
- Introduction of a new form of regular collection of taxes - by giving and only in cases when there is an interest of the Government to acquire the property in question.
- Prohibiting Serbian Business Register Agency (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.

In addition, the novelties brought by the Draft Law on Amendments to the PTA Law refer to the following:

- Introduction of a tax return on calculated social security contributions for founders, ie members of a company. This Application is submitted ex officio by the Tax Administration instead of the taxpayer / taxpayer payes, when the application is not submitted within the period prescribed by the law governing social security contributions,
- Deferred interest payments when the principal debt for which the deferred payment has been granted is settled. A taxpayer who settles the main tax debt that was the subject of deferred payment, may, within 5 days from the date of payment, submit a request for deferral of payment of the remaining interest related to the settled obligations,
- Replacement of collateral at the request of the taxpayer who has been granted a deferral of payment of the tax debt. The Tax Administration will replace the collateral, if the new collateral is of the same type and higher value and if it meets the general requirements for collateral prescribed by the PTA Law,
- The deadline for compiling the supplementary minutes is 30 days from the day of receiving the comments on the minutes,
- Compliance with the provisions of the new Law on Fiscalization.

POSITIVE DEVELOPMENTS

In parallel with further digitization, the Tax Administration continued the implementation of the previous year's plan and of strategic goals. The tax procedure was potentially accelerated by enabling the option of submitting a request for refund and rebooking of taxes through the government portal e-Government. This option is enabled from January 1, 2021.

However, no significant progress has been made in the previous year in regard to the recommendations made earlier. There is a need to strengthen the capacity of the Tax Administration in providing tax services and to affirm the client

relationship. On the contrary, some of the new amendments impose new requirements and restrictions to taxpayers. Additional efforts are needed to limit discretionary authorization and arbitrariness in the actions of Tax Authorities.

REMAINING ISSUES

- The existing regulatory framework governing the tax procedure still does not provide sufficient protection for taxpayers against discretionary decisions of tax authorities. Additionally, the lack of capacity and competences jeopardizes the protection of legality in the control procedure, as well as in the appellate and court proceedings.
- Rules on tax-related criminal offences still do not take into consideration the size and volume of taxable activities of taxpayers and apply the same threshold to both small businesses and large corporations in Serbia.
- More often than not, tax inspectors do not apply the "substance over form" principle in good faith. This regularly leads to highly unfavourable decisions for taxpayers, which are practically impossible to change.
- Tax authorities routinely fail to comply with the deadlines for the issuance of decisions based on submitted appeals.
- The existing rules regarding delayed execution of tax administrative acts via requests submitted to the second-instance authority do not provide for clear conditions for delaying execution, providing the second-instance authority with a very broad-set discretionary right.
- Rules that relate to the possibility of a tax refund in the event of the existence of matured tax liabilities in another respect are unclear and restrictive and do not take into account whether such tax liabilities are deferred or disputed (e.g. an appeal against a tax assessment issued by the Tax Administration). As a result of the foregoing, taxpayers are in a situation wherein uncollectible tax liabilities result in a complete discontinuation of the tax refund.
- The statutory 30-day deadline for issuing and publishing binding opinions upon request of taxpayers is not observed, so, in practice, taxpayers wait for opinions for more than a year. Such uncertainties are additionally aggravated by binding opinions that the Tax Administration applies but fails to publicly disclose despite its legal obligation to publish them on its own website and the website of the Ministry of Finance. Therefore, these opinions are unavailable to taxpayers, i.e. to all parties in a public-legal relationship.
- Limiting the filing of amended tax returns to two times is not justified. In fact, in most cases mistakes are made unintentionally, or are technical, especially in the case of large taxpayers who have large-scale and complex internal organization systems. Given that a taxpayer cannot amend a tax return in the event of a tax audit for a specific period, abolishing this restriction would not create an additional burden for the Tax Administration. Quite the contrary, it would help increase the efficiency of tax collection and encourage taxpayers' co-operation, consequently reducing the scope of tax audits.
- During a tax audit, as well as during the period in which a taxpayer's TIN is temporarily withdrawn, and until it is reinstated, the SBRA cannot erase a taxpayer from the register, register status changes, or change any of the registered data. In addition, tax liabilities become due regardless of whether or not a company is actually doing business (e.g. mandatory social security contributions, municipal taxes). Due to the vagueness and restrictiveness of this provision, the initiation of a tax audit may preclude the company from closing down business, which will lead to additional tax liabilities for the company, regardless of the outcome of the audit, thus de facto arbitrarily punishing the taxpayer for no reason. Additionally, taxpayers are unable to register changes that may even enable tax payment (capital increase, registration of a change of legal representative, etc.).
- Prohibiting SBRA to register the acquisition of shares in legal entities or establishment of new legal entities in cases when the founder of such entity is a legal entity or entrepreneur over whom tax audit or any other action performed by the competent tax authorities has been registered. The restrictiveness of this provision leads to the business limitations of taxpayers, which de facto taxpayer represent a punishment for a taxpayer without any grounds.
- The PTA amendments introduced the possibility for the Tax Administration to secure the collection of a tax liability that is not due, but for which an audit procedure has been initiated, even though criteria or conditions for the implementation of this measure have not been prescribed, which is not in line with the legality principle. As a consequence, tax resolutions that impose the measure do not contain valid reasons why the Tax Administration considers that there is risk in tax collection.
- Amendments to the PTA Law abolished the function of administrative supervision within the Tax Administration. According to the amended text of the PTA Law, the Tax Administration has exclusive competencies to perform the function of internal control. The Ministry of Finance has not established supervision as a separate function, from the moment of the abolition of the function of administrative supervision within the Tax Administration.

– The Serbian Administrative Court, as the final instance for tax disputes, does not have a sufficient level of specialization and expertise to adjudicate on tax matters. A court decision will typically take more than one year. Considering that the procedure before the court does not postpone a tax liability, i.e. the taxpayer still has to settle the previously disputed tax, even if he eventually does win the case, incurred costs for the taxpayer usually result in taxpayers receiving refunds of lower value in real terms. In addition, courts almost never decide on the merits of a case.

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.
- 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, 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.
- 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.
- 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.
- 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.

F. LATEST DEVELOPMENTS IN THE SERBIAN TAX SYSTEM (PARAFISCAL CHARGES)

1.17

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			√
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			√
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		√	

CURRENT SITUATION

The World Bank's Doing Business 2020 report ranks Serbia 44th out of 190 economies. In the area of tax payment Serbia's position slightly worsend compared to the 2019 report, and the country is now ranked 85th. Tax payment, together with obtaining electricity access and starting business, is still within the three worst-ranked areas.

The FIC is of the view that Serbia's tax system is getting significant negative reviews, inter alia, because of the many parafiscal charges that exist in parallel with taxes, increasing the effective burden on the economy under conditions that are often non-transparent and unfair. As a kind of public levy, parafiscal charges actually impose an obligation that does not provide (at all or in an adequate proportion) a specific service, right, or good in return.

The authorities recognize this fact, which is why a parafiscal reform was carried out in late 2012, abolishing 138 parafiscal levies. The reform continued in 2013, with a first draft of the Law on Fees for the Use of Public Resources and the adoption of the final version of the Law at the end of 2018, but also by imposing new parafiscal levies such as a mandatory membership fee for the Serbian Chamber of Commerce in 2018. The reform process is still ongoing, which is especially reflected in the large number of changes that have been made to the regulations governing the manner

of determining and reporting compensation for the protection and improvement of the environment.

POSITIVE DEVELOPMENTS

During the previous year no significant improvements occurred in respect to FIC recommendations given earlier.

REMAINING ISSUES

The reform of non-tax revenues has not been completed yet. The remaining issue is related to fees that should be paid for a public service proportionally to the costs of its provision. Currently, only a part of the fees are regulated by the Law on State Administrative Fees, while numerous laws and by-laws have introduced levies that are by their fiscal nature fees, but which come under different names (charge, compensation, etc.). In addition, it is questionable whether the Rulebook on Methodology for Determining Costs of Public Service (Methodology) was applied when setting the levels of all these fees.

A particular problem that we deem should be highlighted concerns the local utility tax for displaying business signs (business signage tax). Business signage tax costs for remaining taxpayers has significantly increased since the regime for the payment of the business signage tax was changed. The overall liability of a business entity for business signage has reached significant amounts, inter alia, due to diverse practices amongst local governments.

To additionally point out, during 2019, the determining the fee method for the environment protection and improvement was changed on two occasions. The methodology initially established by the Law on Fees for the Use of Public Goods and accompanied by provided bylaws, inter alia, defined the fee to be paid according to the amount of pollutants emitted and the hazardous waste produced and disposed of. However, although the method of determining the fee was intended to be paid by legal entities and entrepreneurs who perform activities that negatively affect the environment, the calculating fee methodology was too complicated, which resulted in a very small number of applications fees for environment protection and improvement by taxpayers.

At the end of December 2019, the manner of determining the compensation for the environment protection and improvement was changed again by the bylaws amendments. The new methodology simplifies the calculating fee method and it envisages that the fee is paid in a fixed annual amount depending on the size of the legal entity in accordance with accounting regulations and the degree of environmental impact of the predominant activity performed in accordance with the prescribed classification. However, in this way, the obligation to pay compensation was imposed on almost all legal entities and entrepreneurs in Serbia, regardless of whether their predominant activities really have a negative impact on the environment. The current methodology for determining the amount of compensation is contrary to the provisions of the Law on Fees for the Use of Public Goods, which, among other things, stipulates that the basis of compensation for environmental protection and improvement is the amount of pollution, i.e. the degree of negative impact on the environment.

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.

ENVIRONMENTAL REGULATIONS

1.56

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Introduce stronger rules and monitoring of air quality, in particular in large industrial environments and strengthen polluters sanctioning.	2010		√	
Introduce new funding for energy efficient and clean heating and strengthen local capacities in that area with the aim of fossil fuel use reduction in heating season.	2020		√	
Increase incentives for use of hybrid and electric cars;	2020		√	
Re-examine the idea of introducing producers' responsibility for collective take-back schemes for the recycling of all special waste streams (packaging, WEEE, ELV's, tyres, etc.).	2019			√
Stimulate investments into the treatment of animal waste and ensure adequate solutions for such waste.	2015			√
Solving the problems of waste management and wastewater treatment, strengthening the financial and personnel capacities of local governments, which are responsible for carrying out the abovementioned tasks.	2019		√	
Improving the regulations in the field of electronic communications and implementing the regulations in the field of environmental protection and protection against non-ionizing radiation in order to ensure a smooth implementation of 4G technology and create preconditions for the implementation of 5G technology;	2019			√
Improving the medical waste treatment particularly in light of COVID-19 which caused excessive quantities of medical waste.	2020			√
Speed up the process of adopting laws and by-laws in order to ensure a proper implementation of regulations related to environmental protection.	2018		√	

CURRENT SITUATION

The most significant change relates to developments with regard to Chapter 27, which deals with environmental protection and climate change issues. This chapter is one of the most complex and demanding chapters because it requires the application of environmental standards and integration into all other development policies and at the same time it is the most expensive. The final version of the Negotiating position was adopted in January 2020. The EC drafted the Common Position, which was sent to EU member states in November 2020. The next step is the EC decision to open this chapter for negotiations. The submitted Negotiating position contains 14 appendices, most of which are implementation plans (DSIPs) that justify the need for transitional periods for certain directives. The main reasons why Serbia is looking for transitional periods for waste and wastewater management are the lack of infrastructure necessary to meet the required standards. A transitional period is necessary for 68 industrial plants for the purposes of implementing the Industrial Emissions Directive.

Since 2016, all EC annual progress reports on Serbia have mentioned the need to increase the administrative and financial capacity of the Ministry of Environment and the operationalization of the Green Fund and the provision of adequate funding for the fund have been set as a precondition for further progress and the opening of Chapter 27. As part of fiscal consolidation, all earmarked budget funds, including those for environmental protection, have been abolished and all earmarked revenues have been directed to the general budget. Reforms to reduce the fiscal burden on the economy have changed the legal framework for local fees for environmental protection and improvement, so they have been significantly reduced. The result is a decline in activities in monitoring the status of the environment of local governments, which in fact have been

left without the ability to influence the status of the environment in their territory and the centralization has been achieved in the field of environmental protection. This type of centralization of funds has been criticized in EC reports.

In the field of water supply, it has been planned to finance priority projects for the improvement of the water supply system in about 60 municipalities in Serbia through an EIB loan.

For wastewater treatment, partial financing of the construction of new WWTPs in Čačak, Niš and Kragujevac has been planned.

In addition to the Air Protection Strategy (whose program will be developed in 2021), air quality plans and short-term action plans by local governments should be adopted. Based on the air quality assessment, 13 local government units shall adopt these plans. The consent of the Ministries has been given to 6 plans, while one has been returned for correction and the remaining plans have not been submitted for approval.

About 12 million tons of waste are produced in Serbia annually, of which as many as 10 million are not treated in any way. More than 80% of the total waste is generated by the mining and energy sectors, while 2.3 million tons are municipal waste. There is no plant for thermal treatment of hazardous waste in Serbia, so this waste has been exported for treatment to European plants. According to the Basel Convention, Serbia has committed itself to have a thermal waste treatment plant built by 2020 and to solve the problem of hazardous waste at the place of origin. When it comes to municipal waste, many municipalities do not have recycling yards built, a sufficient number of storage bins/containers and no waste collection system at source. Waste collection has been charged according to the square footage of the apartment and not according to the amount of waste produced. Therefore, as well as due to weak or no penal policy, the number of illegal landfills has been estimated at around 3500. Out of a total of 816 cleared sites of illegal landfills, waste disposal has been returned to 746. This situation indicates the need for rigorous application of legal regulations and improvement of the work of bodies that have the authority to prevent this problem from recurring. Amendments to the Law on Waste Management were planned for 2020 but this law has not been changed yet.

The development of the Water Management Plan on the territory of the Republic of Serbia for the period from 2021 to 2027, as the basic instrument implementing the principles of the Water Framework Directive, has begun in Serbia through the Twinning project and its adoption is expected by the end of 2021. A Flood Risk Management Plan is being prepared at the same time with the Water Management Plan on the territory of the Republic of Serbia. At the end of 2020, a Public Debate was conducted on the Proposal of the Action Plan for the Implementation of the Water Management Strategy on the territory of the Republic of Serbia until 2034. The Action Plan has not yet been adopted. The most important precondition for the implementation of the Drinking Water Directive and the Urban Wastewater Treatment Directive is the restructuring of public enterprises in accordance with the requirements of these directives, the improvement of cost collection and the dynamic harmonization/increase of tariffs.

The Law on Climate Change was adopted in March 2021. This Law is the first of its kind in the field of combating climate change and is the basis for the bylaws necessary to start the green transition. It is expected to adopt an umbrella climate strategy that would affect all sectors: energy, agriculture, forestry, water management, etc. Serbia should adopt the National Energy and Climate Plan by the end of 2021, which covers the period from 2021 to 2030, which is the request of the Energy Community.

For all aspects of the environment, the problem is the administrative capacity of actors at both the local and central levels. There are not enough employees in the public administration who deal with the environment and this is most felt in the Inspectorate for Environmental Protection. The capacity of the judiciary has been deficient in this area and it is important to create a database of all cases of environmental crime and environmental criminal acts.

Environmental investment management in Serbia does not have a clear strategic framework. The EU recommendation is that the Investment Plan should be turned into a national program, which would give priority to projects with the greatest positive impact on the environment.

POSITIVE DEVELOPMENTS

The amendment to the Regulation on limit values for emissions of pollutants into the air from combustion plants was adopted in 2021. The most important novelty is that now the facilities that did not have obligations according to the previous norm have been included. These are smaller plants that are a source of pollution and their control will be the responsibility of the Inspectorate for Environmental Protection.

According to the new regulation, emissions will also be measured in combustion plants with a power of less than 8 kWth, if they use liquid and gaseous fuels, or when it is less than 50 kWth, for plants that use solid fuels. In this way, data on the total share of small pollutants will be obtained.

In March 2020, the Decree on the conditions and manner of conducting subsidized purchase of new vehicles that have exclusively electric drive, as well as vehicles that, in addition to the internal combustion engine, also run on electric drive (hybrid drive), was passed. The Decree stipulates that legal entities, entrepreneurs and natural persons have the right to subsidized purchase of vehicles.

The Draft of the new Waste Management Strategy, which covers the period from 2020 to 2025, has been prepared. The new Strategy contains the National Waste Management Plan. The focus has changed from regional sanitary landfills to regional waste management centres where greater emphasis shall be placed on recycling and treatment of non-recyclable waste for energy or compost production, while the rest of that treatment would be used in the construction industry. The principle of circular economy and waste prevention will be introduced in accordance with the newer EU directives. Although there has been a public debate on this strategy, it has not yet been adopted. As for packaging waste, there are announcements that a new law will be drafted but at the moment the drafts are not available.

In the previous period, several projects for the construction of WWTP have been activated. Funds have been provided by the EU for a number of these projects. Several wastewater treatment systems have been brought to the final stage of construction in the previous period and the preparation of projects or the start of construction in several places has been announced.

By the end of 2021, the finalization of the strategic document National Energy and Climate Plan (NECP) is expected. This document should define and prescribe goals for increasing energy efficiency and the share of renewable energy sources in energy consumption as well as reducing GHG emissions by 2030, with a vision by 2050. In addition to defining the objectives, the document should also contain measures (administrative, economic, financial…) to meet these objectives.

The Proposal of the Nature Protection Program of the Republic of Serbia for the period from 2020 to 2022 was presented in December 2019.

The Law on Amendments to the Law on Nature Protection has been adopted. This regulation introduces the Precautionary Principle which allows immediate action in cases where there is an imminent danger to nature, even if there is not enough scientific data at that time. One of the reasons for the amendments to the Law is the ban on the construction of hydroelectric power plants in protected areas. The new law shall more precisely define the provisions related to the procedure for assessing the acceptability of the ecological network and the establishment of the ecological network, which is defined in accordance with the requirements of the European Directive on Conservation of Natural Habitats and Wild Fauna and Flora and the Directive on Conservation of Wild Birds.

