塞尔维亚

塞尔维亚，国名全称为塞尔维亚共和国。塞尔维亚位于欧洲东南部，巴尔干半岛中部的内陆国，与黑山、波斯尼亚和黑塞哥维那、克罗地亚、罗马尼亚、保加利亚、马其顿及阿尔巴尼亚接壤。国土面积为88300平方公里。人口990万（2002年），主要民族为塞尔维亚族，主要宗教为东正教。官方语言为塞尔维亚语。首都贝尔格莱德。

自20世纪初起，塞尔维亚便成为了南斯拉夫联邦的一部分。在20世纪90年代初，南斯拉夫的六个加盟共和国中的四个先后宣布独立，只有塞尔维亚和黑山没有独立。1992年4月27日，南斯拉夫社会主义联邦共和国议会通过新宪法，宣布塞尔维亚和黑山两个共和国联合成立南斯拉夫联盟共和国。2003年，南斯拉夫联盟共和国将国名改为塞尔维亚和黑山。2006年5月21日，黑山通过公民投票决定正式独立，6月3日，黑山议会正式宣布独立。2006年6月3日，黑山共和国宣布独立，6月5日，塞尔维亚共和国宣布继承塞黑的国际法主体地位，塞黑联邦解散。塞尔维亚共和国还包括伏伊伏丁那自治省和科索沃自治省。

2006年9月30日，塞尔维亚共和国国民大会举行特别会议，通过了新宪法草案，以代替1990年制定的塞尔维亚宪法，新宪法自颁布之日起生效。宪法规定，塞尔维亚是一个由塞族和所有生活在其境内的公民组成的国家，实行议会民主制。新宪法在序言中明确指出，科索沃享有实质性自治，是塞尔维亚领土不可分割的一部分。除序言外，新宪法共分10章206条。国民大会是国家最高权力机构，实行一院制。代表按比例制通过直选产生，任期4年。2006年10月28日、29日，新宪法草案举行全民公决并获得通过，于2006年11月8日正式生效。

塞尔维亚共和国宪法*

（2006年9月30日国民大会特别会议通过，10月28日、29日交由全民公决，2006年11月8日生效）

考虑到塞尔维亚人民的国家传统以及塞尔维亚国内所有公民和民族群体的平等；

也考虑到科索沃和梅托希亚省是塞尔维亚领土不可分割的一部分，它在塞尔维亚国家主权之内享有一种实质性自治的地位，以及根据这一地位，科索沃和梅托希亚省在所有的内部和对外政治关系中承担所有国家机构的宪法义务以支持和保护塞尔维亚在科索沃和梅托希亚的国家利益；

塞尔维亚公民通过《塞尔维亚共和国宪法》：

第一章　宪法原则

第1条　塞尔维亚共和国

塞尔维亚共和国是在此生活的塞尔维亚人民和所有公民的国家，以法治和社会正义、人民民主原则、人权和

* 文本来源于塞尔维亚共和国国民大会网站发布的该国宪法英文版。

少数人权利和自由，以及对欧洲原则和价值的承诺为基础。

第 2 条　主权拥有者

主权属于通过公民复决、人民的动议以及自由选举的代表行使它的公民。

任何国家机构、政治组织、群体或者个人均不得从公民那里篡夺主权，任何政府均不得对抗公民自由表达的意愿。

第 3 条　法治

法治是宪法的一个基本的前提，它以不可剥夺的人权为基础。

法治应当通过自由和直接的选举、人权和少数人权利的宪法保障、分权、司法独立以及当局对于宪法和法律的遵守来行使。

第 4 条　分权

法律体系是单一的。

政府系统应以立法权、行政权和司法权分立为基础。

三权关系应以制衡和相互控制为基础。

司法权应是独立的。

第 5 条　政党

政党在民主塑造公民政治意愿中的作用应得到保障和承认。

政党应得以自由建立。

以暴力推翻宪法系统，侵犯受保障的人权或者少数人权利，以鼓动种族、民族或者宗教仇恨为目的的政党活动应被禁止。

政党不得直接行使权力或者将权力置于其控制之下。

第 6 条　禁止利益的冲突

任何人不得在与他们的其他职责、职业或者私人利益冲突的情况下履行国家或者公共职能。

利益冲突的存在及其解决的责任应由宪法和法律规定。

第 7 条　盾徽、旗帜和国歌

塞尔维亚共和国拥有盾徽、旗帜和国歌。

塞尔维亚共和国的盾徽以大型盾徽和小型盾徽的形式使用。

塞尔维亚共和国的旗帜作为国旗（National Flag）和政府旗（State Flag）而存在和使用。

塞尔维亚共和国的国歌是官方歌曲《正义的上帝》。

盾徽、旗帜和国歌的出现和使用由法律规定。

第 8 条　领土和边境

塞尔维亚共和国的领土是不可分割和分裂的。

塞尔维亚共和国的边境不可侵犯并且可以通过适用于修改宪法的程序来改变。

第 9 条　首都

塞尔维亚共和国的首都是贝尔格莱德。

第 10 条　语言和文字

塞尔维亚语和西里尔文字应在塞尔维亚共和国得到官方正式使用。

其他语言和文字的官方使用应以宪法为基础由法律规定。

第 11 条　国家的世俗主义

塞尔维亚共和国是一个世俗国家。

教会和宗教团体应与国家分离。

任何宗教均不得被确立为国家的或者强制性的宗教。

第 12 条　省自治和地方自治

国家权力应受到公民的省自治和地方自治的限制。

公民的省自治和地方自治权应只受合宪性和合法性监督的制约。

第 13 条　外国公民和塞尔维亚人的保护

塞尔维亚共和国应保护其外国公民的权利和利益。

塞尔维亚共和国应发展和促进生活在国外的塞尔维亚人与本国的关系。

第 14 条　少数民族保护

塞尔维亚共和国应保护少数民族的权利。

国家应为实行全面的平等以及保持他们身份的目的而保证对少数民族进行特别保护。

第 15 条　性别平等

国家应保证男女平等以及发展机会平等政策。

第 16 条　国际关系

塞尔维亚共和国的外交政策应以广泛接受的国际法原则和规则为基础。

广泛接受的国际法规则和批准的国际条约应是塞尔维亚共和国法律体系的不可侵害的一部分，并且直接适用。

批准的国际条约必须与宪法一致。

第 17 条　外国公民的地位

按照国际条约，除根据宪法和法律仅塞尔维亚共和国公民有权享有的权利外，在塞尔维亚境内的外国公民应当享有宪法和法律保障的所有权利。

第二章　人权和少数人权利、自由

第一节　根本原则

第 18 条　受保障权利的直接实现

宪法保障的人权和少数人权利应得到直接实现。

宪法应保障，并且同样地，直接实现广泛接受的国际法规则、批准的国际条约和法律所保障的人权和少数人权利。法律只有在宪法明确规定，或者由于其本质行使一项特定权利所必要的情况下，才可以规定行使这些权利的方式，据此，该法律在任何情况下不得影响相关受保障权利的实质。

人权和少数人权利相关规定的解释应有利于促进民主社会的价值，依照人权和少数人权利方面的有效的国际标准，以及监督其实现的国际制度进行实践。

第 19 条 宪法保障的目的

在一个以法治原则为基础的公正、开放和民主社会中，宪法中对于不可剥夺的人权和少数人权利的保障具有保持每一个人的尊严以及实现其全面自由和平等的目的。

第 20 条 对于人权和少数人权利的限制

如果宪法允许并符合宪法所允许的目的，法律可以对受宪法保障的人权和少数人权利作出限制，但应限于民主社会中限制的宪法目的之必要限度内，并不得侵害该受保障权利的本质。

已经达到的人权和少数人权利水平不应被降低。

当限制人权和少数人的权利时，所有的国家机构，特别是法院，有义务考虑受限制权利的本质、限制的适当性、限制的性质和范围，以及限制及其目的与以更少的限制手段实现限制目的的可能之间的关系。

第 21 条 禁止歧视

所有人在宪法和法律面前平等。

每一个人均有权享有平等的法律保护，禁止歧视。

禁止基于任何原因的直接或者间接歧视，特别是基于种族、性别、民族来源、社会来源、出生、宗教、政治或者其他观念、财产状况、文化、语言、年龄、精神或者身体残疾等原因的歧视。

塞尔维亚共和国为实现处于实质不平等地位的个人或者个人群体的全面平等而采取的特别措施不应当被认为是歧视。

第 22 条 人权和少数人权利、自由的保护

任何人在其受宪法保障的人权和少数人权利受到侵害或者被否定时，均有权享有司法保护，并有权使侵害产生的后果得以消除。

公民有权诉诸国际机构以保护其受宪法保障的自由和权利。

第二节 人权和自由

第 23 条 个人的尊严和自由发展

人的尊严不可侵犯，并且每一个人均有义务尊重和保护它。

每一个人均有权使个性得到自由发展，只要不侵犯宪法保障的其他人的权利。

第 24 条 生命权

人的生命不可侵犯。

在塞尔维亚共和国禁止死刑。

克隆人类应被禁止。

第 25 条 身体和精神健全不可侵犯

身体和精神健全不可侵犯。

任何人均不得经受拷打、不人道的或者有辱人格的待遇或惩罚，也不得在未经其自由同意的情况下经受医学或者其他试验。

第 26 条 奴隶制、奴役和强迫劳动的禁止

任何人不可处于奴隶或者奴役状态。

禁止一切形式的人口走私。

禁止强迫劳动。对性别或财产状况处于不利地位的人的剥削应被认为是强迫劳动。

服刑之人，基于其自愿和经济补偿原则的劳动或者服务，军人的劳动或者服务，以及战争或者紧急状态期间根据战争或者紧急状态宣言规定的措施而实施的劳动或者服务，均不应被认为是强迫劳动。

第 27 条 自由和安全权

每一个人均有权享有个人自由和安全。剥夺自由应只在法律规定的情况下并根据法律规定的程序才被允许。

任何被国家机构剥夺自由的人均应立即以他们理解的语言被告知其被逮捕或者监禁的原因、针对他们的指控，以及将他们的逮捕或者监禁无迟延地通知他们选择的任何人的权利。

任何被剥夺自由的人均有权启动程序，通过这一程序，法院应审查其被逮捕或者监禁的合法性，并应在逮捕或者监禁违反法律时下令释放。

任何包括剥夺自由的判决仅可以由法院宣布。

第 28 条 被剥夺自由的个人的待遇

被剥夺自由的个人必须获得人道对待，其人格应得到尊重。

禁止任何针对被剥夺自由的个人的暴力。

禁止逼供。

第 29 条 在无法院判决情况下逮捕和监禁的特别权利

任何在无法院判决的情况下被剥夺自由的个人，应立即被告知他们享有保持沉默的权利，以及仅在他们选择的辩护律师在场的情况下或者在他们无力付费时在免费获得法律援助的辩护律师在场的情况下接受审问的权利。

任何在无法院判决的情况下被剥夺自由的个人，必须在 48 小时之内被无迟延地移送至适当的法院，否则他们应当被释放。

第 30 条 监禁

如果监禁为进行刑事诉讼程序所必要，任何被合理怀疑犯罪的个人仅得根据法院的判决还押监禁。

如果在判决监禁时被监禁者尚未接受审问，或者如果继续监禁的判决在宣判后尚未立即执行，被监禁者必须在被送交监禁时起 48 小时内被移送至适当法院，法院应重新审议监禁的决定。

法院说明监禁原因的书面判决应在宣判后 12 小时内送交被监禁者。法院应对关于监禁判决的上诉进行判决，并在 48 小时内将其送交被监禁者。

第 31 条 监禁的期限

法院应当考虑监禁的原因，尽可能地将监禁的期限缩减至最短。在调查期间，根据一审法院的判决宣判监禁不应超过 3 个月，而更高级别的法院根据法律可以再延长 3 个月。如果超过这一期限未提起诉讼，被监禁者应被释放。

法院应在提出指控后依法将监禁期限缩减至最短。

一旦维持监禁的原因不再存在，应允许在审判前释放被监禁者。

第 32 条 公正审判的权利

每一个人均有权享有在一个合理的时间内由一个根据法律建立的独立和公正的法庭公开聆讯的权利，这一法庭应根据他们的权利和义务、初始程序中得到的怀疑根据以及针对他们提出的指控宣布判决。

每一个人得到译员免费帮助的权利应得到保障，如果此人不讲或者不理解法院官方使用的语言，如果此人是盲、聋或者哑人，也应有权得到译员的免费帮助。

仅在有利于保护一个民主社会中国家安全、公共秩序和道德，未成年人的利益或者保护当事人的私生活的情况下，新闻业和公众才得被排除在法院全部或者部分程序之外。

第 33 条 被控刑事犯罪个人的特别权利

根据法律，任何被控刑事犯罪的个人应有权以其理解的语言立即被详细告知针对其指控的本质和原因，以及对其不利的证据。

任何被控刑事犯罪的个人应有权亲自或者通过自己选择的辩护律师为自己辩护，自由和辩护律师联系并应被给予适当的时间和设施以准备其辩护。

基于公正之需要，任何没有足够经济能力支付辩护律师费用的被控刑事犯罪的个人依法均有权获得免费的辩护律师。

任何可以出庭的被控刑事犯罪的个人，均有权当面得到审判，并且除非他已经获得聆讯和辩护的机会，否则不得宣判。

任何被诉刑事犯罪的个人均有权自己或者通过其辩护律师提交对其有利的证据，询问针对他的证人，并要求己方证人在和针对他的证人在同等条件下且在其在场情况下受到询问。

任何被诉刑事犯罪的个人均有权不过度延迟地得到审判。

任何被控或者被诉刑事犯罪的个人不应被迫提供自证有罪的证据或者损害与其相关个人的证据，也不应被迫供认有罪。

根据法律，任何其他自然人在被诉犯有应受法律惩处的其他罪行时，享有被控刑事犯罪的个人依法享有的所有权利。

第 34 条 刑法中的法律确定性

任何人不得因为任何实施行为时根据法律或者其他以法律为基础的法规不构成犯罪的行为而被视为有罪，也不应受到非针对这一行为所规定的处罚。

处罚应依照实施行为时生效的法规确定，除非随后的法规对犯罪者更加宽大。刑事犯罪和处罚应由法律规定。

在刑事犯罪中，任何人在被法院终审判决定罪之前，应被推定为无罪。

任何人不得因为已经由终审判决宣告无罪或者定罪的一项刑事犯罪，其指控已经被驳回或者刑事审判程序已经由终审判决解除的一项刑事犯罪而受到起诉或者判决，法院裁判也不得通过特别法律救济作出有损于被控刑事犯罪个人的变更。同样的禁令也应适用于针对任何其他可由法律处罚行为实施的所有其他程序。

在特定的案件中，如果在审判时披露将极大地影响诉讼结果的新的事实的证据被提交，或者如果在前一诉讼程序已经发生将影响诉讼结果的严重司法不公正，则根据刑事立法应当允许重新启动诉讼程序。

针对战争罪、种族灭绝罪，或者反人道罪的刑事起诉或者处罚的执行不应受到法令的限制。

第 35 条 平反和获得赔偿的权利

任何没有根据地或者非法地为一项刑事犯罪而被剥夺自由、监禁或者定罪的个人应享有得到塞尔维亚共和国的平反和对损害进行赔偿的权利，以及法律规定的其他权利。

每一个人均有权针对一个国家机构、行使公权力的实体、自治省或者地方自治政府的机构实施的非法或者非正规工作而向其施加的物质的或者非物质的损害获得赔偿。

法律应规定受损害方可以针对施加损害的个人直接造成的损害要求赔偿的条件。

第 36 条 权利的平等保护权和法律救济权

在法院和其他国家机构、行使公权力的实体以及自治省或者地方自治政府机构面前的权利的平等保护应得到保障。

每一个人针对任何关于其权利、义务或者合法利益的决定应享有申诉权或者其他法律救济权。

第 37 条 法律人格权

每一个人均应有法律能力。

成年后，所有个人均应有能力独立决定其权利和义务。个人在 18 岁后成年。

个人可以自由地选择和使用其姓名及其子女的姓名。

第 38 条 国籍

塞尔维亚共和国国籍的获得和终止应由法律规定。

塞尔维亚共和国的公民不得被驱逐，或者被剥夺国籍或者改变国籍。

任何出生于塞尔维亚共和国的儿童应有获得塞尔维亚共和国国籍的权利，除非其已满足获得其他国家国籍的条件。

第 39 条 自由迁徙

每一个人均应享有在塞尔维亚共和国境内自由迁徙和居住的权利，以及离开和返回的权利。

如果为实施刑事诉讼程序、保护公共秩序、阻止传染病传播或者保卫塞尔维亚共和的目的所必要，迁徙和居住的自由，以及离开塞尔维亚共和国的权利得受到法律的限制。

外国国民进入和停留于塞尔维亚共和国的权利应由法律规范。外国国民仅在根据适当机构的裁判，按照法

律规定的程序，已经向其提供了申诉时间，并且不存在基于其种族、性别、宗教、民族来源、公民身份、与一个社会群体的联系、政治见解的迫害威胁时，或者不存在严重侵犯宪法保障权利的威胁时，才得被驱逐。

第 40 条　住宅不可侵犯

个人的住宅不可侵犯。

任何人均不得违背住户的意愿进入个人的住宅或者其他房屋，也不得对其进行搜查。住宅或者其他房屋的住户本人或者通过其法律代表和两位其他成年证人应有权在搜查期间留在现场。

在没有法院命令的情况下，如果为实现立即逮捕和监禁一项刑事罪行犯罪人或者消除对人民或者财产直接的和严重的威胁的目的所需要，则应允许按法律规定的方式进入个人的住宅或者其他房屋，并且在特定情况下无须证人而实施搜查。

第 41 条　信件和其他通讯方式的保密

信件和其他通讯方式的保密不可侵犯。

如果为进行刑事诉讼程序或者保护塞尔维亚共和国的安全所需要，则应允许仅在一个特定的时期并且以法院判决为基础，以法律规定的方式对该保密的不可侵犯性予以克减。

第 42 条　个人数据的保护

个人数据的保护应得到保障。

收集、保留、加工和使用个人数据应由法律规范。

为任何不同于收集的其他目的而使用个人数据的，应被禁止并且可以根据法律予以处罚，除非其为进行刑事诉讼程序或者保护塞尔维亚共和国的安全所需要，并以法律规定的方式进行。

根据法律，每一个人依法有权被告知他的个人信息被收集，并有权在其被滥用的情况下受到法院保护。

第 43 条　思想、良心和宗教自由

思想、良心、信仰和宗教自由，以及保持其信仰或者宗教或者通过选择改变它们的权利应得到保障。

任何人均无义务宣布其宗教或者其他信仰。

每一个人均应有，单独或者与其他人共同，以礼拜、仪式、实践和教导的方式展示其宗教或者宗教信仰的自由，以及私下或者公开展示宗教信仰的自由。

仅基于民主社会中保护人民的生命和健康、民主社会的道德、宪法保障的自由和权利、公共安全和秩序，或者阻止煽动宗教、民族以及种族仇恨所需要时，展示宗教或者信仰的自由才得受到法律的限制。

父母和法定监护人应有权确保其子女的宗教和道德教育与其自己的信念一致。

第 44 条　教会和宗教团体

教会和宗教团体平等并与国家分离。

根据法律，教会和宗教团体应是平等的并应可以自由地独立组织其内部结构、宗教事务，公开进行宗教仪式，建立和管理宗教学校、社会和慈善机构。

仅在其行为侵犯生命权、精神和身体健康权、儿童的权利、个人和家庭健全的权利、公共安全和秩序时，或者在它煽动宗教、民族或者种族不容忍时，宪法法院才得取缔一个宗教团体。

第 45 条　良心抗拒服兵役

如果违背其宗教或者信仰，任何人均不应被迫服兵役或者从事其他涉及使用武器的服务。

根据法律，任何声称良心抗拒的人均得被要求不必持有武器履行军事义务。

第 46 条　思想和表达自由

思想和表达自由，以及通过言语、作品、艺术或者以其他方式寻求、接受和传播信息和观点的自由，应得到保障。

如果为保护其他人的权利和名誉，维护法院的权威和客观，以及保护公共健康、一个民主社会的道德以及塞尔维亚共和国的国家安全所需要，表达自由得受到法律的限制。

第 47 条　表达民族归属的自由

民族归属可以自由表达。

任何人均不应被迫宣布其民族归属。

第 48 条　促进对多元化的尊重

塞尔维亚共和国应通过适用在教育、文化和公共信息中的措施促进其公民对源于特定民族、文化、语言或者宗教认同的多元化的理解、承认和尊重。

第 49 条　禁止煽动种族、民族和宗教仇恨

任何对种族、民族、宗教或者其他不平等或者仇恨的煽动均应被禁止和处罚。

第 50 条　媒体自由

任何人均有不经事前许可并且依据法律规定的方式创立报纸和其他形式的公共信息平台的自由。

电视和广播电台应根据法律创立。

审查制度在塞尔维亚共和国不应被适用。仅为在民主社会中阻止煽动暴力推翻宪法建立的体制或者阻止侵犯塞尔维亚领土完整，阻止宣传战争或者鼓动直接暴力，或者阻止宣扬诱发歧视、敌视或者暴力的种族、民族或者宗教仇恨所需要时，主管法院才得阻止通过公共信息渠道传播信息。

法律应规范对于被告知的导致侵犯任何人权利或者利益的，错误、不完整或者不准确信息的更正权的行使，以及反对所传播信息的权利的行使。

第 51 条　知情权

每一个人均有被准确、全面和及时地告知关系公众的重要性问题的权利。媒体有义务尊重这一权利。

根据法律，每一个人均有权获得由国家机构以及行使公权力的组织保存的信息。

第 52 条　选举权

每一个成年和有劳动能力的塞尔维亚共和国公民均应有选举权和被选举权。

投票应是普遍的并且对所有人平等的，选举应是自由和直接的，并且投票以个人无记名投票的方式进行。

选举权应由法律并且根据法律得到保护。

第 53 条 参与公共事务管理的权利

公民应有权参与公共事务的管理并且在平等的条件下承担公共服务和职能。

第 54 条 集会自由

公民可以自由集会。

室内集会应得到许可或者登记。

根据法律，聚会、示威以及其他形式的室外集会应向国家机构报告。

仅在保护公共健康、道德、其他人的权利或者塞尔维亚共和国安全需要时，集会自由才得受到法律的限制。

第 55 条 结社自由

政治、工会和其他形式结社的自由，以及不参与任何社团的权利应得到保障。

根据法律，社团应不经事前批准即可组建并由国家机构登记注册。

秘密的和半军事化的社团应当被禁止。

仅在社团行为的目标是暴力推翻宪法秩序、侵犯受保障的人权或者少数人权利，或者煽动种族、民族以及宗教仇恨时，宪法法院才得取缔这类社团。

宪法法院法官、法官、检察官、巡察官、警察力量的成员以及军人不得成为政党的成员。

第 56 条 请愿权

每一个人均有权单独或者与他人共同向国家机构、行使公权力的实体、自治省的机构以及地方自治单位提出请愿以及其他建议，并应依其要求而得到回复。

任何人均不得因提出请愿或者建议而遭受损害后果。

任何人均不得因请愿中陈述的见解或者建议而遭受损害后果，除非它们构成刑事犯罪。

第 57 条 获得庇护的权利

任何外国国民有合理的理由惧怕基于种族、性别、宗教、民族来源或者与其他群体的联系、政治见解而遭受迫害的，应有权在塞尔维亚共和国获得庇护。

给予庇护的程序应由法律规定。

第 58 条 财产权

对于个人自身财产的和平占有以及依法获得的其他财产权应得到保障。

仅在为法律规定的公共利益并且得到不低于市场价值的补偿的情况下，财产权才得被撤销或者受到限制。

法律得限制使用财产的方式。

只有根据法律，才得允许为征收税款以及其他捐税或者罚款而对财产进行没收或者限制。

第 59 条 继承权

继承权应依法得到保障。

继承权得因没有遵守公共义务而被否定或者受到限制。

第 60 条 工作权

工作权应依法得到保障。

每一个人均应有权自由选择其职业。

所有的工作场所应在平等的条件下对每一个人开放。

每一个人均应有权享有在工作中对其个人的尊重、安全和健康的工作条件、必要的工作保护、受到限制的工作时间、每天和每周有休息的间隙、带薪年假、对完成工作的公正报酬以及在结束工作关系情况下的法律保护。任何人均不得放弃这些权利。

妇女、青少年和残疾人应依法在工作中得到特别的保护以及特别的工作条件。

第 61 条 罢工权

雇员应有权根据法律和集体协议罢工。

罢工权仅得根据商业活动的本质或者类型受到法律的限制。

第 62 条 缔结婚姻和配偶平等的权利

每一个人均有权自由决定缔结或者解除一段婚姻。

婚姻应以男子和女子在国家机构面前的自由同意为基础而缔结。

婚姻的订立、持续或者解除应以男子和女子的平等为基础。

结婚、婚姻和家庭关系应由法律规范。

根据法律，婚外同居群体应与婚姻平等。

第 63 条 生育自由

每一个人均享有决定其是否生育的自由。

塞尔维亚共和国应鼓励父母决定生育子女并就此事帮助他们。

第 64 条 儿童的权利

儿童应享有与他们的年龄和精神成熟度相应的人权。

每一个儿童均应有个人姓名权、出生登记注册权、得知其血统的权利，以及保留其自己身份的权利。

儿童应得到保护以免受精神、心理、经济或者其他任何形式的剥削或者虐待。

非婚生子女应享有与婚生子女同样的权利。

儿童的权利以及对他们的保护应由法律规范。

第 65 条 父母的权利和义务

父母应有供养、抚育和教育其子女的权利和义务，在此期间他们应当是平等的。

根据法律，如果对于儿童最有利，所有的或者单个的权利只有根据法院裁决才可以从父母单方或者双方那里被收回。

第 66 条 家庭、母亲、单亲父母和儿童的特别保护

在塞尔维亚共和国的家庭、母亲、单亲父母和任何儿童应依法享受塞尔维亚共和国的特别保护。

母亲在生育之前或者之后应被给予特别扶助和保护。

应向没有父母养育的以及精神或者身体残疾的儿童提供特别的保护。

15 岁以下的儿童不得被雇用，18 岁以下的儿童也不得受雇从事有损其健康或者道德的工作。

第 67 条 获得法律援助的权利

每一个人在法律规定的条件下获得法律援助的权利均应得到保障。

根据法律，法律援助应作为一项独立的和自治的服务由法律职业人员，以及地方自治政府的单位中建立的法律援助部门提供。

法律应规定提供免费法律援助的条件。

第 68 条 保健

每一个人均有权获得对他们的精神和身体健康的保护。

除依法通过其他方式提供的外，对儿童、孕妇、休产假的母亲、有不超过 7 岁子女的单亲父母以及老年人的保健应由公共收入提供。

健康保险、保健以及保健基金的建立应由法律规范。

塞尔维亚共和国应支持卫生和体育的发展。

第 69 条 社会保障

为克服社会和存在的困难及为提供生活费用创造条件的目的而申请福利的公民和家庭，应有权获得社会保障，其提供以社会公正、人道以及对人类尊严的尊重为基础。

雇员及其家庭获得社会保障和保险的权利应由法律规范。

根据法律，雇员应有权在暂时不能工作的情况下获得薪金补偿，并且有权获得临时失业救济。

根据法律，残疾人、战争退伍军队以及战争受难者应得到特别保护。

社会保险基金应依法建立。

第 70 条 养老保险

养老保险应由法律规范。

塞尔维亚共和国应负责领取养老金者的经济安全。

第 71 条 受教育的权利

每一个人均享有受教育的权利。

初等教育是强制性的和免费的，而中等教育是免费的。

所有公民均应在平等的条件下获得高等教育。根据法律，塞尔维亚共和国应向财产状况较差的成功的和有才能的学生提供免费的高等教育。

学校和大学的建立应由法律规范。

第 72 条 大学自治

大学、学院和科研机构的自治应当得到保障。

根据法律，大学、学院和科研机构应自由决定他们的组织和工作。

第 73 条 科学和艺术创新自由

科学和艺术创新应不受限制。

根据法律，科学和艺术作品的作者的精神和物质权利应得到保障。

塞尔维亚共和国应扶助和促进科学、文化和艺术的发展。

第 74 条 健康的环境

每一个人均有权享有健康的环境，有权获得关于国家环境方面的及时和全面的信息。

每一主体，特别是塞尔维亚共和国和自治省，均应为环境保护负责。

每一个人均有义务维护和改善环境。

第三节 属于少数民族个人的权利

第 75 条 基本条款

除宪法保障所有公民享有的权利外，属于少数民族个人的特别的单独或者集体的权利应得到保障。根据宪法、法律和国际条约，单独的权利应单独行使，而集体的权利应与他人共同行使。

根据法律，属于少数民族的个人应通过他们的集体权利参与决策制定或者独立决定与他们的文化、教育、信息以及官方使用语言和文字有关的某些事务。

根据法律，属于少数民族的个人可以选举他们的民族委员会以便在文化、教育、信息以及官方使用他们的语言和文字的领域行使自治权。

第 76 条 禁止针对少数民族的歧视

属于少数民族的个人在法律面前的平等以及平等的法律保护应得到保障。

任何以属于一个少数民族为理由的歧视应被禁止。

基于在一个少数民族成员和多数公民之间实现全面平等的目的，塞尔维亚共和国在经济、社会和文化生活中采取的特别法规和临时措施，只要其目标是消除特别影响他们的极度不利的生活条件，不应被认为是歧视。

第 77 条 管理公共事务中的平等

少数民族成员应有权在与其他公民同样的条件下参与公共事务的管理和担任公共职务。

当在国家机构、公共服务机构、自治省的机构以及地方自治单位中担任雇佣职务时，人口的民族结构和少数民族成员的适当代表性应得到考虑。

第 78 条 禁止强迫同化

对少数民族成员的强迫同化应被严格禁止。

针对以对其强迫同化为目标的所有活动，少数民族成员所得到的保护应由法律规范。

在少数民族成员传统上大规模居住的地区，严格禁止采取将造成人口中民族结构人为改变的措施。

第 79 条 保留特性的权利

根据法律，少数民族成员应有权：表达、保留、培育、发展和公开表达民族、种族、文化、宗教特性；在公共场所使用他们的标志；使用他们的语言和文字；在他们占人口中绝大多数的地区，在国家机构、受委托行使公权力的组织、自治省的机构以及地方自治单位面前，以他们的语言实施活动；在公共机构和自治省的机构中以他们的语言接受教育；建立私营教育机构；在他们占人口中绝大多数的地区，以他们的语言使用他们的名和姓；在他们占人口中绝大多数的地区，以他们的语

言书写当地传统名称、街道名称、居民区和地形名称；获得使用他们语言的完全、及时和客观的信息，包括表达、接收、发送和交换信息和思想；建立他们自己的大众传媒。

根据宪法和法律，少数民族成员享有的额外权利可以由省一级的法规确定。

第 80 条　与同胞结社和合作的权利

少数民族成员可以建立教育和文化社团，这些社团根据自愿获得资助。

塞尔维亚共和国应承认少数民族的教育和文化社团在行使少数民族成员权利过程中的特定作用。

少数民族成员应有权不受干扰地与在塞尔维亚领土之外的同胞发展关系和合作。

第 81 条　促进宽容精神

在教育、文化和信息领域，塞尔维亚应在所有生活在其领土上的人民中间，不论其种族、文化、语言或者宗教认同，促进宽容精神和各文化间的对话，并采取足够的措施增强相互尊重、理解与合作。