REMAINING ISSUES

In February 2020, the Republic of Serbia adopted the National Plan for the Reduction of Emissions of Major Pollutants from Old Large Combustion Plants (NERP). Some old large plants to some extent do not meet the obligations under the NERP in terms of permitted emissions of pollutants. Old large combustion plants, which most often burn coal, should ensure full compliance with the adopted National Plan for the reduction of pollutant emissions.

The Air Protection Strategy, as an umbrella document at the state level for this area, has not yet been adopted.

Data from the SEPA network have showed that as many as 12 stations recorded excessive pollution for over 20 days in January 2020 alone. The highest number of days with excessive pollution were recorded in Valjevo (28), as well as in Kosjerić, Pančevo and Niš. The highest concentration of PM10 particles was recorded in Smederevo, 567 µg/m3, which is ten times higher than the allowed value.

Based on the National Waste Management Strategy from 2009, the closure and reclamation of existing landfills and the construction of 29 regional sanitary landfills have been planned. The current situation is such that 11 sanitary landfills have been commissioned and two are under construction. The objectives of the previous strategy have planned an ambitious 90% coverage of the population with the implementation of the strategy but based on currently functioning sanitary landfills about 38% of the population has been covered by this system. The remaining landfills and garbage dumps are not only potential polluters of the environment (primarily water and soil) but also pose a danger as possible locations for the spread of infection and fires are also frequent there.

Investments in the field of wastewater treatment are opportune, in the sense that projects have been made and construction shall start depending on the availability of funds from the donation. There is no clear plan regarding the construction of WWTP on the territory of Serbia.

The strategic framework for combating climate change is still at an unsatisfactory level. A low-carbon development strategy with an action plan has not yet been adopted, although a public hearing ended in January 2020. In the near future, it is necessary to adopt a mechanism for taxing CO2 emissions.

The non-existence of this mechanism currently gives Serbia a comparative advantage with the EU market, which will be an obstacle to further integration into the EU market in the sense of the so-called carbon border adjustment mechanism, which will have an impact not only on electricity exported to the EU but also on products originating from industries with high GHG emissions. The sectors for production of cement, iron and steel, aluminium and fertilizers for agriculture will be in the first phase of the mechanism. Climate change with its accompanying regulations will be one of the biggest challenges for the Republic of Serbia in the future, among other things because the transposition of regulations has been delayed and awareness of climate change is relatively low.

The implementation of the Spatial Plan of the Republic of Serbia has been delayed due to the length of the process and the procedure for declaring protected areas. There has been a delay for various reasons, among other things due to the lack of resources and staff of the competent institutions to conduct the necessary research and studies that are necessary in the process of protection of the area. Some reasons are objective, monitoring of certain populations requires time and monitoring must be done at a certain time, but there are also insufficient number of projects that would improve the situation in this area.

FIC RECOMMENDATIONS

- Adopt the Air Protection Strategy and accompanying planning documents and start implementing it. Continue with the transposition and implementation of regulations in this area;
- Responsible actors for air quality monitoring should ensure quality maintenance of measurement systems and data availability as well as financing the smooth operation of air quality monitoring networks;
- Develop and adopt a new National Strategy for Waste Management, amendments to the Law on Waste Management, continue work on strategic documents in this area, such as the strategy for waste sludge management and the like;
- Create an economic model that will motivate local governments to dispose of waste in sanitary landfills and to accelerate the process of closing and remediation of landfills - garbage dumps. Provide preconditions for the application of the principles of the waste management hierarchy with an emphasis on waste prevention, reuse and waste recycling. Ensure further application of the "polluter pays" principle;
- Adopt a Regulation on acceptability assessment, which will establish the necessary standards for the approval of plans and projects that may have an impact on the ecological network;
- Ensure adequate and purposeful financing of nature protection from the Green Fund (determine priorities and criteria for allocation of funds). Continue activities on the establishment of the ecological network of the Republic of Serbia and the NATURA 2000 network. Allocate more funds for the practical protection of species and habitats;
- Accelerate the transposition and implementation of regulations related to climate change as well as the strategic framework for this area, which is the most neglected in terms of legislation and implementation and therefore needs special attention.

SECTOR SPECIFIC

top

FOOD AND AGRICULTURE

1.18

Almost two years after the beginning of the pandemic crisis, the economy is facing new challenges, although the existing problems and difficulties have not been solved. The food industry, like other industries, is facing a difficulties with supply of raw materials, as global challenges caused by problems with transport and human resources in certain world regions. There are no significant changes in the functioning of the local food safety system, bearing in mind the fact that official controls are taking place at the same pace.

What has proven to be a great obstacle to efficient functioning in and in these circumstances, is the physical exchange of documentation with the competent authorities. Also, a transparent and comprehensive risk analysis system would make the flow of goods even more efficient, because with reorganizing existing resources, and focusing on high-risk products, manufacturers and importers, stronger control of those at high risk would be ensured, would be of multiple significance.

Harmonisation of regulations with EU regulations is not proceeding at the expected pace, and implementation in practice remains a major challenge, given the institutions' unclear competence in interpreting regulations. Part of the regulations is harmonized, but most of them are national regulations for which there are no "counterparst" in the EU and neighbouring countries. Such circumstances are an obstacle to free trade and create certain restrictions on domestic producers in terms of the application of innovative processes and products. The tendency is to modernize obsolete regulations, in order to alleviate restrictions, and on the other hand, the harmonization of certain regulations is further hindered due to the existence of administrative and methodological obstacles to their application in the same way.

The report on the work of the Expert Council for Risk Assessment, established in June 2017, as well as the activities of the Council are still not known to the interested public.

There is still room for improvement. Both in improving the regulatory framework, which would ensure high standards in food quality control, and by applying a uniform approach to control for all participants, both importers and domestic producers. It is extremely important to simplify testing procedures, strengthen transparency while enabling predictability of goods retention. Strengthening the capacity of the Veterinary and Phytosanitary Control Directorates and the National Reference Laboratories, as well as the consistent application and improvement of the risk-based approach, are key to further strengthening the food safety management system. Of great importance for the food business operators, it would certainly be enabling the electronically exchange of data and documentation between state institutions and the economy.

1. FOOD SAFETY LAW

1.29

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			√
By adopting the rulebook, 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		√	

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
To harmonize the criteria of the laboratory during control analyzes, with a clearly defined responsibility of the laboratory regarding the interpretation of regulations.	2020			√
Establish a national Food Safety Agency following the example of EU member states and neighboring countries and create conditions for the National Reference Laboratory to perform all tasks provided by law, in order to strengthen the capacity of the food safety system.	2018			√
Create legal conditions for food business operators to place new foods on the market from the list, according to a simplified procedure, and keep the approval procedure for novel foods that are not on the list in Annex 1, according to the EU model.	2020			√
Enable electronic exchange of data between state institutions and the economy	2020			√

CURRENT SITUATION

The Law on Food Safety (hereinafter: the Law) adopted in 2009 has not been fully implemented so far, nor have all the envisaged bylaws been adopted. Amendments to the Law were published in the "Official Gazette of RS", no. 17/2019 and apply from April 1 2019 and new changes to this law are announced.

Amendments to the Law reorganized the division of inspection responsibilities between the competent inspections of the Ministry of Agriculture and the Ministry of Health, which is more closely prescribed for the competent inspections of the Ministry of Agriculture by adopting the Regulation on the type food and official control, as well as the list of mixed foods, in April 2019.

The National Reference Laboratory was opened in 2015. New amendments to the Law define its competence and introduce the term Reference Laboratories, which should entrusts part of the work performed by the National Reference Laboratory. It is envisaged that the Ministries will select reference laboratories through a competition, and that the list of reference laboratories will be published in the "Official Gazette of the Republic of Serbia" and submitted to the ministry responsible for technical regulations, for entry in the register of authorized conformity assessment bodies.

A working group for milk was formed within the Ministry of Agriculture in 2015, but by the middle of 2021, there was no harmonization of the current legislation in the part related to milk safety. The latest amendment to the legislation from September 2021 extended the application of the maximum permitted content of aflatoxin M1 in raw milk of 0.25 μg / kg, until November 30 2022. Extending the validity of the provision is helpful for milk producers in the territory of the Republic of Serbia, since they would still be able to produce and distribute milk with a slightly higher content of aflatoxin M1, but on the other hand are limited to export it because at EU level, as well as in the surrounding countries, the maximum permitted content of aflatoxin M1 in raw milk is 0.05 μg / kg. On the other hand, current measures allow the import of milk from neighboring countries and the EU whose aflatoxin content exceeds the limit of 0.05 μg / kg. Due to all the above, and primarily due to food safety, it is necessary to focus activities on the application of measures to reduce the presence of aflatoxins in animal feed.

The Expert Council for Risk Assessment was officially formed in April 2017.

The new Regulation on maximum concentrations of certain contaminants in food (SG 81/2019) from November 2019 defines the maximum permitted amounts of contaminants in certain types of food (Annex I), which brings Annex I fully harmonized with EU regulations (1881/2006 / EC). This Regulation also transposes the provisions of EU Regulation 2017/2158, which prescribes mitigation measures to reduce the presence of acrylamide in certain food categories.

Amendments to the Law Article 71 is amended so that the payment of fees for laboratory tests is no longer prescribed by this Law, but prescribes the obligation to pay fees for official controls. In December 2019, amendments to the Law on Republic Taxes were adopted, which prescribe a fee

that refers to the inspection itself and additional costs that are prescribed by product groups, but relate exclusively to shipments that are subject to veterinary and phytosanitary control, not and for consignments under the jurisdiction of the sanitary inspection of the Ministry of Health.

POSITIVE DEVELOPMENTS

The Ministry of Agriculture, Forestry and Water Management and the Ministry of Health started preparing a Guide for the Implementation of Regulations on Maximum Concentrations of Certain Contaminants in Food, Within the PLAC III project. The Guide sets mitigation measures and reference levels for reducing the amount of acrylamide in food, modeled on the European Union Guide.

REMAINING ISSUES

Inconsistency of the Law on Food Safety and certain bylaws with EU Regulations.

- In addition to the provisions of EC 1881/2006, the Rulebook on Contaminants also takes over the requirements of EU Regulation 2017/2158; The Rulebook on the Coffee Products Quality, in addition to the provisions of Directive 1999/4 / EC, also prescribes requirements for categories of coffee products that are not prescribed at the EU level; The Rulebook on Fruit Juices, in addition to the requirements of Directive 2012/12 / EU, prescribes additional requirements regarding the quality of fruit juices. Thus, domestic entities in the food business are placed in a less favorable position compared to entities operating outside the borders of Serbia.
- There is a room for different inspection interpretations.
- Slow transposition of the latest amendments to the regulations in the field of food additives into national legislation.

Lack of a comprehensive risk assessment system by inspection services. No improvement and coordination in the application of risk analysis and assessment methods was observed:

- With the formation of the Expert Council for Risk Assessment, a progress was expected in performing the risk analysis provided by the Law, but this did not happen. The activities of the council are not known to the interested public even after 4 years from its establishment.
- Risk analysis would enable the classification of food business entities into low-risk and high-risk, which would speed up the process of customs clearance and release of low-risk goods. Importers assessed as low-risk could realize savings in money and time by faster receipt of documents and reduced number of sampling at import.
- Risk analysis would reduce the scope of inspections and relieve them of limited resources as resources would be focused on testing high-risk products.
- The publication of the Rulebook on special elements of risk assessment within the scope of sanitary inspection and within the scope of agricultural inspection at the end of 2018, created a framework for starting the risk assessment process, but there is still no uniformity in terms of application between different inspections

Unpredictable business conditions during the procurement of raw materials for food production and marketing:

- Uniform rules do not apply in the procedures of inspection services in terms of costs, deadlines, field work mechanisms, number of samples, determination of type and number of analyzes in laboratory processes,
- Application of different criteria by laboratories in control analyzes, and vaguely defined responsibility of laboratories in terms of interpretation of regulations.

Unclear procedure for placing novel food on the market:

- Irrespective of the fact that the Regulation on Novel foods (SG 88-2018) takes over the list of novel foods that are freely placed on the EU market, the Regulation prescribes an additional procedure by which the Ministry of Health issues permits for placing novel foods on the market for the first time.
- The Rulebook stipulates that the Ministry gives approval based on the Opinion of the Expert Council. It is still not clear why the Expert Council gives each operator an opinion on food for which there is already a relevant scientific opinion from an internationally recognized institution (EFSA), and which has already been taken over from the list in Annex 1 to this Regulation.

The exchange of documentation with the competent authorities is still mostly done physically, which complicates the work of companies and significantly slows down the flow of goods.

FIC RECOMMENDATIONS

- Align the Law on Food Safety and all accompanying bylaws with EU regulations (178/2002 / EC and accompanying bylaws).
- Establish a transparent and comprehensive risk analysis system (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.
- By adopting the rulebook, 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.
- To harmonize the criteria of the laboratory during control analyzes, with a clearly defined responsibility of the laboratory regarding the interpretation of regulations.
- Establish a national Food Safety Agency following the example of EU member states and 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.
- Create legal conditions for food business operators to place new foods on the market from the list, according to a simplified procedure, and keep the approval procedure for novel foods that are not on the list in Annex 1, according to the EU model.
- Enable electronic exchange of data between state institutions and the economy.

2. SANITARY AND PHYTOSANITARY INSPECTIONS 1.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Adopt the new Law on Sanitary Supervision and executive regulations on the work of sanitary and phytosanitary inspection harmonized with the Law on Inspection Supervision and EU regulations.	2017			√
Adopt the Law on Official Controls and executive regulations on the manner of conducting official controls which would ensure consistent application of uniform rules in the procedures of inspection services in terms of costs, deadlines, field work mechanisms, sampling, type and number of analyses in laboratory processes.	2018			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Prescribe the Law on Republic Administrative Fees to prescribe the costs for the inspection of consignments and additional costs for categories of food that are under the jurisdiction of the sanitary inspection.	2020			√
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

With the division of responsibilities after the adoption of the Amendments to the Law on Food Safety, the phytosanitary inspection of the Ministry of Agriculture, Forestry and Water Management retained the existing competencies for food of plant origin. In the import and export phase, the border phytosanitary is responsible for the control of food of plant and mixed origin, together with the border veterinary inspection. The Sanitary Inspection of the Ministry of Health is responsible for the control of novel foods, foods for specific population groups, food supplements, foods with altered nutritional composition, salts for human consumption, additives, flavours, enzyme preparations of non-animal origin and non-animal auxiliaries and all types of drinking water.

The work of inspections is also regulated by the Law on Inspection Supervision, which has been in force since April 2016. Some inspections are developing models for the application of the Law on Inspection Supervision, but the full harmonization of sectoral regulations with this Law has not yet been completed.

Since 2016, the Ministry of Health has been in the process of passing the Law on Sanitary Supervision, which would regulate the affairs of sanitary supervision in more detail.

The adoption of the Law on Official Controls has been announced.

POSITIVE DEVELOPMENTS

No improvements have been noticed in this area.

REMAINING ISSUES

The Law on Sanitary Supervision and executive regulations on the work of sanitary and phytosanitary inspection in accordance with the Law on Inspection Supervision and EU regulations have not been adopted yet.

There are no deadlines for the adoption of some extremely important executive regulations, such as e.g. Regulation on the manner and methods of conducting official controls, the system of approval and certification, the manner of cooperation with the customs authority and competent authorities of EU Member States and third countries, the manner of inspection, sampling, criteria for determining deadlines for official controls, as well as reporting on implemented official controls and the Regulation on methods of sampling and testing of food in the procedure of official control, etc.

The Law on Republic Administrative Fees, despite the changes adopted at the end of 2020, does not prescribe the amount of the fee for the inspection of shipments and additional costs for shipments that are under the jurisdiction of the sanitary inspection of the Ministry of Health.

The competent inspections do not allow the use of raw materials in production before obtaining the Decision on release for placing on the market, which leads to a loss of time and money.

The time period required for food import procedures is not clearly defined.

The exchange of documentation with the competent bodies is still mostly done physically, which complicates the work of companies and significantly slows down the flow of goods.

FIC RECOMMENDATIONS

- Adopt the new Law on Sanitary Supervision and executive regulations on the work of sanitary and phytosanitary inspection harmonized with the Law on Inspection Supervision and EU regulations.
- Adopt the Law on Official Controls and executive regulations on the manner of conducting official controls which would ensure consistent application of uniform rules in the procedures of inspection services in terms of costs, deadlines, field work mechanisms, sampling, type and number of analyses in laboratory processes.
- Prescribe the Law on Republic Administrative Fees to prescribe the costs for the inspection of consignments and additional costs for categories of food that are under the jurisdiction of the sanitary inspection.
- Modify the Decisions of the competent inspections so as to allow the use of raw materials in production, without the right to release the finished product until obtaining a decision on the release of raw materials.
- Clearly define the time period required for import procedures for all types of food.
- Enable electronic data exchange between state institutions and the economy.