第三章　经济体系和公共财政

第一节　经济体系

第 82 条　基本原则

塞尔维亚共和国的经济体系应以市场经济、开放和自由的市场、企业家精神的自由、商业实体独立以及私有的和其他类型财产平等为基础。

塞尔维亚共和国应代表一个拥有单一商品、劳动力、资金和服务市场的独特的经济区。

市场经济对于受雇者社会和经济地位的影响应通过工会和雇员之间的对话来调整。

第 83 条　企业家精神自由

企业家精神应被允许。

为保护人民健康、环境和天然物以及塞尔维亚共和国的安全的目的，企业家精神得受到法律的限制。

第 84 条　市场中的地位

每一个人在市场之中均应有平等的法律地位。

违反法律以及通过创造或者滥用垄断或者支配地位而限制自由竞争的行为应被严格禁止。

根据法律，通过资本投资获得的权利得受到法律的缩减。

外国人在市场之中应与本国人平等。

第 85 条　外国人的所有权

根据法律或者国际条约，外国的自然和法律实体可以获得不动产。

外国人可以获得自然资源和天然物的特许权，以及法律规定的其他权利。

第 86 条　所有类型财产的平等

私有的、共有的以及公共财产应得到保障。公共财产应成为国家财产、自治省的财产以及地方自治单位的财产。所有类型的财产应得到平等的法律保护。

现存的社会财产应按照法律规定的条件，以法律规定的方式并在法律规定的最后期限内成为私有财产。

来自于公共财产的资源应以法律规定的方式并按照法律规定的条件得到划拨。

第 87 条　国家财产

法律规定为满足公共利益的物品以及由塞尔维亚共和国机构使用的财产等自然资源、天然物应为国家财产。根据法律，国家财产应包括其他物品和权利。

根据法律规定的条件并以法律规定的方式，自然和法律实体可以获得有关特定公共用途物品的特定权利。

自然资源应根据法律规定的条件并以法律规定的方式得到利用。

自治省和地方自治单位的财产，其利用的方法以及管理应由法律规定。

第 88 条　土地

应当允许将农业用地、林地和城市建筑用地作为私有财产以使用和管理。

法律得限制使用和管理的模式，即规定使用和管理的条件，以消除造成环境损害的危险或者防止侵犯其他个人的权利和合法利益。

第 89 条　遗产的保护

根据法律，每一个人均有义务保护自然稀有物品和科学、文化及历史遗产，以及满足公共利益的物品。

塞尔维亚共和国、自治省和地方自治单位应尤其对遗产的保护负责。

第 90 条　消费者保护

塞尔维亚共和国应保护消费者。

侵犯消费者健康、安全和隐私的活动，以及市场中的所有其他不诚实的活动，应被严格禁止。

第二节　公共财政

第 91 条　税收和其他财政收入

以拨款使塞尔维亚共和国、自治省以及地方自治单位能够行使权限为目的而使用的资源应由税收和其他财政收入提供的，由法律规定。

缴纳税款和其他赋税的义务应是普遍的并应以纳税人经济能力为基础。

第 92 条　预算

塞尔维亚共和国、自治省和地方自治单位应当有预算，预算必须概述所有的收支，以此来为其行使权限拨款。

法律应规定预算通过的最后期限，以及临时拨款的方法。

所有预算的落实都应受到国家审计机构的审计。

国民大会在接到国家审计机构的评估后应讨论对于预算财务报告的建议。

第 93 条　公共债务

塞尔维亚共和国、自治省和地方自治单位可以

负债。

负债的条件和程序应由法律规定。

第 94 条　平衡发展

根据法律，塞尔维亚共和国应照顾到地区的平等和可持续发展。

第 95 条　塞尔维亚国家银行

塞尔维亚国家银行是塞尔维亚中央银行，独立并接受国民大会的监督，向其报告工作。

塞尔维亚国家银行应由国民大会选举的行长管理。

应当制定塞尔维亚国家银行法。

第 96 条　国家审计机构

国家审计机构是塞尔维亚共和国内审计公共财政的最高国家机构，独立并接受国民大会的监督，向其报告工作。

应当制定国家审计机构法。

第四章　塞尔维亚共和国的权限

第 97 条　塞尔维亚共和国的权限

塞尔维亚共和国应当组织和提供：

（一）塞尔维亚共和国的主权、独立、领土完整和安全，其国际地位以及与其他国家和国际组织的关系；

（二）公民权利和自由的行使与保护；合宪性与合法性；法院和其他国家机构的程序；侵犯宪法规定的公民权利和自由以及违反法律、其他法规和一般性法令的责任和制裁；刑事犯罪的特赦和赦免；

（三）塞尔维亚共和国的领土组成；地方自治政府的体系；

（四）塞尔维亚共和国及其公民的防务与安全；紧急状态情况下采取的措施；

（五）货物、服务贸易及跨境旅客运输的控制以及穿越边境的体系；外国人和外国法人的地位；

（六）单一市场；商业实体的法律地位；从事特定经济和其他活动的体系；商品存储；货币、银行、外汇和海关体系；国际经济关系；外国贷款关系体系；财政体系；

（七）财产和抵押关系以及所有类型财产的保护；

（八）劳动关系、劳动保护、雇佣、社会保险和其他形式社会保险领域的关系；涉及公共利益的其他经济和社会关系；

（九）可持续发展；保护和改善环境的体系；植物和动物的保护和改善；军火、有毒、易燃、爆炸、辐射和其他危险物品的生产、贸易和运输；

（十）保健，社会保险，参战退伍军人及残疾人的保护，儿童保护，教育，文化以及对文化产品的保护，体育，公共信息，公共服务体系；

（十一）对于法律实体资源管理合法性的控制；公共财政的财务审查；涉及公共利益的统计和其他数据的采集；

（十二）塞尔维亚共和国的发展，激励塞尔维亚共和国特定地区的平衡发展，包括欠发达地区的发展的政策和措施；空间的组织和利用；科学和技术发展；

（十三）所有交通领域的体制和安全；

（十四）塞尔维亚共和国的假期和标志；

（十五）按照宪法和法律的规定，为塞尔维亚共和国权利和义务的行使提供资金；

（十六）共和国机构的组织、权限和工作；

（十七）根据宪法，塞尔维亚共和国的其他利益关系。

第五章　政府的组织

第一节　国民大会

第 98 条　国民大会的地位

国民大会应是塞尔维亚共和国最高代表机构，拥有宪法权和立法权。

第 99 条　权限

国民大会有权：

（一）通过和修改宪法；

（二）决定塞尔维亚共和国边境的变更；

（三）召集共和国公民复决；

（四）在其批准的义务由法律规定时，批准国际条约；

（五）决定战争与和平并宣布战争和紧急状态；

（六）监督安全机构的工作；

（七）在塞尔维亚共和国权限内制定法律和其他一般性法令；

（八）事前批准自治省的法令；

（九）通过防务战略；

（十）通过发展计划和空间计划；

（十一）根据政府的建议，通过塞尔维亚共和国的预算和财务报告；

（十二）对刑事犯罪给予特赦。

在其选举权范围内，国民大会应当：

（一）选举政府、监督其工作并决定政府及其部长任期的届满；

（二）任免宪法法院法官；

（三）根据宪法，任命最高法院院长、法院院长、共和国检察官、检察官、法官和副检察官；

（四）任免塞尔维亚国家银行行长并监督他/她的工作；

（五）任免巡察官并监督他/她的工作；

（六）任免法律规定的其他官员。

国民大会也应执行宪法和法律规定的其他职能。

第 100 条　国民大会的结构

国民大会由 250 名代表组成，他们依法通过无记名投票由直接选举选出。

国民大会中，不同性别和少数民族成员的平等性和代表性应依法得到保障。

第 101 条 代表的选举和国民大会的组成

代表的选举应由共和国总统在国民大会任期结束前 90 日内召集，由此，选举在随后的 60 日内完成。

国民大会第一次会议应由上一次国民大会会议的主席召集，由此，此次会议在宣布最终选举结果之日起不超过 30 日内举行。

在第一次会议上，国民大会应当确认代表的任期。

国民大会应由 2/3 确认任期的代表构成。

针对与确认任期相关的决定，可以向宪法法院提出上诉，宪法法院将在 72 小时内作出裁决。

通过确认 2/3 代表的任期，国民大会上一次会议的任期应当终止。

第 102 条 代表的地位

代表任期 4 年，自其在国民大会中确认就职之日起，至该届国民大会的代表任期届满时止。

在法律规定的任期内，代表得自由地将他/她的任期不可挽回地交于推荐他/她当选为代表的政党处置。

代表不得成为自治省议会的代表，也不得成为政府司法和行政机构的官员，他/她也不得承担其他表现出利益冲突的职能、事务以及义务。

选举、任期期满以及代表的地位应由法律规定。

第 103 条 代表的豁免权

代表应享有豁免权。

代表不得因为在履行代表职能过程中表达的见解或者投票承担刑事或者其他责任。

未经国民大会的事前批准，代表依他/她的豁免权不得被扣留，他/她也不得被牵涉到可能被宣告判处监禁的刑事或者其他程序之中。

实施任何预定不会被判处超过 5 年监禁的犯罪行为时被发现的代表，可以不经国民大会事先批准而被拘留。

不应为确认豁免权的刑事或者其他程序设定任何最后期限。

未使用豁免权不应排除国民大会确认豁免权的权力。

第 104 条 国民大会主席和副主席

国民大会应通过全体代表的多数票选举国民大会主席和一名或多名副主席。

国民大会主席应代表国民大会，召集并主持其会议，以及进行宪法、法律和国民大会程序规则规定的其他活动。

第 105 条 国民大会决策的方法

国民大会的会议应有多数代表出席，并以出席代表的多数票为根据作出决定。

国民大会应以全体代表的多数票的方式决定下列问题：

（一）对刑事犯罪给予特赦；

（二）宣布和取消紧急状态；

（三）在战争和紧急状态中命令采取背离人权和少数人权利的措施；

（四）制定法律，塞尔维亚共和国通过这一法律向自治省和地方政府单位委托属于其权限的特定事务；

（五）事前批准自治省法规；

（六）决定关于其工作的程序规则；

（七）撤销代表、共和国总统、政府成员和巡察官的豁免权；

（八）通过预算和财务报告；

（九）选举政府成员并决定政府和部长任期的结束；

（十）决定对于质询的回复；

（十一）选举宪法法院法官并决定其解职以及其任期的结束；

（十二）选举最高法院院长、法院院长、共和国检察官和检察官并决定其任期的结束；

（十三）根据宪法，选举法官和副检察官；

（十四）任免塞尔维亚国家银行行长、行长理事会和巡察官；

（十五）执行国民大会的其他选举职权。

国民大会应在所有争议中以多数票的方式通过法律规范：

（一）公民复决和国家动议；

（二）少数民族成员个人和集体权利的享有；

（三）发展和空间计划；

（四）公共债务；

（五）自治省和地方自治单位的版图；

（六）国际条约的缔结和批准；

（七）宪法规定的其他事项。

第 106 条 会议

应每年召集两次国民大会定期会议。

第一次定期会议应在三月的第一个工作日开始，而第二次定期会议应在十月的第一个工作日开始。定期会议不可持续超过 90 日。

应根据至少 1/3 代表的要求或者根据政府的要求，依照事前决定的日程，召集国民大会特别会议。

在宣布战争或者紧急状态期间，不经宣布即应召集国民大会。

第 107 条 提出法律的权利

提出法律、其他法规和一般性法令的权利应属于每一位代表、政府、自治省议会或者至少 3 万名选民。

巡察官和塞尔维亚国家银行应有权在他们的权限内提出法律。

第 108 条 公民复决

根据宪法和法律，应多数代表或者至少 10 万名选民的要求，国民大会应就其权限内的事务召集公民复决。

公民复决的主题不可包括源自国际条约、与人权和少数人权利和自由相关的法律、财务和其他金融法律、预算和金融报告、紧急状态和特赦的启动，以及与国民大会选举权限相关事务方面的义务。

第 109 条 国民大会的解散

共和国总统可以根据政府详细阐述的建议解散国民大会。

如果已经提出对政府进行不信任投票的建议或者如果已经提出对其的信任问题，政府不得建议解散国民大会。

如果自其组成之日起 90 日内没有选出政府，国民大会应当被解散。

在战争和紧急状态期间，国民大会不得解散。

在宪法规定的情况下，共和国总统有义务通过他/她的法令解散国民大会。

解散国民大会的同时，共和国总统应计划代表的选举，以使选举自其宣布之日起不超过 60 日结束。

已经被解散的国民大会只应担负法律规定的当前或者紧急任务。在宣布战争或者紧急状态的情况下，应当重新确立其全面的权限，直到战争，也即，紧急状态结束时为止。

第 110 条 关于国民大会的法律

应当制定关于国民大会的法律。

第二节 共和国总统

第 111 条 共和国总统的地位

共和国总统是塞尔维亚共和国的国家统一的体现者。

第 112 条 权限

共和国总统应当：

（一）在国内和国外代表塞尔维亚共和国；

（二）根据宪法，以其法令颁布法律；

（三）在考虑当选候选人名单中代表的意见后，向国民大会提出总理候选人；

（四）根据宪法和法律，向国民大会提名任职人员；

（五）根据政府的建议，通过他/她的法令，任免塞尔维亚共和国大使；

（六）接受外国外交代表的国书和撤回国书；

（七）决定特赦以及授予荣誉；

（八）管理宪法规定的其他事务。

根据法律，共和国总统应统帅军队并任命、提升和撤换塞尔维亚军队的军官。

第 113 条 颁布法律

从法律通过之日起最多 15 日内，如果法律已经由紧急程序通过，则在不超过 7 日内，共和国总统有义务发布关于颁布法律的法令或者以书面解释的形式将法律退回国民大会重新审议。

如果国民大会决定对已经由共和国总统退回审议的法律再次表决，法律应当以代表总数的多数票通过。

共和国总统有义务颁布新通过的法律。

如果共和国总统在宪法规定的最后期限内没有发布颁布法律的法令，法令应由国民大会主席发布。

第 114 条 选举

根据法律，共和国总统应当通过无记名投票，由直接选举选出。

根据法律，共和国总统选举应在共和国总统任期届满前 90 日前，由国民大会主席计划，以便选举在随后 60 日内结束。

就职时，共和国总统应在国民大会前宣布以下誓言：

“我郑重宣誓，我将倾注我全部努力，以维护塞尔维亚共和国的主权和领土完整，包括作为其组成部分的科索沃和梅托希亚，并且确保人权和少数人权利和自由的行使、宪法和法律的尊重和保护、和平以及塞尔维亚共和国所有公民福利的保持，并诚实和负责任地履行我所有的职责。”

第 115 条 职位的不相容性

共和国总统不得履行其他公共职能或者职业义务。

第 116 条 任期

共和国总统的任期应当持续 5 年并且从在国民大会前宣誓之日起开始。

如果共和国总统的任期在战争或者紧急状态期间届满，它应当延长，以使其持续到战争状态，也即，紧急状态结束之日起 3 个月届满。

任何人不应超过 2 次当选为共和国总统职位。

共和国总统的任期应随他/她当选期间届满，通过他/她的辞职或者解除职责而结束。

共和国总统应向国民大会主席递交其辞呈。

第 117 条 辞职

当共和国总统递交他/她的辞呈时，他/她应随后将其告知公众和国民大会主席。

共和国总统的任期应自他/她的辞职之日起结束。

第 118 条 解职

通过至少 2/3 代表的投票，根据国民大会的决定，共和国总统应为违反宪法而解职。

解职的程序可以根据至少 2/3 代表的提议由国民大会启动。

宪法法院有义务根据启动的解职程序在不超过 45 日内裁决是否违反宪法。

第 119 条 豁免

共和国总统应享有与代表同样的豁免权。

国民大会应对共和国总统的豁免权作出决定。

第 120 条 共和国总统的接替

当共和国总统被阻止履行他/她的义务或者他/她的任期在他或者她当选期间届满前结束时，他/她应当由国民大会主席接替。

国民大会主席可以接替共和国总统最长 3 个月时间。

国民大会主席有义务计划共和国总统选举，以便自共和国总统去职时起，也即，他/她为此当选的任期终止时起，在不超过 3 个月的时间内举行选举。

第 121 条 关于共和国总统的法律

应当制定关于共和国总统的法律。

第三节 政 府

第 122 条 政府的地位

政府应是塞尔维亚共和国行政权力的行使者。

第 123 条 权限

政府有权：

（一）确立和执行政策；

（二）执行法律和国民大会的其他一般性法令；

（三）通过法规和其他以实施法律为目的的一般性法令；

（四）向国民大会提出法律和其他一般性法令，并且在其他提案人提出时，针对这些法律和一般性法令给出其意见；

（五）指导和调整公共管理机构的工作并对其工作实施监督；

（六）管理宪法和法律规定的其他事务。

第 124 条 政府的责任

政府应为塞尔维亚共和国的政策，为法律和国民大会其他一般性法令的实施，以及为公共管理机构的工作，向国民大会负责。

第 125 条 总理和政府成员

政府由总理、一位或者多位副总理和部长组成。

总理管理和指导政府的工作，负责协调政府的政治行为，协调政府成员的工作并代表政府。

部长应为他们的工作和他们各部权限内的情况向总理、政府和国民大会负责。

第 126 条 职责的不相容性

政府成员不得成为国民大会的代表、自治省议会的代表以及地方自治单位议会的代表，他/她也不得成为自治省执行委员会或者地方自治单位执行机构的成员。

其他与政府成员职位不相容的职责、活动或者私人利益应由法律规定。

第 127 条 政府的选举

总理的一位候选人应由共和国总统，在他/她考虑了当选的选举名单中代表的意见后，向国民大会提出。

总理的候选人应向国民大会提出政府计划并提议其组成。

国民大会应同时就政府计划和总理以及政府成员选举进行投票。

全体代表中的多数投票赞成的，政府应当选。

第 128 条 政府和政府成员任期的开始和终止

政府的任期应持续到选举它的国民大会任期终止之时。

政府的任期应自其在国民大会前宣誓之日起开始。

政府的任期在它当选期间届满前，通过不信任投票、国民大会解散、共和国总统辞职以及在宪法规定的其他情况下终止。

政府在其任期已经届满，新政府选举之前，只能从事法律规定的事务。

任期届满的政府不得提议解散国民大会。

通过接受他/她的辞职、通过国民大会不信任投票以及国民大会的解散，根据总理的提议，政府成员的任期应当在他/她当选的期间届满前结束。

第 129 条 质询

50 名以上的代表可以提出与政府工作或者政府特定成员有关的质询。

政府有义务在 30 日内对质询作出回复。

国民大会应对质询指向的政府或者政府成员提交的针对质询的回复进行讨论和投票。

在投票认可回复后，国民大会根据通过的日程继续工作。

如果国民大会没有通过投票认可政府或者政府成员的回复，在驳回针对质询的回复后，其应启动对政府或者政府成员的不信任投票，除非总理作为一名政府成员事先辞职。

成为质询主题的事项，在 90 日的最后期限届满前不可再次讨论。

第 130 条 对于政府或者政府成员的不信任投票

对政府或者政府特定成员的不信任投票可以由至少 60 名代表要求。

对政府或者政府特定成员进行不信任投票的建议应由国民大会自建议提交之日起不超过 5 日内，在随后第一次会议中讨论。在讨论得出结果后，他们应当对此建议投票。

如果全体代表过半数投票支持，对于政府或者政府特定成员进行不信任投票的建议应由国民大会接受。

如果国民大会通过对于政府的不信任投票，共和国总统有义务启动选举新政府的程序。如果国民大会没有在不信任投票通过的 30 日内选举新政府，共和国总统有义务解散国民大会并计划选举。

根据法律，如果国民大会通过对政府成员的不信任投票，共和国总统有义务启动选举政府新成员的程序。

如果国民大会没有通过对政府或者政府成员的不信任投票，建议的签署者在 180 日的最后期限届满前不得提交新的不信任投票建议。

第 131 条 对于政府的信任投票

政府可以要求对其进行信任投票。

根据政府的要求，对政府的信任投票建议可以在国民大会本次会议中讨论，并且如果政府没有提交这一建议，这一建议应在自其提交之日起不超过 5 日的时间内，在随后第一次会议中讨论。

如果全体代表过半数投票支持，针对政府或者政府成员的信任投票建议应当由国民大会接受。

如果国民大会没有通过针对政府的信任投票，政府的任期结束并且共和国总统应有义务启动选举新政府的程序。如果国民大会没有在自其通过不信任投票之日起 30 日内选举出新政府，共和国总统有义务解散国民大

会并计划选举。

第 132 条 总理的辞职

总理可以将他/她的辞呈递交国民大会。

总理应将他/她的辞呈递交国民大会主席，同时，通知共和国总统和公众。

在随后第一次会议中，国民大会应与总理确认辞呈。

政府的任期应在总理辞呈确认之日终止。

在国民大会确认总理辞呈后，共和国总统有义务启动新政府选举程序。如果国民大会没有在确认总理辞呈之日起 30 日内选举出新政府，共和国总统有义务解散国民大会并计划选举。

第 133 条 政府成员的辞职和解职

政府成员可以向总理递交他/她的辞呈。

总理应将政府成员的辞呈提交国民大会主席，并且国民大会应在随后第一次会议中确认辞呈。

总理可以向国民大会提议解除政府特定成员职务。

国民大会应在随后第一次会议中讨论并就解除政府成员职务的提议投票。

如果全体代表的多数投票支持，解除政府成员职务的决定应当通过。

已经递交他/她的辞呈的政府成员的任期应在确认辞呈之日终止，而对于被解除职务的政府成员，任期应在通过解职决定之日终止。

已经递交他/她的辞呈或者其解职建议已经提交的政府成员直至任期终止的地位和责任应由法律规定。

政府成员因递交辞呈或者解职而任期届满后，总理有义务启动政府新成员选举的程序。

第 134 条 总理和政府成员的豁免权

总理和政府成员不应为在政府会议以及国民大会会议中表达的见解，或者为政府会议中的投票负责。

总理和政府成员享有与代表相同的豁免权。政府应决定总理和政府成员的豁免权。

第 135 条 关于政府的法律

应当制定关于政府的法律。

第四节 公共管理

第 136 条 公共管理的地位

公共管理应当是独立的，受到宪法和法律的约束，并应对其工作向政府负责。

根据法律规定，公共管理事务应由政府部门以及其他公共管理机构实施。

公共管理事务以及政府部门的数量应由法律规定。

政府部门和其他公共管理机构和组织的内部组织应由政府规范。

第 137 条 公共权力和公共服务的委托

为有利于更加有效和合理地行使公民的权利和义务，并且满足对他们的生活和工作至关重要的需要，法律可以规定委托自治省和地方自治单位执行塞尔维亚共和国权限范围内的特定事务。

根据法律，特定的公共权力可以委托给企业、机构、组织和个人。

根据法律，特定的公共权力也可以委托给特定机构，以便他们在特定领域或者事务方面履行规范职能。

塞尔维亚共和国、自治省和地方自治单位可以建立公共服务机构。

所建立的公共服务机构的事务和职责，以及其组织和工作应由法律规定。

第五节 巡 察 官

第 138 条 巡察官

巡察官应当是独立的国家机构，他们应保护公民的权利并监督公共管理机构，负责塞尔维亚共和国所有权和利益保护的机构，以及其他被委托公共权力的团体和组织、公司和机构的工作。

巡察官不应被授权监督国民大会、共和国总统、政府、宪法法院、法院和检察官办公室的工作。

根据宪法和法律，巡察官应由国民大会选举和解职。

巡察官应向国民大会报告他/她的工作。

巡察官应享有与代表相同的豁免权。国民大会应决定巡察官的豁免权。

应当制定关于巡察官的法律。

第六节 塞尔维亚军队

第 139 条 权限

根据规范武力使用的宪法、法律和国际法原则，塞尔维亚军队应当保护国家免受外国武装威胁并履行其他使命和任务。

第 140 条 军队的境外使用

只有根据塞尔维亚共和国国民大会的决定，塞尔维亚军队才得在塞尔维亚共和国境外使用。

第 141 条 塞尔维亚军队的控制

塞尔维亚军队应当承受民主的和文官的控制。

应当制定关于塞尔维亚军队的法律。

第七节 法 院

第 142 条 司法原则

司法权在塞尔维亚领土上应是惟一的。

法院在其工作中应是分立的和独立的，当法律、普遍接受的国际法规则和批准的国际条约规定时，他们应当根据宪法、法律和其他一般性法令履行他们的义务。

法院的聆讯应是公开的，并且仅得根据宪法受到限制。

法官和陪审员应按照法律规定的方式参与审判。

法律也可以规定仅法官可以在特定的法院和特定的

案件中参加审判。

法院应在委员会的范围内裁定事务，同时，法律可以规定一个单独的法官可以就特定事务作出裁决。

第 143 条　法院的类型

塞尔维亚共和国的司法权应当属于具有普遍和特定管辖权的法院。

法院的建立、组织、管辖权、体系和结论应由法律规定。

不得建立省法院、军事法院或者特别法院。

最高法院是塞尔维亚共和国的最高级别的法院。

最高法院的所在地在贝尔格莱德。

第 144 条　最高法院院长

最高法院院长应根据最高司法委员会的建议，并且接受最高法院会议以及国民大会主管委员会的意见，由国民大会选举。

最高法院院长应被选举任期 5 年，并且不得再次当选。

根据法律规定的关于法院任期终止的条款或者由于法律规定的与法院院长解职相关的原因而解职，最高法院院长的任期应在根据他/她的要求在他/她当选的期间届满前终止。

根据法律，关于最高法院院长任期结束的决定应由国民大会通过，而关于解职的决定应根据最高司法委员会的建议通过。

第 145 条　法院裁判

法院裁判应以人民的名义作出。

法院裁判以宪法和法律、批准的国际条约和根据法律通过的法规为依据。

法院裁判应对所有人有约束力，并且不得受到法庭职权以外的控制。

法院裁判只能在法律规定的法律程序中，由被授权的法院重新审查。

大赦或特赦可在法院未作出裁决的情况下，全部或部分免除已作出的判决。

第 146 条　职务的终身任期

法官应当享有终身任期。

在特殊情况下，第一次当选为法官的人应被选举任期 3 年。

第 147 条　法官的选举

根据最高司法委员会的建议，国民大会应选举第一次当选法官职位的人担任法官。

当选法官职位的法官的任期应当持续 3 年时间。

根据法律，最高司法委员会应选举法官担任其所在法院或者其他法院的终身法官职位。

另外，最高司法委员会应就当选终身法官职位的法官到其他或者更高级别法院任职作出决定。

第 148 条　法官任期的终止

法官的任期应当在他/她自己的要求下，在法律规定的情况出现时或者由于法律规定的原因免除职务时，以及他/她未当选终身法官职位时终止。

最高司法委员会应通过终止法官任期的决定。法官有权针对这一决定向宪法法院上诉。提出的上诉不包括提出宪法诉讼的权利。

终止法官任期的程序、依据和原因，以及免除法院院长职务的原因应由法律规定。

第 149 条　法官的独立

在履行他/她的司法职责时，法官应是独立的并且仅应对宪法和法律负责。

在履行他/她的司法职责时，对于法官的任何影响均应被禁止。

第 150 条　法官的不可调任

法官应有权在他/她当选的法院履行他/她的司法职责，并且仅在他/她自己同意的情况下才得被重新安置或者调任到另一法院。

根据法律，在他/她当选的法院或者法院很大一部分管辖权撤销的情况下，无须他/她的同意，法官可以在特殊情况下被永久重新安置或者调任到另一法院。

第 151 条　豁免权

法官不得因为他/她表达的见解或者在法院裁决的过程中的投票而承担责任，当他/她违反法律犯刑事罪行时除外。

未经最高司法委员会的批准，在基于其履行司法职责时所犯刑事罪行而启动的法律程序中，法官不得被拘留或者逮捕。

第 152 条　司法职责的不相容性

禁止法官从事政治活动。

与司法职能不相容的其他职责、活动或者私人利益应由法律规定。

第八节　最高司法委员会

第 153 条　地位、组成和选举

最高司法委员会是一个应提供和保障法院和法官独立与自治的独立和自治的机构。

最高司法委员会应有 11 名成员。

根据法律，最高司法委员会应由最高法院院长、负责司法事务的部长以及国民大会授权的委员会主席作为当然成员，和由国民大会选举的 8 名当选成员组成。

选举成员应当包括 6 名担任终身法官职位的法官，其中 1 名应来自自治省的地域；2 名来自至少有 15 年职业经验的受尊敬的和杰出的律师，该 2 名成员中，1 名应为事务律师，1 名应为法学系教授。

法院院长不得是最高司法委员会的选举成员。

除被任命的当然成员外，最高司法委员会成员的任期应当持续 5 年。

最高司法委员会成员应享有与法官同样的豁免权。

第 154 条　最高司法委员会的管辖权

最高司法委员会应当根据宪法和法律任免法官，根据宪法和法律在第一次法官职位的选举中向国民大会提议进行法官的选举，向国民大会提议进行最高法院院长

以及法院院长的选举，以宪法和法律规定的方式参与终止最高法院院长和法院院长任期的程序，并履行法律规定的其他义务。

第 155 条　法律救济

在法律规定的情况下，可以针对最高司法委员会的决定向宪法法院提出上诉。

第九节　检察官办公室

第 156 条　地位和管辖权

检察官办公室应是独立的国家机构，其起诉犯有刑事罪行以及其他应受惩处行为的人，并采取措施以保护合宪性与合法性。

检察官办公室应以宪法、法律、批准的国际条约以及根据法律通过的法规为根据履行其职能。

第 157 条　设立和组织

检察官办公室的设立、组织和管辖权应由法律规定。

共和国检察官办公室应是塞尔维亚共和国的最高检察官办公室。

第 158 条　共和国检察官

共和国检察官应在塞尔维亚共和国权利和义务的范围内履行检察官办公室的职责。

国民大会应根据政府的建议和国民大会授权委员会的意见，选举共和国检察官。

共和国检察官应由选举产生，任期 6 年，并可以再次当选。

共和国检察官的任期应在他/她没有重新当选时，在他/她自己的要求下，在法律规定的情况出现时或者由于法律规定的原因免除职务时终止。

根据法律，共和国检察官任期终止的决定应由国民大会通过，国民大会应根据政府的建议就免除职务通过决定。

第 159 条　检察官和副检察官

检察官应履行检察官办公室的职责。

检察官应根据政府的建议由国民大会选举产生。

检察官的任期应持续 6 年并且他/她可以重新当选。

副检察官应在履行检察官办公室的职能过程中代替检察官并且有义务根据他/她的指示行动。

根据国家检察官委员会的建议，国民大会应选举第一次当选这一职务的人为副检察官。

第一次当选这一职务的副检察官的任期应持续 3 年。

根据法律，国家检察官委员会应当选举副检察官在其检察官办公室或者其他检察官办公室终身履行其职责。

此外，国家检察官委员会应就终身在其他或者更高级别检察官办公室履行职责的副检察官的选举作出决定。

第 160 条　责任

共和国检察官应为检察官办公室的工作以及他/她自己的工作向国民大会负责。

检察官应当为检察官办公室的工作和他们自己的工作向共和国检察官和国民大会负责，而初级检察官也应当为他们的工作向他们的直接上级检察官负责。

副检察官应当为他们的工作向检察官负责。

第 161 条　检察官和副检察官任期的终止

检察官和副检察官可以在他/她自己的要求下，在法律规定的情况出现时或者由于法律规定的原因免除职务时终止他们的任期。检察官的任期应当在他/她没有重新当选的情况下终止，而副检察官的任期在他/她没有终身当选该职位时应当终止。