3. QUALITY ASSURANCE, DECLARATIONS ON FOOD PRODUCTS, NUTRITION AND HEALTH CLAIMS 1.25

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Define the competence of institutions regarding the interpretation of regulations in the field of food safety and ensure the obligation to apply the official positions of the Ministry to all participants in the chain; ensure uniform interpretation and application of the Regulation and Guidelines on food declaration, labelling and advertising.	2016			√
Adopt executive regulations arising from the Law on Food Safety and harmonize them with EU regulations, such as the Regulation on food with a changed nutritional composition.	2017		√	
Adopt the Regulation on conditions and manner of production and marketing of food for which quality conditions are not prescribed.	2018			√
Adopt Amendments to Article 34 of the Law on Trade in terms of clearly defining that the provisions of this Article do not apply to products to which the provisions of the Law on Food Safety apply, and bylaws prescribing the declaration and labelling of food.	2020			√

CURRENT SITUATION

From June 15 2018 the Rulebook on declaring, labelling and advertising of food (Official Gazette of the RS, No. 19/2017; 16/2018; 17/2020) (hereinafter: the Rulebook), which is largely in line with the relevant EU regulations, is in force. In September 2020, amendments were made to the Rulebook, which refer to the labelling of the country of origin of the main ingredient, as well as information on the absence or reduced amount of gluten in food (harmonization with EU regulations 2018/775 and (EU) 1155/2013). In addition to the Rulebook that prescribes the quality of dietary products, requirements for „lean products" labelling and reference is given to the rules on information on the absence or reduced amount of gluten in food requirements have been prescribed. Adjustment period is 18 months. In March 2021, the Ministry of Agriculture also published the Instruction for the application of the Rulebook for the Origin of the Main Food Ingredient Stating, which should facilitate the application of the published amendments to the Rulebook.

A number of regulations prescribing the quality of certain food categories are not fully harmonized with the EU, are outdated or there are no regulations in the EU that define the quality of these food categories. Such vertical legislation puts food business operators at a disadvantage compared to producers in the countries of the region and the European Union. The choice of raw materials for production is narrowed and often raw materials that are freely used in the mentioned countries cannot be placed on the market in Serbia without special approvals from the ministry, because they do not comply with quality regulations even though they are food safe. Due to the obsolescence of regulations, the appropriate raw material is often difficult to find and has a higher price. The situation is similar with finished products that do not fit into the categorization of the mentioned regulations.

The Law on Trade, published in the middle of 2019, prescribed the obligation to obligatorily mark the country of production on the labelling of goods in retail trade. Although it was considered that this requirement does not apply to the labelling of food for which the Rulebook on Declaration, Labelling and Advertising of Food is in force and which Article 26 prescribes mandatory indication of the country of origin only for certain categories of food, due to uneven interpretation by inspection and business entities with food in practice makes business more difficult.

POSITIVE DEVELOPMENTS

The Ministry of Health has established a Working Group for the adoption of the Rulebook on Food with a Changed Nutritional Composition, which will ensure the harmonization of requirements with the EU regarding food enrichment. The harmonization of the rules for indicating the country of origin with the rules in the EU, and the adoption of instructions, is a good example of regulations harmonization under the jurisdiction of the Ministry of Agriculture.

By defining the term „lean products" and adopting rules for the use of this statement, the Ministry of Agriculture has created a basis for unified interpretation and difficulties resolution encountered by producers in practice.

REMAINING ISSUES

The current legal framework does not define the competence and responsibility for the interpretation of regulations in the field of food safety, and over time the practice has been created on the market for laboratories to interpret regulations:

a. Regardless of the fact that the legal assessment, ie. Determining certain illegalities in business in the exclusive competence of the inspector in accordance with Article 37 of the Law on Inspection Supervision, the inspector, as the competent body, is exclusively guided by the conclusion made by the laboratory, which is often not in line with the official position of the Ministry. This is especially reflected in the interpretation of regulations in the field of labelling, where, despite the existence of the Guide, there are different approaches and interpretations of its provisions.

b. The official position of the competent Ministry is not a binding act for inspection services.

c. This practice contributes to the difficult functioning of food business operators, and to the great limitations of long-term planning.

d. A bylaw has not yet been adopted by Minister of Health, in accordance with the division of competencies referred to in Article 12 of the Law. This bylaw should prescribe in more detail the conditions and manner of production and marketing of food for which quality requirements are not prescribed, which is provided by Article 55 of the Law.

Nonharmonised regulations prescribing product quality with EU regulations:

a. In October 2020, the Rulebook on the Fruit and Vegetable Products Quality was published, which is entirely of a national character, and therefore is not subject to harmonization with EU legislation. The Rulebook on the Quality of Raw Coffee, Coffee Products, Coffee Substitutes, as well as Related Products, was published in December 2020, and which largely prescribes the placing on the market of these categories, for which there are no requirements at EU level, except for products from instant coffee and instant coffee substitutes. By adopting such 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, and reduce the possibility of abuse of coffee substitutes. On the one hand, the way of doing business in the internal market is harmonized in the case of products that are clearly categorized, on the other hand, food business subjects are limited, because it further complicates the way of working in the case of no categorized products within Rulebook, especially with related products, there is room for different interpretations.

b. The Rulebook on Fruit Juices, although harmonized with EC Regulation 2012/12, still has additional requirements regarding the quality of fruit juices, taken from the standards of the European Association of Fruit Juice Producers, which as such in the EU countries have voluntary and not legally binding application, which puts domestic entities in the food business in a less favourable position in relation to entities that operate outside the borders of Serbia.

Inconsistency of the requirements of the Law on Trade and the Rulebook on Labelling, in case of stating the country of origin on the product declaration, prescribe the obligation to state the country of origin of the main ingredient, create a framework for additional problems in practice.

FIC RECOMMENDATIONS

- Define the competence of institutions regarding the interpretation of regulations in the field of food safety and ensure the obligation to apply the official positions of the Ministry to all participants in the chain; ensure uniform interpretation and application of the Rulebook and Guidelines adopted by competent Ministry, adopt Rulebook on conditions and manner of production and placing on the market of food for which quality conditions are not prescribed.
- Adopt executive regulations arising from the Law on Food Safety and harmonize them with EU.
- Adopt Amendments to Article 34 of the Law on Trade in terms of clearly defining that the provisions of this Article do not apply to products to which the provisions of the Law on Food Safety apply, and bylaws prescribing the declaration and labelling of food.

INSURANCE SECTOR

1.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
INSURANCE COVERAGE FOR NATURAL DISASTERS AND OTHER ACTS OF NATURE				
We believe it would be necessary to establish a strategy for insurance against natural disasters and other acts of nature to ensure that in the event of a major adverse event, a significant share of claims would be transferred to the insurance company. Avoiding new charges on existing contracts is important, as these would result in additional expenditures for a small number of the insured who now have insurance coverage, a measure already proposed by the Ministry of Finance. The implementation could be carried out gradually, through the introduction of mandatory: (i) insurance for all state-owned and public property and infrastructure; (ii) coverage for all property designated as collateral for financing; (iii) coverage against natural disasters and other "acts of nature," including fire insurance, for all property, based on the French model.	2015			√
A natural catastrophe (Nat Cat) insurance pool mechanism with obligatory or semi-obligatory coverage should be considered. There are examples, which are far from perfect but show that these mechanisms are conducive to increasing national coverage and risk management (Romania and Turkey). Tax cuts for insurance should also be evaluated to promote Nat Cat insurance in the corporate sector.	2018			√
LAW ON PERSONAL INCOME TAX				
Amendments to the Law to create conditions for the introduction of tax relief for all types of life insurance premiums, which would not only stimulate the development of the insurance sector, but also create the conditions for improving the social function of these types of insurance, which at the same time diminishes the state's obligation to care for these persons.	2015			√
AUTO INSURANCE MARKET				
Insurance companies should be allowed to register cars at their own premises,	2013			√
Allow the issuance of compulsory insurance motor liability policies in electronic form as electronic document.	2019			√
INSURANCE LAW				
Adoption of a new set of insurance laws: the Insurance Supervisory Law (ISL), the Insurance Contract Law (ICL) and the Law on Insurance Brokers and Agents.	2013			√
Amend Article 98, Paragraph 2 of the Law on Insurance, to enable public utility companies registered in the Republic of Serbia in accordance with the Law on Public Utility Services, to perform insurance brokerage/agency activities with the prior consent of the National Bank of Serbia.	2018			√
NEW LAW ON PREVENTION OF MONEY LAUNDERING AND FINANCING OF TERRORISM				
Adopt the initiative of insurance companies for amending Article 8 of the Law, to exclude taxpayers from the implementation of actions and measures prescribed by the Law when it comes to a contract on life insurance in the event of death (the so-called "risk insurance").	2019			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Article 18 stipulates that the identity of a party can be determined and verified through a qualified electronic certificate, but the technical conditions prescribed by this article for this type of identification of parties cannot be implemented in practice and no taxpayer applies it.	2020			√

OVERVIEW OF THE INSURANCE MARKET

CURRENT SITUATION

There are 20 insurance companies in Serbia. 16 companies have exclusively been engaged in insurance business, while four companies have been engaged in reinsurance business. When it comes to insurance companies, there are four life insurance companies, and six companies deal with exclusively non-life insurance, both life and non-life insurance.

The market is still very concentrated: i) the market leader, Dunav, has 26.7% market share, ii) the three largest insurers have 59.8% market share, and iii) the five leading insurance companies have 78.3% market share.

Majority of foreign owned companies (15 out of 20) undoubtedly dominate the market with 74% of revenues (61.1% in non-life insurance premiums and 87.2% in life insurance premiums).

The insurance market has had a premium of 27.8 billion dinars (237 million euros), which is 3.2% more than in the same period last year (first quarter).

As the conclusion from the comparative indicators for 2021 and the previous year, the following changes in the observation year stand out:

- the balance sheet total of the insurance sector increased by 8% and amounted to 324.1 billion dinars;
- the capital increased by 8.1% and amounted to 78.0 billion dinars;
- there was an increase in technical reserves of 7.9%, amounting to 213.2 billion dinars;
- total premium reached the level of 27.8 billion dinars, with a growth rate of 3.2%;
- the share of non-life insurance of 76.8% in the total premium remained dominant; non-life insurance premiums increased by 3.2%, with property insurance, motor vehicle insurance - comprehensive and voluntary health insurance growing, while auto liability insurance, which has declined due to the coronavirus pandemic, is growing.
- life insurance retained a share of 23.2% in the total premium;
- 20 insurance companies operated on the market of the Republic of Serbia, which is an unchanged number compared to the same period last year, while the number of employees of 11,529 increased at a rate of 3.4%.

The establishment of insurance companies and their activities have mainly been regulated by the Law on Insurance, from December 2014, with amendments from 2021 and bylaws of the National Bank of Serbia (NBS).

Other important legal sources are the Law on Compulsory Traffic Insurance, the Law on Health Insurance, the Law on the Protection of Financial Service Consumers in Distance Contracts and the Law on Obligations. A laterally relevant legal source is the Law on Road Traffic Safety.

A good portion of insurance companies as well as other participants in the insurance market strive to adapt their services to the digital world. However, in addition to technical, cultural and other barriers, regulation is also an important limiting factor. Although a huge step has been taken in recent years towards creating regulatory conditions for digital business, there is still room for improvement. First of all, in the auto liability market, policies are still required by law to be issued on pre-defined forms printed by the Institute for Manufacturing Banknotes and Coins – Topčider, which practically makes it impossible to do business in a digital way. Also, regulations in the field of prevention of money laundering and terrorism financing is an important limiting factor, in the sense that it does not recognize the exceptions previously proposed, which would contribute to the sale of digital life insurance on the market of the Republic of Serbia.

The impact of the COVID-19 corona virus pandemic is certainly not negligible and has certainly affected the slightly lower growth of premiums this year than last year. However, the distance business, work from home and lock-down, which lasted almost 3 months, contributed to the faster

expansion of digital sales channels as well as the increasing digitalization of the business of insurance companies.

Insurance companies, as well as other financial institutions, have not been included in the Program of Economic Measures to mitigate the Negative Effects Caused by the COVID-19 Virus Pandemic and Support the Economy of the Republic of Serbia adopted by the Government.

THE INSURANCE LAW 1.00

CURRENT SITUATION

Article 82 of the Insurance Law regulates the matter of informing policy holders and insured persons. The application of the Law in practice has led to a significant increase in the documents prepared before and during the conclusion of the insurance contract, since the information significantly repeats the provisions of the insurance conditions. In practice, we are faced with the fact that policy holders perceive a legal institute established to protect their rights by feeling confused by the extensive documents in which the same provisions have been repeated.

Paragraph 4 of the same Article extends the obligation of the insurance company to the situation when a policy holder and an insured person are not the same person. Namely, the obligation of the insurance company to, in addition to a policy holder, also inform an insured person about the data referred to in paragraph 1, items 1) to 6) and paragraph 2 of this Article, as well as to provide him with insurance conditions applicable to the insurance contract.

In the application of the provision of paragraph 4 in the previous period, the insurance companies have faced additional difficulties. Namely, the cited provision extends the obligation of the insurance company in terms of information to persons who do not have the status of a policy holder, or who are not a contracting party and with whom the insurance company as a rule has no contact in the period before concluding the insurance contract. The title of Chapter III of the Law reads: Information for an insurance policy holder, and paragraph 4 of Article 82 deals with informing an insured person who does not have, or do not have the status of an insurance policy holder.

POSITIVE DEVELOPMENTS

No improvement.

REMAINING ISSUES

A special problem arises with collective insurance, where the insurance company:

- does not have the possibility of direct communication with all insured persons before concluding the insurance contract, especially having in mind the regulations governing the matter of personal data protection.
- does not have information on who will acquire the status of insured person during the insurance contract (collective insurance of employees contracted according to the records of insurance policy holders in respect of persons who during the insurance contract acquire the status of insured persons, insurance of hotel guests, insurance of visitors to certain events, insurance of pool users, insurance of ski lift users, insurance of passengers in public transport, both obligatory and voluntary, etc.)
- has the obligation to inform insured persons in Serbian (provision of Article 84 paragraph 1), and in a large number of cases, persons who are foreign citizens and do not speak Serbian have the status of insured persons.
- has an obligation to inform insured persons about information that does not meet the needs of insured persons who are not also policyholders. Namely, insured person is not obliged to pay the premium and therefore there is no purpose to inform him about the "amount of insurance premium, method of payment of insurance premium, amount of contributions, taxes and other costs calculated in addition to insurance premium, as well as the total amount of payment". He does not have the capacity of a contracting party. Also, since he does not have the capacity of a contracting party, he has no interest in being informed about the "right to terminate the contract and the conditions for termination, or the right to withdraw from the contract" nor can he use these rights.

Contrary to the above, the insurance company is not obliged to inform insured person about: the manner of submission and the deadline prescribed for filing a claim, or for exercising the rights based on insurance; the manner of protection of his rights and interests with the insurance company; the name

and registered office and address of the body responsible for supervising the operations of the insurance company, as well as the manner of protection of his rights and interests with that body, which may certainly be of interest to a person who has the status of insured but not the policy holder.

Due to the above, we believe there is no need to impose on the insurance company to inform insured persons when they are not policy holders at the same time and that the insurance company does not have the ability to perform such an obligation.

The practice of the European Union countries in the region shows us that the goal of pre-contractual information can be achieved in a much simpler way.

FIC RECOMMENDATIONS

- Amend the Law on Insurance in such a way that the text of the existing Article 82 is amended and reads:

„ Before concluding the insurance contract, the insurance company shall inform an insurance policy holder at least about:

1. the business name, legal form, registered office and address of the registered office of the insurance company with which he concludes the contract;
2. the insurance conditions and the law applicable to the insurance contract;
3. the term of the insurance contract;
4. the risks covered by insurance and exclusions related to those risks;
5. the amount of insurance premium, the method of payment of insurance premium, the amount of contributions, taxes and other costs that have been calculated in addition to the insurance premium, as well as the total amount of payment;
6. the right to terminate the contract and the conditions for termination, or the right to withdraw from the contract;
7. the period within which the offer shall be binding on the insurance company;
8. the manner of filing and the deadline prescribed for filing a claim for damages, or for exercising rights based on insurance;
9. the manner of protection of his rights and interests with the insurance company;
10. the name, registered office and address of the body responsible for supervising the operations of the insurance company, as well as the manner of protection of his rights and interests with that body;

In the case of concluding a life insurance contract, the notice referred to in paragraph 1 of this Article, in addition to the information referred to in that paragraph, shall also contain information regarding:

1. the basis and criteria for share in profit and the manner and deadlines for payment of share in profit;
2. the table of cash surrender values;
3. the conditions for exercising the right to capitalization of the contract and the rights under such contract;
4. in the case of insurance related to investment fund units - who shall bear the investment risk, the definition of investment units to which fees have been related and the prospectus of the investment fund, and especially on the investment structure;
5. tax regulations relating to life insurance.

In the case of insuring the costs of legal protection when choosing a lawyer or other person who has the appropriate qualifications in accordance with the regulations to defend, represent or protect the interests of an insured person in the investigation or proceedings – an insured person shall freely choose a lawyer or other person.

If the data stated in the previous paragraphs of this Article have been contained in the insurance conditions submitted by the insurance company to an insurance policy holder before concluding the insurance contract, it is considered that the insurance company has fulfilled the obligation to provide information to an insurance policy holder."

INSURANCE COVERAGE FOR NATURAL DISASTERS AND OTHER ACTS OF NATURE 1.00

CURRENT SITUATION

According to its geographical exposure, Serbia has been affected by natural disasters/elemental disasters that have been relatively frequent (2005, 2006, 2010, 2014 and 2015 since the beginning of this century). Even after the catastrophic floods of 2014, which caused damage of more than 1.5 billion euros, in the following years the number of sold insurance policies against natural and other disasters did not change drastically, although floods have been recorded in Serbia in the following years.

POSITIVE DEVELOPMENTS

No improvement.

REMAINING ISSUES

In Serbia, insurance in general, and insurance coverage against natural disasters/elemental disasters in particular, has been seen as an expense or levy and not as a way to transfer risk, and for that reason the growth rate has been at the lowest level in Europe.

An additional problem concerns crop insurance and hail protection. Currently, the premium for insurance of crops and fruits from hail includes the so-called anti-hail contribution, which (among other things) finances anti-hail stations that protect both insured and uninsured crops.