根据法律，检察官任期终止的决定应由国民大会通过，并且它应根据政府的建议通过免除职务的决定。

终止副检察官任期的决定应由国家检察官委员会通过。

检察官和副检察官可以针对终止其任期的决定向宪法法院提出上诉。提出的上诉不包括提出宪法诉讼的权利。

终止检察官和副检察官任期的程序、依据和原因应由法律规定。

第 162 条　豁免

检察官和副检察官不得为履行检察官职责时所表达的见解负责，除非检察官或者副检察官违反法律犯有刑事罪行。

未经国民大会授权委员会的批准，在基于其履行检察官职责或者服务时所犯刑事罪行而启动的法律程序中，检察官或者副检察官不受拘留或者逮捕。

第 163 条　检察官职责的不相容性

禁止检察官和副检察官从事政治活动。

与检察官职责不相容的其他职责、活动或者私人利益应由法律规定。

第 164 条　国家检察官委员会的地位、构成和选举

根据法律，国家检察官委员会是一个提供和保障检察官和副检察官自治的自治机构。

国家检察官委员会应有 11 名成员。

根据法律，国家检察官委员会应由共和国检察官、负责司法事务的部长以及国民大会授权委员会主席作为当然成员，和由国民大会选举的 8 名当选成员组成。

选举成员应包括 6 名担任终身职位的检察官或者副检察官，其中 1 名应来自自治省的地域；2 名来自至少有 15 年职业经验的受尊敬的和杰出的律师，该 2 名成员中，1 名应为事务律师，1 名应为法学系教授。

除被任命的当然成员外，国家检察官委员会的成员的任期应持续 5 年。

国家检察官委员会的成员应享有与检察官同样的豁免权。

第 165 条　国家检察官委员会的管辖权

国家检察官委员会应为副检察官的第一次选举向国

民大会提议候选人，选举副检察官以终身履行该职责，选举担任终身职位的副检察官作为其他检察官办公室的副检察官，以宪法和法律规定的方式在终止副检察官任期的程序中作出决定，并履行法律规定的其他义务。

第六章 宪法法院

第 166 条 地位

宪法法院应是自治和独立的国家机构，它应保护合宪性与合法性，以及人权和少数人权利和自由。

宪法法院裁判具有终局性的、强制性的和普遍的拘束力。

第 167 条 管辖

宪法法院应当裁判：

（一）法律和其他一般性法令符合宪法、普遍接受的国际法规则和批准的国际条约；

（二）批准的国际条约符合宪法；

（三）其他一般性法令符合法律；

（四）自治省以及地方自治单位的法规和一般性法令符合宪法和法律；

（五）受委托行使公权力的组织、政党、工会、民众社团的一般性法令以及集体协议符合宪法和法律。

宪法法院应当：

（一）就法院和国家机构之间的管辖权冲突作出裁决；

（二）就共和国和省机构或者地方自治单位之间的管辖权冲突作出裁决；

（三）就省机构和地方自治单位之间的管辖权冲突作出裁决；

（四）就法律没有规定法院管辖权的选举争议作出裁决；

（五）履行宪法和法律规定的其他义务。

宪法法院应就取缔一个政党、工会组织或者民众社团作出裁决。

宪法法院应履行宪法规定的其他义务。

第 168 条 合宪性和合法性的评估

合宪性评估程序，可以由国家机构、地方自治机构或者地方自治政府，以及 25 名以上的代表启动，也可以由宪法法院启动。

任何法人或者自然人应有主动启动合宪性与合法性评估程序的权利。

不符合宪法和法律的法律或者其他一般性法令应自宪法法院裁决在官方刊物公布之日起失效。

在通过最终裁决前，根据法律规定的条件，宪法法院可以暂时停止单独一般性法令的实施，或者暂时停止根据正受合宪性或者合法性评估的法律或者其他一般性法令而实施的行为。

宪法法院可以评估法律或者其他一般性法令是否符合宪法，一般性法令是否符合法律；在其失效后，只要评估合宪性的程序已经自其失效之日起 6 个月内启动，亦可进行评估。

第 169 条 对于法律生效前的合宪性评估

根据至少 1/3 代表的要求，宪法法院有义务在 7 日内评估已经通过的，但尚未以法令颁布的法律的合宪性。

如果法律在通过合宪性裁决前颁布，宪法法院应根据评估法律合宪性的正常程序，按要求继续进行这一程序。

如果宪法法院在法律颁布前通过了其不符合宪法的裁决，则该裁决应自法律颁布之日起生效。

如果在法律生效前已经确定它符合宪法，针对法律的合宪性评估程序不得被启动。

第 170 条 宪法诉讼

一项宪法诉讼可以针对侵犯或者否定宪法保障的人或者少数人权利和自由的单独一般性法令或者国家机构或受委托行使公权力的组织实施的行为提出，只要保护他们的其他法律救济已经适用或者没有规定。

第 171 条 保证裁决的执行

每一个人均有义务遵守和执行宪法法院的裁决。

只要认为必要，宪法法院应在其裁决中规范其执行的方式。

宪法法院裁决的执行应由法律规范。

第 172 条 宪法法院的组织、宪法法院法官的选举和任命

宪法法院应有经选举和任命的 15 名任期 9 年的法官。

宪法法院的 5 名法官由国民大会任命，5 名由共和国总统任命，另外 5 名在最高法院的全体会议上任命。

国民大会应当从共和国总统推荐的 10 名候选人中任命 5 名宪法法院法官，共和国总统应从国民大会推荐的 10 名候选人中任命 5 名宪法法院法官，最高法院全体会议应从最高司法委员会和国家检察官委员会全体会议推荐的 10 名候选人中任命 5 名宪法法院法官。

在每一个候选人推荐名单中，被任命的候选人中必须有一名来自自治省的地域。

宪法法院的一名法官应当从已经有至少 40 年法律实践经验的杰出律师中选举和任命。

一个人最多可以两次被选举或者任命为宪法法院法官。

宪法法院院长由宪法法院法官以无记名投票方式从其自身成员中选出，任期 3 年。

第 173 条 利益冲突、豁免权

根据法律，宪法法院法官不得从事其他公共或者职业职责或者行为，但在塞尔维亚共和国的法律系担任教授之职的除外。

宪法法院法官应享有与议员同样的豁免权。宪法法院应就其豁免权作出裁决。

第 174 条 宪法法院法官任期的终止

宪法法院法官的任期应在他/她已经得到选举或者任命的任期届满时，在他/她自己要求时，在满足法律

规定的获得养老金的要求后，或者通过免除职务而终止。

宪法法院的法官，如果违反了利益冲突禁止规定，永久丧失履行宪法法院法官职责的能力，被判处监禁刑罚或者被宣告犯有刑事罪行而使他/她不再适合宪法法院法官的职位，应当被免除职务。

国民大会应根据得到授权提议选举之人的要求，以及根据宪法法院法官的选举规定，就法官任期的终止作出决定。启动免除职务程序的动议可以由宪法法院提出。

第 175 条　宪法法院裁决的方式、有关宪法法院的法律

宪法法院应以全体宪法法院法官的多数票作出裁决。

自主启动合宪性或者合法性评估程序的裁决，应由宪法法院以全体法官的 2/3 多数票通过。

宪法法院的组织和程序，以及其裁决的法律效力应由法律作出规范。

第七章　区域组织

第一节　省自治和地方自治

第 176 条　概念

公民应享有实行省自治和地方自治的权利，他们直接或者通过他们自由选出的代表行使这一权利。

自治省和地方自治单位应有法人的地位。

第 177 条　权限的确定

地方自治单位应当在那些在地方自治单位内可以有效实现的事务方面享有权限，自治省可以在那些在自治省内可以有效实现的事务方面享有权限，这些事务不应当是塞尔维亚共和国的权限。

法律应规定哪些事务须符合共和国、省或者地方利益。

第 178 条　权限的委托

根据法律，塞尔维亚共和国可以将其权限内的特定事务委托自治省和地方自治单位。

自治省可以根据其决定，将其权限内的特定事务委托地方自治单位。

根据受委托者的能力，塞尔维亚共和国或者自治省为受委托者提供执行委托事务所需要的资源。

在监督委托权限执行过程中，自治省和地方自治单位的权利和义务以及塞尔维亚共和国和自治省的权力应由法律规定。

第 179 条　自主组织机构的权利

自治省根据宪法和法规，地方自治单位根据宪法和法律，应自主地规范其机构和公共服务机构的组织和权限。

第 180 条　自治省和地方自治单位的议会

议会应是自治省和地方自治单位的最高机构。

议会应由代表组成，地方自治单位的议会由顾问组成。

代表和顾问应通过投票在直接选举中产生，任期 4 年，代表选举依据自治省议会的决定，而顾问选举则依据法律规定。

在拥有不同民族人口的自治省和地方自治单位中，根据法律，应当规定在议会中占一定比例的少数民族代表。

第 181 条　自治省和地方自治单位的合作

自治省和地方自治单位应当在塞尔维亚共和国外交政策的范围内，在遵守塞尔维亚共和国领土完整和法律体系的情况下，与相应地区社区和其他国家的地方自治单位合作。

第二节　自治省

第 182 条　自治省的概念、设立和地域

自治省应当是宪法建立的自治的地域社区，公民在此行使省自治权。

在塞尔维亚共和国，有伏伊伏丁那自治省以及科索沃和梅托希亚自治省。科索沃和梅托希亚自治省的实质性自治应当由按照为修改宪法规定的程序通过的特别的法律来规范。

新的自治省可以设立，而已经设立的自治省可以遵循为修改宪法规定的程序而撤销或者合并。根据法律，建立新的，或者撤销或合并现存自治省的建议应当由公民在公民复决中确认。

自治省的地域以及自治省的边界可以改变的条件应由法律规范。根据法律，自治省的边界未经其公民在公民复决中同意的，不得改变。

第 183 条　自治省的权限

根据宪法及其法规，自治省应当规范其设立的机构和服务机构的权限、选举、组织和工作。

根据法律，自治省应当在下列领域规范关系省利益的事务：

（一）城市规划和发展；

（二）农业、水利、经济、林业、狩猎、渔业、旅游、餐饮、温泉和保健名胜、环境保护、工业和手工业、道路、河流和铁路交通以及道路维修、组织集市和其他经济活动；

（三）教育、体育、文化、保健和社会福利以及省级的公共信息传播。

根据法律，自治省应关照人权和少数人权利的行使。

自治省应设立其标志，以及确定以何种方式投入使用。

自治省应按照法律规定的方式管理省的财产。

自治省应根据宪法和法律，有直接的收入，向地方自治单位提供资源以履行委托的事务，并通过其预算和年度资产负债表。

第 184 条　自治省的财政自治

自治省应有直接的收入以为其权限提供财政支持。

直接收入的种类和数量应由法律规定。

法律应规定自治省在塞尔维亚共和国收入中享有的份额。

考虑到伏伊伏丁那自治省的 3/7 的预算应当被用于资助基本建设费用，伏伊伏丁那自治省的预算至少应达到塞尔维亚共和国预算的 7%。

第 185 条　自治省的法律文件

法规应当是自治省的最高法律文件。

伏伊伏丁那自治省的法规应由其议会通过，并由国民议会事前批准。

自治省应就其权限范围内的事务制定颁布其他决定和一般性法令。

第 186 条　对自治省机构工作的监督

政府得在其生效前在宪法法院面前启动评估自治省所通过决定的合宪性与合法性的程序。在此意义上，宪法法院得在通过其裁决前推迟自治省争议决定的生效。

第 187 条　省自治的保障

如果一个单独的法律文件或者国家机构或地方自治单位的行为阻碍了自治省履行其权限，由自治省法规设定的机构应有权向宪法法院上诉。

自治省法规设定的机构可以就侵犯自治省权利的塞尔维亚共和国法律和其他法律文件或者地方自治单位法规的合宪性或者合法性启动评估程序。

第三节　地方自治

第 188 条　一般条款

地方自治单位是自治市、城镇和贝尔格莱德市。

地方自治单位的地域和位置应由法律规定。

地方自治单位地域的设立、撤销或者变更应通过关于该地方自治单位地域的公民复决进行。

根据法律，地方自治单位的事务应当由地方自治单位直接收入和塞尔维亚共和国预算提供资助；根据自治省议会的决定，在自治省将其权限内事务的履行进行委托的情况下，由伏伊伏丁那自治省预算资助。

第 189 条　地方自治单位的法规

自治市应由法律设立和撤销。

城镇应由法律根据规范地方自治的法律所规定的标准设立。

城镇应当有宪法委托给自治市的权限，而其他权限得由法律委托给它。

城镇法规可以规定在城镇的地域内建立两个或者更多城镇自治市。城镇法规应当规范属于城镇权限范围内而由城镇自治市履行的事务。

塞尔维亚共和国的首都贝尔格莱德市的地位，应当由关于首都和贝尔格莱德市地位的法律规定。贝尔格莱德市应具有宪法和法律委托给自治市和城市的权限，并且具有其他根据关于首都的法律委托的权限。

第 190 条　自治市的权限

自治市应当，通过其机构，并且根据法律：

（一）规范和提供市政活动的履行和发展；

（二）规范和提供城市建设用地和商业地产的使用；

（三）为地方公路和街道网络以及其他涉及自治市利益的公共设施的建设、重建、维护和使用负责；规范和提供地方交通；

（四）对满足公民在教育、文化、保健和社会福利、儿童福利、运动和体育领域的需要负责；

（五）对旅游、手工业、餐饮业和商业的发展和改善负责；

（六）对环境保护、针对自然和其他灾害的防治负责；保护关系自治市利益的文化遗产；

（七）农业用地的保护、改善和使用；

（八）履行法律规定的其他义务。

自治市应根据法律自主地通过预算和年度资产负债表，城市发展规划和自治市发展计划，设定自治市的标志，以及它们的使用。

自治市应关照人权和少数人权利的行使、保护和改善，以及自治市的公共信息传播。

自治市应根据法律自主地管理自治市的财产。

自治市应根据法律规定违反自治市规章的违法行为。

第 191 条　自治市法律文件和机构

法规应是自治市的最高法律文件。法规应由自治市议会通过。

自治市议会应当通过其权限内的一般性法令，通过预算和年度资产负债表，通过发展规划和自治市空间规划，筹划自治市的公民复决并履行法律和法规规定的其他义务。

根据法律，自治市机构应当是自治市议会以及法规设定的其他机构。

自治市应当根据法律和法规决定自治市行政机关的选举。

城镇以及贝尔格莱德市行政机构的选举应由法律规定。

第 192 条　监督自治市的工作

政府有义务取消它认为不符合宪法或者法律的自治市一般性法令的执行，并且在 5 日内启动其合宪性或者合法性的评估程序。

政府可以，根据法律规定的条件，解散自治市议会。

与自治市议会的解散同时，政府应考虑解散自治市议会的政治和民族构成而指定临时机构，该机构应履行议会权限内的义务。

第 193 条　地方自治的保护

如果一个单独的法律文件或者一个国家机构或者地方自治单位的机构的行为阻碍了自治市履行其权限，自治市法规设定的机构应有权向宪法法院提出上诉。

自治市法规设定的机构可以启动评估塞尔维亚共和国或者自治省侵犯地方自治权的法律或者其他法律文件合宪性与合法性的程序。

第八章 合宪性与合法性

第 194 条 国内和国际一般性法律文件的等级

塞尔维亚共和国的法律体系应是单一的。

宪法应是塞尔维亚共和国的最高法律文件。

塞尔维亚共和国制定的所有法律和其他一般性法令必须与宪法一致。

批准的国际条约和普遍接受的国际法规则应是塞尔维亚法律体系的一部分。批准的国际条约不得违反宪法。

塞尔维亚共和国制定的法律和一般性法令不得违反批准的国际条约和普遍接受的国际法规则。

第 195 条 国内一般性法律文件的等级

塞尔维亚共和国的所有议事规则，受委托行使公权力的组织、政党、工会以及民众社团的一般性法令以及集体协议必须符合法律。

自治省和地方自治单位的法规、决定和其他一般性法令必须符合法律。

自治省和地方自治单位所有一般性法令必须符合其法规。

第 196 条 法律和其他一般性法令的颁布

法律和所有其他一般性法令应当在生效前颁布。

塞尔维亚共和国的宪法、法律和议事规则应当在公共官方刊物上颁布，并且自治省的法规、决定和其他一般性法令应当在省官方刊物上颁布。

地方自治单位的法规和一般性法令应当在地方官方刊物上颁布。

法律和其他一般性法令不应早于颁布之日起第 8 日生效，并且只有在其通过时已指明存在正当的特别理由时才可以提前生效。

第 197 条 法律和其他一般性法令溯及既往效力的禁止

法律和其他一般性法令不得具有溯及既往的效力。

基于通过法律程序确认的公共利益的需要，某些法律规定可例外地具有溯及既往的效力。

刑法典的条款只有在其更有利于犯罪人的情况下，才得具有溯及既往的效力。

第 198 条 行政管理的合法性

单独的法令以及国家机构、受委托行使公权力的组织、自治省以及地方自治单位的机构的行为必须以法律为基础。

如果法律没有规定其他形式的保障，对权利、义务或者以法律为基础的利益作出决定的最终的单独法令的合法性应当在一个行政程序中接受法院的重新评估。

第 199 条 法律程序的语言

一个人当他/她的权利或者义务被决定时，有权在法院、其他国家机构或者行使公权力组织的法律程序中使用他/她的语言。

对法律程序的语言不熟悉不应成为人权和少数人权利行使和保护的障碍。

第 200 条 紧急状态

当国家或者其公民的生存受到公共危险威胁时，国民大会应宣布紧急状态。

关于紧急状态的决定最多在 90 日内有效。该期限届满后，国民大会可以通过全体代表多数票将紧急状态的决定再延长 90 日。

国家紧急状态期间，国民大会应在没有任何特别集会通知的情况下举行会议，并且不得被解散。

当宣布紧急状态时，国民大会可以制定措施，这些措施应规定对于宪法保障的人权和少数人权利的克减。

当国民大会不能举行会议时，宣布紧急状态的决定应根据国民大会同样的条件，由共和国总统和国民大会主席以及总理通过。

当国民大会不能举行会议时，规定克减人权和少数人权利的措施可以由政府通过一项共和国总统副署的法令制定。

由国民大会或者政府制定的规定克减人权和少数人权利的措施最多在 90 日内有效，在这一期限届满时可以根据同样的条件延长。

当紧急状态的决定不是由国民大会通过时，国民大会应当自其通过后 48 小时内，也即，只要它能够举行会议，就对其进行核准。如果国民大会没有核准这一决定，它应在紧急状态宣布后举行的国民大会第一次会议结束后即失去效力。

在规定克减人权和少数人权利的措施不是由国民大会制定时，政府有义务在它通过后 48 小时内，也即，只要国民大会能够举行会议，就将关于规定克减人权和少数人权利措施的法令提交国民大会核准。在其他情况下，规定克减人权和少数人权利的措施应当在紧急状态宣布后举行的国民大会第一次会议开始前 24 小时前失去效力。

第 201 条 战争状态

国民大会应宣布战争状态。

当国民大会不能举行会议时，关于宣布战争状态的决定应当由共和国总统与国民大会主席和总理共同通过。

当宣布战争状态时，国民大会可以制定措施，这些措施应当规定对于宪法保障的人权和少数人权利的克减。

当国民大会不能举行会议时，规定克减宪法保障的人权和少数人权利的措施应当由共和国总统与国民大会主席和总理共同决定。

战争状态期间制定的所有措施应当在国民大会能够举行会议时由国民大会核准。

第202条　紧急状态和战争状态中对于人权和少数人权利的克减

在宣布紧急或者战争状态时，对宪法保障的人权和少数人权利的克减仅在认为必要的范围内方被允许。

规定克减的措施不应有种族、性别、语言、宗教、国民联系或者社会来源的区别。

规定克减人权和少数人权利的措施应当在紧急或者战争状态结束时失去效力。

规定克减的措施在依据宪法第23条、第24条、第25条、第26条、第28条、第32条、第34条、第37条、第38条、第43条、第45条、第47条、第49条、第62条、第63条、第64条和第78条保障的权利方面不得允许克减。

第九章　宪法的修改

第203条　修改宪法的建议以及宪法修正案的通过

修改宪法的建议可以由全体代表总数1/3的代表、共和国总统、政府和至少15万名选民提交。

国民大会应对修改宪法作出决定。

修改宪法的建议应由全体代表的2/3多数通过。

如果没有达到上述多数票，针对宪法修改提交的没有通过的建议所包含的事项不应在随后的12个月内被考虑。

在国民大会通过修改宪法建议的情况下，应当起草，也即，考虑一份关于修改宪法的法令。

国民大会应以全体代表的2/3多数通过一项关于修改宪法的法令，并且可以决定由公民在共和国公民复决中对其进行认可。

在宪法修正案涉及宪法导言、宪法原则、人权和少数人权利和自由、权力机构的体系、战争和紧急状态的宣布、紧急或战争状态下人权和少数人权利的克减或者修改宪法的程序的情况下，国民大会有义务将修改宪法的法令提交共和国公民复决以使它得到认可。

当修改宪法的法令被提交认可时，公民应在关于修改宪法的法令通过后不超过60日内在公民复决中投票。如果参与公民复决的多数选民投票支持修正案，宪法修正案应获得通过。

在共和国公民复决中得到认可的修改宪法的法令一旦由国民大会颁布即应生效。

如果国民大会没有决定将修改宪法的法令提交认可，宪法修正案应由国民大会投票通过，并且修改宪法的法令一旦由国民大会颁布即应生效。

第204条　修改宪法的禁止

在战争或者紧急状态期间，宪法不得修改。

第205条　宪法性法律

为执行对于宪法的修改，应当制定宪法性法律。

宪法性法律应由全体代表的2/3多数通过。

第十章　最后条款

第206条

本宪法自国民大会颁布之日起生效。

（洛岩译，莫纪宏校）

塞尔维亚

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一、概述

（一）塞尔维亚政治、经济、社会与法律环境概述

塞尔维亚是一个宪政共和国。该国现行宪法于2006年实施。根据该国宪法，权力在议会、政府、司法部门及总统之间分割。

议会实行一院制，议席共250席。议员任期4年。目前，过半数的议席由塞尔维亚前进党（Serbian Progressive Party）占有，该党联合其他少数党派共同领导政府。

政府由总理、副总理及部长组成。政府有权向议会提交立法提案。实践中，政府是立法过程中的重要一环，因为议会所通过的大部分法案都是由政府提议的。

司法部门由具有普通管辖权的法院（包括基层法院、高等法院、上诉法院及作为国家最高审级的最高法院）和特别管辖权的法庭（商事法庭、商事上诉法庭、轻罪庭、轻罪上诉庭及行政庭）构成。塞尔维亚还设有宪法法院，负责抽象的宪法法律审查、批准国际协定、实施条例、审理宪法上诉案件。

总统是根据宪法直选产生的，总统在国内外代表塞尔维亚，公布法律，向议会提议总理任命，任免大使，指挥军队并任命、提拔或罢免塞尔维亚军队的官员。

塞尔维亚是欧盟一体化进程中的一个处于过渡期的国家。2012年3月，欧洲理事会授予塞尔维亚候选国地位。加入欧盟的谈判始于2013年6月，并于2014年1月正式启动。塞尔维亚与欧盟之间的《稳定与结盟协定》（Stabilization and Association Agreement）于2013年9月生效。目前，塞尔维亚正为加入欧盟就欧盟现行法的章节进行谈判。

自2000年以来，一大部分国有企业已经私有化，如塞尔维亚石油工业公司被俄罗斯Gazprom Neft公司收购、斯梅代雷沃钢厂由中国河钢集团收购。然而，其他大型行业中的企业仍然掌握在国家手中（如电信、电力生产和供应、燃气供应、矿业和机场基础设施）。

2015年塞尔维亚的国内生产总值（GDP）约为330亿欧元，实际GDP增长率为0.7%。其公共债务占整个GDP的75.9%（与2014年相比上升了7.24%），而与上一年度（-6.3%）相比，财政预算赤字有了明显降低（GDP的-2.9%）。塞尔维亚仍在努力降低其失业率（15.2%），尽管如此，它仍然以约506欧元的平均月薪在劳动力方面拥有一定的竞争力。[①]

关于塞尔维亚的贸易平衡，2015年的经常账赤字（CAD）达到了历史最低水平——GDP的4.8%[②]，预计2016年的CAD为GDP的4.1%。据记录，2015年具有最显著增长率的产品为烟草制品（涨幅84%）、家具（涨幅37%）、机械及设备（涨幅20%）、金属制品（涨幅18%）及纺织制品（涨幅11%）。欧盟是塞尔维亚对外贸易中最主要的合作伙伴，塞尔维亚进出口活动中有68%的出口和64%的进口源自欧盟。[③]

2015年的外国直接投资净额达到18亿欧元以上的水平，且完全覆盖了CAD。最大的外国直接投资项目在制造业领域（橡胶生产、汽车和食品生产），占外国直接投资总额的34.1%，其次是金融业

① 塞尔维亚共和国主要微观经济指数（Key Macroeconomic Indicators of the Republic of Serbia）（由塞尔维亚国家银行发布），http://www.nbs.rs/export/sites/default/internet/latinica/80/osnovni_makroekonomski_indikatori.xls, 访问日期：2016年10月13日。
② 同上注。
③ 2016年6月投资者展示（Investor Presentation - June 2016）（由财政部公共债务管理局发布），http://www.javnidug.gov.rs/upload/Prezentacija/Investor%20presentation%20June%202016.pdf, 访问日期：2016年10月13日。

（22.9%）、建筑业（12.5%）、零售贸易行业、电信行业以及 IT 行业。[①]

塞尔维亚分别与俄罗斯、哈萨克斯坦、白俄罗斯、欧盟、中欧自由贸易区（CEFTA）、欧洲自由贸易联盟（EFTA）和土耳其达成自由贸易协定。塞尔维亚也享有美国的普遍优惠国待遇，就约 4 650 类产品享受免税贸易优惠（其中包括大多数成品和半成品以及部分的农业和初级工业产品）。

塞尔维亚的官方货币是塞尔维亚第纳尔（符号：RSD）。货币制度为有管理的浮动汇率制度。塞尔维亚国家银行（National Bank of Serbia）每天通过销售或购买第纳尔进行干预，以便将汇率变化控制在限制范围内。2015 年，第纳尔兑换欧元汇率为 1 欧元兑 121.63 第纳尔；2016 年第三季度的第纳尔兑换欧元汇率为 123.26 第纳尔。2015 年的通货膨胀率为 1.5%。[②]

塞尔维亚是大陆法系国家，议会通过的法案是其主要法律渊源，司法判例不作为塞尔维亚正式的法律渊源。

（二）“一带一路”下与中国企业合作的现状及趋势

塞尔维亚于 2015 年年底，以签署《中华人民共和国政府和塞尔维亚共和国政府关于共同推进丝绸之路经济带和 21 世纪海上丝绸之路建设的谅解备忘录》（以下简称《备忘录》）的形式正式参与“一带一路”。该备忘录于 2015 年 11 月 26 日生效，有效期为签署之日起 3 年，即 2018 年 11 月 26 日。除非当事方在到期日前 6 个月提出终止，该备忘录有效期将自动顺延 3 年。

塞尔维亚和中国签订了若干双边协议，这些协定构成了相关项目机构合作和融资合作的法律框架，例如在塞尔维亚和匈牙利两国的首都之间的铁路修建项目[③]，在贝尔格莱德的跨多瑙河大桥修建项目（进出口银行提供 2.55 亿美元贷款）[④]，以及塞尔维亚的 Kostolac 电站项目（进出口银行提供 10 亿美元贷款）。[⑤]

2016 年 6 月中国国家主席习近平访问塞尔维亚期间，塞尔维亚与中国签署了 22 项双边协议，继续加强在“一带一路”倡议下的双边合作。[⑥]相关协议覆盖商业—技术合作、生产能力、国防工业、贸易、旅游、电信、基础设施和能源、教育和文化等领域。[⑦]已经缔结的国际双边协议清单详见下表。

序号	双边协议
1	《关于建立全面战略伙伴关系的联合声明》（Mutual Statement on Comprehensive Strategic Partnership）
2	《2015 年商业—技术合作协议》（Agreement on Business –Technical Cooperation for 2015）
3	《2016 年商业—技术合作协议》（Agreement on Business –Technical Cooperation for 2016）
4	《Surcin-Obrenovac E-763 高速公路建设工程的设计和施工商务协议》（Commercial Agreement on the Design and Performance of Construction Works of Highway E-763, Surcin-Obrenovac）（进出口银行提供 3.01 亿美元贷款）
5	《关于建立交通和基础设施中心的谅解备忘录》（Memorandum of Understanding on the Establishment of Traffic and Infrastructure Centre）

① 2016 年 6 月投资者展示（Investor Presentation - June 2016）（由财政部公共债务管理局发布），http://www.javnidug.gov.rs/upload/Prezentacija/Investor%20presentation%20June%202016.pdf, 访问日期：2016 年 10 月 13 日。

② 塞尔维亚共和国主要微观经济指数（Key Macrocconomic Indicators of the Republic of Serbia）（由塞尔维亚国家银行发布），http://www.nbs.rs/export/sites/default/internet/latinica/80/osnovni_makrockonomski_indikatori.xls, 访问日期：2016 年 10 月 13 日。

③ 中华人民共和国国家发展委员会与匈牙利国际事务和贸易部、塞尔维亚建设、交通和基础设施部之间签订的《匈牙利—塞尔维亚铁路项目合作谅解备忘录》。

④ 中国进出口银行作为贷款人与塞尔维亚政府作为借款人签订的《Zemun – Borča 大桥及附属道路项目买方优惠贷款协议》。

⑤ 中国进出口银行作为贷款人与塞尔维亚政府作为借款人签订的《Kostolac-B 电站项目项目包第一期买方优惠贷款协议》以及中国进出口银行作为贷款人与塞尔维亚财政部作为借款人签订的《Kostolac-B 电站项目项目包第二期买方优惠贷款协议》。

⑥ “China’s Xi highlights Serbia trade as Beijing signs 22 deals”，由汤森路透发布，访问地址：http://www.reuters.com/article/us-serbia-china-idUSKCN0Z40C6，访问日期：2016 年 10 月 13 日。

⑦ “How many billions is the Chinese dream in Serbia worth”（Koliko milijardi vredi kineski san u Srbiji），发布于国家性报纸：Politika，访问地址：http://www.politika.rs/sr/clanak/357428/Kina-i-Srbija-stratesko-partnerstvo-i-jos-21-sporazum，访问日期：2016 年 10 月 13 日。

6	《生产能力领域合作发展框架协议》(Framework Agreement on Cooperation Development in the Area of Production Capacities)
7	《国防工业合作协议》(Agreement on Cooperation in the Defence Industry)
8	《丝绸之路进一步发展的谅解备忘录》(Memorandum of Understanding on Further Development of the Silk Road)
9	《促进贸易、旅游和电信领域合作框架协议》(Framework Agreement on Promotion of Cooperation in the Area of Trade, Tourism, and Telecommunication)
10	《Telekom 与进出口银行间就 ALL IP 项目交付设备材料及施工的融资贷款协议》(Financial Loan Agreement Between "Telekom" and "Exim Bank" for Delivery of Materials and Equipment, and Performance of Works on ALL IP Project)
11	《Telekom 与华为就 ALL IP 项目交付设备材料及施工的框架协议》(Framework Agreement Between "Telekom" and "Huawei" on Delivery of Materials and Equipment, and Performance of Works on ALL IP Project)
12	《财政部与进出口银行之间的谅解备忘录》(Memorandum of Understanding Between the Ministry of Finance and "Exim Bank")
13	《可再生能源项目联合投资谅解备忘录》(Memorandum of Understanding on Joint Investment in Renewable Energy Sources Project)
14	《垃圾发电项目融资及建设谅解备忘录》(Memorandum of Understanding on Financing and Construction of Waste-To-Energy Plants)
15	《塞中外交学院与中国国际关系学院合作谅解备忘录》(Memorandum of Understanding Between the Serbian and Chinese Diplomatic Academia, and the Chinese University for International Affairs)
16	《研究与开发项目联合融资的谅解备忘录》(Memorandum of Understanding on Joint Financing of Research and Development Projects)
17	《2017 年至 2020 年文化艺术领域合作方案》(Program on Cooperation in Area of Culture and Arts for the Period of 2017 to 2020)
18	《文化部与中国国务院信息办公室友好合作谅解备忘录》(Memorandum of Understanding on Cooperation on a Friendly Basis between the Ministry of Culture and the Office for Information of the State Council of PRC)
19	《塞尔维亚国家广播电视台与中国国际广播电台合作协议》(Agreement on Cooperation Between the Serbian Radio Television and Chinese Radio International)
20	《贝尔格莱德市与中非投资发展有限公司及中国机械设备工程股份有限公司关于之前的废水项目的谅解备忘录》(Memorandum of Understanding on the Waste Water Project Between the City of Belgrade and Companies "Africa Investment and Development Company" and "China Machinery Engineering Corporation")
21	《关于西安市与克拉古耶瓦茨市建立友好城市关系的协议》(Agreement on the Establishment of Friendly Relation Between the City of Kragujevac and City of Xi'an)
22	《中塞双边互惠信贷安排函》(Letter on the Bilateral Swap Arrangement Between Serbia and China)

二、投资

(一)市场准入

1. 投资主管部门

(1)塞尔维亚发展局

主管投资的部门是塞尔维亚发展局。发展局最重要的职能如下：①监督投资相关法律的适用；②参与编制经济和区域发展方案和项目；③收集和分析数据，制定促进经济和区域发展政策；④执行与吸引直接投资有关的技术和行政任务，并贯彻落实；⑤记录具有特别重要性的投资者和具有地方重

要性的投资者；⑥根据《援助控制法》（State Aid Control Act）建议提供国家援助；⑦跟进、分析特定市场和行业的经济与投资条件，并提出改进建议；⑧为相关项目获得国际发展援助资助及后续实施提供条件；⑨执行与协调经济和区域发展方案和投资项目；⑩向企业提供技术支持和咨询支持。

（2）经济发展委员会

经济发展委员会（Council for Economic Development）的主要职责是决定发布投资优惠政策。

2. 投资行业规定

（1）法律

《投资法》（The Investments Act）规定了在塞尔维亚直接投资的一般框架。《投资法》的主旨在于：①促进塞尔维亚积极的投资环境；②激励对塞尔维亚的直接投资；③提高其活动与投资相关的公共机构的效率；更重要的是，④向国内外投资者提供同等待遇。因此，《投资法》保证外国投资者享有与本国投资者相同的待遇和保护。《投资法》还引入了“投资”的新定义，包括在 PPP 协议下开展活动的权利、开展政府部门授权的商业活动的权利、取得塞尔维亚公司股份、知识产权以及对位于塞尔维亚的财产的任何其他所有权。但是，法律明确将应收账款、“贸易融资”贷款的应收账款和有价证券投资从“投资”概念中排除。

此外，值得注意的是，《投资法》规定了两类投资：具有特别重要性的投资与具有地方重要性的投资。前者包括根据双边投资协议进行的投资，以及跨越一个以上市政区域的投资，这些投资将自动被认定为“具有特别重要性的投资”。其他情况下，判断一项投资具有“地方”或“特殊”重要性的资格取决于以下六个因素：①创造就业的数量；②投资的性质和金额；③对塞尔维亚贸易的影响，或者对特定行业或出口市场的影响；④投资期限；⑤投资者的信用；⑥所创造的附加值。相关区别的重要性在于，如果一个项目被认定为具有特别重要性的投资，则可在没有事先公告的情况下提议授予该投资国家援助。

（2）法规

《吸引投资法令》(the Decree on Attracting Investment) 为绿地和棕地投资者提供了鼓励措施，以支持对生产行业（某些行业除外）及以电子形式提供的、出口导向的服务行业的投资。

3. 投资方式

根据《投资法》，投资根据其重要性分为具有地方重要性的投资和具有特别重要性的投资。相关投资是否能被认定为具有特殊的国家利益（特别重要性），取决于：①对国内企业经营资产的投资金额；②所创造的就业机会；③投资对塞尔维亚地方自治政府发展的影响；④投资是否基于国际双边协议。具有特别重要性的投资在被给予投资激励措施的时候不需要经过公开招标的程序。但是，具有特别重要性的投资在计算相关激励金额时将受到更严格的条件约束（例如，租赁商业房地和设施将被视为投资的合理开支，前提条件是租赁期不短于投资项目完工期后的 5 年）。

根据进一步细化《投资法》的《吸引投资法令》的规定，投资进一步被分为：①有形资产投资；②无形资产投资（知识产权或专有技术）。若相关投资满足以下条件，将被确认为重大资产的投资：①被投资者使用；②需要折旧；③在市场化条件下从第三方取得；④记录在国内企业的业务记录上至少 5 年（中小企业至少 3 年）。大型企业重大资产投资的合理费用上限为总合理投资费用的 50%。

有形资产投资包括：

① 绿地投资，即投资者新建相关生产设施；

② 棕地投资，即投资者装备、重组、改建、扩建享有投资优惠的国内企业所有的现有设施，或直接购买相关设施，用于投资者的投资项目。

根据《财产法律关系基础法》（the Act on Basis of Property-Legal Relations），外国投资者购买土地和建筑物等不动产须经贸易、旅游和电信部（Ministry of Trade, Tourism, and Telecommunications）事先批准。批准取决于如下两个因素：

① 塞尔维亚与外国投资者国家之间存在互惠；

② 外国投资者将使用不动产在塞尔维亚开展商业活动的证据（在实践中难以证明，并且非常难以明确要求）。

因此，外国投资者很少直接购买不动产。一般会先设立一个塞尔维亚当地企业，再通过该企业购买不动产。

4. 准入条件及审查

外国投资一般不受限制，外国投资者享有与国内投资者相同的权利。但是，银行、租赁、保险、媒体、电信、军事装备和武器、博彩等特定行业的投资需要取得特别的行政许可，并且需要设立一家当地子公司。根据《农业用地法》（the Agricultural Land Act），外国人不得取得农业土地的所有权。然而，这种限制可以通过建立一个当地公司来规避，外国投资者可以通过该公司间接获得农业用地。另外，根据《财产法律关系基础法》，外国人在塞尔维亚取得不动产需事先得到贸易、旅游和电信部的书面批准。为了取得上述批准，必须满足两个条件：

① 塞尔维亚与外国投资者国家之间存在互惠关系；

② 外国投资者将使用不动产进行商业活动的证据。

由于获得该部批准存在重大障碍（该部要求买方在塞尔维亚设立一个分支机构或代表处，以满足"商业活动要求"），实践中外国买方通常以设立一家当地子公司的方式来规避上述要求。

（二）外汇管理

1. 外汇主管部门

塞尔维亚国家银行（NBS）负责监督境内银行、电子货币机构和支付机构所进行的居民与非居民之间跨境支付交易的行为。财政部旗下的塞尔维亚税务局负责监督非银行的居民与非居民之间从事的跨境支付交易行为。

2. 外汇法律法规概况

《外汇交易法》（Foreign Exchange Transactions Act，以下简称《外汇法》）是规范跨境支付交易的主要法规。特定情况下，外汇法援引其他法律以确定是否允许特定付款交易（例如，非居民在塞尔维亚获得房地产的规则在房地产相关法律中规定，与外国保险公司所签订的保险合同项下履行的转让取决于保险合同是否符合保险条例等）。NBS 颁布了许多规章细则，具体规定了进行特定跨境支付交易及备案的相关条件和方式。主要规定包括：银行和其他支付服务提供商所进行的跨境交易必须以规定的方式开展（规定未列明的交易不得开展）；跨境交易产生的抵销、转让和承继债务及应收账款应遵守的条件；有价证券交易条件；在塞尔维亚开设居民外币银行账户和非居民账户的条件；等等。

3. 外资企业外汇管理要求

法律区分资本项目支付交易（旨在转移资本，如直接投资、房地产投资、证券交易、与商业交易或提供服务有关的信贷、金融贷款和信贷）以及经常项目支付交易（与资本项目支付定义相反，即目的不是跨境转移资本的居民和非居民之间的支付交易，例如跨境交易下出售货物和服务的付款、支付跨境贷款本金和利息、利润汇回）。根据外汇法，除非法律另有规定，资本项目交易和经常项目交易都适用自由流转制度。然而，实践中，NBS 对外汇法进行狭义解释，即禁止任何法律未明确允许的内容。这导致相关法律实践中很大的不确定性。绝大多数资本交易须遵守备案要求以及其他条件和限制（例如，非居民不能购买境内短期有价证券，向居民提供的跨境融资可能需要适用强制宽限期等）。

跨境抵销受到监管。抵销需要书面协议。如果涉及抵销的居民的塞尔维亚银行账户被冻结，则不允许跨境抵销。

应收账款的跨境转让和债务的承继也受到监管。塞尔维亚居民的跨境应收账款或跨境债务，只有在相关应收账款或债务源自货物或服务出口交易，或源自跨境贷款的情况下，才能向非居民或居民进行转让。这种转让或债务承继不能提前执行，即在应收账款或债务（视情况而定）产生、金额根据相关约定确定之前，不能执行。任何此类交易必须以书面形式进行。

《投资法》保证外国股东可以自由转换硬通货，将股息收益、出售塞尔维亚企业股份的收益、清算收益、减资收益汇回其所在国，并有权向塞尔维亚企业资本提供额外付款［特殊概念，即股东有权向其塞尔维亚企业支付一定数额金钱而不进行增资，此类付款不被视为外汇法项下的贷款，在此类收入/收益相关的所有的税项（企业所得税、股息税、资本利得税等）已在塞尔维亚支付的情况下汇回

所得]。

（三）融资

1. 主要金融机构

塞尔维亚金融市场的主要参与者是银行。银行可以从事下列所有活动：①吸收公众存款；②为本行账户授信贷款；③经营外汇业务；④经营付款和汇款业务；⑤发行付款卡；⑥进行证券活动（证券的发行、监管等）；⑦经营经纪及代理业务；⑧出具担保；⑨应收账款的购买、出售和托收[保理、福费廷（forfeiting）等]；⑩保险经纪；⑪与上述业务相关或类似的其他经营活动。只有塞尔维亚许可的银行才可以在塞尔维亚接受存款，而从事授信贷款的商业活动和发行付款卡也可以由其他特定受监督的实体（例如支付机构和电子货币机构等）来开展。银行必须预留 1 000 万欧元作为初始现金资本。巴塞尔协议 II 的标准已经在塞尔维亚实施，预计该标准在未来几年内将被巴塞尔协议 III 取代。目前市场上有 30 家银行：其中 22 家是外资银行，8 家是塞尔维亚内资银行。

保险公司是塞尔维亚第二大类金融机构。目前市场上有 20 家保险机构和 4 家再保险机构：其中 18 家是外资保险机构，6 家是塞尔维亚内资保险机构。自 2015 年起，塞尔维亚不再允许新进入保险业的保险机构在同一家公司内同时从事人寿和非人寿保险。6 家保险机构在法律规定的范围内继续经营复合业务，但需要采用分离的保险线，分别计算和管理每项保险活动的资产和负债，并分别保持资本充足水平。

塞尔维亚金融市场的另一个参与者是自愿养老基金，该基金是一种集体投资机构。自愿养老基金由资产管理公司管理。目前，有 4 家这样的资产管理公司，负责 7 个自愿养老基金。

最后，在塞尔维亚金融市场内有 16 家从事融资租赁业务的公司。

2. 外资企业融资条件

一般来说，内资企业和外资企业融资条件并无差异。然而，以本国货币向非本国居民提供贷款时存在一些限制。这类贷款的贷款协议不能规定将借款人的债务数额与浮动的外汇汇率挂钩导致债务数额浮动[以下简称“外汇条款”（foreign exchange clause）]。此外，银行也只能通过以下方式向非本国居民提供第纳尔贷款：①记入支付给非居民签发的支付卡；②基于非本国居民与本国居民之间的经常项或资本项交易，直接支付给非本国居民的相对方在塞尔维亚当地的银行账户。

（四）土地政策

1. 土地法律法规概况

（1）不动产权的类型

在塞尔维亚可以取得下列不动产权：

① 所有权；

② 抵押权；

③ 地役权；

④ 先买权（pre-emption right）。

租赁获得的权利一般不被视为不动产权，但它确实拥有不动产权的某些特征，而且对于建设用地来说，建设用地租赁获得的权利仅次于不动产权，因为它使承租人有权开发建设用地。

作为过去共产主义时代的遗物，还存在可以转化为所有权的建设用地使用权。根据实际情况，将该等建设用地使用权转换为所有权可能需要支付转换费。

（2）收购及登记不动产

不动产需经过在房地产地籍处（Real Estate Cadastre）登记后，其所有人即成为不动产的合法所有者。房地产地籍处是塞尔维亚房地产及其所有权的官方公共登记机构。登记可以根据私人文件（如销售和购买协议）或终局的官方文件（如法院判决或裁定）进行。不动产的他物权（例如抵押权、地役权、先买权等）也需要在房地产地籍处正式登记以取得。根据《不动产转让法》，不动产转让协议必须以书面形式作出，并由位于相关不动产所在地区的公证人进行公证才可有效。若未能以此形式缔结协议，将使得交易无效。

（3）塞尔维亚共和国房地产法律的主要法律渊源

以下是塞尔维亚共和国房地产事务相关的主要法律法规：

①《财产关系法》（The Property Relations Act）：本法规制的内容包括所有权、地役权和一些其他第三方对不动产的权利、不动产的占有以及外国人在塞尔维亚取得不动产的程序等。

②《不动产转让法》（The Real Estate Transfer Act）：本法规制不动产所有权通过法律交易（无论是否收费）的转让。

③《不动产情况调查与地籍册法》（The State Survey and Real Estate Cadastre Act）：本法规制内容包括不动产及权属调查和地籍册登记程序，包括第三方的抵押 / 留置权和第三方权利。

④《规划与建设法》（The Planning and Construction Act）：本法规定了建设用地的空间规划和开发的条件和方式、建设用地的开发和使用，以及建筑物的设计和施工。

⑤《农地法》（The Agricultural Land Act）：本法规定农业用地的规划、保护、开发、利用和转让。

⑥《公证人法》（The Public Notary Act）：本法规定公证人的组织和活动。

⑦《抵押法》（The Mortgage Act）：本法规定了设立抵押的规则和程序、抵押的类型、抵押登记、抵押物的赎回权的取消等。

⑧《关于将土地使用权转化为所有权并征收费用法案》（The Act on Conversion of Right of Use to the Construction Land into Ownership against a Fee）：本法规定了将国有建设用地土地使用权转换为该土地原使用权人的个人所有权的条件和程序。

⑨《合法化法》（The Legalization Act）：本法规定了将非法建造和 / 或改建的建筑物合法化的条件和程序。

⑩《征收法》（The Expropriation Act）：本法规定了国家根据法定的公共利益征收私人拥有的不动产并支付对价的程序。

⑪《归还法》（The Restitution Act）：本法规定第二次世界大战后塞尔维亚国内就国有化、没收财产归还、赔偿自然人和法人实体的条件和程序。

2. 外资企业取得土地的规定

《财产关系法》规定了外国法人和自然人可在塞尔维亚境内取得不动产的规则和条件。该法规定，未在塞尔维亚境内进行商业活动的外国自然人可以购买或继承公寓和住宅楼不动产所有权，但前提是塞尔维亚与外国自然人所属国家之间有互惠关系。此外，该法规定，在塞尔维亚境内从事商业活动的外国自然人和法律实体可以取得不动产所有权，前提条件是：①他们在塞尔维亚开展商业活动；②该不动产对于他们的商业活动是必要的（塞尔维亚贸易、旅游和电信部出具关于不动产对于外国人的商业活动是否必要的意见）；③塞尔维亚和外国自然人或法律实体所属国家之间存在互惠关系。[①]

公证人有义务在公证外国人为当事方之一的不动产转让协议之前，检查外国人取得不动产的条件是否得到满足。

根据司法部网站上的公开信息，塞尔维亚和中国之间存在互惠关系，即中国自然人和法人可以在塞尔维亚取得不动产权。

然而，《农地法》明确排除了外国人获得农地所有权的可能性。这一限制预计在未来一段时间内将放松，至少将对欧盟公民放松——这是塞尔维亚在加入欧盟的谈判中承诺承担的义务。同时，外国人可通过设立一个塞尔维亚 SPV（通常是有限责任公司）来取得塞尔维亚农地的所有权，从而规避这一障碍。

（五）企业设立与解散

1. 企业形式

（1）概述

塞尔维亚的《公司法》规定了该国法律实体的地位。

① 如果塞尔维亚公民在取得不动产方面与外国人的国民受到平等对待，则存在互惠关系（例如，如果一项国际条约或外国法律保证塞尔维亚公民可以获得相应国家的不动产），或外国当局在实践中承认塞尔维亚公民有权取得不动产的所有权，则存在互惠关系。在塞尔维亚司法部网站上（仅有塞尔维亚文版本）公布了符合互惠要求的国家的指导性清单（但不是确定性的，即对于互惠的判断必须根据具体情况重新核对）。http://www.mpravde.gov.rs/tekst/3579/pravo-stranaca-da-sticu-nepokretnosti.php.

塞尔维亚法律承认四种类型的法律实体：普通合伙企业（o.d.–ortačko društvo）、有限合伙企业（k.d.–komanditno društvo）、有限责任公司（d.o.o. – društvo sa ograničenom odgovornošću）和股份公司（a.d.–akcionarsko društvo）。在实践中，由于注册要求低、法律形式简单以及股东可以灵活调整其在公司中的关系，外国投资者倾向于成立有限责任公司。

（2）普通合伙企业

普通合伙企业由两个或两个以上自然人 / 法人（合伙人）组成，合伙人就普通合伙企业对第三方所负债务承担无限个人责任。合伙人承担连带责任，且不得限制其对第三方的责任。合伙人可以以货币、实物、权利、劳务或服务向普通合伙企业出资。出资额没有最低或最高限额。

（3）有限合伙企业

有限合伙企业可由两个或两个以上自然人 / 法人组成。不同于普通合伙企业所有合伙人对合伙企业的债务承担个人责任，在有限合伙企业中，至少有一个合伙人（普通合伙人）必须对有限合伙企业的债务承担无限的个人责任，其他合伙人承担有限责任。有限合伙人的身份对第三方而言是可知的，因为有限合伙人必须在塞尔维亚商业登记机构（SBRA）管理的公司注册处注册。

（4）有限责任公司

在有限责任公司中，一个或多个股东在公司股本中各自拥有相应的股权 / 份额。股东拥有的股权 / 份额不必与其出资成比例。股东不对公司的债务承担责任，除非满足"揭开公司面纱"的条件。"公司面纱"在下列条件下可能被揭开，即股东在下列条件下可能须对公司债务承担责任：①利用公司从事法律禁止的事务；②将公司资产当做股东自身资产使用或处置；③利用公司或使用其资产来损害公司债权人的利益；④在股东知道或应当知道该公司将无法履行其义务的情况下，减少公司的资产，使自己或第三方获益。

有限责任公司的最低股本金额为 100 第纳尔（少于 1 欧元）。[①]

有限责任公司可以通过单层或双层结构进行组织管理。单层管理体系包括股东大会和一个或多个董事。在双层管理体系下，公司还设一个监事会，监督董事的表现。在股东独资的有限责任公司中，独资股东履行股东大会的职能。

（5）股份公司

股份公司股本由股份构成。股份公司的股东不就公司对第三方所负债务承担责任，除非满足"揭开公司面纱"的条件。股份公司的最低股本金额为 300 万第纳尔（约合 24 500 欧元）[②]，而单一股票的最低面值为 100 第纳尔。股东的出资可以是货币或实物。股份公司必须在注册前缴纳至少 25% 的注册资本。

股份公司的类型包括私人股份公司，或公众股份公司，即上市公司。

股份公司可以通过单层或双层结构进行组织管理。单层管理体系中，由董事组成董事会，而在双层管理体系中，管理层由执行委员会的执行董事组成，而监事会监督执行董事的工作。

（6）分公司和代表处

外国投资者也可以选择注册一个分支机构或代表处。这些形式不具有独立法律实体的地位，但被视为外国公司的独立组织单位。分支机构或代表处的设立人应对第三方承担责任。这两者都必须在 SBRA 的公司注册处注册。

分支机构代表其外国母公司进行交易，该外国母公司直接对该分支机构所缔结的交易中的义务承担责任。与分支机构不同，代表处除为满足其最低职能要求签订的诸如租约或劳动合同等之外，不具备签订协议的能力。其职能仅限于为外国设立人的利益从事市场研究和其他准备活动。

2. 设立程序

本部分仅介绍有限责任公司的设立程序，因为这是塞尔维亚最常见的公司形式。有限责任公司的成立包括：在 SBRA 注册，开设银行账户，以及向塞尔维亚税务局提交税务档案。

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① 根据《公司法》第 46 条，初始资本可以在有限责任公司注册之前支付，或在公司章程大纲制定后 5 年内支付。

② 其他法律规定了某些行业的例外情况。例如，在银行业内，根据《银行法》，银行的最低资本金为 1 000 万欧元。

（1）在 SBRA 注册

注册程序很简单，申请人正确提交了必要的文件后，注册程序需要 24 小时至最多 5 天。注册所需的文件包括：

① 设立人所在商业登记处的档案摘要，如设立人所在辖区内相关商业登记处的档案摘要里不包含塞尔维亚法律项下注册所要求的设立人信息，则需提供包含相关信息的其他文件。信息内容包括设立人的名称、注册地址、营业地、所有权结构和授权代表。该文件必须经过公证和认证（取决于公证的国家）；

② 经由被授权人签署的经过公证和认证（取决于公证的国家）的公司章程（Memorandum of Association）；

③ 有限责任公司提议的授权代表的身份证明文件复印件——护照（如果代表是外国人）或身份证（如果代表是塞尔维亚国民）；

④ 如设立人计划在注册前支付初始资本，需要提供塞尔维亚银行的证明，证明初始资本已缴付，在这种情况下，设立人需要以有限责任公司成立为目的开立临时银行账户；

⑤ 将 SBRA 提供的申请表填写完整；

⑥ 支付注册费的凭据：5 900 第纳尔（约 51 欧元）；如果这一设立程序由当地律师进行，需要授权当地律师签署相关文件的授权委托书。授权委托书必须经签署和公证，并根据公证的国家确定是否需要认证。

（2）开设永久性银行账户并向塞尔维亚税务局提交税务档案

成立后，有限责任公司必须在塞尔维亚的商业银行开立永久性银行账户。目前的经验表明，塞尔维亚银行执行严格的“了解您的客户”程序，这可能需要花费额外的时间。所耗时间长短取决于设立人的所有权结构，即如果结构不透明和/或复杂会多耗时间。因此，永久银行账户的开设可能需要几个月的时间。

在 SBRA 注册之后，有限责任公司有义务向塞尔维亚税务局提交税务档案所需的文件和企业所得税登记申请。增值税登记可以在 SBRA 的注册程序中进行。

3. 解散方式及要求

（1）概况

在塞尔维亚，公司的解散由《公司法》规定。整个程序被称之为清算，且若以该种方式退出，公司必须有足够的资产来满足其债权人的全部债权。因此，解散只适用于有偿付能力的公司。

公司在没有任何官方机构的协助下自行进行清算（至少是自愿清算[①]）。在解散期间，公司与当局的联系很少[②]，仅包括向商业登记处和财务报表登记处提交某些文件。

（2）清算人的角色和程序概述

在清算过程中，所有业务的决策权和责任都转移给清算人（通常是公司的前董事或其他法定代表），该清算人的任务是完成正在进行的业务并清算公司。清算人必须在清算开始时和最终清算结束时准备法律所要求的文件[③]，然后由股东大会通过。在清算开始时编制的文件的目的是确定公司是否有足够的资产满足所有债权人的债权要求，并确定这些债权人是谁，以及他们的债权要求有多高。[④]如果从这些文件中确定公司无力偿债（资产不能覆盖所负债务），清算人有法定义务向有管辖权的法院提出申请破产程序的请求。因此，一家公司如果考虑解散，则应该计算这种风险，并在预估其必须支付给相关债权人的债务总额时应当尽可能准确。

值得注意的一点是，在清算期间，公司不能向股东分红或转让任何财产，因为存在债权人的债权可能由于这种行为而受到损害的风险。

（3）完成清算并支付清算盈余

在清算结束时，清算人准备特定文件以说明整个清算过程是如何进行的，并确认所有债权人都已

① 与之相对的是对不履行法律规定义务的公司发起的非自愿解散。非自愿解散由 SBRA 执行。
② 除非是监管机构必须监督清算程序的情况，例如：金融机构的清算如银行、保险公司、租赁公司。
③ 包括财务报表。
④ 清算中的公司有义务记录所有已登记的债权要求，并制定一份已确认和有争议的债权要求清单。

获得清偿，并且该公司的剩余资产（如有）可以分配给其股东，即所谓的清算盈余。

作为解散目标，清算盈余的支付只能在所有债权人都已获得清偿并在对公司的所有诉讼程序均已终止时才能进行。这两点同时也是终止清算程序和从商业登记处注销公司的条件。但是，如果剩下的待决诉讼中，均是公司作为原告（在这种情况下，诉讼中所主张的债权将作为清算盈余的资产分配给股东），清算也可以完成。

清算人应在清算最终完成之前将清算盈余转移到股东的银行账户（不必是本国账户），即在公司在商业登记处注销之前完成。

公司从商业登记处注销 3 年内，可以要求股东对已清算的公司的债务承担责任。然而，他们的责任不仅在时间上有限，而且在金额上也有限——股东只在其收到的清算盈余的金额范围内承担责任。

在相同的 3 年期限内，债权人和股东可要求清算人对其履行清算职责期间所造成的损害负责。

（4）清算的中止

清算开始后，公司可以改变主意，决定不再清算。但是，一旦清算开始，只有在以下情形时，清算才可以中止：①公司已清偿其所有债权人（与其债权要求是否有争议无关）；②无劳动合同因清算而终止；③尚未向股东支付款项。

（5）结论

在塞尔维亚，公司的清算是一个由公司本身执行的相当简单的程序。其时间框架取决于每个案例的具体情况，但不能少于 6 个月。

公司清算流程简述
股东大会就开始清算作出决定（同时指定清算人）；
该决定在商业登记处登记并公开（90 天），连同清算通知和邀请债权人申报债权的公告也在商业登记处登记并公开；
清算人向所有已知债权人发出书面通知，邀请其申报债权（不晚于在工商登记处清算登记之日起 15 天）；
债权人可以在清算登记之日起的 120 天期限之内申报其债权；
清算人准备一份初步清算报告以及所有债权主张清单（承认或有争议的）；
在结算所有债权主张和完成对公司的诉讼程序后，股东大会通过清算完成的决定（连同通过清算余额分配决定，清算人关于所有债务均已清偿，并且没有针对该公司的未决诉讼的声明）；
相关文件提交商业登记处且公司从商业登记处删除；
清算人提交最终报税表并获得税务证书来确认公司的所有负债已经作为前提条件清偿；
清算盈余转移给股东。

（六）合并收购

外国投资者（自然人和法人）取得塞尔维亚公司的股份的条件与塞尔维亚投资者的条件相同。

某些行业（例如银行、租赁、保险、媒体、电信、博彩等）的兼并和收购受特定行业法规规制，该类法规规定了取得目标公司一定百分比的股份所需的监管批准。例如，在银行领域，直接或间接收购一家银行的 5%、20%、33% 和超过 50% 的投票权需要分别取得 NBS 的事先批准。

在塞尔维亚最常见的并购目标公司是有限责任公司和股份公司。

（1）有限责任公司的股权出售

有限责任公司股权的出售受限于有限责任公司中其他股东的法定优先认购权（right of first refusal），除非有限责任公司的公司章程中另有规定。为取得目标有限责任公司的股权，股权出售方必须取得有限责任公司的其他股东对其股权的出售同意或对优先购买权的放弃。转让还需要遵守公司章程中有关的限制性规定。

（2）股份公司的股权出售

非上市股份公司的股份转让一般不受限制，但有可能根据股份公司的公司章程约定受到限制或增

加额外义务，例如其他股东的优先认购权、要求获得目标公司的事先同意、跟随权（tag-along rights）和强卖权（drag-along rights）等。

如果目标公司是上市公司，且①连续 3 个月中每月的最后一天该公司股东数均超过 100 个，且②该公司注册资本超过 300 万欧元，则相关程序受《股份公司收购法》（Takeover of Joint Stock Companies Act）规制，其中规定了收购目标公司股份的详细规则。如果投资者单独或与其关联方一起直接或间接收购上市公司的股份，导致该投资者将单独或与其关联方一起持有超过 25% 的有表决权的股份，则投资者有义务发起收购要约（强制性出价要约）。如果投资者打算收购目标公司不足 25% 的有投票权的股份，投资者可以但不是必须发起自愿收购要约。但是，一旦自愿收购要约启动，就不能撤销。自愿收购要约可以投资者打算购买的最低股份数为条件。

（3）国有公司的收购

收购国有公司受《私有化法》（Privatization Act）规制。私有化法规定了四种私有化模式：

① 出售资产；

② 出售资本；

③ 战略伙伴关系；

④ 无偿转让股份（在战略伙伴关系模式下，如果取得了积极的业务成果，政府可无偿授予战略合伙伙伴股份的所有权）。

出售股份或资本的程序由经济部（Ministry of Economy）发起，经济部组织公开招标，让感兴趣的买家投标。在公开招标之后，投标被接受的投标人在公开拍卖程序中进一步竞争。在拍卖会上提出最高拍卖价的投标人将被经济部宣布为买方，并被邀请签署私有化（销售和购买）协议。收购资产 / 股份的条款和条件是不可协商的，除非被出售的国有公司的资产 / 资本被宣布具有战略重要性或营业额超过 500 亿第纳尔（约 4 亿欧元）。

新的《私有化法》所规制的战略伙伴关系模式迄今尚未经过实践检验。这种模式下的第一个私有化正在进行中（国有药品制造商 Galenika 公司的私有化）。战略合作伙伴关系可以表现：①由战略合作伙伴和塞尔维亚政府建立新的合资企业公司；②由战略合作伙伴对现有的国有公司增资。该程序由经济部公开招标管理，有兴趣的投资者可以投标。在提交投标书后，政府根据其委任的特别委员会的建议，宣布排名第一和第二的投标人（以便应对排名第一的投标人没有参加缔结协定的谈判）。经济部邀请排名第一的投标人在政府宣布排名之日起 90 天内与特别委员会进行谈判，以缔结战略伙伴关系协议。根据谈判和特别委员会的报告，政府作出缔结战略伙伴关系协定的决定。

（七）竞争管制

1. 竞争管制主管机构

（1）保护竞争委员会（Commission for the Protection of Competition）

保护竞争委员会（CPC）是被授权执行竞争法规的独立行政机构，前述法规包括有关兼并管制、滥用市场支配地位和限制性协议的规则。2006 年，CPC 开始运行；此后，CPC 快速扩大机构职能，在执行竞争法规方面也日益活跃。

（2）国家援助管理委员会（State Aid Control Commission）

国家援助管理委员会（SACC）负责执行国家援助规则。SACC 是由政府根据各部委和 CPC 的提名组成的，因此它并非一个完全独立的机构。SACC 成立于 2010 年，目前为止，该委员会的活跃度一般。