FIC RECOMMENDATIONS

- It is necessary to establish a strategy for natural disasters insurance, which aims to ensure that, in the event of a major adverse event, a significant proportion of the damage will be transferred to the insurance company. It would be important to avoid new levies on existing contracts, a measure already proposed by the Ministry of Finance, which would lead to additional expenditure for a small number of insured persons who now have insurance coverage.
  Implementation could be done gradually, as follows:
  (i) Introducing compulsory insurance for all state and public property and infrastructure.
  (ii) Introducing mandatory coverage of all assets designated as collateral for financing.
  (iii) Introducing mandatory coverage from natural disasters/elemental disasters for all property that includes fire insurance, based on the French model.

- Consider a mechanism for natural disasters insurance with mandatory or semi-mandatory coverage. There are examples of such a solution, which are far from perfect, and which have shown that these mechanisms are effective in increasing coverage and managing this risk at the country level (Romania, Turkey). In addition, consider tax relief for companies in order to promote natural disasters insurance.

- When insuring crops and hail protection, exclude the hail contribution or collect the hail contribution from all farmers but not through the insurance policy.

- All crops or animals that are subject to state subsidies (for raw materials, fuel, procurement of basic livestock…) should be insured.

LIFE INSURANCE – EXEMPTION FROM INCOME FOR TAXATION OF FEES FROM PERSONS INSURANCE

CURRENT SITUATION

The existing Law on Personal Income Tax stipulates that earnings shall not be considered to be the collective life insurance premium in the event of the death of an employee due to an illness paid by the employer for all employees. Such a legal solution is not enough to encourage life insurance, given that life insurance performs a social function - it provides financial stability and security to individuals, provides long-term savings to maintain living standards in late years, while in this way a natural person can ensure that in the case of unforeseen life circumstances, he or she or persons close to him/her remain materially cared for.

POSITIVE DEVELOPMENTS

No improvement.

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 the period when they are active by allocating part of their funds that are paid in premiums to insurance companies.

In addition to the benefits for natural persons who contract insurance, there are numerous benefits for the state, where the growth of investment in life insurance would lead to an increase in tax revenues, given that insurance premiums are subject to income tax of the insurance company. On the other hand, the payment of life insurance would improve the living standard of insurance beneficiaries, income increase leads to increased consumption and thus higher collection of indirect taxes (value added tax, excise duty, customs duties). In this way, there is an inflow of funds into the budget of the Republic of Serbia, which can be used for the realization of budget goals.

The growth of life insurance premium payments directly affects the development of the insurance market as an important factor in the economic growth of a country. The more developed the insurance market, the faster and higher economic growth the country will record. Namely, due to the increased demand for life insurance products, new jobs are being created in the insurance industry (apart from the reduction of unemployment, there is also a positive effect on the growth of funds collected in the name of payroll taxes and contributions for compulsory social insurance). The development of the industry leads to an increase in the number of insurance companies as important institutional investors in the market. Namely, insurance companies would invest the collected premium in treasury issues, or by issuing long-term government securities that follow the character of long-term life insurance contracts, the Republic of Serbia would raise significant funds that could be used to finance infrastructure and other projects of general importance for economic development. Collecting insurance premiums achieves the mobilization of savings, which allows the redirection of funds to projects that can generate higher returns. Also, raising awareness among citizens to conclude life insurance contracts and encouraging them through the proposed changes would provide relief for social security funds.

There is a tendency in the world to introduce various tax incentives when it comes to taxing insurance income. Steps in this direction have been taken in the tax legislation of the countries in the region, for example, in Croatian legislation, the tax on insurance income as such has been abolished as of January 1, 2019, so that this type of income of individuals is not considered income. Namely, the Law on Personal Income Tax ("Official Gazette", no.115/16, 106/18, 121/19, 32/20) in Article 8, paragraph 2, item 5 does not consider non-related compensations as income with economic activity, while payments based on insurance of property and liability have also been considered as compensation, while paragraph 3 of the same Article prescribes that income based on life insurance contracts and voluntary pension insurance shall not be considered income. Also, Article 64 of this Law defines what constitutes capital income, which includes interest income. Article 65 of the Law on Income Tax stipulates that income based on the payment of life insurance with the feature of savings (paid compensation above paid insurance premiums) and income based on voluntary pension insurance shall not be considered interest.

FIC RECOMMENDATIONS

- Amendments to Article 9, paragraph 1, items 6) and 7) of the Law on Personal Income Tax, which provide for exemption from income for taxation of income of natural persons based on certain types of insurance benefits, so that the application of the prescribed exemption extends to exemption from taxation of all benefits from the insurance of persons, and the deletion of Article 84 of the Law relating to the taxation of income of a natural person who receives compensation from the insurance of persons, as follows:
  - In Article 9, paragraph 1, item 6) after the words "except for salary compensation (salary)", the words "property insurance compensation and personal insurance compensation in accordance with the law governing voluntary insurance" shall be added;"
  - Article 9, paragraph 1, item 7) shall be deleted.
  - Article 84 shall be deleted.

ABOLITION OF DOUBLE TAXATION FOR UNIT LINK PRODUCTS AND INVESTMENTS IN INVESTMENT FUNDS

CURRENT SITUATION

Article 8, paragraph 1 of the Law on Insurance ("Official Gazette of RS", no. 139/2014) defines the types of life insurance, among which as a special type of insurance lists unit-linked life insurance. The specificity of unit-linked life insurance contracts is that an insurance contract obliges a policy holder to pay an insurance premium, the savings part of which is used for the purchase of investment units of selected investment funds. Namely, when concluding an insurance contract, a policy holder chooses a combination of investment funds from the offer of the insurance company (the offer defines the structure of investment premium investment in investment funds).

At the request of a person who contracted the insurance, the insurance company shall pay the surrender value of the policy if a certain, agreed period for which the insurance premiums have been paid has passed since the beginning of the insurance. The number and value of investment units shall be determined on the day of submitting the request for payment of the surrender value.

When withdrawing funds, the insurance company actually submits a request for the purchase of investment units that the open-end investment fund shall purchase from it. In accordance with the currently applicable provisions of the Law, during the purchase of units by the investment fund for the insurance company, a capital gain (loss) shall be determined in accordance with Articles 27 to 29 of the Law, which shall be included in the base for determining the profit tax of the insurance company. Capital gain shall be determined as the difference between the selling price paid by the investment fund for units and the purchase price determined as the net asset value of the open-end investment fund per investment unit on the day of payment, increased by the purchase fee if the fund management company charges it.

Also, when paying the insured amount to a policy holder, the income that is subject to personal income tax would be generated in accordance with the currently valid Article 84 of the Law on Personal Income Tax. Namely, in accordance with Article 84, paragraph 2 of the Law on Personal Income Tax, taxable income from personal insurance would be the difference between the amount of compensation paid from personal insurance and the amount of funds paid based on insurance premiums. In this particular case, if the product of the number of investment units and their value on the day of an insured case or on the day of submitting the surrender request in case of termination of the contract

would be higher than the sum of paid insurance premiums, the difference between these two amounts would be subject to personal income tax at a rate of 15%.

POSITIVE DEVELOPMENTS

No improvement.

FIC RECOMMENDATIONS

- Bearing in mind that the insurance company has only formal ownership over the units of the investment fund, and it cannot freely dispose of them, whereby the payment of insurance compensation to a natural person (difference between the sum insured obtained by selling fund units by the insurance company and paid premium) represents the taxable income of a natural person, the Law on Corporate Income Tax should be amended in a way that would exempt the income generated from the sale of investment units to which life insurance is linked from the calculation of capital gain in the tax balance of the insurance company. In this way, double taxation shall not be completely eliminated, but only the income generated from the sale of this type of investment units shall be excluded from the calculation of capital gains, but it shall certainly be included in the taxable profit of the insurance company, as its "regular income".

- The Law on Corporate Income Tax should be amended as follows:
  - In Article 27, paragraph 1, item 4) after the words "in accordance with the law governing investment funds" add the words "except in the case of surrender of investment units to which life insurance has been linked in accordance with the law governing voluntary insurance".

NEW LAW ON PREVENTION OF MONEY LAUNDERING AND TERRORISM FINANCING

REMAINING ISSUES

The Law on Prevention of Money Laundering and Terrorism Financing started to be applied on 01/04/2018 and has had serious implications for the operations of insurance companies dealing with life insurance.

Article 8 of the Law, as exceptions to the obligation to carry out actions and measures of knowing and monitoring a party, does not recognize life insurance contracts (the so-called "risk insurance") as defined in the previous Law.

Regarding Article 8 of the Law, having in mind the legal nature of such contracts which cover only biometric risks (death and disability), which do not have the option of paying the surrender value, advance or insured amount in case of pure endowment, as well as existing payment modalities (non-cash transactions, payment through a bank), it is clear that the potential risk of money laundering and terrorism financing as such is impracticable and requires special treatment. Classification in the low-risk category and the application of simplified actions is not a mitigating circumstance, given that many resources have been spent on identifying a legal entity and determining a beneficial owner.

Also, in the case of insurance that has a savings component, if a policy holder pays the insurance premium from the insured amount or mathematical reserve, or part thereof, based on the expiration or surrender of an existing life insurance contract at the conclusion of which the entity subjected to the duty of due diligence under this Law has already performed actions and measures of knowing a party in accordance with the Law, the question shall arise as to the justification of taking action in accordance with the Law.

Article 18 of the Law stipulates that the identity of a party can be determined and verified through a qualified electronic certificate, but the technical conditions prescribed by this Article for this type of identification of parties cannot be implemented in practice and no entity subjected to the duty of due diligence under this Law applies it.

POSITIVE DEVELOPMENTS

No improvement.

REMAINING ISSUES

The application of the Law in practice has led to difficult contracting of some of the mentioned types of life insurance, more precisely all types of life insurance where the risk of pure endowment has not been insured, or in the case of insurance that does not have a savings component.

Having in mind the provisions of Articles 1 and 2 of the Law, it is clear that the Law prescribes actions and measures to be taken to prevent and detect money laundering and terrorism financing. From the above, it is unequivocally concluded that the aim of the Law is to prevent harmful consequences that may be caused, or more precisely helped by taking prohibited actions by a person by introducing money obtained illegally into legal flows.

Based on the above, a necessary condition for the existence of danger is that at the time of performing activities that may lead to money laundering and terrorism financing, the suspicion of the origin of funds and the suspicion of intent/knowledge that these funds will be used to finance terrorism has not been removed. All of the above, when it comes to the application of the Law, shall be checked with regard to a person who has the status of a policy holder. The logical assumption is that if the implementation of prohibited actions (money laundering and/or terrorism financing) occurs, a person who undertakes these actions (in this case a policy holder) shall have a benefit or interest from it. However, this is not the case with residual debt insurance or life insurance contracts in case of death. In these contracts, a policy holder shall, as a rule, not be a beneficiary of the insurance, and he will not come into possession of the funds paid by the insurance company in the name of compensation. Exceptionally, when a policy holder is a beneficiary of the insurance, before the payment of the insurance indemnity, the insurance company will apply the provisions of the Law.

When a policy holder is (a legal entity) and contracts life insurance in case of death of a large number of insured persons (group insurance), and insurance beneficiaries are the legal heirs of an insured person, or the bank when it is explicitly agreed up to the outstanding loan, the application of the Law is pointless and only causes difficulties for both insurance companies and insurance beneficiaries.

In addition to the above, in practice it is often the case that a new life insurance contract is concluded immediately after the expiration or surrender of an existing life insurance contract, where the insurance premium has been paid from the sum insured or mathematical reserve or part of an existing insurance contract. Considering that when concluding the existing life insurance contract, the insurance company has already taken measures in accordance with Article 7 of the Law on Prevention of Money Laundering and Terrorism Financing, there is no justifiable reason to take the same measures again and check the origin of funds. This would apply only on condition that a new insurance contract does not change a policy holder and a beneficiary.

FIC RECOMMENDATIONS

- Amend Article 4 of the Law by adding a new paragraph 4 after paragraph 3, which reads:
  "Notwithstanding the provisions of paragraph 1, item 6) of this Article, insurance companies that have a license to conduct life insurance, insurance brokerage companies when performing life insurance brokerage, insurance agencies, insurance agents and banks that have a license for the performance of life insurance business shall not be considered entities subjected to the duty of due diligence under this Law when it comes to life insurance contracts that do not have a savings component (do not cover the risk of pure endowment)."

- Amend Article 8 of the Law by adding a new paragraph 3 after paragraph 2, which reads:

"Notwithstanding paragraph 1 of this Article, the entity subjected to the duty of due diligence under this Law referred to in Article 4, paragraph 1, item 6) of this Law shall not perform the measures referred to in Article 7 of this Law when concluding a new life insurance contract when the insurance premium has been paid from the sum insured or mathematical reserve, or its part, based on expiration or surrender of the existing life insurance contract during the conclusion of which the entity subjected to the duty of due diligence under this Law has already performed actions and measures of knowing and monitoring a party in accordance with the Law, provided that a new insurance contract does not change a policy holder and a beneficiary."

- Amend Article 18 of the Law in order to define the conditions for establishing the identity of a party through a qualified electronic signature that can technically be achieved in practice.

CAR INSURANCE MARKET 1.00

CURRENT SITUATION

Car insurance (CI) is by far the most important segment of the insurance market (32.9% of the total premium in 2019 refers to CI) in Serbia, and MOT test centres that perform a mandatory annual test of all motor vehicles are certainly 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 MOT test centres - directly and/or through related parties - exceeding 5% of the gross insurance premium.

POSITIVE DEVELOPMENTS

Increased market surveillance by the National Bank of Serbia, which in 2019 led to the fact that insurance companies have largely adjusted their operations to the laws and regulations in this area.

FIC RECOMMENDATIONS

- Allow insurance companies to register cars on their own premises.
- Allow the possibility of issuing a compulsory auto liability insurance policy in electronic form as an electronic document.

LAW ON ROAD SAFETY

CURRENT SITUATION

The existing Law on Road Traffic Safety does not regulate electric scooters. As their use and their number in traffic is constantly increasing, there is a need to regulate it legally. Electric scooters are also an increasingly common cause of traffic accidents, so it is necessary for the owners of these vehicles to conclude a contract on compulsory insurance for damages caused to third parties.

REMAINING ISSUES

Bearing in mind that the use of electric scooters has not been regulated by law, in practice there is a problem in the event that their use causes damage to third parties. If an owner or a person who has driven that vehicle, for any reason, does not pay for the damage he caused, the injured persons remain deprived of compensation. Thus, they end up in an unequal position in relation to persons who have been damaged by any other means of transport for which it is obligatory to contract compulsory third party liability insurance (motorcycle, passenger vehicle, bus).

FIC RECOMMENDATIONS

- Amend Article 7 of the Law on Road Traffic Safety and introduce the definition of electric scooters in paragraph 1, item 34a: "electric scooter shall be a motor vehicle with two wheels, with its own electric drive"
- Introduce the obligation to insure owners of electric scooters against liability for damages caused to third parties.

LAW ON ROAD TRANSPORT

CURRENT SITUATION

The Law on Road Transport does not stipulate the obligation of a carrier to have a professional liability insurance policy of the carrier, as is the case with other countries.

REMAINING ISSUES

Carriers often do not have this insurance contracted, so that customers of transport services cannot charge damages if a carrier causes them. This can lead to great damage for those ordering transport services as the entire load can be destroyed during transport.

FIC RECOMMENDATIONS

- Amend Article 7 of the Law on Road Transport and provide for a professional liability insurance policy of the carrier as a mandatory condition for obtaining a transport license.

VOLUNTARY HEALTH INSURANCE

1. LAW ON HEALTH CARE

CURRENT SITUATION

The existing Law on Health Care does not provide for the possibility for health care providers to diagnose or prescribe therapy by telephone or online consultation. The Regulation on the nomenclature of health services at the primary level of health care provides only for giving advice in telephone and internet counselling. This way of providing health care has proven to be necessary, especially in the conditions of a pandemic. In addition, the development of technology that enables a healthcare worker and a patient to have visual contact, as well as to exchange documents electronically, supports the need to enable this type of treatment.

REMAINING ISSUES

Patients, insured persons of both compulsory and voluntary health insurance are not allowed to receive therapy or be diagnosed by telephone or online consultation. For that reason, they are forced to go to health institutions in person.

For the insured persons, this represents an additional expense of time, as well as costs (transportation). In a pandemic, it is an additional risk of infection and concern about that risk.

For voluntary health insurance insurers, this represents a higher cost. An insured person is forced to visit a doctor first in order to be prescribed the diagnostic procedures he should perform. If telephone and online consultations were allowed, an insured person could contact a healthcare professional in this way. In this way, the cost for an insurer would be lower because those services are cheaper than personal visits. In addition, they provide additional comfort to insured persons and their satisfaction is greater.

FIC RECOMMENDATIONS

- Enable health care providers to diagnose or prescribe therapy by telephone or through online consultations by the Law on Health Care.

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 that refers to important data on contracting parties, or insured persons of voluntary health insurance. The consequence is an increase in administrative costs on the part of both policy holders and insurance companies, and on the other hand, there are cases that do not meet the needs of policy holders with regard to persons whose employment contract has been terminated or with persons who have started 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 will be exercised. The purpose of issuing a document exists only in the case when an insured person uses his rights from the contract directly at the health care provider in the case of covering the costs of treatment. In the case when an insured person is entitled to a lump sum payment from an insurer (example of serious illnesses and surgical interventions insurance), the voluntary health insurance document is not required by an insurer as proof that a person has been insured, which has been defined by law as follows:

- "In the case when the rights from the voluntary health insurance have been exercised directly with an insurer, they shall be 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 a document is still

prescribed by law.

In addition to the above, the existing 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, or health institutions that deal with voluntary health insurance taking the morbidity risk for a fee, although they are not registered for that in accordance with the regulations of the Republic of Serbia.

REMAINING ISSUES

As important data, and thus mandatory data, the Law has also determined 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 residence, or residence in the Republic of Serbia (street and number, place and municipality), contact (phone number or email address). Having in mind the regulations governing the 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", no. 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 there is a justifiable basis for amending Article 179 of the Law.

Also, in certain situations, the insurance company concludes a contract with employers on collective voluntary insurance of employees, where the insured persons are entitled to payment of insurance compensation directly from the insurance company and where the paid compensation does not cover the costs of treatment but satisfaction. Prior to the entry into force of the Law, the described type of insurance was concluded without compiling a list of insured persons because the coverage was contracted based on official records of employed policy holders. In the described manner, automatic coverage was provided in an efficient manner for all persons who met the condition for the status of insured persons (they had concluded an employment contract with the employer), without the need to register separately for insurance, and coverage automatically ceased for all persons who lost the status of the insured 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 existing Article 179 does not allow such a possibility and in addition to the problem described in the previous paragraph and concerning Article 5 paragraph 1 item 3 of the Law on Personal Data Protection ("Official Gazette of the Republic of Serbia", no. 87/2018) leads to the following problems:

- Increase in administrative costs both on the part of an insurance policy holder and on the part of 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);
- Occurrences of cases that absolutely do not meet the needs of an insurance policy holder that a person whose employment contract has been terminated still has the status of an insured person if a policy holder has not sent the insurance deregistration to the insurance company in time, or that a person who has concluded the employment contract does not have the status of an insured person if a policy holder has not sent the insurance registration to the insurance company in a timely manner.

FIC RECOMMENDATIONS

- Amend the Law on Health Insurance in such a way that:

  a) the text of the existing Article 179 should be amended to read as follows:
  "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 a person wishing to conclude a contract on voluntary health insurance.
  The offer referred to in paragraph 1 of this Article shall contain important data on voluntary health insurance policy holders, insurance start date, insurance waiting period, as well as insurance end date, amount and deadlines for payment of insurance premium, maximum agreed amounts by coverage risks and other important

elements for insurance contracting.
Important data on the insured persons of voluntary health insurance referred to in paragraph 2 of this Article shall be:
1) name and surname,
2) Personal Identification Number, or the registration number for foreign citizens.
In the case of collective insurance, a policy holder may submit a unique offer containing the data referred to in the previous paragraph of this Article on each individual who will be covered by collective insurance.
The offer referred to in paragraph 1 of this Article as well as the unique offer referred to in paragraph 4 of this Article, as important data, shall also contain data on the previous health condition of the insured persons of voluntary health insurance which are necessary for an insurer to assess insurance risk.
Notwithstanding the provisions of this Article, when the insurance company concludes with a policy holder a contract on collective voluntary health insurance of employees, where the insured persons are entitled to payment of insurance compensation directly from the insurance company and where the paid compensation does not cover treatment costs, insurance can be concluded based on official records of employed insurance policy holders."

b) the text of the existing paragraph 1 of Article 182 should be amended to read as follows:
"An insurer shall issue a voluntary health insurance document to any voluntary health insurance policy holder who does not use his insurance rights directly with an insurer on the day of issuing the policy, and no later than 60 days from the day of issuing the policy."

- Amend the Law on Insurance - introduce penalty clauses for all persons who are engaged in insurance business or are engaged in the business of taking future uncertain risks for a certain fee without prior permission from the competent authorities.

LAW ON INJURIES AT WORK

CURRENT SITUATION

Article 53 of the Law on Safety and Health at Work defines the obligation of an employer to insure employees against injuries at work, occupational diseases and diseases related to work, in order to provide compensation.

The same article states that the conditions and procedures for insurance against injuries at work, occupational diseases and diseases related to the work of employees shall be regulated by law.

The Law on Compulsory Insurance against Injuries at Work, Occupational Diseases and Diseases Related to the Work of Employees has not yet been enacted.

POSITIVE DEVELOPMENTS

No improvement.

REMAINING ISSUES

The law has not been passed yet.

FIC RECOMMENDATIONS

- Occupational Safety and Health Directorate should propose the adoption of the Law on Insurance against Occupational Injuries, Occupational Diseases and Diseases Related to Work.

LEASING

1.44

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			√
Amendment to the Law on Financial Leasing, which would explicitly transfer the obligation to pay for unpaid parking services to the lessee, and that this service legitimizes parking services to collect directly from lessees registered in the register of motor vehicles kept by the RS Ministry of Interior. Operating leasing should be regulated by the Law, i.e. financial leasing providers should be enabled to provide operating leasing services.	2016			√
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			√
When forming incentive programs in the economy (industry, agriculture, etc.) and drafting laws and bylaws that regulate this matter, it should be determined that incentives can be implemented with the support of financing, which, in addition to bank loans, also includes other types of financing, such as financial leasing. Given that financial leasing is also a suitable way of financing, it should be included in subsidized programs of the Government of the Republic of Serbia, which would improve competitiveness in the financial market and offer a more favorable type of financing.	2016	√		
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			√
The capital threshold for performing leasing, the subject of which is real estate, should be reduced in order to make real estate leasing more attractive on the Serbian market. We suggest that for performing financial leasing operations, the monetary part of the lessor's founding capital cannot be below EUR 500,000 in dinars (RSD) for both financial leasing of movable and immovable property.	2015			√
Urgent solution to 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			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
It is necessary to enable leasing companies to submit the necessary data to the Ministry of the Interior through BRA (e.g. web service) and in that way, the lessee would be relieved of the obligation to obtain a vehicle registration authorization in writing once a year for delivery to the Ministry of the Interior during vehicle registration. In addition to the above, the proposed solution would put an end to the abuses that occur in practice with the submission of forgeries of these certificates.	2019	√		
Importing data from the Ministry of the Interior and the Parking Service in order to increase legal security in the country.	2020			√

CURRENT SITUATION

The development of leasing in Serbia is linked to the beginning of 2003 when the Law on Financial Leasing was adopted. Today, 16 leasing companies are registered Serbia, which are mainly affiliates of renowned financial institutions, leaders in the field of banking and financial operations in the markets of Central and Southeast Europe. These groups have implemented their knowledge and high corporate business standards in the Serbian market. As a result of market competition, the number of active leasing companies which operate in Serbia is decreased to 13 and adjusted to market needs and . It is consequence of the banking groups. The market concentration is high and over 70% of total assets of Leasing sector comes from 5 leasing companies. This will only bring the quality of the offer because the standard of leasing services that market leaders have implemented so far will be further confirmed.

POSITIVE DEVELOPMENTS

In the previous period, during 2020, the certain improvements were done. The National Bank of Serbia did not initiate the adoption of amendments to the Law on Financial Leasing, , but adopted Decision for risk management of Leasing companies which arise for launch the new product by whom Financial leasing companies is allowed to render Operative Leasing services.

Regarding the recommendation related to the issuance of the Registration Authorization to Leasing Users, it is enabled the delivery via web service will be provided which is a good improvement by applying digitalization in business. However, the communication with technical checks should be enabled and it is planned until the end year.

Regarding the recommendation that Financial Leasing is not included as a type of financing in some of the programs of state incentives in the economy, there have been significant changes. Positive examples are the Decrees of the Government of the Republic of Serbia on determining support to small enterprises for the procurement of equipment, which determine the Program of support to small and medium enterprises for the procurement of equipment. In addition to banks, this program also includes leasing companies and has been implemented very successfully.

REMAINING ISSUES

1. Interest in financial leasing is still taxable

Law on Value Added Tax treats the products and services of financial institutions in different ways when defining the subject of VAT taxation.

Namely, in Article 4, item 2a) the Law clearly states that the supply of goods on the basis of a leasing contract is subject to VAT. According to the said Law, the basis for VAT is the value of the subject of leasing and interest.

On the other hand, the legislator provided in Article 25 of the same Law that credit operations and insurance services are exempt from VAT.

Different tax treatment of products and services of financial institutions has conditioned that financing through leasing in relation to other types of financing is more expensive for clients who are not in the VAT system, since VAT on interest is an additional cost that puts financial leasing companies at a disadvantage. The best example of this effect again was observed by the NBS during the implementation of the measures prescribed by the NBS Decision on the Morato-

rium on Payment of Liabilities based on numerous customer complaints. Namely, the Decisions has been made for both banks and leasing companies, and with their implementation, the clients of leasing companies who are not entitled to the previous VAT had an additional cost. It should not be forgotten that these are entrepreneurs, registered agricultural farms, and companies that are not in the VAT system.

2. Leasing companies are still charged for the cost of additional tickets, even though the users of the vehicle or lessees used the so-called services of public companies for parking service

Decisions on public parking lots of cities and municipalities in Serbia generally designate drivers or owners as users of public parking lots, if the drivers are not identified. These decisions further stipulate that if the users of the public parking lot violate the provisions of these decisions regarding the non-payment of the parking ticket, they are obliged to pay the additional ticket. In cases when the vehicle is given in financial leasing, decisions on public parking lots do not take into account the business of financial leasing at all and consequently, additional tickets arrive for payment to leasing companies, although the users of these vehicles are recipients of financial leasing.

3. The high level of required capital for leasing companies for real estate leasing in the amount of EUR 5 million slows down the expected development of the leasing industry

The high level of required capital with other financial institutions (banks, insurance companies, or pension funds) is in line with the intention to provide security when managing clients' funds, while, unlike the mentioned ones, leasing companies manage their own funds and are not depository institutions, i.e. they invest their own capital and the entire business risk is borne by the founder of the leasing company.

4. 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 behaviour 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.

5. 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 2.4 million dinars. This tax "illogicality" was noticed by the Ministry of Finance, and with the amendments to the Law on Personal Income Tax in 2013, an exception was made for banks as creditors. Other financial institutions that are also under the control of the NBS were then "forgotten".

6. 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.

7. The current practice shows that vehicles that are on the warrant of the Ministry of the Interior, or whose registration has expired, are driven unhindered without authorization, until the moment when the police would stop them and do a detailed check.

Only then, they would react to the search and seize the vehicle from the debtor, which is not a common case. Solving this problem would contribute to the protection of property, increase safety and legal security in the country, which, in addition to the general social significance, is also important for the business of leasing companies and insurance companies.

We believe that the import of the Parking Service system and the Ministry of the Interior would significantly help legal security, because parking service workers while performing their activities (issuing an additional ticket or parking ticket), could see that the vehicle is on-demand or registration has expired, and the vehicle is being driven, after which they could call the representatives of the Ministry of the Interior and leave the towed vehicle in the police station until the dispute is resolved.

At the same time, the communal police, with a new method of recording traffic violations and illegal parking, can significantly contribute to a faster and more efficient finding of disputable leasing objects. Vehicle records through toll ways could help solve this problem.

8. 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.

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".

- The capital threshold for performing leasing, the subject of which is real estate, should be reduced in order to make real estate leasing more attractive on the Serbian market. We suggest that for performing financial leasing operations, the monetary part of the lessor's founding capital cannot be below EUR 500,000 in dinars (RSD) for both financial leasing of movable and immovable property.

- 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.

- It is necessary to enable leasing companies to submit the necessary data to the Ministry of

- 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 inspections.

- Importing data from the Ministry of the Interior and the Parking Service in order to increase legal security in the country.

- To establish the Operating Leasing Register with BRA, within which the concluded operating lease agreements would be registered.

OIL AND GAS SECTOR

1.67

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
DIGITALIZATION - prescribe the possibility of digitalization of fiscal receipts and their electronic delivery to customers buying goods and services, which would abolish the obligation of physical printing and delivery, and subsequent storage of fiscal receipts for control.	2020		√	
Timely conclude agreements between the Directorate for Administration of Seized Assets and energy entities on storage of confiscated petroleum products, by establishing and implementing an adequate procedure in the short term.	2019			√
Enact by-laws necessary for the creation of operational reserves, in accordance with the Energy Law.	2019	√		
It is necessary to introduce control of petroleum products imported into the country for re-export through coordinated activities of relevant authorities, in view of abuses to which such goods declared for this purpose are subject.	2019			√
Resolve the discrepancies in the Law on Legalization of Facilities and the Energy Law related to the documentation needed for the acquisition of energy licenses for legalized energy facilities.	2019		√	
Enact the Law on Explosive Substances, supported by related by-laws, all of which would define activities in the area of the manufacturing and trade of explosives and other hazardous substances	2014			√

CURRENT SITUATION

Brent crude saw a continuing fall in the first half of 2020, driven by a declining consumption of petroleum products due to the outbreak of the COVID-19 epidemic and the introduction of emergency movement restrictions, hitting a low of 13.24 USD/bbl in April. This was followed by the price's steady growth throughout the year, reaching 51.22 USD/bbl at the end of the year. The average price in 2020 was 41.96 USD/bbl, which is 22.24 USD/bbl less than the average price in the previous year. In 2021, the upward trend in crude oil prices continued as the negative effects of the COVID-19 epidemic began to soften and global economies started to pick up.

According to data published by the Energy Agency of the Republic of Serbia, the total consumption of crude oil and intermediates from domestic production, imports and stocks in 2020 stood at 3,299 million tons, which is a 0.3% increase on 2019. In 2020, about 0.861 million tons of crude oil was produced (26.10% of total consumption), while imports accounted for 2,438 million tons (73.90%).

The total consumption of motor fuels in 2020 was about 2.32 million tons, which is 7.2% less than a year before due to restrictions caused by outbreak of the COVID-19 epidemic. In the structure of motor fuel consumption, gasoline accounted for 17%, diesels 75.9%, and LPG - 6.1%. Total gasoline consumption was decreased by 7.8%, compared to 2019, consumption of Euro diesel was down 6.2%, while autogas consumption decreased by as much as 18.8%.

The annual production of natural gas, delivered to the country's transport distribution system in 2020, totaled 265 million m^3, which is 9.5% less than the production in the previous year. In 2020, a total of 2,708 million m^3 was available from import, domestic production and underground storage, and 2,483 million m^3 of natural gas was consumed, 6.8% more than in 2019. Most of the natural gas was imported from the Russian Federation in the amount of 1,384 million m^3, while domestic production of 265 million m^3 could meet only 10.7% of the demand.

The Ministry of Trade, Tourism and Telecommunications reports that in 2020, the Market Inspection performed 1,870 inspections at energy entities and 9,029 samples were taken (of which 5,462 for marking and 3,567 samples for monitoring the quality of petroleum products). A total of 184 samples with reduced marker concentration and 49 samples deviating in quality parameters were identified. Trade of 36,193 liters of Euro diesel with a total value of

5,289,164.00 dinars was prohibited.

During the first five months of 2021, the Market Inspection performed 663 inspections at energy entities and took 1,827 samples for marking and 986 samples for monitoring of the quality of petroleum products. There were 77 samples with reduced marker concentration, while five samples deviated in quality parameters. Trade of 3,366 liters of gasoline in the value of 521,730 dinars was prohibited.

POSITIVE DEVELOPMENTS

In April 2021, the National Assembly of the Republic of Serbia adopted four laws in the field of mining and energy, passing two new laws - the Law on the Use of Renewable Energy Sources (RES) and the Law on Energy Efficiency and Rational Use of Energy, and amending another two laws - the Law on Energy and the Law on Mining and Geological Exploration.

The main objectives of the new laws are to enable new investments in RES and increase the share of RES in total energy supply (Law on the Use of Renewable Energy Sources); to achieve energy savings, while reducing the impact of the energy sector on the environment and climate changes and promoting the sustainable use of natural and other resources (Law on Energy Efficiency and Rational Use of Energy); to harmonize domestic legislation with the EU acquis, ensure delivery and security of energy supply and enable new entries to the energy market (Law on Energy); to foster efficiency and sustainability in the management of mineral and other geological resources in Serbia and boost investments in geological exploration and mining (Law on Mining and Geological Exploration).

It is especially important to point out that the Ministry of Mining and Energy had prepared these regulations with an active participation of the professional public, industry representatives and other stakeholders. The Ministry of Mining and Energy is also preparing other accompanying bylaws to ensure a full implementation of the adopted mining and energy laws.

As a member of energy community, the Republic of Serbia has undertaken the obligation to harmonize legislation with EU directives, and accordingly the Government of the Republic of Serbia adopted in May 2021 an Action Plan for the formation and maintenance of mandatory reserves of oil and petroleum products.

The adoption of the amendments to the Law on Energy provided clear definitions related to the process of forming operational oil and gas reserves, which is important from the aspect of energy security.

In November 2020, the Oil Refinery Pancevo introduced a Bottom-of-the-Barrel plant with delayed coking technology. The start-up of the delayed coker unit, in addition to increasing the depth of processing, brings numerous environmental benefits, primarily stopping production of fuel oil with a high sulfur content and reducing emissions of gases and particulate matter into the air.

REMAINING ISSUES

Intensive controls are continuously carried out to stop illegal trading in petroleum products in the country, highlighting the necessity of maintaining them in order to counter the gray economy. Accordingly, additional supervision is needed regarding marine fuel supply to vessels in the domestic traffic.

The high level of excise duties on liquefied petroleum gas (LPG), which is among the highest in the region, discourages the use of this environmentally friendly petroleum product, resulting in a drop in annual consumption.

Conversely, the lack of excise duties and a lower tax rate of 10% for trading in compressed petroleum gas (CNG) makes it more competitive compared to other motor fuels.

In the international passenger and road freight transport, fuel is not purchased in Serbia, while on the other hand there is an increasing number of domestic carriers that buy fuel outside of Serbia due to a more favorable tax policy in the countries of the region.

Systematic control of imported petroleum products for re-export has not been established yet.

New regulations on the production and trade of explosives and other dangerous substances have not been adopted yet.

FIC RECOMMENDATIONS

- Introducing the marking of marine fuel sold to vessels in the domestic water transport.
- Reintroducing excise refund for marine fuel used in the domestic water transport.
- 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.
- Reducing the level of excise taxation for LPG in order to increase the consumption of this petroleum product.
- 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 a transit country.