2. 竞争法概况

（1）《竞争法》（The Competition Act）

《竞争法》是规范竞争和反垄断的主要法规。其主要实质性条款涵盖对限制性协议、兼并管制和滥用市场支配地位的规制。该法以欧盟竞争法规为模板制定。

（2）《国家援助管理法》（The State Aid Control Act）

《国家援助管理法》是建立国家援助管理框架的核心立法。其关于国家援助概念和授予援助程序的实质性条款与欧盟国家援助规则保持一致。

（3）特定部门的法律

部门监管法律涵盖了具体的竞争方面。具体而言，关于电子通信、能源和媒体的法律包含了规范反垄断和竞争的规定，而关于农业和渔业的法律规定了特殊的国家援助规则。

（4）国际渊源

《塞尔维亚和欧盟之间的稳定与结盟协定》（The Stabilisation and Association Agreement，以下简称“SAA”）于2013年生效。SAA包含实质性竞争和国家援助的规定，并要求塞尔维亚进一步将其法律规则与欧盟法规协调一致。实际上，当一个问题受到国内规则的规制不足时，CPC和SACC可能会从欧盟相关法律寻求指导。

（5）实施细则

政府对《竞争法》和《国家援助管理法》的适用制定了具有法律约束力的规定。

在竞争领域，目前为止已经通过了几项“集体豁免”的法令，规定了限制性协议在一定条件下可以享受安全港待遇且不必须通知CPC，以及规定了罚款、宽恕程序、相关市场定义、集中通知，以及个案豁免的申请。

出于国家援助目的，塞尔维亚通过了规定授予国家援助的法令，以及规定通知国家援助的程序的法令。

（6）软法

CPC颁布了数项关于《竞争法》适用的指导方针、指引和意见。虽然这些文件对公司没有法律约束力，但CPC已经确认其应当适用。

（7）判例

CPC和SACC不受其先前决定的法律约束。然而，公司可以合理预期，CPC和SACC将根据其先前的判例行事，除非法院在司法诉讼中推翻了该案例。

3. 竞争管制措施

（1）反垄断和竞争

由于塞尔维亚从计划经济过渡到市场经济不久，其竞争法规的历史也相对较短。2005年塞尔维亚开始适用现代竞争规则，但直到2009年才颁布现行的《竞争保护法》（Act on the Protection of Competition，以下简称《竞争法》）。因为计划加入欧盟并且已于2011年成为候选国，塞尔维亚参照欧盟竞争法规制定了本国的竞争法规。

塞尔维亚竞争法的主要构成包括禁止限制性协议、禁止滥用市场支配地位和兼并管制。对于不遵守竞争规则的公司，CPC可处以罚款，数额高达被惩罚公司在调查开始前一年在塞尔维亚的年度营业额的10%。

① 限制竞争协议

内容严重限制、扭曲或妨碍塞尔维亚市场内竞争的协议是被禁止且无效的。约定价格垄断与市场分配的协议是限制性协议，毫无疑问是被禁止的。与之相似，竞争者之间关于限制生产、限制供应或共享供应来源的卡特尔式安排也被认定为限制竞争协议。其他限制竞争性协议若属于以下例外之一，可取得豁免：

- 根据《竞争法》，当事人在塞尔维亚相关市场上的市场份额可以忽略不计的（所谓的“次要协议”）；
- 该协议符合政府通过的相关领域豁免法令所规定的“集体豁免”的规定；
- 协议订立之前当事方就已获得CPC的单独豁免。

② 滥用市场支配地位

《竞争法》禁止有市场支配地位的公司滥用市场权力。支配地位不能是假定的，意味着在任何情况下，CPC必须首先证明一家公司是具有市场支配地位的。滥用的例子包括：收取过高的价格，限制生产，拒绝供应，以及通过倾销价格、设定特许折扣或捆绑产品从而挤压竞争对手。

③ 兼并管制

塞尔维亚兼并管制规则规范三种类型的交易（集中）：

• 兼并和其他状况的变化导致发生企业收购；

• 由下述企业实施的兼并行为：一个（单独控制）或多个（共同控制）直接或间接控制其他企业，或可被视为独立商业单位的企业的一部分；

• 设立合资企业或取得对既存企业的共同控制，长期履行独立企业的职能。

在执行任何上述交易之前，若当事人在交易发生前一年满足下述两种营业额门槛之一，则必须向CPC申报这些交易：

• 至少一方在塞尔维亚的营业额超过1 000万欧元的情况下，交易各方的全球营业额超过1亿欧元；

• 至少一方的塞尔维亚营业额超过100万欧元的情况下，交易中至少两方在塞尔维亚的总营业额超过2 000万欧元。

营业额门槛不适用于通过公开招标程序对塞尔维亚注册的股份公司的收购。CPC的立场是，一旦达到并购门槛时相关交易方就应履行申报义务。这意味着外国对外国交易尽管在塞尔维亚没有实质性影响也应该进行申报。

该交易必须在以下任何一种情况发生后的15天内进行申报：①缔结协议；②公开招标的宣布或结束；③控制权的获得。如果交易双方表现出确定的意图，如签署谅解备忘录或者宣布有意进行投标，交易双方可以提前向CPC申报相关交易。

申报将暂停交易，直到CPC发布声明决定，但收购要约可以受限于相关条件的情况下继续进行。

（2）国家援助

目前的监管性的和机构性的国家援助管理框架建立于2010年。塞尔维亚国家援助法规是参照欧盟国家援助法规制定的，虽然存在明显的差异，特别是关于私有化过程中的企业的剥离和对国有企业的处理方面。预期未来将会与欧盟法律进一步协调一致。

根据塞尔维亚法规，国家援助是指公司从公共资源中选择性地取得的任何利益，这种利益的取得将影响或可能影响市场上的竞争。除非国家援助符合旨在实现特定政策目标而规定的例外情况，并由SACC批准，否则国家援助是非法的。

任何国家援助必须由援助授予人在授予援助之前通知SACC。塞尔维亚国家援助规则规定，国家援助可以作为个别援助或作为“国家援助计划”上报。国家援助计划是一项法律规定，规定了提供援助的条件。如果该计划被批准，根据该计划向具体受益人发放的援助则不需要再单独通知。

如果国家援助未经许可直接发放，则SACC可以开展调查，命令暂停援助，并根据国家援助规则收回援助及利息。

（八）税收

1. 税收体系与制度

大多数税收由政府通过财政部下辖的税务局管理，由当地政府所收的财产税（和其他准财政税）除外。

除了国内法律框架外，塞尔维亚还与54个国家签订了避免双重征税条约（根据《经合组织示范税务公约》，即OECD Model Tax Convention）。避免双重征税条约直接适用于塞尔维亚，其法律效力优先于塞尔维亚国内税法关于双重征税事项的规定。

（1）法律法规

①个人所得税法（Personal Income Tax Act）；

②公司所得税法（Corporate Income Tax Act）；

③增值税法（Value Added Tax Act）；

④税务程序和税务管理法（Act on Tax Procedure and Tax Administration）；

⑤财产税法（Property Taxes Act）；

⑥消费税法（Excise Duty Act）；

⑦关税法（Customs Act）；

⑧地方自治融资法（Local Self-Government Financing Act）；

⑨非人寿保险费税法（Act on Taxation of Non-Life Insurance Premiums）。

（2）一般规定

税务年度与日历年相一致，除非纳税人选择了不同的纳税年度。

税务责任的法定时效为5年，但是，塞尔维亚税务机关为了确定税务责任而对纳税人采取的任何行动将取消该时效的限制（甚至是税务机关提供给纳税人的应缴税款通知也被认为足以取消该时效限制）。所有税务责任的绝对法定时效期限为10年，除了养老金和伤残保险缴费外。法定时效的有效期从相关税收到期当年之后的一年的第一天起算。

塞尔维亚税务局以办公室管理和现场管理的形式进行税务审计。办公室管理主要检查纳税申报单和其他相关文件中提供的数据，而现场管理则在纳税人的营业场所进行。

当纳税人未能在法定期限内提交纳税申报单、计算和/或缴税时，可以对其处以罚款。税务罚款最高可达所欠税款的100%，加上固定罚款金额及利息。

2. 主要税赋与税率

税种	税率
增值税	标准税率：20% 较低税率：10%和零
企业所得税	统一税率：15%
对非居民的付款预扣税（除非在适用的避免双重税收协定中另有规定）	股息、利润份额、特许权使用费、利息收入、房地产和其他资产的租赁付款、在塞尔维亚提供或使用的服务的服务费：20% 向优惠税率辖区（如避税天堂）的非居民支付特许权使用费、利息收入、房地产和其他资产租赁付款以及服务费：25%
对非居民的付款预扣税（除非在适用的避免双重税收协定中另有规定）	根据塞尔维亚—中国避免双重征税协定： 股息：5% 利息和特许权使用费：10%
非居民资本利得税	除非在适用的避免双重征税协定中另有规定：20%
个人所得税	工资：10% 资本收入：15% 其他收入：20%
年度所得税（自然人）	分别为10%和15%（10%适用于塞尔维亚年收入6年平均年薪，而15%适用于超过该门槛的收入）
财产税	个人：基于不动产价值计算的累进税率为0.4%至2%。0.4%税率适用于1 000万第纳尔以下的价值。高于该限额的价值部分适用0.6%（超过1 000万第纳尔）、1%（超过2 500万第纳尔）和2%（超过5 000万第纳尔）的税率 公司：统一费率，根据资产所在的城市不同，最高为不动产价值的0.4%
社会保障缴款	个人：19.9% 雇主：17.9% 社会保障基金基数的最高限额为塞尔维亚的5年平均年薪

3. 纳税申报与优惠

在规定期限（从税务年度结束起的180天内），公司纳税人有义务准备和提交纳税申报单以及其他必要的文件。纳税人有义务在纳税申报单中的期间内计算其纳税义务。如果纳税人没有在法定期限内提交纳税申报单，或报税不正确，塞尔维亚税务机关可以核定税务责任。塞尔维亚税务机关签发税务核定后，纳税人可以提出申诉。但是，申诉不会延迟被上诉事项的执行。

（九）证券交易

1. 证券法律法规概况

《资本市场法》（Capital Market Act）规定了金融工具的发行和提供。金融工具的定义包括可转让证

券、货币市场工具、集体投资基金、期权、期货、掉期、远期和其他衍生工具。该法律还进一步规定：对市场的监督和管理；投资公司（股票交易商和托管银行）的设立和许可条件；以及上市公司的报告要求。在每个领域，监管机构（即证券委员会）制定了一系列实施细则，阐述法律中的规定。《收购法》（Takeover Act）规定了强制收购要约的触发条件和程序——即投资者收购的有投票权股份的百分比在目标公司中达到25%时，该投资者应当发出收购要约。该《收购法》进一步规定了发起收购要约义务的例外情况（即在破产、兼并、私有化情况下的收购等），确定收购要约中的收购价格，自愿收购要约，“一致行动”（acting in concert）的概念等。此外，根据《收购法》的规定，除少数例外情况，自愿收购要约所适用的条件与强制性收购要约一致。《投资基金法》（Investment Funds Act）规定了投资基金管理公司的从业和寻求业务的条件。这些基金经理人必须向证券委员会申请在塞尔维亚境内开展业务的授权。

2. 证券市场的监管

塞尔维亚国内证券市场由证券委员会监管。证券委员会有权根据《资本市场法》制定实施细则，进一步确定其行使监管权力的方式并开展其他活动。

3. 外资企业参与证券交易的要求

若要在塞尔维亚境内提供投资服务，则必须获得证券委员会的授权。投资服务由《资本市场法》定义，其中包括：一个或多个金融工具订单的接收和传送；代表客户执行订单；自营交易（dealing on own account）等。外国投资公司必须在塞尔维亚境内设立子公司，以提供上述投资服务。未经授权提供受管制服务将触犯刑法，可处3年以下有期徒刑并处罚金。

《外汇法》（Foreign Exchange Act）允许满足《资本市场法》规定条件的非塞尔维亚居民购买国内股本和长期债券。除另有要求外，外国企业需要聘请当地投资公司代表其执行订单。非塞尔维亚居民不允许购买塞尔维亚国内短期证券。

（十）投资优惠及保护

1. 优惠政策框架

（1）政府津贴

根据《招商引资法令》的规定，对于在生产领域中的投资项目，当其受认可的成本至少达到15万欧元、30万欧元或者60万欧元，并且为塞尔维亚国民带来20、30、40或50个新的无固定期限的全职就业机会时，有资格获得津贴。《招商引资法令》根据城市的发展水平将其划分为四类，具体情况的适用标准取决于项目的位置。东道市的发展水平越低，对其投资金额和提供就业岗位数量的要求就越低。另一方面，对于在服务业领域的投资项目，当其受认可的成本至少达到15万欧元，且带来15个或其以上的新就业岗位时，有资格获得津贴。

受到津贴的投资项目必须在与国家签订津贴协议之后的3年之内完成。经由政府下辖的经济发展委员会批准后，该期限最长可延至5年。对塞尔维亚经济具有重要意义，或3年内投资总额达到2 000万欧元，或5年内带来500个就业岗位，或基于双边或跨境合作条约开展的投资项目，可被视为具有战略意义，将获得更长的期限（3年或5年，最长可延长至10年）。

《招商引资法令》根据受益人公司规模，将公司分为大、中、小型，相对应的规定了其津贴的上限，分别为其受认可的投资成本的50%、60%或70%。针对具有“战略重要性”的投资项目，其上限另有规定。此外，接受方还可取得无须退还的津贴用于支付新雇员的工资。同样，具体的津贴的实际总额将取决于投资项目的地理位置。

值得注意的是，依据《招商引资法令》的规定，只有在塞尔维亚注册的公司，不论其拥有本国或者外国资本，才有资格享受津贴。

（2）国家就业服务津贴

国家就业服务津贴包括就业补贴计划、学徒计划和雇员再培训计划。

（3）财政优惠

投资者可享受多种财政优惠措施。这些财政优惠措施包括：授予公司利润税的免税期、减少结转

损失的可能性、避免双重征税、大幅度减免税费和其他基于薪金净额所支付的费用、减少年度所得税，以及数种因地制宜的地方奖励措施（例如，费用的豁免和减少）。另外，根据该法令，除客车以及用于娱乐和赌博的设备外，对于构成外国投资者投资出资的设备的进出口，免于征收关税和其他进口税项。《招商引资法令》规定，如果受益人接受了该法令中所规定的优惠，进口作为实物出资的设备将免于缴纳关税。但这种设备的机龄不得大于3年，且在3年内不得转售。

（4）建设用地流转补贴

国家或地方政府有权以低于市场售价的价格出售其各自拥有的建设用地，分别用以支持具有国家重要性或促进地方经济发展的投资项目。

2. 特定行业与地区鼓励

国家对于外国投资者的支持集中在两类行业。

首先是制造业。不包括交通运输、能源、零售、酒店业、公共事业服务、博彩业和已受补贴的行业（例如，渔业和农业），且排除涉及生产合成纤维产品、煤、钢以及烟草制品、武器和弹药、宽带网络建设和造船的项目。

其次，以出口为导向、以电子方式提供的服务行业。例如，软件开发、数据存储和处理、物流、客户和项目中心以及同类其他产业。

政府通过降低申请国家优惠所需的门槛来鼓励投资者投资舒马迪亚和西塞尔维亚以及东南塞尔维亚的欠发达地区。

3. 特殊经济区域

（1）工业区

多个地方政府提供了在指定工业区内进行经营的机会。这类工业区也为投资者提供了一定的便利，例如，获取土地的简化程序、有利的地理位置和现成可用的基础设施。另外，其中的14个工业区也是免税区（见下文）。

（2）免税区

免税区位于塞尔维亚共和国境内的特定区域。其中进行的各种活动均享受诸多商业优惠。例如，财政优惠（豁免于任何外商直接投资的税负、增值税和特定地方税）、关税优惠（豁免针对进口货物、用于出口产品生产的机器设备及原材料、用于基础设施建设材料的关税）、财务便利（自由的现金流）、高效的行政管理（一站式）、简单而迅速的通关程序（每个免税区有一个海关行政办公室）、使用免税区基础设施所得的地方性补贴以及大量服务的优惠条件（运输、装载、重装、货运代理服务、保险与银行服务）。目前，塞尔维亚有14个免税区。

4. 投资保护

（1）征收征用保护

投资法规定，投资者通过投资获得的权利享有充分的法律保护。在征收的情况下，投资者有权因其不动产被占用，以及其他任何因此所致的潜在商业贬值获得赔偿。同样，根据中华人民共和国政府和南斯拉夫联盟共和国之间关于互惠鼓励和投资保护的协议（以下简称“双边投资协议”）的规定，除非基于涉及缔约方的内部需要相关的公共目的且基于合理补偿外（即，按照投资项目被征收前的市场价值进行补偿，包括利息），在任一缔约方境内的另一缔约方的投资不得被征用、国有化或受到与征用、国有化有同等效应的措施。

（2）冲突损失保护

双边投资协议规定，在塞尔维亚境内，中国投资者应当始终被公平对待和被给予公正待遇，同时应当受到充分的保护和安全保障。在塞尔维亚境内因战争或者其他武装冲突、国家紧急状态、反叛、暴动或暴乱而遭受损失的中国投资者应当被给予不低于塞尔维亚给予任何第三国的赔偿待遇。

（3）投资者申请的优先权

政府当局有义务将投资者的申请作为优先事项对待。这实际上意味着，若政府当局（除竞争保护委员会）对于投资者完整及时的投资申请，未能按规定作出批准的，申请者可向塞尔维亚发展局主张权利。作为提高与投资者申请相关行政程序效率的附加机制，法律规定，如果公职人员不能及时对

项完整的申请作出决定，将受到最高为 15 000 第纳尔（约 1 300 欧元）的罚款。

三、贸易

（一）贸易监督部门

在塞尔维亚共和国，实施贸易立法的主管部门是贸易、旅游和电信部（以下简称“贸管部”）。在贸管部的组织结构内，贸易、服务和竞争政策部、消费者保护部和市场检查部有权监督贸易立法的实施。

（二）贸易法律法规简介

这一领域的主要立法是《贸易法》(Zakon o trgovini, Official Gazette of RS, no. 53/2010 and 10/2013)。除此项法律之外，塞尔维亚共和国还有其他几项现行有效的法律规定了贸易的各个方面，其中比较重要、值得一提的有以下几项：

①《电子贸易法》(Zakon o elektronskoj trgovini, Official Gazette of RS, no. 41/2009 and 95/2013);

②《产品一般安全法》(Zakon o opštcj bezbednosti proizvoda, Official Gazette of RS, no. 41/2009);

③《对外贸易法》(Zakon o spoljnotrgovinskom poslovanju, Official Gazette of RS, no. 36/2009, 36/2011 –other law, 88/2011 and 89/2015 – other law);

④《消费者保护法》((Zakon o zaštiti potrošača, Official Gazette of RS, no. 62/2014 and 6/2016 – other law);

⑤《竞争法》(Zakon o zaštiti konkurencije, Official Gazette of RS, no. 51/2009 and 95/2013);

⑥《检查监督法》(Zakon o inspekcijskom nadzoru, Official Gazette of RS, no. 36/2015)。

此外，根据上述法律制定的许多次级法，更详细地规定了具体的贸易相关事项，可通过以下链接检索到这些立法（只有塞尔维亚语）：http://mtt.gov.rs/dokumenti/#подзаконски-акти.

（三）贸易管理

1. 贸易的一般要求和不正当竞争

《贸易法》规定了开展贸易活动的一般要求，如最低限度的技术条件、贸易地点、价格标示要求、产品标签、销售激励，以及在不公平竞争情况下的贸易保护。

值得一提的要求之一是贸易商的住所。也就是说，外国法律实体若要在塞尔维亚市场上活动，就必须在塞尔维亚国内设立一个公司、代表处或分支机构，或者聘用塞尔维亚国内的分销商。

此外，进入塞尔维亚零售市场的所有产品都应含有塞尔维亚语的声明，例如，应张贴或以其他方式附有标签，标签上至少包含关于货物名称和类型、内容和数量的信息，以及依据相关规定和货物性质需要注明的其他信息，特别是制造商、生产或进口国、生产日期、保质期、进口商、质量（等级）以及对货物的潜在危险或有害性的提示等信息尤其要注明。应该注意的是，在进口产品时不需要贴标签，而在产品进入零售市场的那一刻就要求有标签标识。因此，分销商或进口商（如果他们不是同一实体）而不是制造商需要负责贴这种标签。但是，制造商将负责确保进口的产品附有符合产品安全要求的文件、说明书、手册和其他要求的文件，并要有合格标记。需要的文件类型取决于所适用的技术标准和对其产品的相关要求。

还需要注意的是，《贸易法》为贸易商提供了一个特殊工具——不正当竞争之讼。法律实体在其商业信誉受到损害时，例如诽谤性言论，可以提出诉讼，要求侵权人赔偿有形和无形损失，并要求将诽谤性言论定性为不公平竞争，禁止该行为，并消除影响。

2. 电子贸易和消费者保护

塞尔维亚的电子贸易由《电子贸易法》规范。然而，它仅适用于信息社会服务者，即在塞尔维亚注册的《贸易法》中所称的贸易商。他们应服务使用者的要求，通过用于处理和储存数据的电子设备，远距离地为使用者提供有偿（通常情况下）服务。他们的服务主要包括通过互联网进行的贸易，也包

括通过互联网提供信息和广告。这意味着该法律不适用于在塞尔维亚境外注册的在线贸易商。

然而，《消费者保护法》的规定是强制性的，适用于所有贸易商，不论其管辖法或住所。因此，该法关于缔结远距离协议的最低法律要求、在缔结这些协议之前提供必要信息、塞尔维亚法院在消费者保护纠纷中的强制管辖权等事项的规定均适用。

塞尔维亚的电子贸易仍然没能全面运作，原因是关于电子商务和金融交易的相关规定缺乏立法解决方案的支持。例如这就是为什么 PayPal 只能部分启用，即只能向国外付款，而不能在塞尔维亚境内接收付款。

（四）进出口商品检验检疫

塞尔维亚共和国的立法没有详细规定进出口商品检验。也就是说，《海关法》只对海关当局进行了一般授权：在特定情况下海关可采取他们认为必要的所有的海关管制措施，这些海关管制措施包括商品检验、抽样，核实声明中提供的信息，检查文件的真实性，检查商业实体的账目和其他记录，检查车辆、乘客的行李或人员随身携带的其他商品，以及其他类似的行为。

另一方面，有许多次级法规定了不同类型商品的海关处理办法。例如，《关于受兽医和卫生控制的货物以及在边境口岸进行货物的兽医—卫生检查的方式的规则手册》(Pravilnik o vrstama pošiljaka koje podležu veterinarsko-sanitarnoj kontroli i o načinu obavljanja veterinarsko-sanitarnog pregleda pošiljki na graničnim prelazima, Official Gazette of RS, no. 56/10)，制定了与进口的动物来源产品、动物来源食品、动物饲料、动物来源副产品和相关物品有关的海关管制办法。以下链接提供了完整的法规列表（仅限塞尔维亚语）：http://www.upravacarina.rs/cyr/Informacije/Stranice/Propisi.aspx。

（五）海关管理

1. 适用法律法规和国际协定概述

（1）《海关法》

塞尔维亚当前的《海关法》，于 2010 年 4 月 3 日颁布，并在 2012 年和 2015 年先后修订了两次。虽然海关程序规定都应遵循该法，但目前海关当局仍主要适用之前的《海关法》(Carniski zakon, Official Gazette of the Republic of Serbia, No 73/2003, 61/2005, 85/2005, 62/2006, 63/2006, 9/2010 and 18/2010)。

（2）海关税则

塞尔维亚海关关税税则每年与“欧盟联合命名办法”协调一致。目前塞尔维亚适用的是于 12 月 31 日在“官方公报”上公布的海关税则，有效期为 2016 年全年。

（3）自由贸易协定

塞尔维亚与下列实体 / 国家签订了自由贸易协定：

① 关于贸易和贸易相关事项的临时协定，以及与欧盟成员国签订的稳定与结盟协定（SAA）；

② 与阿尔巴尼亚、波斯尼亚和黑塞哥维那、马其顿、摩尔多瓦、黑山、塞尔维亚和科索沃特派团签订的中欧自由贸易协定（CEFTA）；

③ 俄罗斯 / 白俄罗斯 / 哈萨克斯坦（2010 年 10 月）；

④ 土耳其；

⑤ 由冰岛、列支敦士登、挪威和瑞士组成的欧洲自由贸易联盟（EFTA）。

（4）海关合作双边协定

值得注意的是，塞尔维亚与 26 个国家签订了有关海关事务的双边合作协议，其中包括中华人民共和国。也就是说，前南斯拉夫社会主义联邦共和国和中华人民共和国之间缔结的双边协定于 1989 年 9 月 1 日生效，而塞尔维亚共和国作为南斯拉夫的法律继承国，接受并承认南斯拉夫和中国在 1955 年至 1992 年期间签订的所有双边协定的效力。

2. 海关管理和程序

进入或离开塞尔维亚共和国关税区的所有货物必须通过海关过境点，即进口、出口和过境的货物、

人员和车辆的指定海关检查点。进口货物的人必须向海关当局报告，并立即将货物运到海关或海关指定的其他地点。在交货和签发报关单前，须经海关审批，包括对货物进行检查、抽样，以确定其是否已按照海关批准的办法处理或使用相应货物。交付给海关当局的货物也必须要在交付后立即发出的汇总报关单中注明。

除了国家标准的汇总报关单，《国际路运公约》规定的文件、《关于货物暂准进口的 ATA 报关单证册海关公约》规定的文件、标准国际文件（唯一的海关文件）（塞尔维亚语：jedinstvena carinska isprava，JCI）和海关价值申报单（DCV）也可用于海关程序中。

需要经过海关审查批准的货物必须在申报单中载明，即申报人必须在将货物投入自由流通环节前，向海关提交请求，以获得其批准。

塞尔维亚共和国的海关制度规定了以下类别的海关审批程序：

①货物进入自由流通环节；

②过境；

③海关仓库；

④内向加工；

⑤海关控制下的加工；

⑥临时进口；

⑦外发加工；

⑧出口。

3. 统计数据

中国多年来一直是塞尔维亚最重要的对外贸易和金融合作伙伴之一。

2015 年，在塞尔维亚出口产品的 168 个市场中，中国排在第 43 位，而在塞尔维亚进口产品的 201 个国家中，中国排名第 4。2015 年，中国占塞尔维亚出口总额的 0.1%，占进口总额的 7.3%，其价值体现为以下数额：塞尔维亚对中国的出口额为 2 080 万美元，塞尔维亚对中国的进口额高达 16 亿美元。[①]

四、劳动

（一）劳动法律法规简介

以下法律适用于雇员：

①《劳动法》(Zakon o radu, Official Gazette of the Republic of Serbia no. 24/05, 61/05, 54/09, 32/13 and 75/14);

②《外国人就业法》(Zakon o zapošljavanju stranaca, Official Gazette of the Republic of Serbia no. 128/14);

③《工作安全与健康法》(Zakon o bezbednosti i zdravlju na radu, Official Gazette of the Republic of Serbia no. 101/05 and 91/15);

④《强制性社会保险缴款法》(Zakon o doprinosima za obavezno socijalno osiguranje, Official Gazette of the Republic of Serbia no. 84/2004, 61/2005, 62/2006, 5/2009, 52/2011, 101/2011, 7/2012 - Adjusted dinar amount, 8/2013 - Adjusted dinar amount, 47/2013, 108/2013, 6/2014 - Adjusted dinar amount, 57/2014, 68/2014 – other law, 5/2015 - Adjusted dinar amount, 112/2015 and 5/2016 - Adjusted dinar amount);

⑤《就业与失业保险法》(Zakon o zapošljavanju i osiguranju za slučaj nezaposlenosti, Official Gazette of the Republic of Serbia no. 36/2009, 88/2010 and 38/2015);

⑥《养老金与残疾人保险法》(Zakon o penzijskom i invalidskom osiguranju, Official Gazette of the Republic of Serbia no. 34/2003, 64/2004 - decision of CC, 84/2004 – other law, 85/2005, 101/2005 – other law, 63/2006 - decision of CC, 5/2009, 107/2009, 101/2010, 93/2012, 62/2013, 108/2013, 75/2014 and 142/2014);

⑦《个人所得税法》(Zakon o porezu na dohodak građana, Official Gazette of the Republic of Serbia no. 24/2001, 80/2002, 80/2002 – other law, 135/2004, 62/2006, 65/2006 - Corrigendum, 31/2009, 44/2009,

① 参见塞尔维亚商会（Serbian Chamber of Commerce）官方网站公布的信息（http://pks.rs/MSaradnja.aspx?id=73&p=1&pp=2&）。

18/2010, 50/2011, 91/2011 – decision of CC, 7/2012 - Adjusted dinar amount, 93/2012, 114/2012 - decision of CC, 8/2013 - Adjusted dinar amount, 47/2013, 48/2013 - Corrigendum, 108/2013, 6/2014 - Adjusted dinar amount, 57/2014, 68/2014 – other law, 5/2015 - Adjusted dinar amount, 112/2015 and 5/2016 - Adjusted dinar amount)。

该领域最重要的立法是《劳动法》。该法规定了源于雇佣行为的劳动权利、劳动义务和劳动责任。

（二）雇佣外国劳动者的要求

1. 工作许可证

《外国人就业法》承认两种一般类型的工作许可证：个人工作许可证与工作许可证。个人工作许可证可根据个人的要求发给外国人，并允许外国人签订劳动合同、个体经营以及在失业的情况下行使权利。这种许可证发放给持有永久居留许可证的外国人 、难民和某些特殊类别的外国人。此外，在一定条件下，也可以为家庭团聚发放个人工作许可证。工作许可证则根据雇主的要求发放（除个体经营工作许可证外），并且有三种不同类型的工作许可证：①就业工作许可证；②个体经营工作许可证；③特殊情况工作许可证。外国人只能从事他取得工作许可证的工作。上述所有工作许可证对于所需的文件和必须满足的条件有特定的程序。

2. 申请程序

工作许可证根据雇主的要求发放（个体经营工作许可证除外）。获得工作许可的基本条件是经本人要求，已取得临时居留权。

《外国人就业法》对于就业工作许可证的发放有一定的限制，规定就业工作许可证只有在一定的条件下才可向雇主发放，如雇主在申请工作许可证前没有因为人员冗余而解雇雇主申请工作许可证所对应的岗位的任何员工、抑或雇主在塞尔维亚公民、持有个人工作许可证的个人或在申请工作许可证前1个月内能够自由进入塞尔维亚劳动力市场的人员中找不到合适的员工等。

此外，塞尔维亚还通过引入所谓的配额制度规定了与外国人建立劳动关系的限制条件，即限制发给外国人工作许可证的数量 。

申请的行政费用金额约为100欧元。

时间为30天。就业工作许可证的期限为临时居留权期限，可以续期。其他工作许可证期限与之相似，直到临时居留权期满或满1年为止。

3. 社会保险

每个员工都有社会保险，包括健康保险、养老保险、残疾保险和失业保险。社会保险的缴款是强制性的，征税依据是员工的注册收入。税率如下：

① 强制性养老金和残疾保险：雇员需支付14%，雇主需支付12%；

② 强制性的健康保险：雇员和雇主都需支付5.15%；

③ 失业保险：雇员和雇主都需支付0.75%。

（三）出入境

1. 签证类型

希望在塞尔维亚工作的外国人必须获得临时居留许可证（ D型签证）。在提交申请时，必须同时提交下列文件到内政部：

① 两张照片；

② 白卡（到达登记卡）的复印件；

③ 护照复印件；

④ 保证信；

⑤ 劳动合同的复印件；

⑥ 从塞尔维亚企业注册代理处取得的需递交给雇主的摘录；

⑦ 行政费用支付证明。

D 型签证的行政费用约为 150 欧元。

时间为 30 天。需要指出的是，在提交临时居留许可证申请期间，外国人的实际居住是必要的。临时居留许可证的期限最多为 1 年，可以续期。

2. 出入境限制

《外国人法》承认非法入境的情形以及可以拒绝外国人入境的情形。此外，该立法规定了对跨越国家边界的非法行为的惩罚。

(四) 工会和劳动组织

工会组织在塞尔维亚高度发达，有超过 25 000 家注册工会。需要强调的是，大多数工会是在公共部门或在公共公司注册的，而在私营部门的工会不太引人注目。工会有权从雇主处获知雇员或工会成员的经济和职业社会事宜。此外，如员用人单位的员工超过 50 名，员工有权组织工作委员会，以提供意见并参与决定员工的社会权利和经济权利。然而，这种机构在实践中相当罕见。