PHARMACEUTICAL INDUSTRY

1.67

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
ALIMS should:				
Adhere to the existing time frames established by the Law on Medicines regarding new registrations, renewals and variations of licences.	2017		√	
Provide for electronic submissions of all requests for medicines (new registrations, renewals and variations).	2017			√
Revise and harmonize the amount of certain tariffs; PV tariffs based on the INN; reduce the amount of tariff for the documentation control for each imported series of a medicine.	2019			√
The Government should:				
Provide steady funding for innovative medicines and generic medicines while expanding the indications througha 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			√
Urgently start resolving the issue of settling old debts of state healthcare institutions towards pharmaceutical wholesalers for delivered medicines and medical devices, to ensure further continued supply for the institutions.	2017	√		
Ensure criteria and requirements in electronic business standardization, in order to harmonize the electronic business systems of state entities that are involved in the health system 1. Technical (document size limit that can be insertedinto the system, which are part of the standard procedures requirements) 2. Administrative (defining the validity / acceptability of electronic documents vs. paper documents; acceptance or non-acceptance of electronic mail as a valid way of communication with records on the sending and receiving date; acceptance of electronic signature, etc.).	2020		√	
The NHIF should:				
Ensure the acquisition of the funds required from the central budget for introducing new medicines on the Reimbursement List.	2018		√	
Continue the positive trend of ensuring the predictability of the decision-making process, with clear time frames and a transparent consultation process with industry representatives.	2013	√		
Ensure greater flexibility regarding models for specific agreements, since every medicine has its own specific details that need to be incorporated into the agreement.	2017		√	

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Enable the electronic submission of introducing new medicines on the Reimbursement List, without submitting paper documentation.	2020	√		
Ensure timely obligations settlement to suppliers for delivered drugs upon direct payment.	2020		√	
The Ministry of Health should:				
Work continuously, together with the Ministry of Finance and the NHIF, on securing additional funds from the budget of the Republic of Serbia with the aim of including new therapies on the NHIF Reimbursement List.	2018		√	
With the aim of accelerating patients' access to medicines, allow the submission of documentation for obtaining the highest price of medicines for use in human medicine to competent ministries as of the moment the holder of the licence for the medicine receives a Report from ALIMS following a session of the Commission for the Placement of Human Medicines on the Market. Enabling parallel processes for finalizing the licensing procedure for a medicine and for obtaining its maximum price would considerably reduce the time frame for placing each individual medicine on the market. Therefore, the proposal is to enable two processes to take place in parallel: the final part of the process of obtaining a licence for placing a medicine on the market from ALIMS, and the process of publishing the maximum price of the medicine in a Decision on the highest prices of medicines for use in human medicine by the Ministry of Health.	2019			√
Urgently draft a new Law on Medicines in cooperation with industry representatives.	2019			√
Eliminate from the new Law on Medicines the issuing of approvals by ALIMS for the use of promotional materials and other documentation regarding the advertising of prescription medicines and/or promotional materials and other documentation intended for the professional public.	2019			√
Amend the Rulebook for acquiring basic knowledge about personal hygiene training program so that employers can conduct training for employees in the medicines production, trade and dispensing, as it is already regulated by other regulations.	2020			√
The Ministry of Finance should:				
Make a positive decision on a reasoned request by the Ministry of Health for a special-purpose transfer of NHIF funds for new medicines.	2018		√	
Ensure an equal tax and customs treatment of raw materials and finished medicines.	2013			√
Abolish VAT on donations of medicines and medical devices to health care institutions.	2014			√
Amend the Law on Fees for the Use of Public Goods in the part of fees for medicines that remain in possession after the expiration date and are collected from citizens, so that compensation basis is determined by the amount of medicines collected from citizens, which needs to be disposed of as pharmaceutical waste and precisely determine the taxpayer.	2020			√

CURRENT SITUATION

The health of the nation is one of the key factors, if not the most important factor, of productivity and economic growth in society, directly related to investments into the healthcare system. At the same time, ensuring the supply of medicines and the availability of the latest therapies are among the key preconditions for positive results of the healthcare system of any country. In addition to the unhampered supply of medicines and availability of the latest therapies, the normal functioning of a healthcare system requires a systematically regulated and functionally efficient link between the three pillars supporting the medical treatment of the population: manufacturers, pharmaceutical wholesalers and healthcare institutions (private and state-owned).

The share of healthcare in the distribution of the gross national product in Serbia stands at approximately 10%. It is important to note that state/public resources account for only 62% of this amount (the National Health Insurance Fund (NHIF), the Ministry of Health and local governments), while the remaining 38% are private payments by citizens (the so-called out-of-pocket payments). This means that a significant burden of financing healthcare has been shifted to the patients. This is certainly not a positive attribute, having in mind the importance of the social role of the state in the provision of healthcare services. By comparison, in the European Union (EU), Member States finance between 70 and 80% of the total healthcare needs of the population from public sources.

Of the total public healthcare budget, 20% is allocated for medicines. Despite considerable steps forward in improving the availability of advanced therapies compared to the preceding period, this progress is not sufficient. Further strategic thinking and actions regarding the management of funds in the healthcare budget are important, having in mind the degree and character of the vulnerability of the health of the population, i.e. the need for modern therapies for all, even the most severe diseases. The average life expectancy in Serbia is considerably below the EU average (74.7 compared to 80.2). The greatest risks for the health and life of the population of Serbia are caused by coronary and vascular system diseases, malignant diseases, diabetes and chronic obstructive pulmonary diseases. For example, the gravity and complexity of this problem is best illustrated by the discrepancy between the cancer incidence rate, where Serbia is 18th in Europe, and cancer mortality rate, where it holds 2nd place. Bearing in mind the discrepancy in the cancer incidence rate and mortality rate in Serbia and the EU, the availability of oncological, as well as innovative medicines from other fields of therapy is clearly insufficient, while at the same time being crucial for reducing the high mortality rate of the population.

It is completely clear that the NHIF, even with the assumption of the best resource management, is not able to adequately respond to all patients' needs for drug therapies from its own income. For that reason, purposeful and continuous intervention from the central budget is necessary, in addition to the existing allocations of the NHIF for medicines.

It is very important for stable pharmaceutical market functioning to continue the harmonization of the domestic legal framework with EU acquis, primarily through the Law on Medicines, which should be adopted. That way the practice inapplicability in some of its provisions and non-transparency in certain procedures should be eliminated.

Another problem is that time frames for important decisions are often too long and, even so, typically not observed The participation of representatives of the pharmaceutical sector in the drafting of all relevant acts is necessary, and significant progress can already be seen in this field. For example, therapies with drugs from List C, treatment drugs of rare diseases, as well as slowing down in regular vaccination process.

POSITIVE DEVELOPMENTS

1. At the beginning of 2020, special contracts were concluded between the NHIF and pharmaceutical companies for 16 drugs, but it should be noted that the realization was postponed due to COVID-19 until June 2020. The NHIF did not spend the amount of 5 billion RSD for innovative drugs (CA Lungs, CA Prostate, melanoma and MS),amount announced at the end of 2019. According to the NHIF, estimated spent was about 2.7 billion RSD.

2. The Director of the NHIF announced that the Ministry of Finance will provide as much as 5,8 billion RSD for innovative medicines in 2021. New Drug list for innovative medicines was delayed up until July 2021.

3. At the end of 2020, negotiations began with the NHIF on new models of contracting for A / A1 drugs, but by mid-2021, not much progress had been made in finding a solution that would be feasible in practice and at the same time

acceptable to the NHIF and licence medicine holders for medicines dispensed in pharmacies.

4. Considerable improvements have been made in the communication and joint work of industry representatives (SCCI, Inovia and Genezis) and the NHIF/Ministry of Health regarding doing business.

5. During 2021 direct payment for medicines to suppliers as per the CPP by the NHIF continued.

6. With the support of the Ministry of Finance, the issue of collection of most of the debt of state healthcare institutions (pharmacies, health centres and hospitals) to suppliers for delivered medicines and medical devices was resolved.

7. ALIMS started implementation of the Rulebook on registration and issued numerous permanent licences for medicines, in accordance to the provision of the applicable Law on Medicines.

REMAINING ISSUES

1. A lack of a systemic solution for financing the introduction of new drugs on the Reimbursement List.

It is necessary to provide assigned funds transfer from the central budget to the NHIF every year, to maintain the continuity of the new drug introduction on the Reimbursement List. This should be preceded by a statement of all competent medical commissions within the MoH / NHIF, after which evaluating all submitted requests for placing drugs on the Reimbursement List would determine the exact amount that has to be transferred to meet the needs of patients in all therapeutic areas.

2. Shortcomings in the process of including medicines on the NHIF Reimbursement List

The Rulebook on criteria for including/removing medicines from the Reimbursement List, as a key by-law in this area, needs to be amended to include clearer and more detailed criteria for the selection of medicines covered by the mandatory health insurance system. Although certain progress is already visible, each individual procedure for the placement of a medicine on the Reimbursement List should be even more transparent and with a mandatory explanation of the final decision, and the right to appeal.

3. The "duality" of medicine prices

The pricing of medicines is subject to strict administrative control, and involves a two-tier pricing procedure, by the Ministry of Health and by the NHIF.

Article 30 of the Rulebook on criteria for the inclusion of medicines on the Reimbursement List from April 2014 envisages that the difference in price between the original and generic A-list medicine with the same or similar pharmaceutical properties and in the same dosage may not exceed 30%, which is co-paid by patients. This limits the availability of medicines, primarily of original and branded generic medicines, as they often cannot fit into such a limited price range, and thus cannot be found on the Reimbursement List. Given that this difference in price does not represent a financial burden for the NHIF, an option allowing a price difference up to the maximum approved price would ensure a better availability of original and branded generic medicines.

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 of healthcare institutions for delivered medicines, medical devices and other goods.

5. Administrative procedures and the issuing of licences for medicines

In 2020 ALIMS reduced delay in issuing renewed licences for medicines, so there were no major interruption in the continuity of the market supply for a large number of medicines.

In addition to new registrations and licence renewals, ALIMS is still considerably tardy when it comes to approving amendments to licences (variations). Such delays regarding new indications and variations in medicine safety have a considerable impact on the availability of the latest information on the use of medicines both for doctors and for patients.

Even though the Agency is applying new, significantly higher fees for its services as of 1 January 2018, and doubling the regulatory expenses, of the pharmaceutical industry this has not led to increased efficiency in the work of the Agency regarding adherence to time frames, since no additional staff has been hired for the relevant jobs.

6. Regulations effecting business

The amendments of the Law on Fees Use of Public Goods have not yet been implemented, regarding to harmful consequences of this regulation on manufacturers, drug holders and wholesalers. The effects of implementing the Law were not properly considered when the Law was prepared and adopted. Basis of special waste compensation- medicines that remain in possession after the date expiration and are collected from citizens are initially estimated as an additional burden of as much as EUR 37 million EUR.

Ministry of Environmental Protection has been open for amending the Law in part that determines the compensation basis as the "total drugs quantity produced in the Republic of Serbia and drugs imported into the Republic of Serbia". However, the adoption of the amendments is constantly delayed.

The Rulebook for acquiring basic knowledge about personal hygiene training program introduced an obligation for employees in the medicines production, trade and dispensing to undergo training organized and conducted by the Ministry of Health, with the prescribed fee payment. Ministry of Health did not take 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 strict requirements of the Guidelines for Good Manufacturing Practice (GMP) and Guidelines for Good Distribution Practice (GDP). Therefore applying the provisions of the Rulebook, everyone in the supply chain is additionally exposed to unnecessary costs and significant process delays.

FIC RECOMMENDATIONS

ALIMS should:

- Adhere to the existing time frames established by the Law on Medicines regarding new registrations, renewals and variations of licences.
- Provide for electronic submissions of all requests for medicines (new registrations, renewals and variations).
- Revise and harmonize the amount of certain tariffs; PV tariffs based on the INN; reduce the amount of tariff for the documentation control for each imported series of a medicine.
- An additional number of professional executors should be hired in order to resolve cases faster within the legally prescribed deadlines and reduce huge delays, especially in resolving accumulated variations for medicines.

The Government should:

- Provide steady funding for innovative medicines and generic medicines while expanding the indications through a special-purpose transfer of budget funds to NHIF, thus compensating for the clear lack thereof in the financial plan of NHIF.
- Take a position regarding the future of its healthcare institutions, primarily pharmacies. If state pharmacies have a future as such, a strong recommendation is to entrust them to a private partner in accordance with the law, with the key law being that on public-private partnership, and in accordance with the model respecting the specifics originating from the status and business operations of publicly-owned pharmacies undergoing PPPs. This guarantees the legality of the procedure, transparency and the maximization of benefit for everyone involved.
- Ensure the settlement of the remaining outstanding debt of state healthcare institutions towards pharmaceutical

wholesalers and suppliers for delivered medicines and medical devices, in order to ensure further continued supply for the institutions.

- Ensure criteria and requirements in electronic business standardization, in order to harmonize the electronic business systems of state entities that are involved in the health system
  a) Technical (document size limit that can be inserted into the system, which are part of the standard procedures requirements)
  b) Administrative (defining the validity / acceptability of electronic documents vs. paper documents; acceptance or non-acceptance of electronic mail as a valid way of communication with records on the sending and receiving date; acceptance of electronic signature, etc.).

NHIF should:

- Ensure the acquisition of the funds required from the central budget for introducing new medicines on the Reimbursement List.
- Continue the positive trend of ensuring the predictability of the decision-making process, with clear time frames and a transparent consultation process with industry representatives.
- Ensure greater flexibility regarding models for specific agreements, since every medicine has its own specific details that need to be incorporated into the agreement.
- Enable the electronic submission of introducing new medicines on the Reimbursement List, without submitting paper documentation.

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 Rulebook for acquiring basic knowledge about personal hygiene training program so that employers can conduct training for employees in the medicines production, trade and dispensing, as it is already regulated by other regulations.

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.
- Amend the Law on Fees for the Use of Public Goods in the part of fees for medicines that remain in possession after the expiration date and are collected from citizens, so that compensation basis is determined by the amount of medicines collected from citizens, which needs to be disposed of as pharmaceutical waste and precisely determine the taxpayer.

PRIVATE SECURITY INDUSTRY

1.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Continued monitoring of the Law on Private Security application , while continuously insisting that its implementing by-laws be harmonized with EU models of legislation to the extent possible, while at the same time taking into account local specificities. By-laws are specially needed for transportation of money services regarding insurance and special treatment in traffic regulation.	2009			√
Make a clear obligation for the user of private security services to have Risk Assessment act in accordance with the law under the threat of the same sanctions as for private security companies.	2020			√
Support the Ministry of Interior (MoI) in its commitment to inspect all entities that are in the grey area to ensure that they comply with the adopted law to the fullest extent.	2016			√
Determine the legal employment status of all persons engaging in private security activities, or employed in this industry in such a way that all forms of employment engagement that are permitted by the Labor Law will be treated equally as employer opportunities unless they are in conflict with the nature of the institute provided for by the Labor Law . In the conditions for attending training and obtaining a license, the professional qualification requirement should be amended to allow persons with primary school to obtain a security officer license. Security clearance is another precondition for obtaining the license, prior to the commencement of the training programme, to avoid unnecessary administrative problems and unreasonable expenses related to persons who do not pass the security clearance. Prescribe the explicit obligation of the MoI to inform the employer about any changes in the status of the license of individuals, especially bearing in mind the fact that a security officers' IDs areissued upon request of the employer's company and returned to the MoI in case of the employment termination.	2017			√
Due to the COVID-19 situation allow candidates who completed the training to work with supervision of licenced officers until they do not obtain licence.	2020			√
Implement new regulations concerning service of transport of cash and valuables and increasing protection of people and assets such as Change of traffic law giving CIT vehicles access to pedestrian areas and yellow lines, mandatory electrochemical protection in CIT vehicles especially during payment transfer , introduce body worn cameras and make the number of CIT crew member subject to electrochemical protection specification.	2020			√

CURRENT SITUATION

In 2017 private security industry got a legal frame with adoption of Law on private security which was a subject of various discussions and amendments of the Law, eventually adopted in November 2018. New legislation of 2017 standardized and regulated market, which furthermore brought substantial value to society by providing minimum requirements and obligations on security providers. Despite positive developments in the field of legal framework, security industry is still affected by multiple challenges related to fair competition and legal compliance. Licensing process is a source of revenues for the state. However, the security market faces big challenges of noncompliance and not sufficient control measures, resulting in high number of security companies operating in the grey zone putting government in a position to strengthen the focus on facilitating level playing field for both local and foreign service

providers. This will have a direct impact on improving tax collections but also providing more stable and safer business environment to the general population.

POSITIVE DEVELOPMENTS

The Ministry of Internal Affairs (MoI) has opened channels of communication with the industry which is of the utmost importance. State authorities promote bilateral communication in addition to forming an Expert Council for the improvement of private security, private investigator activities and public-private partnerships in the security sector. Also, new opportunities have emerged for the engagement of persons performing these tasks:In addition to the Employment Contract, the Law recognizes the Temporary Occasional Employment Contract. Amendments to the Law have also made it easier to obtain a license for certain categories of persons with appropriate qualifications, but the deadlines for obtaining a license are slightly shortened, which continues to be an insurmountable challenge in practice. By adopting by-laws this year, the authorities of the security officers are more clearly defined, which is a significant improvement in practice.

REMAINING ISSUES

Certain problems that were evident even before the adoption of the aforementioned Law were confirmed in practice following its application. These become the key topic of the initiative by the members of the Association for Private Security of the Serbian Chamber of Commerce for amending some of the articles of the said Law. So far, the following issues have been identified as the most important:

- Lack of strong obligatory provisions for users of private security services to have Risk Assessment
- Insufficiently clearly regulated supervision and control of the private security sector, as well as the terminological non-compliance of laws with international standards in the field of private security;
- Partial non-conformity with other legal and secondary legislation related to work and employment relations; administrative procedure for issuing private security licenses; providing security to public gatherings (i.e. sports events); handling firearms, etc.;
- The process of training and obtaining licenses for individuals is too lengthy, three months, on average, too rigid and lacking modern practice. During this time, such persons cannot perform private security operations, while companies providing security services have difficulties in engaging licensed employees.
- Service of transportation of money must be subject of more precise regulations through special bylaws
- The MoI is under no obligation to inform companies, as employers, whether their employees have obtained the license, or whether their licenses have been withdrawn due to failure to meet some of the requirements.
- COVID-19 situation gave the companies more challenges in terms of employing people with licences.