(五) 劳动争议

不同的劳动争议通过不同的方式解决。绝大多数的劳动争议通过具有一般管辖权的法院解决，涵盖所有的主题事项，而小部分劳动争议则通过替代争议解决机制解决。解决劳动争议的替代方法是调解和仲裁。

五、知识产权

(一) 知识产权法律法规简介

塞尔维亚的知识产权法律框架包括几项相对最新的法律，这些法律与国际和欧盟相关的标准十分吻合。例如，塞尔维亚批准了《与贸易有关的知识产权协定》(TRIPs)，而塞尔维亚商标框架也符合《商标国际注册马德里协定》和《马德里协定议定书》。

以下法律是规范知识产权的主要立法：

①《专利法》(Zakon o patentima, Official Gazette of RS, no. 99/2011);

②《商标法》(Zakon o žigovima, Official Gazette of RS, no. 104/2009 and 20/2013);

③《版权及相关权利法》(Zakon o autorskim i srodnim pravima, Official Gazette of RS, no. 104/2009, 99/2011 and 119/2012);

④《地理原产地标示法》(Zakon o oznakama geografskog porekla, Official Gazette of RS, no. 18/2010);

⑤《工业设计保护法》(Zakon o pravnoj zaštiti industrijskog dizajna, Official Gazette of RS, 104/2009 and 45/2015);

⑥《半导体产品构造保护法》(Zakon o zaštiti topografija poluprovodničkih proizvoda, Official Gazette of RS, no. 55/2013);

⑦《商业秘密保护法》(Zakon o zaštiti poslovne tajne, Official Gazette of RS, no. 72/2011)。

此外，《刑法典》(Krivični zakonik, Official Gazette of RS, no. 85/2005, 88/2005) 对侵犯知识产权的行为进行了规定；《高效保护知识产权特别权力法》(Zakon o posebnim ovlašćenjima radi efikasne zaštite prava intelektualne svojine, Official Gazette of RS, no. 46/2006 and 104/2009) 规范了国家行政机关和行使公共权力的组织的特殊权力以有效保护知识产权。

《专利法》规定了通过专利或小专利对发明进行的法律保护。“专利”的定义为：针对任何技术领域的发明所授予的权利。若要作为专利受到保护和认可，发明必须是新颖的；与现有发明相比，具有创造性；能应用于工业生产。受专利保护的发明的主题可以是产品、工艺、产品的使用和工艺的使用。专利或小专利不能与公共秩序和社会公德相矛盾。对于发明的保护，在塞尔维亚没有居住地或住所地的外国自然人和法律实体与国内自然人和法律实体享有同样的权利。这种国民待遇源自对塞尔维亚有约束力的国际条约。

《商标法》规定了在货物和 / 或服务贸易中使用的标志的有关权利的获取方式和保护。商标的定义为：对贸易过程中用于区分一个自然人或法律实体的商品和 / 或服务与另一个自然人或法人的相同或相似的商品和 / 或服务的标志进行保护的权利。根据《商标国际注册马德里协定》和 / 或《商标国际注册马德里协定议定书》已被授予塞尔维亚领土国际注册的商标也视为商标。商标可以是个人、集体或保证商标。

《刑法典》包含一些描述侵犯知识产权的犯罪行为的条款。其禁止生产、进口、出口、提供在市场上销售、向市场投放、为商业目的存储或使用专利产品或程序。《刑法典》还规定，以法律规定的方式公开专利之前，任何人未经许可，不得公开或以其他方式公布他人已经提出申请的专利的核心内容。此外，禁止在未经许可的情况下申请专利，或者在申请中拒绝提供或者提供不正确的发明人的姓名。处罚力度从罚款到监禁 6 个月至 8 年不等。此外，禁止以欺骗买方或被服务者为目的，使用他人的公司名称、商标或商品的特殊标记，或将这些标记的特定特征纳入另一个人的公司、商标或商品特殊标记。处罚力度从罚款到监禁 3 年不等。

（二）专利申请

向主管部门提交申请是保护发明的第一步。提交的申请可以使用塞尔维亚语以外的语言，但在这种情况下，必须一并提交译为塞尔维亚语的文本。

除非相关的国际协定另有规定，在国外提出的申请具有与国内申请相同的效力。

向主管部门进行申请的过程中，在塞尔维亚没有居住地或住所地的外国自然人或法律实体必须聘请代表（从主管部门保存的代表登记册中选择）或塞尔维亚国内律师代为办理。

保护发明的申请具有一些必要的要素：授予权利的请求；本发明的描述；用于保护本发明的一项或多项专利权利要求；在说明书和 / 或权利要求书中引用的附图；以及摘要。

（三）商标注册

商标注册程序从提交商标注册申请开始。申请的要素是：商标注册请求、要求保护的标志、标志所涉及的货物和 / 或服务的清单。商标可能与一种或多种类型的商品和 / 或服务相关。

后续不得就商标含义对商标申请进行实质性变更，也不得修改货物和 / 或服务的清单。

向主管部门进行申请的过程中，在塞尔维亚没有居住地或住所地的外国自然人或法律实体必须聘请代表（从主管部门保存的代表登记册中选择）或塞尔维亚国内律师代为办理。

（四）知识产权保护措施

知识产权局与有关法院、部委和其他国家机构一起，构成保护知识产权的主要机构。在塞尔维亚法律框架中，对知识产权的保护制度很发达。

1. 专利保护

有几种形式的专利保护。

（1）侵权行为

① 未经授权使用专利——侵犯权利

在专利申请公布后，权利持有人或专有许可持有人有权对任何人未经授权侵犯其权利的行为提起诉讼。

对于“任何未经授权的行为”，《专利法》规定包括：A. 制造、许诺销售、向市场投放或使用以受保护的发明制造的产品，或为此目的进口或存储产品；B. 使用专利工艺；C. 许诺销售专利工艺；D. 生产、许诺出售、向市场投放、使用、为此目的生产进口或存储从专利工艺直接获得的产品；E. 许诺人或供应商知道或应该知道相关产品使用了他人的发明，仍向未经授权使用这种发明的各方许诺销售或供应构成发明的基本要素的产品。

原告可以要求停止侵犯权利，赔偿因侵权行为造成的损害，以及法律规定的其他权利。

② 临时措施

在作出最后决定之前，法院可以发布临时措施，例如：要求因侵犯权利而产生或获得的产品退出

市场，以及禁止进一步实施侵权行为。

（2）确定专利保护权

发明人及其所有权继受人或雇主有权在法院提起民事诉讼，要求确定其享有发明保护权，而不是发明申请人享有发明保护权，或者要求确定其和该发明申请人共有发明保护权。

（3）保护雇主或雇员的权利

对于工作过程中作出的发明享有保护或商业使用权的雇主或雇员可以在法院提起民事诉讼来确立和保护他的权利。

（4）发明人主体的确认

如果任何其他人在专利或小专利申请中被指定为发明人，则发明人有权在法院提起民事诉讼，要求确定其作为发明人的主体地位，并要求将其姓名载入全部相关文件。

2. 商标保护

有几种形式的商标保护。

（1）侵权行为

未经授权使用注册商标——侵犯权利：

任何商业参与者未经授权使用注册商标或任何申请注册的标志，均被视为侵权行为。以下行为被视为未经授权使用：①在与商标所注册的商品和/或服务相同的商品和/或服务上使用与商标持有人先前受保护的商标相同的商标；②在类似商品和/或服务上使用与商标持有人先前受保护的商标相同的商标，或者在相同或类似商品和/或服务上，使用类似于商标持有人先前受保护商标的商标，前提是这种不可区分性和/或相似性，可能会引起相关公众的混淆，包括可能将该商标与商标持有人的先前受保护商标关联起来。

商标持有人还有权禁止以下行为：①将受保护的商标附在商品、商品包装或标签工具上；②使用受保护商标提供货物、将其投放市场或为此目的储存货物，或使用受保护的商标提供服务；③使用受保护商标进行货物进出口；④在商业文件或广告中使用受保护的商标。

此外，模仿商标或已申请注册的标志，以及在受保护商标上增加“类型”“方式”“根据程序”等字样也构成侵权。

原告可以要求终止侵权，停止使用有关侵权物品的商业渠道，以及赔偿因侵权行为造成的损害，和法律规定的其他权利。

（2）商标异议之诉

如果申请违反诚信原则，或者注册商标是基于此类申请或基于违反法律或合同义务的申请，任何人的合法利益因此受到侵害，均可要求法院宣布其自身为申请人或权利持有人。

六、环境保护

（一）部门监管环境保护

环境保护基本上属于农业与环境保护部的管辖范围（以下简称“环保部”），该部门行使的公共职责包括诸如：政府起草法律的准备工作、执行环境保护法律、执行规范环境保护的法律、制定次级法（例如规则、命令、指导），以及检查和监督公司遵守法律的情况。在环保部内部也存在着特殊形式的主体负责履行环境保护相关的专业性职责，例如环境保护局、电离辐射防护及核安全局以及自然保护研究所。

环境保护局主要负责维护环境保护的IT系统、监控空气和水的质量、执行已颁布的质量控制方案、收集并处理环境保护数据、编制环境现状报告以及与主管机构和欧盟当局合作。

电离辐射防护及核安全局主要负责为从事电离辐射和核活动颁发许可证、为销售辐射和核材料颁发许可证、负责已发行的许可证登记和辐射源的登记、制定次级法以及制定辐射控制和保护方案。

自然保护研究所负责自然保护的实施程序、执行实地调查研究以及起草地区保护研究报告、决定保护区的边界、提出保护措施及受保护自然物质的类别、监控保护区以及执行保护措施、发布保护区工程的条件（建筑或类似物）以及项目文件资料准备过程中的自然保护条件，还有空间的和城市化的规划项目，以及该领域的项目、战略和国际间合作。

（二）环境保护法律法规简介

规范环境保护的规定分散在大量的法律法规中，且该领域的法律是最复杂的法律之一。与环境保护有关的基本法律框架由以下法律规定：

①《环境保护法》（Zakon o zaštiti životne sredine, Official Gazette of the Republic of Serbia no. 135/2004, 36/2009, 36/2009 – other law, 72/2009 – other law and 43/2011 – the decision of the Constitutional Court, 14/2016）规制整个环境保护体系，确保塞尔维亚共和国拥有健康的环境，经济发展与环境保护齐头并进，人类活动和经济计划、方案和项目与可再生能源和非可再生能源的可持续使用间的相互协调，从而实现生态系统的长期维护和自然资源的可持续利用或管理。

②《环境影响评估法》(Zakon o proceni uticaja na životnu sredinu, Official Gazette of the Republic of Serbia no. 135/2004 and 36/2009) 规制可能破坏环境的项目的影响评估程序、环境影响评估的研究内容、公众参与、可能损害其他国家环境的项目的跨国报告，以及监督遵守法律的情况。

③《战略性环境影响评估法》（Zakon o strateškoj proceni uticaja na životnu sredinu, Official Gazette of the Republic of Serbia no. 135/2004 and 88/2010）规制对计划和方案进行环境影响评估的条件、方式和程序，以促进环境的健康以及在制定和通过计划和项目的程序中提高可持续发展程度和贯彻环境保护的基本原则。

④《环境污染整体防治法》（Zakon o integrisanom sprečavanju i kontroli zagadivanja životne sredine, Official Gazette of the Republic of Serbia no. 135/2004 and 25/2015 ）规定发布可能损害人体、环境或物质健康的设施和活动的综合许可证的条件和程序，提供此类活动和设施的清单和定义，并规定了对法律规定的义务履行情况的监督。

⑤《水资源法》（Zakon o vodama, Official Gazette of the Republic of Serbia no. 30/2010 and 93/2012）规定水资源的法律地位，对水资源的整体管理，水设施和近水土地、与水资源相关的活动的资金来源和方式，以及监督法律义务的履行情况。

⑥《废弃物管理法》（Zakon o upravljanju otpadom, Official Gazette of the Republic of Serbia no. 36/2009,88/2010 and 14/2016）规定废物的类型和分类，并进一步规定废物管理主体的义务、废物管理的规划和组织、获得废物管理许可证的程序、废物的跨国运输、废物的报告和监督法定义务履行情况。

⑦《可燃液体和可燃气体法》（Zakon o zapaljivim i gorivim tečnostima i zapaljivim gasovima, Official Gazette of the Republic of Serbia no. 54/2015）规定在用于生产、加工、仓储和运输可燃液体和可燃气体的设施的建设、重建和维修期间的安全条件和防止火灾和爆炸的措施的执行。

⑧《大气保护法》（Zakon o zaštiti vazduha, Official Gazette of the Republic of Serbia no. 36/2009 and 10/2013）规定了空气质量管理以及保护和改善空气质量的措施，这些措施的组织、控制和实施。

⑨《土壤保护法》（Zakon o zaštiti zemljišta, Official Gazette of the Republic of Serbia no. 112/2015）规定土壤保护、系统监测土壤质量、补救措施和土壤耕作。

⑩《电离辐射防护及核安全法》（Zakon o zaštiti od jonizujućih zračenja i o nuklearnoj sigurnosti, Official Gazette of the Republic of Serbia no. 36/2009 and 93/2012）规定了保护人员和环境免受电离辐射的有害影响的措施以及关于任何核活动的核安全措施。相关法律还有预见性地规定了在有电离辐射源、核材料和放射性废物的情况下从事商业活动的条件。

⑪《非电离辐射防护法》（Zakon o zaštiti od nejonizujućih zračenja, Official Gazette of the Republic of Serbia no. 36/2009）规定了保护人员和环境免受因使用非电离辐射源而产生的非电离辐射的有害影响的措施和条件。

⑫《化学品法》（Zakon o hemikalijama, Official Gazette of the Republic of Serbia no. 36/2009, 88/2010, 92/2011, 93/2012 and 25/2015）规定了化学品的综合性管理、化学品的分类、包装和标示、化学品的登记、化学品的系统性检测、清洁剂的生产及投入流通的限制和禁止。

（三）环境保护评价

塞尔维亚在2012年成为欧盟成员国的候选人，关于塞尔维亚加入欧盟的谈判早在2014年就已经启动。自那时起，塞尔维亚就开始使其国家法规与欧盟法规协调一致。在这方面，欧洲委员会每年发

布一份关于每个成员国候选人在法律领域进展情况的报告，包括环境保护。欧洲委员会2015年“塞尔维亚共和国年度进步报告”指出，在环境保护领域，塞尔维亚仍处于与欧盟法规协调的早期阶段。欧洲委员会在报告中指出其对商业和采矿业污染物质的排放、水质、空气质量、工业污染和风险管理问题，以及化学品和自然保护管理方面的担忧。欧盟称8个城市群中有7个空气质量超过了几种污染物质的容许上限。此外，水的质量与前一时期相比没有改善。总的建议是，塞尔维亚共和国必须加强这一领域的协调进程，并投入新的资金，以提高公共行政部门进一步修改法律的能力，并有效监督可能影响环境的业务活动。

七、争议解决

(一) 争议解决的方法和机构

塞尔维亚的立法提供了一些争端解决机制，具体如下所述：

1. 诉讼

尽管存在替代性争议解决机制，但传统的法院诉讼程序仍然是最常用的争端解决方式。诉讼程序主要由《民事诉讼法》(Zakon o parničnom postupku, “Official Gazette of RS”, nos. 72/2011, 49/2013 - CC decision, 74/2013 - CC decision and 55/2014) 管理。《民事诉讼法》的原则和条款清楚地表明诉讼程序是一种对抗式程序。

在诉讼程序中，法院受当事人的诉讼请求约束，因此他们不能在当事人提出的诉讼请求之外进行裁判。当事人在整个诉讼程序中可以自由地处理他们的诉讼请求，除非他们的这种处理违背了强制性法规、公共秩序、道德规范或者良好的习惯做法。一般而言，审理程序对公众公开，但受法律规定的限制条件的约束。当事人应该介绍所有的事实，提供所有的证据，以支持他们的诉讼请求。另一方面，法院仅在特殊情况下才会主动认定事实和取证。

法院的属地管辖一般都是根据被告的注册地或者住所地来决定。当然，就属地管辖而言，此项规则尚有例外（例如：与不动产有关的争议的属地管辖）。

至于涉外争端，《解决与其他国家法律冲突法》(Zakon o rešavanju sukoba zakona sa propisima drugih zemalja, “Official Gazette of SFRY”, nos. 43/82 and 72/82 – Amend. “Official Gazette of FRY ”, no. 46/96 and “Official Gazette of RS”, no.46/2006- other law)（以下简称《解决法律冲突法》）一般性地规定了当事人可以自由选择处理他们之间关系的管辖法院和准据法。然而，《解决法律冲突法》也保留了塞尔维亚法院对特定类型争端的专属管辖权。

诉讼程序的当事人可能是自然人或者法律实体。公司联合体，通常是没有诉讼能力的；但如果法院认可的话，也可能具备诉讼能力。当事人可以自己亲自出席庭审，或者由法定代表人出席，或者委托律师代为出席。案外人只要符合特定条件也是可以参加旁听的（例如：自然人的亲戚、争端当事人法律实体聘请的通过司法考试的律师）。

为了证明争议事实，当事人可以向法庭提议展开调查、指派专家、听取证人和当事人陈述或者检阅文件。当事人必须在初步的审理结束之前提交所有的事实和证明材料。在初步审理过程中，法院必须设定一个诉讼程序的期限，包括审理的准确次数，以及接收证据的时间表。

诉讼程序的当事人可以在一审判决出来后即提交一份上诉申请，上诉可能被驳回，或者二审法院可能会维持、推翻或者不采纳一审判决，并将案件发回重审。二审法院必须在收到一审法院的案卷材料后9个月内就对上诉作出决定。当判决变成终局并产生约束力时，诉讼程序当事人可以通过其他救济途径对判决提出异议，前提是必须满足规定的条件。

除了一般规则，《民事诉讼法》还规定了与劳动纠纷、集体合同纠纷、侵害土地纠纷、托付单纠纷、小额索赔纠纷、商事纠纷以及消费者纠纷有关的一些特殊规则。

就有权解决当事人争端的机构而言，有一般管辖法院和特殊管辖法院之分，例如：商事法院。一般管辖法院通常审理至少一方当事人是自然人的民事诉讼，而商事法院则有权处理涉及商业主体的纠纷。

一般管辖法院：

一审法院——初级法院和高级法院；

二审法院——高级法院和上诉法院。

商事法院：

一审——商事法院；

二审——商事上诉法院。

处在法院系统最高位阶的最高上诉法院，有权对法院作出的终局的、有法律效力的决定作出额外的法律救济。而且，最高上诉法院有义务确保法院实践的一致性。

2. 仲裁

2006 年塞尔维亚议会通过了《仲裁法》（Zakon o arbitraži, "Official Gazette of RS", no. 46/2016）规定塞尔维亚的仲裁和仲裁程序。该法系以联合国国际贸易法委员会《国际商事仲裁示范法》为蓝本，适用于国际的和国内的仲裁。《仲裁法》对仲裁协议、争议可仲裁性、仲裁管理、国家法院的地位等规定了基本的强制性要求。

根据《仲裁法》，仲裁协议必须是书面的；可能是合同中的某一单独条款，或者单独的合同。至于争议可仲裁性，争议必须是关于当事人可自由处理的权利，主要事项不能受国家法院的专属管辖。仲裁管理是委托给了一个由商会、专业或公民团体组成的常设仲裁机构进行。当事人也可以就临时仲裁达成一致，临时仲裁系根据当事人协议和《仲裁法》的规定组成。

当事人可以自行指定程序规则或者援用已存在的规则。塞尔维亚最重要的仲裁机构是塞尔维亚商会下属的对外贸易仲裁法庭，该仲裁法庭有自己的一套规则。就临时仲裁而言，联合国国际贸易法委员会的仲裁规则适用最为普遍。如果当事人不能达成协议，仲裁庭在当事人请求的情况下可以根据仲裁法授权发布临时救济。《仲裁法》的条文和仲裁法庭的规则都强调没有听证的仲裁程序，尽管仲裁程序的当事人可以要求仲裁庭举行听证。至于证据规则，上述规定只包含了一些最基本的规则。

仲裁程序完结之时，仲裁庭将会作出裁决；实践中这份裁决将不会对社会公开。当事人可以要求国家法院依据《仲裁法》规定的特别条件，撤销该终局有效的仲裁裁决。

正如前面提及的，塞尔维亚最重要的仲裁机构就是仲裁法庭。除此之外，塞尔维亚商会还建立了只能处理国内争端的常设仲裁庭。

3. 调解

《解决争端调解法》（Zakon o posredovanju u rešavanju sporova, Official Gazette of RS, no. 55/2014, 以下简称《调解法》）于 2015 年 1 月 1 日生效。调解是指不管采用什么名称，在一名或者多名调解员的帮助下，当事人自愿通过协商谈判方式解决彼此之间的争议，达成协议的任何程序。调解适用于当事人可自由处理、主要事项不受国家法院或其他国家机构专属管辖的争议。此外，《调解法》还适用于涉外争议的调解，前提是调解在塞尔维亚进行。调解可以在法庭程序开始前、进行中或结束后的阶段进行。《调解法》规定了关于调解员、调解程序、调解协议、费用等事项的基本规则。

当事人可以自行指定调解规则，委派调解员，以及在任意的时间点撤销调解。调解程序持续 60 天，除非双方协议另有规定，并且调解过程不对社会公开。调解程序中的所有数据、提议以及陈述都是保密的，只要当事人没有同意公开。调解程序中产生的所有证据不能用于法庭、仲裁或其他程序中。根据《调解法》的规定，当事人达成的协议具有强制执行力，只要协议包括了此等条款，并且当事人及调解员的签字得到了法院或公证机构的认证。

调解程序可以只由一名被委派的自然人主持，前提是该自然人满足了《调解法》规定的特别要求。

（二）法律适用

1. 诉讼

尽管《民事诉讼法》在过去几年里几经修改，但这些修改至今都没有产生预期的效果。法院至今仍倾向于允许当事人在初次审理完结后提交证据，即使相关的条件没有得到满足。更进一步，法院或不严格按照时间期限设置进行诉讼或初步设置一个不合理的长时间。对此，还值得注意的是，两次审理之间的时间一般为 3 到 6 个月，因法院的工作量过大。法院通常在一审程序完结后的 2 个月内作出

判决，而二审法院通常不会在9个月内就上诉作出决定，而该时限由《民事诉讼法》明确规定。

至于实体法的适用问题，法院通常会对适用条款作出不同的解释，甚至在一个事实相似、案件又相对简单的争议当中亦会如此。因此，法院的实践也不是完全一致的。此外，最高上诉法院在这方面的作用甚微，尽管它有义务确保国内法院实践的一致性。

2. 仲裁

根据塞尔维亚商会提供的一份统计数据显示，仲裁法庭在过去3年内解决了44个案件；与同期国家法院处理的案件相比，这个数量很少。仲裁法庭处理的案件数量如此之少，最重要的原因在于塞尔维亚国内缺乏对仲裁优势的普遍认知。此外，大额交易中的外国主体当事人一般都选择外国仲裁机构作为处理该交易产生的争端的管辖机构。

基于仲裁法庭的裁决不对公众公开的事实，很难对该机构的仲裁实践做恰当的总结。

3. 调解

因为以前的法律在这个领域的成效颇微，立法者通过了《调解法》，其法律框架比此前的法律更精准。如此应该能够增加调解解决的纠纷数量，最终减少法庭解决案件的数量。因为《调解法》近期才开始生效，目前还无法对该法的适用作出评价。

八、其他

(一) 反商业贿赂

1. 反商业贿赂法律法规简介

塞尔维亚国内没有一部特定的反腐败或反商业贿赂法律。相关的法律框架是由不同的法律组成的。此外，塞尔维亚通过了许多相关的国际公约，包括《联合国反腐败公约》。

反商业贿赂领域最主要的立法是《刑法典》。《刑法典》认可积极的和消极的贿赂行为，并将它们适用于商业贿赂以及影响力交易。《刑法典》适用于在塞尔维亚内犯罪的任何人。

下列法律在调整反商业贿赂中也会产生一些作用：

①《法律实体刑事侵权责任法》(Zakon o odgovornosti pravnih lica za krivična dela, Official Gazette of RS, no. 97/2008)；

②《反腐败机构法》(Zakon o Agenciji za borbu protiv korupcije, Official Gazette of RS, no. 97/2008, 53/2010, 66/2011)；

③《2013—2018塞尔维亚国家反腐败战略》(Nacionalna strategija za borbu protiv korupcije u Republici Srbiji za period od 2013. do 2018. godine, Official Gazette of RS, no. 57/2013)；

④《2013—2018塞尔维亚实施国家反腐败战略行动计划》(Akcioni plan za sprovođenje Nacionalne strategije za borbu protiv korupcije u Republici Srbiji za period od 2013. do 2018. godine, Official Gazette of RS, no. 110-7203/2013)；

⑤《举报人保护法》(Zakon o zaštiti uzbunjivača, Official Gazette of RS, no. 128/2014)；

⑥《商业道德准则》(Kodeks poslovne etike, Official Gazette of RS, no. 1/2006)。

商业道德准则：

这份由塞尔维亚工商会制定的文件，为有效认定商业行为是否为贿赂提供了指引。

员工（作为实体组织的一分子）及其家庭成员，禁止向有商业关系的当事人提供、赠送、许诺或者接受具有重大价值的金钱、礼物或者其他服务。重大价值意味着其价值超过塞尔维亚年均或月均净工资的一半。

接受或赠送小价值的礼物是被允许的，除非接受此等礼物是完成某项交易所必须的，或者将对其他的竞争者不利。接受午餐或类似的邀请通常都是被允许的，被视作不会对交易决定产生影响、而是向商业伙伴表示善意的、并被普遍接受的商业实践。

《反腐败机构法》规定了反腐败机构的权限，包括监督《国家反腐败战略》及《实施国家反腐败战略行动计划》的执行情况，这由上述两部相关法律作出规定。

《举报人保护法》规定了举报人权利、国家机关和其他机关的职责、法律实体和自然人对举报负有的责任以及其他相关事项。

2. 反商业贿赂监管部门

塞尔维亚国内没有对反商业贿赂行为进行直接监管的特定部门。然而，总体上来说，其国内还是存在一些政府机构及非政府组织正通过不同的方式对包括商业贿赂在内的腐败行为进行监管。主要的机构包括反腐败局、反腐败机构、有组织犯罪检察官办公室。

（1）国家机构

反腐败理事会是政府的一个咨询机构。其主要职责包括提议及监督反腐败措施的执行、就反腐败事项提供建议和分析、提议新的反腐败法规、准备开展提升反腐意识的运动等。

反腐局是一个自治的、独立的国家机构。它监督《国家反腐败战略》及《实施国家反腐败战略行动计划》的执行情况，其中，《国家反腐败战略》及《实施国家反腐败战略行动计划》由司法部内的一个特殊部门负责执行。反腐局向塞尔维亚国民议会汇报工作。

有组织犯罪检察官办公室对腐败案件负有调查和起诉责任。

（2）非政府组织

非政府组织通常会就腐败问题开展调查并发行出版物，其中包括商业贿赂事项。他们的工作的主要目的在于检测塞尔维亚不同部门的腐败程度，就腐败原因及机制给出制度分析，并就反腐败行动方案提供有效的建议。

举个例子来说，塞尔维亚国际透明组织是国际透明组织网络的一员，是塞尔维亚国内首屈一指的非政府反腐机构。

3. 惩罚措施

《刑法典》将下列行为界定为与商业贿赂有关的违法行为：

（1）影响力交易

《刑法典》禁止为了利用对方的官方或社会地位或者他们在官方活动中真实的或设想的影响力，直接或者通过第三方主体间接地索取、接受，以及承诺或给予回报或者任何其他利益。

此外，禁止官员直接或者通过第三方主体间接滥用他们的官方或者社会地位、真实的或设想的影响力，使得不应开展的官方活动得以开展、本该开展的官方活动不能进行。

（2）被动贿赂

《刑法典》规定：

禁止官员直接或者间接地为自己或者他人索取、接受、要求承诺赠与礼物或者其他利益，从而利用其职权干涉活动的正常进行，使得：

不该开展的官方活动得以开展、本该开展的官方活动不能进行；

不执行他们本该执行的公务，以及执行他们本不该执行的公务。

（3）主动贿赂

《刑法典》禁止：

主动向官员或者其他人赠送礼物或者给予其他好处，从而利用其职权干涉活动的正常进行，使得：

不该开展的官方活动得以开展、本该开展的官方活动不能进行；

不执行他们本该执行的公务，以及执行他们本不该执行的公务；

做上述行为的中间人。

惩罚是6个月到12年的监禁。法律实体可能被处以10万RSD（810欧元）到5亿RSD（4 065 000欧元）的罚金。

（4）《法律实体刑事侵权责任法》

塞尔维亚承认公司的刑事责任。该法规定，对于责任人在其工作和职权范围内为法律实体的利益而作出的刑事侵权，法律实体需要承担责任。

若责任人缺乏对自然人的监督和控制，使得该自然人为法人的利益而犯有罪行，则法律实体也要为其行为承担法律责任。

如果法律实体在知道刑事诉讼程序启动前发现并报告了刑事侵权行为，并且已经自愿或及时消除了损害影响、返还了犯罪违法所得，可以免受处罚。

二）工程承包

公共采购法（Zakon o javnim nabavkama, Official Gazette of RS, no. 124/2012, 14/2015 and 68/2015）规定了公共采购程序。

1. 许可程序

公共采购程序中的投标人必须具有有权机构颁发的有效许可才能开展公共采购经济活动（如果此项许可在特别法规中有规定）。

2. 禁止领域

在存在利益冲突的情况下，招标机构不能与投标人签订公共采购合同。与利益冲突有牵连的人不能是被授予合同的投标人的分包商，也不能是被授予合同的投标人群体的成员。

然而，如果招标机构证明，禁止订立合同会给招标机构的工作或业务带来巨大的困难，与公共采购的价值不相匹配，或将严重损害塞尔维亚的利益，其已经采取一切措施来防止不良影响，或者其他投标人不符合程序的要求，则共和国公共采购程序权利保护委员会应招标机构请求可以批准合同的订立。

3. 招投标

一位投标人只能投一次标。该次投标可以是直接或邮寄或电子邮件提交。

有几种类型投标：独立的投标，与分包商的投标，或联合投标。提交独立投标的投标人不得同时参与联合投标，也不得作为分包商，也不能同一人参加多个联合投标。

投标人必须在投标书中说明是否要将公共采购部分委托给分包商执行，以及委托给分包商执行的总采购价值的比例（不能超过 50%），以及将由分包商完成的采购份额。投标人必须提供证据，证明其分包商符合强制性要求。

联合投标是由一组投标人提交的投标。这组投标人中的每一投标人各自都必须符合强制性要求。

准备和提交投标的费用由投标人自行承担，不能由工程招标机构偿还。

工程招标机构设定了投标有效期，而这一期限必须在投标公告中载明，但不得短于投标日起的 30 天。

（三）其他问题

《投资法》（Zakon o ulaganjima, Official Gazette of RS, no. 89/2015）为塞尔维亚的投资提供了一般的法律框架。外国投资者就他们的投资与塞尔维亚国内投资者有相同的权利和义务，除非该投资法或其他法律另有规定。

投资是指投资者建立的公司或分公司、投资者在塞尔维亚公司享有的股权、对动产和不动产享有的所有权权利（如所有权、权利质押、地役权等）、基于公私合营模式获得的权利、知识产权以及在政府机构授权的基础上开展活动的权利。该法律规定，源自贸易的金钱债权、来自贸易融资贷款的金钱债权以及证券投资，均不构成投资。

进口设备（除机动车辆），属于外国投资者投资的，免于征收关税及其他进口税，只要进口的设备符合有关健康和公共安全以及环境保护的规定。

该法案还规定了投资者享有的不同投资优惠政策，例如，国家补助、税收优惠政策、行政收费减免、海关关税激励以及与强制性社会保险有关的激励。

Serbia

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I. Overview

A. General Introduction to the Political, Economic, Social and Legal Environment of Serbia;

Serbia is a Constitutional Republic. Its current Constitution dates back to 2006. Under the Constitution, the power is divided among the Parliament, the Government, the Judiciary and the President.

The Parliament is a single-chamber body which consists of 250 Members of Parliament (MPs). MPs are elected for a period of four years. Currently, the majority of seats are held by the Serbian Progressive Party, who leads the Government in coalition with several smaller Parties.

The Government is a collective body consisting of the Prime Minister, one or more deputy prime ministers, and ministers. The Government has the power to propose laws to the Parliament. In practice, the Government has a vital role in the legislative process since it submits e majority of the bills to the Parliament for adoption.

Judiciary consists of courts of general jurisdiction (trail courts, higher courts, appellate courts, and the Supreme Court of Cassation as the highest judicial instance) and courts of special jurisdiction (Commercial courts, the Commercial Court of Appeals, Misdemeanour Courts, the Appellate Misdemeanour Court, and the Administrative Court). Serbia also has the Constitutional Court, competent for abstract constitutional review of laws, ratifying international agreements and implementing regulations, and hearing constitutional appeals.

The President is elected throughdirect elections under the Constitution. The President represents Serbia home and abroad, promulgates laws, proposes the Prime Minister to the Parliament, appoints and recalls ambassadors, commands the military, and appoints, promotes, and recalls officers of the Serbian Army.

Serbia is a transitional country in the process of integration in the European Union. In March 2012, the European Council granted the status of candidate country to Serbia. Accession negotiations were initiated in June 2013 and were formally launched in January 2014. The Stabilization and Association Agreement between Serbia and the EU entered into force in September 2013. Currently, Serbia is in the negotiation process over the acquis communitaire chapters for accession to the EU.

Since 2000, a large part of the state-owned business has been privatized, such as the Serbian Oil Industryacquired byRussian Gazprom Neft) and Smederevo Steel Mill acquired by Chinese Hesteel. However, enterprises in other large industries still remain in the hands of the state (such as telecommunications, electricity production and distribution, gas distribution, mining, and airport infrastructure).

In 2015, Serbia's GDPwas approximately EUR 33 billion with an actual GDP growth of 0.7%. Its public debt amounted to 75.9% of the national GDP (7.24% higher in comparison to 2014), whereas there was a significantly lower budget deficit(-2.9% of GDP), in comparison to the previous year (-6.3%). Serbia still struggles with its unemployment rate (15.2%).However, it remains competitive in the workforce with around EUR 506 as average gross monthly salary.①

With respect to Serbia's trade balance, the current account deficit ("CAD") in 2015 reached a historical minimum level of 4.8% of GDP②, while the estimated CAD in 2016 is established at a level of 4.1% of GDP. Most significant growth rates recorded in 2015 were the export of tobacco products (increased by 84%), furniture (increased by 37%), machinery and equipment (increased by 20%), fabricated metal products (increased by 18%), and textiles (increased by 11%). The EU is the most dominant partner in foreign trade for Serbia, consisting 68% of Serbian export and 64% of import goods among total export-import activities.③

The net Foreign Direct Investments in 2015 reachedmore than EUR 1.8 billion and fully covered the CAD. The biggest FDIs were in the manufacturing sector (rubber production, motor vehicles, and food production) consisting of 34.1% of the total FDIs, followed by the financial sector (22.9%), construction (12.5%), retail trade sector.

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① Key macroeconomic indicators of the Republic of Serbia (published by the National Bank of Serbia), available at: http://www.nbs.rs/export/sites/default/internet/latinica/80/osnovni_makroekonomski_indikatori.xls (last visited 13 October 2016).

② Idem.

③ Investor Presentation – June 2016 (published by the Ministry of Finance, Public Debt Administration), available at: http://www.javnidug.gov.rs/upload/Prezentacija/Investor%20presentation%20June%202016.pdf (last visited 13 October 2016).

telecommunication, and the IT sector.[①]

Serbia has free trade agreements with the Russian Federation, Kazakhstan, Belarus, the EU, CEFTA, EFTA, and Turkey, respectively. Serbia is also listed in the US's Generalized System of Preferences, having access to trade benefits for preferential duty-free entry for approximate 4,650 categories of products (including most finished and semi-finished goods and selected agricultural and primary industrial products).

Serbia's official currency is the Serbian dinar (symbol: RSD). The currency is under the regime of a managed floating exchange rate. The National Bank of Serbia intervenes on a daily basis by selling or buying dinars in order to keep the changes within marginal limits. The value of the dinar compared to the euro in 2015 amounted to 121.63, whereas for Q3 of 2016 it amounted to 123.26. The annual inflation rate was 1.5% in 2015.[②]

Serbia has a civil law system. Statutes acopted by the Parliament are the main source of law. Court decisions are not a formal source of law in Serbia.

B. The Status and Direction of the Cooperation with Chinese Enterprises under the B&R.

Serbia has officially been a part of the B&R since the end of 2015, by concluding the Memorandum of Understanding between the Government of the Republic of Serbia and the Government of the People's Republic of China on the Joint Affirmation of the Silk Road Economic Belt and the 21st-Century Maritime Silk Road ("MoU"). The MoU came into force on 26 November 2015 and its term is set to be three years from its signing date, i.e. 26 November 2018. The MoU will be automatically extended for a period of three years provided that none of the parties terminates it six months before the expiry date.

There are a number of bilateral agreements between Serbia and China which constitute a legal framework for institutional and financial cooperation on several projects, such as the construction of a rail link between the Serbian and Hungarian capitals[③], the cross-Danube bridge in Belgrade (US$ 255 million loan from Exim Bank)[④], and the Kostolac power station in Serbia (over US$ 1 billion loan from Exim Bank).[⑤]

During the visit of Chinese President Xi Jinping in June 2016, Serbia and China signed 22 bilateral agreements to continue to strengthen their bilateral cooperation within the B&R initiative.[⑥] The agreements were concluded in the areas of business-technical cooperation, production capacities, defence industry, trade, tourism, telecommunications, infrastructure and energy, education, and culture, etc.[⑦] A detailed list of concluded international bilateral agreements may be found in the table below.

No.	Bilateral Agreements
1	Mutual Statement on Comprehensive Strategic Partnership
2	Agreement on Business –Technical Cooperation for 2015
3	Agreement on Business –Technical Cooperation for 2016
4	Commercial Agreement on the Design and Performance of Construction Works of Highway E-763, Surcin-Obrenovac (US$ 301 million loan from Exim Bank)
5	Memorandum of Understanding on the Establishment of Traffic and Infrastructure Centre

① Idem.

② Key macroeconomic indicators of the Republic of Serbia (published by the National Bank of Serbia), available at: http://www.nbs.rs/export/sites/default/internet/latinica/80/osnovni_makroekonomski_indikatori.xls (last visited 13 October 2016).

③ Memorandum of Understanding on Cooperation on the Project of Hungarian – Serbian Railroad between the National Commission for Development of the People's republic of China, and the Ministry of International Affair and Trade of Hungary, and the Ministry of Construction, Traffic, and Infrastructure of the Republic of Serbia.

④ Loan Agreement for the Preferential Buyer for the Project Bridge Zemun – Bor-a With Accompanying Roads, Between the Government of the Republic of Serbia as the Borrower and the Chinese Exim Bank as the Lender.

⑤ Loan Agreement for the Preferential Buyer for the First Phase of the Project Package Kostolac-B Power Plant Projects Between the Government of the Republic of Serbia as the Borrower and the Chinese Exim Bank as the Lender, and Loan Agreement for the Preferential Buyer for the Second Phase of the Project Package Kostolac-B Power Plant Projects Between the Government of the Republic of Serbia, Represented by the Ministry of Finance, as the Borrower and the Chinese Exim Bank as the Lender.

⑥ "China's Xi highlights Serbia trade *as Beijing signs* 22 deals" , published in Thompson Reuters, available at: http://www.reuters.com/article/us-serbia-china-idUSKCN0Z40C6 (last visited 13 October 2016).

⑦ "How many billions is the Chinese dream in Serbia worth" (Koliko milijardi vredi kineski san u Srbiji), published in national newspaper Politika, available at http://www.politika.rs/sr/clanak/357428/Kina-i-Srbija-stratesko-partnerstvo-i-jos-21-sporazum (last visited 13 October 2016).

6	Framework Agreement on Cooperation Development in the Area of Production Capacities
7	Agreement on Cooperation in the Defence Industry
8	Memorandum of Understanding on Further Development of the Silk Road
9	Framework Agreement on Promotion of Cooperation in the Area of Trade, Tourism, and Telecommunication
10	Financial Loan Agreement Between "Telekom" and "Exim Bank" for Delivery of Materials and Equipment, and Performance of Works on ALL IP Project
11	Framework Agreement Between "Telekom" and "Huawei" on Delivery of Materials and Equipment, and Performance of Works on ALL IP Project
12	Memorandum of Understanding Between the Ministry of Finance and "Exim Bank"
13	Memorandum of Understanding on Joint Investment in Renewable Energy Sources Project
14	Memorandum of Understanding on Financing and Construction of Waste-To-Energy Plants
15	Memorandum of Understanding Between the Serbian and Chinese Diplomatic Academia, and the Chinese University for International Affairs
16	Memorandum of Understanding on Joint Financing of Research and Development Projects
17	Program on Cooperation in Area of Culture and Arts for the Period of 2017 to 2020
18	Memorandum of Understanding on Cooperation on a Friendly Basis between the Ministry of Culture and the Office for Information of the State Council of PRC
19	Agreement on Cooperation between the Serbian Radio Television and Chinese Radio International
20	Memorandum of Understanding on the Waste Water Project Between the City of Belgrade and Companies "Africa Investment and Development Company" and "China Machinery Engineering Corporation"
21	Agreement on the Establishment of Friendly Relation between the City of Kragujevac and City of Xi'an
22	Letter on the Bilateral Swap Arrangement between Serbia and China

II. Investment

A. Market Access

a. Department Supervising Investment

a) The Development Agency of Serbia

The department in charge of supervising investment is the Development Agency of Serbia. The most significant functions of the development Agency are the following: to supervise the application of the law to investment, to participate in the preparation of economic and regional development programmes and projects, to analyse and gather data for the advancement of economic and regional development policies, to carry out technical and administrative tasks in relation to the attraction of direct investment and implement following, to keep a record of investors of special importance and investors of local importance, to suggest the granting of State aid in accordance with the State Aid Control Act, to follow and analyse economic and investment conditions on specific markets and industries, and put forward suggestions for their improvement, to provide the access of international financial development aid and following implementation to relative projects, to implement and coordinate the economic and regional development programmes and projects of investment, to provide technical support and consultation to companies.

b) The Council for Economic Development

The main function of the Council for Economic Development is to decide the issue of investment policies.

b. Laws and Regulations of Investment

a) Laws

The Investments Act lays down the general framework of direct investment in Serbia. The objectives of the Investments Act are to establish a positive investment environment in Serbia, to incentivize direct investment in Serbia, to increase the efficiency of public institutions whose activities are related to investment and, perhaps the most important, to provide an equivalent treatment to domestic and foreign investors. The Investments Act thus guarantees that foreign investors will enjoy the same treatment and protection as that which is awarded to national investors. The Investments Act also introduces a new definition of "investment", which includes rights to perform an activity under the auspices of a PPP agreement, the rights to perform business activities that are granted by State authorities, the ownership of shares of Serbian companies, intellectual property rights, as well as any other ownership rights to property located in Serbia. However, the law specifically excludes receivables, receivables under a loan granted for "trade financing" and portfolio investments from the notion of "investment".

It is also important to note that the Investments Act establishes two categories of investment: investment of special importance, on the one hand, and investment of local importance, on the other hand. The former includes investments made on the basis of bilateral investment agreements, as well as investments spanning over the territory of more than one municipality, which will automatically be qualified as "investments of special importance". In all other cases, the qualification of an investment as having "local" or "special" importance depends on the following six factors: the number of jobs created, the nature and amount of the investment, the impact on trade in Serbia or, alternatively, the impact on a specific industry or export market, the duration of the investment, the credibility of the investor and the added value created. The distinction is important because the proposal for granting State aid to an investment of special importance can be given without a previous public announcement.

b) Regulations

The Decree on Attracting Investment offers green-field and brown-field investors incentives in support of investment in the production sector (with the exception of certain industries) and in electronically-provided, export-oriented services.

c. Forms of Investment

Under the Investments Act, investments are categorised, depending on their significance, into investments of local importance and investments of special importance. Investments are considered to be of special national interest depending on: the amount of investment into operating assets of a domestic company, job creation, effect of the investment on the development of local self-government in Serbia, or whether the investment is based on an international bilateral agreement. Investments of special national interest are not subject to the procedure of open tender for investors in granting investment incentives. However, investments of special national interest are subject to some stricter conditions in calculating the amount of the incentive (e.g. lease of business premises and facilities will be taken into consideration as justified expenses of investment, if provide that the lease term is not shorter than five years since the investment project's completion date).

Under the Decree on Attracting Investment, which further implements the Investments Act, investments are further divided to investments in tangible assets and investments in intangible assets (IP or know-how). Conditions for investments to be recognized as material assets are the investments used by the investor, subjected to depreciation, acquired under market conditions from third parties, recorded in the domestic company's business records at least five years (three years for middle and small companies). Justified expenses for investment in material assets are capped at 50% of total justified investment expenses for large size companies.

Investment in tangible assets consist of:

a) Green-field investments, if the investor builds new production capacities, and

b) Brown-field investments, where the investor equips, reconstructs, adapts, or enlarges existing facilities owned by a domestic company receiving investment incentives, or acquisition of buildings which will be used for the realization of the investor's investment project.

Acquisition of real estate such as land and buildings by a foreign investor is subject to the prior approval of Ministry of Trade, Tourism, and Telecommunications, according to the Act on Basis of Property-Legal Relations. The approval is dependent on two factors:

a) Existence of reciprocity between Serbia and the foreign investor's country, and

b) Evidence that the foreign investor will use the real estate for the purpose of carrying out its business

activities in Serbia (a very elusive requirement which is difficult to establish in practice).

For this reason, foreign investors rarely acquire real estate directly. Instead, they rather set up a Serbian company which then acquires real estate.

d. Standards of Market Acess and Examination

Foreign investments are in general not restricted – foreign investors enjoy the same rights as domestic investors. However, investment on certain industries, such as banking, leasing, insurance, media, telecommunications, military equipment and weaponry, gambling, etc. are subject to a special administrative license and require a local subsidiary. Under the Agricultural Land Act, foreigner is forbidden to acquire ownership over agricultural land. This restriction, however, may be circumvented by establishing a local company through which the foreign investors may indirectly acquire agricultural land. Also, acquisition of immovable property in Serbia by a foreigner is subject to a prior written approval by the Ministry of Trade, Tourism, and Telecommunications, according to the Act on Basis of Property-Legal Relations. In order to be permitted to acquire immovable property, two conditions must be met:

a) Existence of reciprocity between Serbia and the foreign investor's country, and

b) Evidence that the foreign investor will use the immovable property for the purpose of carrying out business activity.

Due to significant obstacles in obtaining the approval from the Ministry (the Ministry requires the acquirer to have a branch or representative office established in Serbia in order to fulfil the "business activities" requirement), practice shows that the foreign acquirer establishes a local subsidiary which is not subject to this requirement.

B. Foreign Exchange Regulation

a. Department Supervising Foreign Exchange

The National Bank of Serbia ("NBS") supervises the conduct of domestic banks, electronic money institutions and payment institutions effecting the cross-border payment transactions between residents and non-residents. The Serbian Tax Administration within the Ministry of Finance supervises the conduct of non-bank residents and non-residents engaging in cross-border payment transactions.

b. Brief Introduction of Laws and Regulations of Foreign Exchange

Foreign Exchange Transactions Act ("FX Act") is the principal statute that regulates cross-border payment transactions. In some instances, the FX Act refers to other legislations to establish whether a particular payment transaction is allowed or not (e.g. the rules for the non-residents to acquire a real estate in Serbia are laid down in the real-estate-related laws, the transfers in performance of insurance contracts with foreign insurance company are dependent on whether the insurance contract is compliance with the insurance regulations, etc.) There are numerous bylaws adopted mainly by the NBS that elaborate on the conditions and manner in which certain cross-border payment transactions are to be made and reported. The most relevant regulations include: the manner in which the banks and other payment service providers must process the cross-border transaction (transaction not covered by the regulation cannot be processed); the conditions for the set-offs, assignments and assumption of debts and receivables arising out of the cross-border transactions; the conditions for trading in securities; the conditions for opening resident foreign currency bank account, and non-resident bank account in Serbia; etc.

c. Requirements of Foreign Exchange Management for Foreign Enterprises

The law makes a principal distinction between capital payment transactions (aimed at transfer of capital, such as direct investments, investments in real estate, transactions in securities, credits related to commercial transactions or to the provision of services, and financial loans and credits), and current payment transactions (defined negatively, as payment transactions between residents and non-residents the aim of which is not to make a cross-border transfer of capita, such as payments under cross-border transactions for sale of goods and services, payment of principal and interest under cross-border loan, repatriation of profits). According to the FX Act, capital transactions and current transactions are under the free regime unless otherwise provided in the law. However, in practice, the NBS interprets the FX Act narrowly so that whatever is not explicitly allowed under the law is prohibited. That creates a great deal of legal uncertainty in practice. Most of the capital transactions are subject to reporting requirements and other conditions and restrictions (e.g. non-residents are not allowed to purchase domestic short-term securities, cross-border funding of a resident may be subject to the mandatory grace periods, etc.).

Cross-border set-offs are regulated. A set-off requires a written agreement. Cross-border set-off is not permitted if the Serbian bank accounts of the resident participating in the set-off operation are blocked.

Cross-border assignment of receivables and assumption of debt are also regulated. A cross-border receivables or, as the case may be, a cross-border debt of a Serbian resident can be assigned, i.e. transferred.

whether to a non-resident or to a resident, only if such receivable or, as the case may be, debt originates from a transaction for export of goods or services or from a cross-border loan. Such assignment or, as the case may be, debt assumption cannot be executed in advance, i.e. before the receivable or, as the case may be, the debt, comes into existence and is defined in termed of the amount. Any such transaction must be in written form.

The Investments Act contains a guarantee that foreign shareholder may freely convert into hard currency and repatriate dividend proceeds, proceeds of sale of shares in Serbia, liquidation proceeds, capital reduction proceeds, additional payments into the capital of the Serbian company (sui generis concept under which the shareholders pay certain amount to their Serbian company without performing capital increase, and without such payment being considered a loan under the FX Act and expropriation proceeds, subject to all taxes related to such income/proceeds are paid in Serbia (corporate income tax, dividend tax, capital gains tax, etc.)

C. Financing

a. Main Financial Institutions

The main participants in the financial market are the banks. A bank may engage in all and any of the following activities (i) receiving deposits from the public; (ii) granting credit for its own account; (iii) foreign-exchange operations; (iv) payment and money transfer operations; (v) issuance of payment cards; (vi) securities activities (issuance, custody, etc.); (vii) brokerage and dealership activities; (viii) issuance of guarantees; (ix) purchase, sale and collection of receivables (factoring, forfeiting, etc.); (x) insurance brokerage; and (xi) other activities that are connected or are similar to the aforementioned. Only Serbian-licenced banks may engage in accepting deposits in Serbia, whereas granting credit as a commercial activity and issuance of payment cards can also be performed by certain other regulated entities (payment and electronic money institutions, etc.) A bank must set aside an initial cash capital of EUR 10,000,000. Basel II standards have been implemented in Serbia, and are expected to be replaced by Basel III in the next couple of years. There are currently 30 banks in the market: 22 of which are foreign-owned, whereas eight are domestically-owned.

Insurance undertakings are the second largest financial institutions in Serbia. There are currently 20 insurance undertakings and four re-insurance undertakings in the market: 18 of which are foreign-owned, whereas six are domestically-owned. Since 2015, new entrants will no longer be allowed to perform both life and non-life insurance within the same company. Six undertakings using the possibility provided in the law to continue the composite operations, but were required to segregate insurance lines, calculating and managing assets and liabilities separately for each activity and maintaining separate capital adequacy levels.

Another participant in the financial market are the voluntary pension funds, type of an institution for collective investments. The voluntary pension funds are managed by the asset management companies. Currently, there are four kinds of management companies, which are responsible for seven voluntary pension funds.

Finally, there are 16 companies in the Serbian financial market that are engaged in financial leasing business.

b. Financing Conditions for Foreign Enterprises

In general, there are no differences in financing conditions between domestic enterprises and foreign enterprises. There are certain limitations, however, that apply to giving loans in domestic currency to non-residents. These loan agreements cannot stipulate that the obligation of the borrower will be fixed to the fluctuations in the foreign exchange rates (the "foreign exchange clause"). Also, banks can only provide a RSD loan to a non-resident by way of: (i) crediting the payment card issued in favour of a non-resident; or (ii) making a direct payment to the bank account of the non-resident's counterpart in Serbia, under a current or capital transaction entered between these non-resident and resident.

D. Land Policy

a. Brief Introduction of Land-related Laws and Regulations

a) Types of Real Property Rights

The following property rights can be acquired in the Republic of Serbia:

(i) ownership right;

(ii) mortgage;

(iii) easement;

(iv) pre-emption right.

A lease is generally not considered as a property right, but it does share certain features of property rights and, in relation to construction land, it may be said that the lease of construction land is next to the property rights, since it entitles the lessee to develop the construction land.

As a relic of the communist past, there also exists the right of use over construction land, which is considered as a property right and may be converted into an ownership right. The conversion of the right of use into ownership, depending on the facts of the case, may require the payment of a conversion fee.

b) Acquisition and Registration of Real Properties

One becomes the lawful owner of real property at the moment of registration of such right in the Real Estate Cadastre, as the official public registry of real estate and title to it. The registration may be performed on the basis of a private document (such as a sale and purchase agreement) or final public document (such as court judgment or resolution of the court). Rights in other person's property (such as mortgages, easement rights, pre-emptive rights etc.) also need be formally registered in the Real Estate Cadastre in order to be acquired. Pursuant to the Real Estate Transfer Act, in order to be effective, an agreement on the transfer of immovable property has to be prepared in written form and notarized by the public notary seated in the territory where the relevant immovable is located. A failure to conclude the agreement in this form makes the transaction null and void.

c) Main Sources of Real Estate Law in the Republic of Serbia

Below is a list of key pieces of legislation which governs the real estate matters in the Republic of Serbia:

(i) The Property Relations Act – the law regulates ownership rights, easements and some other third party rights to real properties, possession as well as the procedure for foreigners acquiring real properties in Serbia, etc.

(ii) The Real Estate Transfer Act – the law governs the transfer of ownership title to real properties via legal transactions, against or without a fee.

(iii) The State Survey and Real Estate Cadastre Act– the law governsthe procedure of state survey and registration of real properties, title to it, as well as encumbrances and third party right.

(iv) The Planning and Construction Act – the law governs the conditions and manner of spatial planning and development, development and usage of the construction land as well as the design and construction of buildings.

(v) The Agricultural Land Act – the law governs the planning, protection, development, utilization, and transfer of agricultural land.

(vi) The Public Notary Act – the law governs the organization and activities of public notaries.

(vii) The Mortgage Act – the law governs the rules and procedures for establishing a mortgage, the types of mortgages, the registration of mortgages, mortgage foreclosure, etc.

(viii) The Act on Conversion of Right of Use to the Construction Land into Ownership against a Fee – the law governs the conditions and procedure for the conversion of the right of use to state owned construction land into private ownership of the holder of such right of use.

(ix) The Legalization Act – the law governs the conditions and procedure for the legalization of illegally constructed and/or modified buildings.

(x) The Expropriation Act – the law governs the procedure for the expropriation of privately owned real properties by the state for a fee, based on determined public interest in accordance with the law.

(xi) The Restitution Act – the law governs the conditions and procedure for restitution and compensation for nationalized and confiscated property from natural persons and legal entities on the territory of Serbia after the Second World War.

b. Rules of Land Acquisition for Foreign Enterprises

The Property Relations Act prescribes the rules and conditions under which foreign legal entities and natural persons may acquire real property in the Republic of Serbia. The law stipulates that a foreign natural person who does not perform business activities in the Republic of Serbia may acquire ownership rights or inherit an apartment and a residential building, provided that there is reciprocity between the Republic of Serbia and the foreigner's country. Further, the law prescribes that foreign natural persons and legal entities, that perform business activities within the territory of the Republic of Serbia, may acquire ownership over real property provided that (i) they pursue business in the Republic of Serbia, (ii) the respective real property is necessary for their business (the Ministry of Trade, Tourism and Telecommunications issues opinion on whether the property is necessary for the foreigner's business operations), and (iii) there is a reciprocity[①] between the Republic of Serbia and the foreigner's country.

A public notary is obliged to check whether the conditions for the acquisition of property by the foreigner are

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① Reciprocity exists if Serbian citizens are treated as equals with the nationals of the foreigner's country, in respect to the acquisition of real properties (e.g. if an international treaty or a foreign country's law guarantees that the Serbian citizens may acquire the real properties in the respective country), or the authorities of the foreign country in practice recognize the rights of Serbian citizens to acquire ownership to real properties, then the reciprocity requirement exists. An indicative list (but not conclusive, i.e. the reciprocity has to be double checked on a case by case basis) of countries with which the reciprocity requirement is met is published on the web site of theSerbian Ministry of Justice (in Serbian only): http://www.mpravde.gov.rs/tekst/3579/pravo-stranaca-da-sticu-nepokretnosti.php.

met, before notarizing the real property transfer agreement where the foreigner is a party.

According to publicly available information on the website of the Ministry of Justice, there is reciprocity between the Republic of Serbia and People's Republic of China, i.e. Chinese natural persons and legal entities may acquire real property rights in Serbia.

However, the Agricultural Land Act explicitly excludes the possibility for foreigners to acquire ownership to agricultural land. This restriction is expected to be relaxed in the forthcoming period, at least in respect to EU citizens – this is due to obligations which Serbia undertook in the EU accession negotiations. In the meantime, the foreigners may overcome this restriction by establishing a Serbian SPV (usually a limited liability company) which acquires ownership right to the agricultural land in the Republic of Serbia.

E. The Establishment and Dissolution of Companies

a. The Forms of Enterprises

a) General

Serbian legal rules which regulate the status of legal entities are codified in the Companies Act.

Serbian law recognizes four types of legal entities: general partnership (o.d. – ortačko društvo), limited partnership (k.d. – komanditno društvo), limited liability company (d.o.o. – društvo sa ograničenom odgovornošću), and joint stock company (a.d. – akcionarsko društvo). In practice, foreign investors prefer incorporating limited liability companies due to low registration requirements, simplicity of the legal form, and the flexibility for the shareholders to regulate their relationship in the company.

b) General Partnership

General partnership consists of two or more natural/legal persons (partners) which are have unlimited personal liability for the obligations of the partnership to third parties. Partner's liability is joint and several, and no partner may limit his/her liability towards third persons. A partner may make his contribution to the general partnership in money, in kind, in rights or in labour or services. There is no minimum or maximum threshold for contributions.

c) Limited partnership

Limited partnership may be formed by two or more natural/legal persons. Unlike in the general partnership where all partners are personally liable for the debts of the partnership, in limited liability partnership at least one of the partners (general partner) must have unlimited personal liability for the obligations of the limited partnership, whereas other have limited liability. The identity of the limited partner is known to third parties since he has to be registered with the Companies Registry run by the Serbian Business Registries Agency ("SBRA").

d) Limited Liability Company

In a limited liability company ("LLC"), one or more shareholders each own a single stake/quota in the company's share capital. The stake/quota of a shareholder does not have to be proportional to his capital contribution. The shareholders are not liable for the company's obligations, except where conditions are met for the piercing of the corporate veil. Corporate veil may be pierced, i.e. shareholders may be personally liable for the debts of the company if the shareholder (i) uses the company for acquiring a goal which is prohibited, (ii) uses or disposes the company's assets as it were the shareholder's, (iii) uses the company or its assets for the purpose of damaging the company's creditors, or (iv) decreases the company's assets for the purpose of acquiring any benefit for himself or a third party's benefit, even if shareholder knew or had to know that the company will not be able to perform its obligations.

An LLC's minimum pecuniary share capital is RSD 100.00 (less than EUR 1).[①]

An LLC's management may be organised under a single-tier system or under a two-tier system. The single-tier management system includes a Shareholder's Assembly, and one or more directors. Under the two-tier management system, a company also has a Supervisory Board which supervises performance of the directors. In a sole member LLC, the shareholder performs the function of the Shareholder's Assembly.

e) Joint Stock Company

A Joint Stock Company's ("JSC") share capital is divided into shares. Shareholders in a JSC are not liable for the company's obligations towards third parties, except when the conditions are met for the piercing of corporate

① Pursuant to Article 46 of the Companies Act, the initial capital may be paid prior to LLC's incorporation or within 5 years following the enactment of the Memorandum of Association.

veil. A JSC's minimum share capital amounts to RSD 3 million (approx. EUR 24,500.00)[①], whereas the minimum nominal value of a single share amounts to RSD 100.00. Shareholders' contributions may be in money or in-kind. At least 25% of the company's registered share capital must be paid-up prior to the registration.

A JSC may be organized as private JSC, or as public, i.e. listed company.

The JSC's management may be organized as single-tier or as two-tier. In a single-tier management system, directors form the Board of Directors, whereas in the two-tier system, the management consists of Executive Directors sitting in the Executive Board, whereas the Supervisory Board monitors the work of Executive Directors.

f) Branch Office and Representative Office

A foreign investor may also opt for registering a branch office or a representative office. These forms do not have the status of independent legal entities, but are considered as a separate organisational unit of a foreign company. The founder of a branch or a representative office is liable for their obligations towards third parties. Both have to be registered with the SBRA's Companies Registry.