Apart from general application of security Law regulations, there are three major challenges are in front of the private security companies:

- Risk Assessment requirements- According to the Law, risk assessment is the first step that needs to be completed to use services of private security companies for most of the Clients. It represents the basis for concluding a contract and defines the elements especially regarding the scope and type of service. If the Risk Assessment has not been done, according to the Law, the sanction for the same is borne by the Private Security although without Client's consent and engagement it is impossible to provide such an assessment.
- Manpower - procedures for obtaining a license in accordance with the Law takes 3 months on average, together with dramatic lack of workforce in the service sector, private security companies are in an unenviable situation. Positive practice examples from the region (Bosnia and Herzegovina, Croatia, and Slovenia) showed that the restrictions in terms of the required qualifications did not lead to positive trends in the security industry, on the contrary, they made it difficult to work in the private security industry for all of its stakeholders. Recognizing the benefits (increased employment rate, all private security companies doing business in accordance with the Law), the countries of the region decided to do away with the secondary education requirement as one of the criteria for obtaining a license.
- Transport of Cash and valuables – transport of cash and other valuables due to its nature is amongst most exposed security operations. However local legislation is very high level, which leaves room for different interpretations and these results in lower security standards in Serbia than corresponding standards in the EU. It is very important to mention that exposures in this industry have a direct impact on stability of economy, impact on the banking sector stability and general safety of the public. Amongst others most common legal challenge is lack of precise

regulations and standards towards the electrochemical and electronic protection of means of transport. To the contrary current legislation replaces above standards with more security crew members instead. This effectively makes this process more risky and less cost effective for the ultimate customer. It is in the interest of the economy to make cost of the cash logistics low, so that Serbia can benefit from the higher competitive economy and drive faster growth. Transport of money is an operation that needs to have obligatory insurance with precise types of policies that would be a general requirement for all the security companies. This issue needs strong regulations to protect general public and private business from unexpected and uninsured losses.

FIC RECOMMENDATIONS

- Continued monitoring of the Law on Private Security application , while continuously insisting that its implementing by-laws be harmonized with EU models of legislation to the extent possible, while at the same time taking into account local specificities. By-laws are specially needed for transportation of money services regarding insurance and special treatment in traffic regulation.
- Make a clear obligation for the user of private security services to have Risk Assessment act in accordance with the law under the threat of the same sanctions as for private security companies.
- Support the Ministry of Interior (MoI) in its commitment to inspect all entities that are in the grey area to ensure that they comply with the adopted law to the fullest extent.
- Determine the legal employment status of all persons engaging in private security activities, or employed in this industry in such a way that all forms of employment engagement that are permitted by the Labor Law will be treated equally as employer opportunities unless they are in conflict with the nature of the institute provided for by the Labor Law . In the conditions for attending training and obtaining a license, the professional qualification requirement should be amended to allow persons with primary school to obtain a security officer license. Security clearance is another precondition for obtaining the license, prior to the commencement of the training programme, to avoid unnecessary administrative problems and unreasonable expenses related to persons who do not pass the security clearance. Prescribe the explicit obligation of the MoI to inform the employer about any changes in the status of the license of individuals, especially bearing in mind the fact that a security officers' IDs areissued upon request of the employer's company and returned to the MoI in case of the employment termination.
- Due to the challenges on labour market allow candidates who completed the training to work with supervision of licenced officers until they do not obtain licence.
- Implement new regulations concerning service of transport of cash and valuables and increasing protection of people and assets such as Change of traffic law giving CIT vehicles access to pedestrian areas and yellow lines, mandatory electrochemical protection in CIT vehicles especially during payment transfer , introduce body worn cameras and make the number of CIT crew member subject to electrochemical protection specification.

top

FIC MEMBERS

top

A1 SRBIJA D.O.O.
Milutina Milankovića 1ž, 11070 Beograd
Tel: 060 1234, Fax: 060 1231
E-mail: PR@a1.rs
Web: www.a1.rs

ADDIKO BANK A.D. BEOGRAD
Milutina Milankovića 7v, 11070 Beograd
Tel: +381 11 2226 000
E-mail: office.rs@addiko.com
Web: www.addiko.rs

ADECCO OUTSOURCING D.O.O.
Bulevar Milutina Milankovića 1i, 11070 Beograd
Tel: +381 11 7121 709, Fax: +381 11 6695 131
E-mail: info.srbija@adecco.com
Web: www.adecco.rs; www.adeccogroup.com; www.adecco.com

AIRPORT CITY BELGRADE
Omladinskih brigada 88a, 11070 Beograd
Tel: 011 2090 526
E-mail: office@airportcitybelgrade.com
Web:www.airportcitybelgrade.com

ALMA QUATTRO D.O.O. BEOGRAD
Dositejeva 20, 11000 Beograd
Tel: +381 11 2028 900, +381 11 2028 920
Fax: +381 11 2028 916
E-mail: office@almaquattro.rs
Web: www.almaquattro.rs

API BANK A.D. BEOGRAD
Bulevar vojvode Bojovića 6-8
Kalemegdan Business Center, 11000 Beograd
Tel: +381 11 3952 265
E-mail: info@apibank.rs
Web: www.apibank.rs

ARDAGH METAL BEVERAGE SERBIA D.O.O.
Omladinskih brigada 88, 11070 Beograd
Tel: +381 11 7151 100
E-mail: amb.serbia@ardaghgroup.com
Web: www.ardaghgroup.com

AU APOTEKA BENU
Kosovska 4, 11000 Beograd
Tel: +381 11 6558 070
E-mail: frontdesk@benu.rs
Web: www.benu.rs; www.benu.eu

BALL CORPORATION,
BEVERAGE PACKAGING EMEA, BEOGRAD
Batajnički drum 21A, 11080 Zemun – Beograd
Tel: +381 11 3770 600/602, Fax: +381 11 3770 752
Web: www.ball.com

BANCA INTESA A.D. BEOGRAD
Milentija Popovića 7b, 11070 Beograd
Tel: +381 11 3108 888
E-mail: kabinet@bancaintesa.rs
Web: www.bancaintesa.rs

BARRY CALLEBAUT SOUTH EAST EUROPE D.O.O.
Karađorđeva 2-4, 11000 Beograd
Tel: +381 11 3532 805
E-mail: jelena_vujnovic@barry-callebaut.com
Web: www.barry-callebaut.com

BAYER D.O.O. BEOGRAD
Omladinskih brigada 88b, 11070 Beograd
Tel: +381 11 2070 200
E-mail: office.support.rs@bayer.com
Web: www.bayer.rs

BDK ADVOKATI
Bulevar kralja Aleksandra 28. 11000 Beograd
Tel: +381 11 3284 212, Fax: +381 11 3284 213
E-mail: office@bdkadvokati.com
Web: www.bdkadvokati.com

BELGRADE AIRPORT D.O.O.
11180 Beograd 59
Tel: +381 11 2094 802
E-mail: kabinet@beg.aero
Web: www.beg.aero

BOJOVIC DRASKOVIC POPOVIC
& PARTNERS A.O.D BEOGRAD
Francuska 27, 11000 Beograd
Tel: +381 11 7850 336
Web: www.bd2p.com
Mail: office@bd2p.com

BPI D.O.O. SOMBOR
Venac Radomira Putnika 1, 25000 Sombor
Tel: +381 25 5150 161, +381 25 5150 162
Fax: +381 25 5150 185
Web: www.bpi-holding.com

BRITISH AMERICAN TOBACCO SOUTH-EAST
EUROPE D.O.O. BEOGRAD
Bulevar Milutina Milankovića 1ž, 11070 Beograd
Tel: +381 11 3108 700
Web: www.bat.com

BRITISH-SERBIAN CHAMBER OF COMMERCE
6 Lower Grosvenor Place, SW1W 0EN London, UK
Dositejeva 15, 11000 Beograd
Tel: +44 020 7630 1777
E-mail: office@britserbcham.com
richard.robinson@britserbcham.com
Web: www.britserbcham.com

BURDOCK CONSULTANCY D.O.O. BEOGRAD
Nebojšina 12, 11000 Beograd
Tel: +381 60 7007 612
E-mail: b.stojcevic@burdock.com
Web: www.burdock.com

CARLSBERG SRBIJA D.O.O.
Proleterska 17, 21413 Čelarevo
Tel: +381 21 7550 600, Fax: +381 21 7550 658
E-mail: info@carlsberg.rs
Web: www.carlsbergsrbija.rs

CETIN D.O.O. BEOGRAD – NOVI BEOGRAD
Omladinskih brigada 90, 11070 Beograd
Tel: +381 63 444 222
E-mail: info@cetin.rs
Web: www.cetin.rs; www.cetin.eu

CONFINDUSTRIA SERBIA
Zmaj od Noćaja 12, 11000 Beograd
Tel: +381 11 2627 982
E-mail: info@confindustria.rs
Web: www.confindustria.rs

CREDIT AGRICOLE SRBIJA A.D. NOVI SAD
Braće Ribnikar 4-6, 21000 Novi Sad
Tel: +381 21 4876 876, Fax: +381 21 4876 976
E-mail: info@creditagricole.rs
Web: www.creditagricole.rs

CROWE RS D.O.O.
Majke Jevrosime 23, 11000 Beograd
Tel: +381 11 6558 500, Fax: +381 11 6558 501
E-mail: office@crowe.rs
Web: www.crowe.com/rs

CTP INVEST
Bulevar Zorana Đinđića 64a, 11070 Beograd
Tel: +381 66 8772 860
E-mail: bojana.milicevic@ctp.eu
Web: www.ctp.eu

DAD DRÄXLMAIER AUTOMOTIVE D.O.O.
Skladišna hala 1, Zrenjaninski park
Lokacija Bagljaš Aerodrom, 23000 Zrenjanin
Tel: +381 23 519 340
Web: www.draexlmaier.com

DDOR NOVI SAD A.D.O.
Bulevar Mihajla Pupina 8, 21000 Novi Sad
Tel: +381 21 4886 000
Korisnički centar: 0800 303 301
E-mail: ddor@ddor.co.rs
Web: www.ddor.rs

DELOITTE D.O.O.
Terazije 8, 11000 Beograd
Tel: +381 11 3812 100
Fax: +381 11 3812 112
E-mail: ceyuinfo@deloittece.com
Web: www.deloitte.com/rs

DELTA HOLDING DOO
Vladimira Popovića 8, 11070 Beograd
Tel: +381 11 2011 611, +381 11 2011 921
E-Mail: office@deltaholding.rs
Web: www.deltaholding.rs

DEUTSCH-SERBISCHE WIRTSCHAFTSKAMMER (AHK SERBIEN)
Topličin venac 19-21, 11000 Beograd
Tel: +381 11 2028 010, Fax: +381 11 3034 780
E-mail: info@ahk.rs
Web: www.serbien.ahk.de/sr; www.serbien.ahk.de

DRAGER TEHNIKA D.O.O.
Radoja Dakića 7, 11080 Zemun-Beograd
Tel: +381 11 3911 222, Fax: +381 11 3911 333
E-mail: office.serbia@draeger.com
Web: www.draeger.com
www.draeger.com/en_seeur/Home/Locations/Serbia

EKO SERBIA A.D.
Member of Hellenic Petroleum group
Tošin bunar 274a, 11070 Novi Beograd
Tel: +381 11 2061 500, Fax: +381 11 2061 555
E-mail: office@hellenic-petroleum.rs
Web: www.ekoserbia.com

ELICIO WIND D.O.O.
Vladimira Popovića 6, 11070 Beograd
Tel: +381 11 6600 955, Fax: +381 11 6600 496
E-mail: info@elicio.rs
Web: www.elicio.rs; www.elicio.be

ENDAVA D.O.O. BEOGRAD
Milutina Milankovića 9đ, 11070 Novi Beograd
Tel: +381 11 2057 400
Web: www.endava.com

ERNST & YOUNG D.O.O. BEOGRAD
Antifašističke borbe 13a, 11070 Beograd
Tel: +381 11 2095 800
E-mail: ey.office@rs.ey.com
Web: www.ey.com/rs

ERSTE BANK A.D. NOVI SAD
Bulevar oslobođenja 5, 21000 Novi Sad
Erste Poslovni centar, Milutina Milankovića 3a, 11070 Beograd
Tel: 0800 201 201, +381 60 4848 000
E-mail: info@erstebank.rs
Web: www.erstebank.rs

EUROBANK A.D. BEOGRAD
Vuka Karadžića 10, 11000 Beograd
Tel: 0800 11 11 44, +381 11 202 33 53
E-mail: office@eurobank.rs
Web: www.eurobank.rs

EUROPEAN INVESTMENT BANK
Vladimira Popovića 38-40, 11070 Novi Beograd
Tel: +381 11 3121 756
Web: www.eib.org

EVROPSKA BANKA ZA OBNOVU I RAZVOJ
Španskih boraca 3, 11070 Beograd
Tel: +381 11 2120 530, Fax: +381 11 2120 534
E-mail: kilibara@ebrd.com
Web: www.ebrd.com

EXLRT D.O.O.
Mornarska 7, 21000 Novi Sad
Tel: +381 21 6301 548, +381 21 6392 826
E-mail: info@exlrt.com; office@exlrt.com
Web: www.exlrt.com

FCA PLASTICS SRBIJA D.O.O.
Kosovska 4, 34000 Kragujevac
Tel: +381 11 3030 906
Web: www.fiatsrbija.rs

FCA SRBIJA D.O.O. KRAGUJEVAC
Kosovska 4, 34000 Kragujevac
Tel: +381 11 3030 906, Fax: +381 11 3030 914
Web: www.fiatsrbija.rs; www.fiat.rs

FERRING PHARMACEUTICALS D.O.O. BEOGRAD-STARI GRAD
Gospodar Jevremova 47, 11000 Beograd
Tel: +381 11 4048 800
Web: www.ferring.com

FRESENIUS MEDICAL CARE SRBIJA D.O.O.
Beogradski put bb, 26300 Vršac
Tel: +381 11 3951 000, Fax: +381 11 3951 009
E-mail: vera.trunic@fmc-ag.com
Web: www.fmc-ag.com

FRIKOM D.O.O.
Zrenjaninski put bb, 11213 Beograd
Tel: +381 11 2074 100, Fax: +381 11 2074 148
E-mail: office@frikom.rs
Web: www.frikom.rs

G4S SECURE SOLUTIONS D.O.O.
Viline Vode 6, 11000 Beograd
Tel: +381 11 2097 900, Fax: +381 11 2097 946
E-mail: office@rs.g4s.com
Web: www.g4s.rs

GEBRÜDER WEISS D.O.O. DOBANOVCI
Beogradska 85, 11272 Dobanovci
Tel: +381 11 3715 200, Fax: +381 11 3715 201
E-mail: office.beograd@gw-world.com
Web: www.gw-world.com/rs
www.gw-world.com/at

GENERALI OSIGURANJE SRBIJA A.D.O.
Vladimira Popovića 8, 11070 Novi Beograd
Tel: +381 11 2220 555
Web: www.generali.rs; www.generali.com

GRAND CASINO D.O.O. BEOGRAD
Bulevar Nikole Tesle 3, 11080 Beograd
Tel: +381 11 2202 800, Fax: +381 11 2202 810
E-mail: info@grandcasinobeograd.com
Web: www.grandcasinobeograd.com

GRUNDFOS SRBIJA D.O.O.
Obilazni put Sever 21, 22320 Inđija
Tel: +381 22 367 300, Fax: +381 22 367 302
Web: www.grundfos.rs
www.grundfos.com

GTC INTERNATIONAL DEVELOPMENTS LLC BELGRADE
Milutina Milankovića 9đ, 11070 Beograd
Tel: +381 11 3130 751, Fax: +381 11 3130 752
E-mail: office@gtcserbia.com
Web: www.gtcserbia.com; www.gtc.com.pl

HARRISONS
Užička 19, 11040 Beograd
Tel: +381 11 3129 825
E-mail: office@harrison-solicitors.com
Web: www.harrison-solicitors.com

HEINEKEN SRBIJA DOO ZAJEČAR
Železnička 2, 19000 Zaječar
Tel: +381 11 3538 600, Fax: +381 11 3538 691
E-mail: info.serbia@heineken.com
Web: www.heinekensrbija.rs

HEMOFARM A.D.
Beogradski put bb, 26300 Vršac
Tel: +381 11 3811 200
E-mail: svakodobro@hemofarm.com
Web: www.hemofarm.rs

HUAWEI TECHNOLOGIES D.O.O.
Omladinskih brigada 90D, 11070 Beograd
Web: www.huawei.com

IKEA SRBIJA D.O.O.
Astrid Lindgren 11, 11231 Beograd
Web: www.ikea.com

INOS BALKAN D.O.O.
Mirka Obradovića BB, 14000 Valjevo
Tel: +381 14 221 560
E-mail: contact@inosbalkan.com
Web: www.inosbalkan.com

INTESA LEASING D.O.O. BEOGRAD
Milentija Popovića 7b, 11070 Beograd
Tel: +381 11 2025 400, Fax: +381 11 2025 433
E-mail: ilbhead@intesaleasing.rs
Web: www.intesaleasing.rs

JANKOVIC, POPOVIC & MITIC A.O.D.
Vladimira Popovica 8A, Delta house, V floor
11070 Beograd
Tel: +381 11 2076 850, Fax: +381 11 2076 899
E-mail: office@jpm.rs
Web: www.jpm.rs

JELEN DO D.O.O. (CARMEUSE SERBIA)
Jelen Do bb, 31215 Jelen Do, Požega
Tel: +381 31 590 599, Fax: +381 31 590 570
E-mail: jelen-do@carmeuse.rs
Web: www.carmeuse.com

JT INTERNATIONAL A.D. SENTA
Subotički drum 17, 24400 Senta
Tel: +381 11 2050 300, Fax: +381 11 2050 301
Web: www.jti.com

KARANOVIĆ & PARTNERS O.A.D.
Resavska 23, 11000 Beograd
Tel: +381 11 3094 200, Fax: +381 11 3094 223
E-mail: serbia@karanovicpartners.com
Web: www.karanovicpartners.com

KENTKART SOUTHEAST EUROPE D.O.O.
Makenzijeva 24, 11000 Beograd
Tel: +381 11 7155 171, Fax: +381 11 7155 171
E-mail: office@kentkart.rs
Web: www.kentkart.rs

KLEEMANN LIFTOVI D.O.O.
Golubinačka bb, 22310 Šimanovci
Tel: +381 22 409 000
E-mail: serbia@kleemannlifts.com
Web: www.kleemannlifts.com

KNAUF INSULATION D.O.O.
Batajnički drum 16b, 11080 Beograd
Tel: +381 11 3310 800, Fax: +381 11 3310 801
E-mail: office.belgrade@knaufinsulation.com
Web: www.knaufinsulation.rs
www.knaufinsulation.com

KONSTRUKTOR KONSALTING
Oslobođenja 10, 11000 Beograd, Rakovica
Tel: +381 11 2562 231
E-mail: office@konstruktorgrupa.com
Web: www.konstruktorgrupa.com

KPMG D.O.O. BEOGRAD
Milutina Milankovića 1j, 11070 Beograd
Tel: +381 11 2050 500, Fax: +381 11 2050 550
E-mail: info@kpmg.rs
Web: www.kpmg.rs

LAFARGE BFC D.O.O.
Trg BFC 1, 21300 Beočin
Tel: +381 21 874 102
E-mail: lbfc.office@lafarge.com
Web: www.lafarge.rs
www.holcim.com

LAW OFFICE KOSIC
Desanke Maksimovic 6, 11000 Beograd
Tel: +381 11 3345 195
E-mail: office@kosiclaw.co.rs
Web: https://kosiclaw.co.rs/

LAW OFFICE MIROSLAV STOJANOVIC IN COOPERATION WITH WOLF THEISS
PC Ušće, Bulevar Mihajla Pupina 6, 11070 Beograd
Tel: +381 11 3302 900, Fax: +381 11 3302 925
E-mail: beograd@wolftheiss.com
Web: www.wolftheiss.com

LEITNERLEITNER CONSULTING D.O.O. BEOGRAD
Kneza Mihaila 1-3, 11000 Beograd
Tel: +381 11 6555 105
E-mail: beograd.office@leitnerleitner.com
Web: https://www.leitnerleitner.rs/serbia/sr/about-us
https://www.leitnerleitner.com/de/at

LUKOIL SRBIJA A.D. BEOGRAD
Bulevar Mihajla Pupina 165d, 11070 Beograd
Tel: +381 11 2220 200, Fax: +381 11 2220 294
Web: www.lukoil.rs

MARBO PRODUCT D.O.O, A COMPANY OF PEPSICO
Đorđa Stanojevića 14, 11070 Beograd
Tel: +381 11 3637 000, Fax: +381 11 3637 069
E-mail: belgrade.office@pepsico.com
Web: www.pepsico.com, www.pepsico.rs,
www.facebook.com/PepsiCoZapadniBalkan
twitter.com/PepsiCoZB; LinkedIn: PepsiCoZB

MARSH D.O.O. ZA POSREDOVANJE U OSIGURANJU BEOGRAD
Omladinskih brigada 90a, 11070 Novi Beograd
Fax: +381 11 3130 411
E-mail: liliana.lapadatoni@marsh.com
Web: https://www.marsh.com/rs/en/home.html
http://www.mmc.com/

MERCK D.O.O.
Omladinskih brigada 90v, 11070 Beograd
Tel: +381 11 2175 761, Fax: +381 11 2176 781
E-mail: merck@merck.rs
Web: www.merck.rs; www.merckgroup.com

MESSER TEHNOGAS A.D.
Banjički put 62, 11000 Beograd
Tel: +381 11 3537 200, Fax: +381 11 3537 291
E-mail: postoffice@messer.rs
Web: www.messer.rs

METROPOL PALACE D.O.O.
Bulevar Kralja Aleksandra 69, 11000 Beograd
Tel:+381 11 3333 100
E-mail: reception@metropolpalace.com
Web: www.metropolpalace.rs

MINI PANI D.O.O.
Hipodromska 2c, 24000 Subotica
Tel: +381 24 621 521, Fax: +381 24 621 522
E-mail: info@minipani.com
Web: www.minipani.com

MIRABANK A.D.
Španskih boraca 1, 11070 Beograd
Tel: +381 11 6355 400, Fax: +381 11 6355 404
E-mail: office@mirabankserbia.com
Web: www.mirabankserbia.com

MOBI BANKA A.D. BEOGRAD
Omladinskih brigada 88, 11070 Beograd
Korisnički servis: 063 9005
Tel/Fax: +381 11 4409 670
E-mail: banka@mobibanka.rs
Web: www.mobibanka.rs

MORAVACEM D.O.O.
Branka Ristića 8, 35254 Popovac
Tel: +381 35 572 200, Fax: +381 35 572 207
E-mail:general-info@moravacem.rs
Web: www.moravacem.rs; www.crh.com

NESTLÉ ADRIATIC S D.O.O.
Železnička 131, 11271 Beograd-Surčin
Tel: +381 11 2019 301, Fax: +381 11 3132 022
E-mail: info@rs.nestle.com
Web: www.nestle.rs

NIS A.D. NOVI SAD (NAFTNA INDUSTRIJA SRBIJE)
Narodnog fronta 12, 21000 Novi Sad
Tel.: +381 21 4811 111
E-mail: office@nis.eu
Web: www.nis.eu

NOKIA SOLUTIONS AND NETWORKS SERBIA D.O.O. BEOGRAD
Đorđa Stanojevića 14, 11070 Beograd
Belgrade Office Park, Building II, Gallery Floor
Tel: +381 11 3070 123; 3070 111, Fax: +381 11 3070 167
Web: www.nsn.com

OLAF & MCATEER D.O.O.
Mišarska 10, 11000 Beograd
Tel: +381 11 3342 955
E-mail: office@olafmcateer.rs
Web: www.olafmcateer.rs

OTP BANKA SRBIJA A.D. NOVI SAD
Trg slobode 5, 21000 Novi Sad
Tel: +381 21 421 077, +381 11 3011 555
Fax: +381 11 3132 885
E-mail: Retail banking stanovnistvo@otpbanka.rs
Corporate clients privreda@otpbanka.rs
Web: www.otpbanka.rs

OTP LEASING SRBIJA
Headquarters: Bulevar Zorana Đinđića 50 a/b
Post and work with clients: Bulevar Mihajla Pupina 111, 11070 Beograd
Tel: +381 11 2221 369, Fax: +381 11 2221 388
E-mail: otpleasing.srbija@otpsrbija.rs
Web: www.otpleasingsrbija.rs

OTP OSIGURANJE A.D.O. BEOGRAD
Bulevar Zorana Đinđića 50 a/b, 11070 Beograd
Tel: +381 11 2608 665, Fax: +381 11 2607 330
E-mail: info@otposiguranje.rs
Web: www.otposiguranje.rs

PERNOD RICARD SRBIJA D.O.O.
Bulevar oslobođenja 211, 11000 Beograd
Tel: +381 11 3091 500, Fax: +381 11 3974 380
Web: www.pernod-ricard.com

PETRIKIĆ & PARTNERI A.O.D. IN COOPERATION WITH CMS REICH-ROHRWIG HAINZ
Krunska 73, 11000 Beograd
Tel: +381 11 3208 900, Fax: +381 11 3208 930
E-mail: belgrade@cms-rrh.com
Web: www.cms-rrh.com

PHILIP MORRIS SERVICES D.O.O. BEOGRAD
Bulevar Zorana Đinđića 64a, 11070 Beograd
Tel: +381 11 2010 800, Fax: +381 11 2010 824
Web: www.philipmorrisinternational.com

PHOENIX PHARMA D.O.O. BEOGRAD
Bore Stankovića 2, 11030 Beograd
Tel: +381 11 3538 100, Fax: +381 11 3538 200
E-mail: office@phoenixpharma.rs
Web: www.phoenixpharma.rs

PMC AUTOMOTIVE D.O.O. KRAGUJEVAC
Oktobarskih žrtava bb, 34000 Kragujevac
Tel: +381 34 309 600
E-mail: officeserbia@pmcautomotive.com
Web: www.gruppoproma.it

PRICEWATERHOUSECOOPERS D.O.O.
Airport City Belgrade
Omladinskih brigada 88a, 11070 Beograd
Tel: +381 11 3302 100, Fax: +381 11 3302 101
E-mail: rs_pwc_office@pwc.com
Web: www.pwc.rs

PROCREDIT BANK
Milutina Milankovića 17, 11000 Beograd
Tel: +381 11 2077 906
E-mail: srb.info@procredit-group.com
Web: www.procreditbank.rs

RAIFFEISEN BANKA A.D. BEOGRAD
Đorđa Stanojevića 16, 11070 Beograd
Tel: +381 11 3202 100
E-mail: info@raiffeisenbank.rs
Web: www.raiffeisenbank.rs

RAIFFEISEN LEASING D.O.O.
Đorđa Stanojevića 16, 11070 Beograd
Tel: +381 11 2207 400, Fax: +381 11 2289 007
E-mail: info.leasing@raiffeisen-leasing.rs
Web: www.raiffeisen-leasing.rs

RAUCH SERBIA D.O.O.
Šesta Lička 2, 15220 Koceljeva
Tel: +381 15 361 800
E-mail: office.serbia@rauch.cc
Web: www.rauch.cc

RINGIER AXEL SPRINGER D.O.O.
Kosovska 10, 11000 Beograd
Tel: +381 11 3334 701
E-mail: komunikacije@ringieraxelspringer.rs
Web: www.ringieraxelspringer.rs

RIO TINTO RIO SAVA EXPLORATION D.O.O.
Milutina Milankovića 1i, 11070 Beograd
Tel: +381 11 4041 430
Web: www.riotinto.com
www.riotintoserbia.com

ROCHE D.O.O.
Vladimira Popovića 8a, 11070 Beograd
Tel: +381 11 2022 803, Fax: +381 11 2022 808
E-mail: serbia.office@roche.com
Web: www.rochesrbija.rs
www.roche.com

SANOFI-AVENTIS D.O.O.
Španskih boraca 3/IV, 11070 Beograd
Tel: +381 11 4422 900
E-mail: info.serbia@sanofi.com
Web: www.sanofi.com

SAVA NEZIVOTNO OSIGURANJE A.D.O. BEOGRAD
Bulevar vojvode Mišića 51, 11000 Beograd
Tel: +381 11 3644 801
E-mail: office@sava-osiguranje.rs
Web: www.sava-osiguranje.rs

SBERBANK SRBIJA A.D. BEOGRAD
Bulevar Mihaila Pupina 165g, 11070 Novi Beograd
Contact Center: 19909
E-mail: info@sberbank.rs
Web: www.sberbank.rs

SGS BEOGRAD D.O.O.
Jurija Gagarina 7b, 11070 Beograd
Tel: +381 11 7155 275, +381 11 7155 277
Fax: +381 11 2284 241
E-mail: sgs.beograd@sgs.com
Web: www.sgs.rs

SLADARA SOUFFLET SRBIJA D.O.O.
Industrijska zona 2, 21400 Bačka Palanka
Tel: +381 21 752 910, Fax: +381 21 6042 399
Web: www.soufflet.com

STMG CONSULTANCY D.O.O. BEOGRAD
Bulevar Zorana Đinđića 144v, 11070 Beograd
Tel: +381 11 3535 400, Fax:+381 11 3535 401
E-mail: info@stmgconsultancy.com, sasa.trajkovic@stmgconsultancy.com
Web: www.stmgconsultancy.com

TELEKOM SRBIJA A.D.
Takovska 2, 11000 Beograd
Tel: +381 11 2111 114
E-mail: business@telekom.rs
Web: www.telekom.rs

TELENOR D.O.O.
Omladinskih brigada 90, 11073 Beograd
Mob: +381 63 9000
Web: www.telenor.rs

TETRA PAK PRODUCTION D.O.O. BEOGRAD
Milutina Milankovića 9ž, 11070 Beograd
Tel: +381 11 2017 333, Fax:+381 11 2017 380
Web: www.tetrapak.rs

THE COCA-COLA COMPANY (BARLAN S&M D.O.O.)
Batajnički drum 18, 11080 Beograd
Tel: +381 11 3081 100, Fax: +381 11 3081 166
E-mail: mvukojicic@coca-cola.com
Web: www.thecoca-colacompany.com

THE INTERNATIONAL SCHOOL OF BELGRADE
Temišvarska 19, 11000 Beograd
Tel: +381 11 2069 999, Fax: +381 11 2069 944
E-Mail: isb@isb.rs
Web: www.isb.rs

TIGAR TYRES D.O.O. PIROT PREDUZEĆE ZA PROIZVODNJU GUMA
Nikole Pašića 213, 18300 Pirot
Tel: +381 10 2157 000
E-mail: office.serbia@michelin.com
Web: www.michelin.rs

TITAN CEMENTARA KOSJERIĆ D.O.O.
Živojina Mišića 50, 31260 Kosjerić
Tel: +381 31 590 300, Fax: +381 31 590 398
Web: www.titan.rs

TOYO TIRE SERBIA D.O.O.
Bulevar Milutina Milankovica 11G, 11070 Beograd
Tel: +381 66 8087 898
E-mail: nevena.lestaric@toyotires.rs
Web: https://www.toyotires-global.com/

UNICREDIT BANK SRBIJA JSC
Rajićeva 27-29, 11000 Beograd
Jurija Gagarina 12, Belgrade Business Center, 11070 Beograd
Tel: +381 11 3777 888
E-mail: kontakt@unicreditbank.rs
Web: www.unicreditbank.rs

UNIFIEDPOST SOLUTIONS D.O.O.
Tošin bunar 185, 11070 Beograd
Tel: +381 11 7150 748
E-mail: office.rs@unifiedpost.com
Web: www.unifiedpost.rs

UNIQA NEŽIVOTNO OSIGURANJE A.D.O.
Milutina Milankovića 134G, 11070 Novi Beograd
Tel: +381 11 2024 100
E-mail: info@uniqa.rs
Web: www.uniqa.rs

WEST PHARMACEUTICAL SERVICES BEOGRAD D.O.O.
Crvenka 76, 26220 Kovin
Tel: +381 13 2156 101
E-mail: kovin.office@westpharma.com
Web: www.westpharma.com

WIENER STÄDTISCHE OSIGURANJE A.D.O. BEOGRAD
Trešnjinog cveta 1, 11070 Beograd
Tel: +381 11 2209 800, Fax: +381 11 2209 900
E-mail: office@wiener.co.rs
Web: www.wiener.co.rs

ZIVKOVIC SAMARDZIC A.O.D. BEOGRAD
Makedonska 30, 11000 Beograd
Tel: +381 11 2636 636, Fax: +381 11 2635 555
E-mail: office@zslaw.rs
Web: www.zslaw.rs

top

ACKNOWLEDGEMENTS

The White Book 2021 has been produced through joint efforts of numerous FIC member companies, while the FIC Working Committees had the key role in the drafting process.

We wish to acknowledge the following companies for their contributions to the White Book 2021:

A1 Srbija d.o.o.

Addiko Bank a.d. Beograd

Adecco Outsourcing d.o.o.

API BANK a.d. Beograd

AU apoteka BENU

Bayer d.o.o. Beograd

BDK Advokati

Bojovic Draskovic Popovic & Partners a.o.d Beograd

British American Tobacco SEE d.o.o. Beograd

CETIN d.o.o. Beograd- Novi Beograd

Crowe RS d.o.o.

DDOR Novi Sad a.d.o.

Deloitte d.o.o.

Delta Holding d.o.o.

EKO Serbia a.d.

Ernst & Young d.o.o. Beograd

Eurobank a.d. Beograd

Evropska banka za obnovu i razvoj (EBRD)

FERRING Pharmaceuticals d.o.o. Beograd- Stari Grad

Fresenius Medical Care Srbija d.o.o.

G4S Secure Solutions d.o.o.

Generali Osiguranje Srbija a.d.o.

Harrisons

Hemofarm a.d.

Intesa Leasing d.o.o. Beograd

Jankovic, Popovic & Mitic a.o.d.

Karanovic & Partners o.a.d.

KPMG d.o.o. Beograd

LeitnerLeitner Consulting d.o.o. Beograd

Lukoil Srbija a.d. Beograd

Marbo Product d.o.o, a company of PepsiCo

Merck d.o.o.

Nestlé Adriatic S d.o.o.

NIS a.d. Novi Sad (Naftna industrija Srbije)

OTP banka Srbija a.d. Novi Sad

Petrikić & Partneri a.o.d. in cooperation with CMS Reich-Rohrwig Hainz

Philip Morris Services d.o.o. Beograd

Phoenix Pharma d.o.o. Beograd

PricewaterhouseCoopers d.o.o.

ProCredit Bank

Raiffeisen banka a.d. Beograd

Roche d.o.o.

Sanofi-Aventis d.o.o.

SGS Beograd d.o.o.

Telekom Srbija a.d.

Telenor d.o.o.

UniCredit Bank Srbija JSC

Wiener Städtische osiguranje a.d.o Beograd

Zivkovic Samardzic a.o.d Beograd

We would like to thank Smart Kolektiv for their expert help and contribution in compiling the text on Corporate Social Responsibility Manifesto.

top

Publisher:
Foreign Investors Council
47 Gospodar Jevremova Street, IV floor
11000 Belgrade
Serbia
e-mail: office@fic.org.rs
www.fic.org.rs

Layout, realization, production:
Metropolis Co. d.o.o.
Admirala Vukovića 16
11000 Belgrade
Serbia
www.metropolis.rs

top