A branch enters into transactions on behalf of its foreign parent, who is directly liable for the obligations under the transactions concluded by the branch. Unlike a branch, a representative office does not have the capacity to enter into agreements except for its own minimum purposes (lease, employment agreements etc.). Its purpose is reduced to market research and other preparatory activities for the benefit of the foreign founder.

b. The Procedure of Establishment

This section deals only with the establishment of an LLC, since this is the most popular corporate form in Serbia. The incorporation of an LLC includes a registration before the SBRA, opening of a bank account, and submitting a tax dossier to the Serbian Tax Authority.

a) Registration before the Serbian Business Registry Agency

The registration procedure is simple and it may last from 24 hours to maximum of five days, provided that the applicant duly submitted the necessary documents. The documentation required for incorporation comprises the following:

(i) An excerpt from the commercial register for the founder(s), or, if founder is from a jurisdiction where an excerpt from the relevant commercial register does not contain the Founder's data required by Serbian law for registration, other document(s) containing information on the name, registered corporate seat, ownership structure and authorized representatives of the founder. Documents have to be notarized and apostilled, depending on the country of their notarization;

(ii) A Memorandum of Association ("MoA"), signed by the authorized person, notarized, and depending on the country where notarized, apostilled;

(iii) A copy of an identification document of the LLC's proposed authorized representative – a passport (if the representative is foreigner) or identity card (if the representative is a Serbian national);

(iv) A certificate from a Serbian bank confirming that the initial capital has been paid, if the founder plans to pay the initial capital prior to incorporation. In this case the founder is required to open a temporary bank account for the purpose of LLC establishment;

(v) Duly completed application forms provided by the SBRA;

(vi) Evidence on payment of the registration fees – RSD 5,900.00 (approx. EUR 51.00); Power of Attorney for a local legal counsel for execution of the relevant documents, if the procedure is managed by the local counsel. The PoA must be signed and notarized and, depending on the country where notarized, apostilled.

b) Opening of a Permanent Bank Account and Submitting Tax Dossier to the Serbian Tax Authority

After incorporation, the LLC has to open a permanent bank account with a commercial bank in Serbia. Experience so far shows that Serbian banks perform rigorous Know Your Client procedures which may take extra time, depending on the ownership structure of the founder, i.e. if the structure is not transparent and/or is complicated. As a result, the opening of a permanent bank account may take several months.

After the registration before the SBRA, the LLC is obliged to submit to the Serbian Tax Authority required documents for a Tax dossier and the application for registration for Corporate Income Tax. VAT registration may be performed within the registration procedure before the SBRA.

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① There are exceptions prescribed under other laws which regulate certain industries. For example, in the banking sector, minimum share capital amounts to EUR 10 million, under the Act on Banks.

c. Routes and Requirements of Dissolution.

a) General

The dissolution of a company in Serbia is regulated by the Companies Act. The whole procedure is referred to as liquidation and to "deserve" this exit route the company must have sufficient assets to satisfy the claims of its creditors in their entirety. Dissolution is therefore reserved only for solvent companies.

The company conducts the liquidation (at least a voluntary one[1]) on its own without the assistance of any official authorities. Throughout the dissolution the contact with authorities is minimal[2] and consists of submitting certain documentation to the commercial registry and registry of financial statements.

b) Role of the Liquidator and Procedure Overview

In liquidation all business decisions and responsibility are transferred to a liquidator (usually a former director or other legal representative of a company) who has a task on his hands to complete the ongoing businesses and liquidate the company. The liquidator has to prepare documents[3] required by the law at the beginning of liquidation and at its very end, which are then adopted by the company's Shareholder's Assembly. The purpose of the documents prepared at the beginning of liquidation is to determine that the company does have sufficient assets to satisfy all its creditors and to determine who these creditors are and how high their claims are.[4] If it is determined from these documents that the company is insolvent (that the claims cannot be covered by the assets), the liquidator is under legal obligation to file a request to a competent court for a bankruptcy procedure. Thus a company considering dissolution should always calculate this risk and be as precise as possible when estimating the total sum of the claims that it will have to pay to its creditors.

It is important to note that during liquidation a company cannot pay dividends or transfer any property on shareholders, as there is a risk that creditors' claims could be jeopardized by such actions.

c) Completion of Liquidation and the Payment of Liquidation Surplus

At the end of the liquidation the liquidator prepares certain documents that are to show how the whole process went and to affirm that all creditors are satisfied and that the company's remaining assets (if any) can be distributed to its shareholders – the so called liquidation surplus.

The payment of liquidation surplus, as the goal of dissolution, can be effected only upon satisfaction of all creditors and upon termination of all court proceedings against the company. These two also represent conditions for termination of liquidation procedure and deletion of the company from the commercial registry. From this it follows that liquidation can be completed if the only pending proceedings are those where the company is a plaintiff (in which case claims asserted in the proceedings would be assets forming liquidation surplus to be distributed to shareholders).

The liquidator transfers the liquidation surplus to the shareholder's bank account (does not have to be a resident one) right before the completion of liquidation is registered – meaning right before the deletion from the commercial registry.

Three years after the deletion of the company from the commercial register the shareholders can be held responsible for obligations of the now liquidated company. However their responsibility is not only limited in time, it is also limited in the amount – shareholders can only be held responsible up to the amount of the received liquidation surplus.

In the same three year period both creditors and the shareholders can hold a liquidator responsible for the damage he had done while performing his duties.

d) The Suspension of Liquidation

Once the liquidation is commenced, a company can change its mind and decide not to liquidate after all. However, once started the liquidation can be suspended only if: (i) the company satisfied all of its creditors (irrelevant as to whether their claims were contested or not), (ii) if none of the employment agreements were terminated because of the liquidation, and (iii) if the payments to the shareholders had not yet been made.

e) Conclusion

Liquidation in Serbia is a fairly simple procedure conducted by the company itself. The time frame depends on

① As opposed to an involuntary dissolution which may be initiated against a company that does not respect its obligations prescribed by the law. The involuntary dissolution is conducted by the Serbian Business Registers Agency.

② Except in cases where the regulatory body has to supervise the procedure e.g. financial institutions such as banks, insurance houses, leasing companies.

③ These include financial statements.

④ The company in liquidation is obliged to make a record of all registered claims and draw up a list of recognized and contested claims.

the circumstances of each case - however it cannot be less than six months.

Outline of the Liquidation Steps
• The Shareholder's Assembly enacts a decision on the commencement of liquidation (in which it names the liquidator as well)
• The decision is registered with the commercial registry and made publicly available (for 90 days) together with a notice of liquidation and an announcement to the company's creditors inviting them to report their claims
• The liquidator sends a written notice to all the known creditors inviting them to report their claims (no later than 15 days from registration of the liquidation with the commercial registry)
• Creditors can report their claims in a 120 day period from the registration of liquidation
• The liquidator prepares an initial liquidation report with the list of all the claims (recognized and contested)
• Upon settlement of all the claims and completion of proceedings against the company, the Shareholder's Assembly adopts a decision on the completion of liquidation (together with a decision on the distribution of liquidation surplus, statement of liquidator that all liabilities are settled and that there are no pending court proceedings against the company)
• The relevant documents are submitted to the commercial registry and the company is deleted from the commercial registry
• The liquidator submits the final tax return and obtains a tax certificate confirming all the liabilities of the company have been settled as a precondition for
• The transfer of the liquidation surplus to the shareholders

F. Merger and Acquisition

Foreign investors (individuals and legal persons) may acquire shares in Serbian companies under the same conditions as Serbian investors.

Mergers and acquisition in certain industries (e.g. banking, leasing, insurance, media, telecommunications, gambling, etc.) are governed by industry-specific regulations which prescribe regulatory approvals for acquiring a certain percentage of shares in the target company. For example, in the banking sector, the NBS issues a prior approval to a direct or indirect acquisition of 5%, 20%, 33%, and over than 50% of voting rights in a bank, respectively.

Most common target companies in Serbia are LLCs and JSCs.

a. Share Sale in LLC

A Sale of shares in a LLC is subject to statutory pre-emptive rights of other shareholders in the LLC (right of first refusal), unless the LLC's MoA stipulates otherwise. In order to acquire shares in the target LLC, the seller has to obtain consent(s) or waiver(s) from the other shareholders in the LLC regarding their pre-emption rights. Other transfer restrictions may follow from the MoA.

b. Share Sale in JSC

The transfer of shares in a non-public JSC in general is not restricted, however, it may be subject to restrictions or additional obligations if such are envisaged under the JSC's MoA, such as pre-emptive rights of the remaining shareholders, requirement to obtain prior consent of the target LLC, tag-along and drag-along rights, etc.

If the target is a listed JSC with (i) more than 100 shareholders on each last day of three consecutive months, and (ii) registered share capital of more than EUR 3 million, the procedure is governed by the Takeover of Joint Stock Companies Act which sets forth a detailed rules for acquiring the target company's shares. In case an investor, alone or together with its related parties, acquires directly or indirectly shares of a listed JSC, as a result of which the investor holds, alone or together with its related parties, more than 25% of the voting shares in the target, the investor obliged to launch a takeover offer (mandatory bid offer). If the investor intends to acquire less than 25% of voting shares in a target company, the investor may, but is not obliged, to launch a voluntary takeover bid ("VTO"). However, once the VTO is launched, it cannot be withdrawn. VTO may be conditional upon the minimum number of shares which the investor intends to purchase.

c. Acquisition of a State-owned Company

The acquisition of state-owned companies is regulated under the Privatization Act. The Privatization Act provides for four models of privatization:

(i) Sale of assets;

(ii) Sale of capital;

(iii) Strategic partnership; and

(iv) Transfer of shares without compensation (in strategic partnership model the Government may grant the strategic partner to acquire ownership over shares without compensation in case of positive business results).

In case of sale of shares or capital the procedure is initiated by the Ministry of Economy, which organizes a public tender for interested buyers to submit their bids. Following the public tender, bidders which bids have been accepted further compete in the public auction procedure. The bidder who proposes the highest purchase price at the auction is declared as the buyer by the Ministry and is invited to sign the privatization (sale and purchase) agreement. The terms and conditions of the acquisition of assets/shares are not negotiable, except in case of the sale of assets/capital of state-owned companies declared to be of strategic importance or with turnover of more than RSD 50 billion (approx. EUR 400 million).

The strategic partnership model regulated under the new Privatization Act has not been tested so far - the first privatization under this model is undergoing (privatization of a state-owned pharmaceuticals manufacturer, Galenika). Strategic partnership may be performed as a (i) joint venture through establishment of a new company by the strategic partner and Serbia, or (ii) capital increase by the strategic partner in an existing state-owned company. The procedure is administrated by the Ministry which organizes a public tender in which interested investors are invited to submit their bids. Upon submission of bids, the Government proclaims the first and second ranked bidder (in case the first ranked bidder does not enter in to negotiations for conclusion of the agreement) on the proposal of the special commission appointed by the Government. The Ministry invites the first ranked bidder to enter into negotiations with the Commission for conclusion of the strategic partnership agreement within 90 days from the date when the Government declared the rankings. On the basis of the negotiations and the Commission's report, the Government renders the decision on conclusion of the strategic partnership agreement.

G. Competition Regulation

a. Department Supervising Competition Regulation

a) The Competition Commission

The Commission for the Protection of Competition ("CPC") is an independent administrative body mandated to enforce competition rules, including rules on merger control, abuse of dominance, and restrictive agreements. The CPC operates from 2006. Since then, it has rapidly expanded its institutional capacities and is increasingly active in the enforcement of competition rules.

b) State Aid Control Commission

The enforcement of state aid rules lies with the State Aid Control Commission ("SACC"). The SACC is formed by the government following nominations from various ministries and the CPC, and thus it is not a fully independent body. SACC was created in 2010, and has been only moderately active so far.

b. Brief Introduction of Competition Law

a) The Competition Act

The Competition Act is the main statute governing competition and antitrust. Its main substantive provisions cover restrictive agreements, merger control and abuse of dominance, and it is modelled after the EU competition rules.

b) The State Aid Control Act

The State Aid Control Act is the core piece of legislation establishing the state aid control framework. Its substantive provisions on the notion of state aid and procedures of awarding the aid are aligned with the EU state aid rules.

c) Sector-specific Laws

The laws on sectoral regulation cover specific competition aspects. In particular, laws on electronic communications, energy, and media contain provisions regulating antitrust and competition, while laws on agriculture and fisheries provide for special state aid rules.

d) International Sources

The Stabilisation and Association Agreement ("SAA") between Serbia and the EU came into force in 2013. The SAA contains substantive competition and state aid provisions, and obliges Serbia to further harmonize its rules with EU regulations. In practice, the CPC and SACC are likely to take guidance from relevant EU laws when an issue is under-regulated by domestic rules.

e) By-laws

The government has adopted legally binding regulations on the application of the Competition Act, and the State Aid Control Act.

In the competition realm, it has so far adopted several "block exemption" decrees stipulating conditions under which restrictive agreements enjoy safe harbour and must not be notified to the CPC, as well as decrees regulating fines, leniency procedures, relevant market definition, concentration notification, and the filing of an individual exemption.

For state aid purposes, it has adopted decrees regulating the granting of state aid, and the process of the notification of state aid.

f) Soft Laws

The CPC has published several guidelines, guidance, and opinions on the application of the Competition Act. Although these instruments are of non-binding nature for companies, the CPC has affirmed that it is bound to apply them.

g) Jurisprudence

The CPC, and the SACC are not legally bound by their previous decisions. Nevertheless, companies may reasonably expect that the CPC, and the SACC will act in accordance with their previous case-law, unless the case has been reversed by a court in judicial proceedings.

c. Measures Regulating Competition

a) Antitrust and Competition

The regulation of competition in Serbia has a relatively short history, given the country's recent transition from a planned to a market economy. Modern competition rules have been adopted in 2005, while the current Act on the Protection of Competition ("Competition Act") was enacted in 2009. Considering that Serbia aims to enter the European Union (EU) and as of 2011 is a candidate country, the Serbian competition rules have been modelled after EU competition laws.

The key pillars of Serbian competition law are the prohibition of restrictive agreements, the prohibition of abuse of dominance, and merger control. The CPC may penalize companies non-compliant with competition rules with fines amounting up to 10% of their Serbian turnover in the year before the year when the investigation was launched.

(i) Restrictive agreements

Agreements which considerably restrict, distort or prevent competition on the Serbian market are prohibited, and are null and void. Price-fixing and market sharing is a restrictive agreement which is inexcusablyprohibited, similarly as are cartel-like arrangements between competitors on limitation of production or supply, or sharing sources of supply. Other types of restrictive agreements might be exempted from the prohibition if they fall under one of the three exceptions:

- The parties have a negligible market share on a relevant market in Serbia as stipulated in the Competition Act (so-called "agreements of minor importance");
- The agreement fulfils the requirements of a "block exemption" as stipulated in a relevant block exemption decree adopted by the government; or
- The parties have obtained an individual exemption from the CPC prior to the conclusion of the agreement.

(ii) Abuse of dominance

The Competition Act prohibits dominant companies from abusing their market power. Dominance is not presumed, meaning that in all cases the Commission must firstly prove that a company is dominant. Examples of abuse include charging excessive prices, limiting production, refusing supply, and squeezing competitors from the market by dumping prices, setting loyalty rebates or tying products.

(iii) Merger control

Serbian merger control rules capture three types of transactions (concentrations):

• mergers and other status changes leading to acquisition of an undertaking;

• acquisition by one (sole control) or more (joint control) undertakings of direct or indirect control over other undertaking or undertakings, or a part of an undertaking which can be considered an independent business unit; and

• establishment of joint venture or acquisition of joint control over an existing undertaking, performing functions of an independent undertaking on a long-term basis.

Prior to executing any of the aforementioned transactions, the parties must give notice of them to the CPC if one of the two turnover thresholds has been met in the year preceding the year of the transaction:

• The total worldwide turnover of all parties to the transaction exceeded EUR 100 million, whereby at least one party's Serbian turnover exceeded EUR 10 million; or

• The total Serbian turnover of at least two parties to the transaction exceeded EUR 20 million, whereby at least one party's Serbian turnover exceeded EUR 1 million.

The turnover thresholds do not apply to takeovers in public bid process of joint-stock companies registered in Serbia. The stance of the CPC has been that a concentration is notifiable whenever merger thresholds are met, meaning that foreign-to-foreign transactions are captured albeit lack of substantial effects in Serbia.

The transaction must be declared within 15 days triggered by any of the following: the conclusion of an agreement; the announcement or closing of a public bid; or acquisition of control. The parties may give notice of the transaction earlier, if they can demonstrate a serious intent, i.e., by signing a memorandum of understanding, or announcing the intention to make a bid.

Notification suspends the execution of a transaction until the CPC issues a clearance decision, except for takeover bids which may be continued subject to conditions.

b) State Aid

The current regulatory and institutional state aid control framework was established in 2010. The Serbian state aid rules are modelled after the EU state aid laws, although notable discrepancies exist, particularly with regard to carve-outs for companies under privatization and treatment of state-run enterprises. Further harmonization with EU laws is expected.

Under Serbian rules, state aid is any benefit a company infers on a selective basis from public resources, which affects or may affect competition on the market. State aid is unlawful, unless it falls under one of the several exceptions from the prohibition aimed to achieve policy objectives, as stipulated in regulations, and is cleared by the SACC.

Any state aid must be notified to the SACC by the aid grantor prior to being awarded. Serbian state aid rules recognize that state aid may be notified either as individual aid, or as a "state aid scheme". A state aid scheme is a legal regulation stipulating conditions to award aid. If the scheme is cleared, award of aid under the scheme to individual beneficiaries need not be separately notified.

If state aid was granted bypassing the clearance, the SACC may open an investigation, order the suspension of the award of aid, and recover the aid granted contrary to state aid rules, with interest fees.

H. Tax

a. Tax Regime and Rules

Most taxes are administered by the Government, through the Ministry of Finance's Tax Administration, except for property taxes (and other para-fiscal levies) which are collected at the local municipality level.

Besides its national legal framework, Serbia has a Double Taxation Treaties (based on the OECD Model Tax Convention) with 54 countries. Double Taxation Treaties are applied directly in Serbia and they supersede national tax laws in the matters regulated by the DTTs.

a) Laws and Regulations

(i) Personal Income Tax Act;
(ii) Corporate Income Tax Act;
(iii) Value Added Tax Act;
(iv) Act on Tax Procedure and Tax Administration;
(v) Property Taxes Act;
(vi) Excise Duty Act;
(vii) Customs Act;
(viii) Local Self-Government Financing Act;
(ix) Act on Taxation of Non-Life Insurance Premiums.

b) General Rules

Tax year corresponds to the calendar year, unless the tax payer has opted for a different tax year.

Statute of limitations for determining tax liability is five years, however, expiration of this deadline is cancelled by any action the Serbian Tax Authority performs against the tax payer for the purpose of determining tax liability (even notices on due tax which the tax authority delivers to the tax payer is considered enough to cancel the expiration of the deadline). Absolute statute of limitations for determining tax liability is ten years for all tax liabilities, except for pension and disability insurance contributions. The statutes of limitations start running from the first day of a year thatsupersedes the year in which the relevant tax became due.

The Serbian Tax Authorities perform tax audits in the form of office and field control. Office control assumes inspection of the data presented in a tax returns and other relevant documentation, whereas field control is performed on the business premises of the taxpayer.

Penalties can be imposed when a taxpayer fails to submit a tax return, or calculate, and/or pay its tax liability within the statutory deadlines. Tax penalties range up to 100% of the tax owed, plus a fixed penalty amount, plus interest.

b. Main Categories and Rates of Tax

Tax	Tax Rate
Value Added Tax	Standard rate – 20% Lower rate – 10% and 0%
Corporate Income Tax	Uniform rate – 15%
Withholding Tax on Payments to Non-residents (unless stipulated otherwise under applicable DTT)	20% – dividends, shares in profits, royalties, interest income, lease payments for real estate and other assets, service fees for services performed or used in Serbia 25% – payments to non-residents from preferential jurisdictions (i.e. tax heavens) in respect of royalties, interest income, lease payments for real estate and other assets, and service fees
	Under Serbia – China DTT: 5% – dividends 10% – interest and royalties
Tax on Capital Gains of Non-residents	20%, unless stipulated otherwise under applicable DTT
Personal Income Tax	Salaries – 10% Income from capital – 15% Other income – 20%
Annual Income Tax (natural persons)	10% and 15%, respectively (10% is applicable to annual income of six average annual salaries in Serbia, whereas 15% applies to income exceeding that thresold)
Property Tax	Individuals – Progressive rates ranging from 0.4% to 2% calculated on immovable property value. 0.4% is calculated on value up to RSD 10 million. Value exceeding the threshold is subject to 0.6% (over RSD 10 million), 1% (over RSD 25 million), and 2% (over RSD 50million) tax rate Companies – Flat rate up to 0.4% of the immovable property value, depending on the municipality where the asset is located
Social Security Contributions	Individuals – 19.9% Employers – 17.9% Maximum social security contributions base is limited to five average annual salaries in Serbia

c. Tax Declaration and Preference

Within the prescribed deadline (180 days from the end of the tax year), corporate taxpayers are obliged to prepare and submit tax returns together with other necessary documentation. The taxpayer is obliged to calculate its tax liability for the period declared in the tax return. If the taxpayer fails to file a tax return within the statutory deadline or if the return is incorrect the Serbian tax authorities may assess tax liability. In case of tax assessments

issued by the Serbian tax authorities, tax payer may file an appeal. However, the appeal does not delay the execution of the appealed act.

I. Securities

a. Brief Introduction of Securities-related Laws and Regulations

The Capital Markets Act regulates the issuance and offering of financial instruments. The definition of financial instrument covers negotiablesecurities, money market instruments, collective investment funds, options, futures, swaps, forwards and other derivatives. The statute further regulatesinter alia: the supervision and the control of the markets; the conditions for the establishment and the licensing of investment firms (stock traders and custodian banks); and the reporting requirements for the public companies. In each of these areas, the supervisory authority (Securities Commission) has enacted a number of bylaws which elaborate on the rules set out in the statute. The Takeover Act sets out the triggering conditions and procedures for mandatory takeover offers. The percentage of voting shares in the target company that would require the investor to launch a takeover offer is 25%. The statute further regulates the exceptions from the obligation to launch the takeover offer (acquisitions of shares in bankruptcy, merger, privatization, etc.), the determination of the purchase price in the takeover offer, voluntary takeover offer, the concept of "acting in concert", etc. In addition, the statute provides for launching a voluntary takeover offer pursuant to the same conditions that apply to the mandatory takeover offerwith a few exceptions. The Investment Funds Act stipulates the conditions for taking-up and seeking of the business of management companies that manage the investment funds. These fund managers must apply to the Securities Commission for the authorization to do business in Serbia.

b. Supervision and Regulation of Securities Market

The local securities market is supervised by the Securities Commission of the Republic of Serbia. The Securities Commission is entitled to adopt bylaws to regulate the manners in which it applies its supervisory powers and perform other activities according to the Capital Markets Act.

c. Requirements for Engagement in Securities Exchange for Foreign Enterprises

A person (natural or legal person) must be authorized by the Securities Commission to engage in providing investment services in Serbia. The investment services are defined by the Capital Markets Act,includingthe reception and the transmission of orders in relation to one or more financial instruments; the execution of orders on behalf of clients; and the dealing on own account; etc. Foreign investment firms must establish subsidiaries for this purpose. Offering of regulated services without authorization violatestheCriminal Law which shall be sentenced to fixed-term imprisonment of not more than three years in combination of fines.

The FX Act allows non-residents to purchase domestic equities and long-term debt securities, and the conditions of which set out in the Capital Markets Act. That means, unless otherwise required, foreign enterprises need to hire local investment firmsto execute orders on its behalf. Non-residents are not allowed to purchase local short-term securities.

J. Preference and Protection of Investment

a. The Structure of Preference Policies

a) State Grants

Pursuant to the Decree on Attracting Investment, the investment in the production sector is eligible for incentives where their recognized cost is at least EUR 150,000, EUR 300,000 or EUR 600,000, and where they create a minimum of 20, 30, 40 or 50 new, full-time, indefinite-term jobs for Serbian nationals. The applicable threshold in each case depends on the location of the project, with the Decree on Attracting Investment dividing host municipalities into four categories depending on their level of development; the lower the development of the host municipality, the lower the investment and employment requirements. On the other hand, investment in the services sector is eligible for investment where their recognized value is at least EUR 150,000 and the number of new jobs created is 15 or more.

Investment benefiting from incentives must be completed in a period of three years from the conclusion of the agreement on incentives with the State. There is a possibility to extend this period to a maximum of five years, subject to approval by the Council for Economic Development, a body controlled by the government. Investment qualified as "strategic" based on their significance for the Serbian economy, the amount of the investment (EUR 20 million within three years), the number of jobs created (500 new jobs within five years), as well as investment made on the basis of a bilateral treaty or a treaty on cross-border cooperation, benefits from more generous deadlines (three or five years, extendable to a maximum of 10).

Non-repayable grants awarded pursuant to the Decree on Attracting Investment are capped at 50%, 60% or 70% of the recognized investment cost, depending on whether the beneficiary is classified as a large, medium-sized or small company. Investment of "strategic importance" is subject to specific caps. In addition, the recipient is entitled to non-repayable grants to cover the cost of newly hired employees' salaries. The actual amount of each specific grant depends once again on the location of the investment.

It should be noted that only companies registered in Serbia, irrespective of whether they have domestic or foreign capital, are eligible to receive incentives pursuant to the Decree on Attracting Investment.

b) The National Employment Service Grants

The National Employment Service grants include an employment subsidies program, an apprentice program, and a re-training program for employees.

c) Financial Benefits

There are a number of financial benefits available to investors. These include the following: a Corporate Profit Tax holiday, the possibility of carrying forward losses, the avoidance of double taxation, sizeable reliefs of taxes and contributions paid on net salary, annual income tax deductions, as well as a wide array of local incentives varying in scope and size from city to city (e.g. fee exemptions and deductions). In addition, according to the Act, the import and export of equipment which constitutes a foreign investors' contribution is free and exempted from customs and other import duties, except in the case of passenger cars and machines for entertainment and gambling purposes. The Decree on Attracting Investment establishes that equipment imports which constitute a contribution in kind are exempt from customs duties if the beneficiary has received incentives under the Decree on Attracting Investment. However, such equipment cannot be older than three years and cannot be resold for a period of three years.

d) Construction Land Transfer Subsidy

The Government or a local municipality can sell construction land at a price which is lower than the market price in support of an investment project considered to be of a national importance (only in the case the land is owned by the government) or an investment project that promotes local economic development (if the land is owned by the local municipality).

b. Support for Specific Industries and Regions

State support for foreign investors is specially intended for two sectors.

First, the manufacturing, except for the transportation, energy, retail/trade, hospitality, provision of utility services, games of chance and subsidized sectors (such as fisheries and agriculture), and except for projects involving production of synthetic fibres, coal, steel and tobacco products, arms and ammunition, building of broadband networks, and shipbuilding.

Second, the export-oriented electronically-provided services, such as software development, data storage and processing, logistical, customer and project centres, and alike.

Regions where investors are encouraged to invest by way of lower eligibility requirements to benefit from state incentives are the underdeveloped regions of Šumadija and West Serbia, as well as South-East Serbia.

c. Special Economic Areas

a) Industrial Zones

Many municipalities offer the possibility of operating within designated industrial zones. These industrial zones offer certain advantages to investors such as a streamlined process for acquiring land, a favourable geographic location and ready-to-use infrastructure. In addition, fourteen of these industrial zones are also Free zones (see below).

b) Free Zones

Free zones are a marked part of the Republic of Serbia's territory where activities are subject to many business benefits, such as fiscal benefits (exemptions from any tax burden for FDI, VAT and specific local taxes), customs benefits (exemption from customs duties on import of goods, equipment and raw materials used in exporting production and construction material for building of infrastructure), financial benefits (free cash flow), efficient administration (a one stop shop), simple and fast customs procedures (each zone has a Customs Administration Office), local subsidies for using free zone infrastructure, as well as preferential terms for a number of services (transportation, loading, reloading, freight forwarding services, insurance and banking services). There are currently 14 Free zones in Serbia.

d. Investment protection

a) Protection from Expropriation

The law on investment stipulates that investors enjoy full legal protection of the rights acquired through their investment. In the case of an expropriation, investors are entitled to compensation for the seized real estate property and for any potential devaluation of the business caused such an expropriation. In the same vein, the Agreement between the Government of the People's Republic of China and the Government of the Federal Republic of Yugoslavia ("Bilateral InvestmentAgreement") Concerning the Reciprocal Encouragement and Protection of Investment states that the investment of either contracting party shall not be expropriated, nationalized or subjected to measures having an equivalent effect to expropriation or nationalization in the territory of the other contracting party except for a public purpose related to the internal needs of that contracting party and against reasonable compensation i.e. the market value of the investment expropriated immediately before the expropriation, including interest.

b) Protection from Losses Owed to Conflicts

The Bilateral Investment Agreement states that Chinese investors shall at all times be accorded fair and equitable treatment and shall enjoy full protection and security on Serbian territory. Chinese investors whose investment in the territory of the Republic of Serbia suffer losses owing to war or other armed conflict, a state of national emergency, revolt, insurrection or riot on Serbian territory shall be awarded restitution treatment no less favourable that the which Serbia accords to investors of any third State.

c) Priority of Applications from Investors

The public authorities are under the obligation to treat applications from investors as a priority. In practical terms, this means that if the public authorities, with the exception of the Commission for the protection of competition, fail to issue the required approval for an investment upon the complete and timely application of the investor, the applicant will be able to address the Development Agency of Serbia. As an additional mechanism for fostering the expeditiousness of administrative proceedings in relation to investors' applications, the law stipulates that public servants will receive fines in the amount of up to RSD 15,000 (ca. EUR 1,300) if they fail to issue a decision on a complete application in time.

III. Trade

A. Department Supervising Trade

The authority competent for implementation of trade legislation in the Republic of Serbia is the Ministry of Trade, Tourism and Telecommunications (the "Ministry"). Within organizational structure of the Ministry, the Department for Trade, Services, and Competition Policy, Department for Consumer Protection and the Department for Market Inspection are competent for supervising implementation of the trade legislation.

B. Brief Introduction of Trade Laws and Regulations

The main piece of legislation in this area is the Law on Trade (Zakon o trgovini, Official Gazette of RS, no. 53/2010 and 10/2013). Apart from this law, there are several other laws in force in the Republic of Serbia which regulate various aspects of trade, among which it is important to mention the following:

(i) Law on Electronic Trade (Zakon o elektronskoj trgovini, Official Gazette of RS, no. 41/2009 and 95/2013);

(ii) Law on General Safety of Products (Zakon o opštoj bezbednosti proizvoda, Official Gazette of RS, no.41/2009);

(iii) Law on Foreign Trade Operations (Zakon o spoljnotrgovinskom poslovanju, Official Gazette of RS, no. 36/2009, 36/2011 – other law, 88/2011 and 89/2015 – other law);

(iv) Law on Consumer Protection (Zakon o zaštiti potrošača, Official Gazette of RS, no. 62/2014 and 6/2016 – other law);

(v) Competition Law (Zakon o zaštiti konkurencije, Official Gazette of RS, no. 51/2009 and 95/2013);

(vi) Law on Inspection Supervision (Zakon o inspekcijskom nadzoru, Official Gazette of RS, no. 36/2015).

Additionally, there are numerous pieces of secondary legislation enacted based on the aforementioned laws, which govern specific trade related matters in a more detailed manner, which are available (only in Serbian language) on the following link: http://mtt.gov.rs/dokumenti/#подзаконски-акти.

C. Trade Management

a. General Trade Requirements and Unfair Competition

General requirements for performing trade activities, such as minimal technical conditions, place of trade, requirements with regards to indication of price, labelling of products, applying sale incentives, as well as protection in case of unfair competition, are all contained in the Law on Trade.

One of the requirements worth to mention is the domicile of the trader. Namely, in order for a foreign legal entity to be present at the Serbian market, it must either establish a domestic company, representative office or branch office, or engage a distributor located in Serbia.

Additionally, all products entering the Serbian retail market should contain a declaration in Serbian language, i.e. should be affixed or in other manner attached with a label containing at least the data on the name and type of goods, data on contents and quantity, as well as other data in accordance with separate regulations and the nature of goods, especially data on manufacturer, country of manufacturing or import, date of production, duration period, importer, quality (class), and warning on potential danger or harmfulness of the goods. It should be noted that products do not need to be labelled at the moment of import, but only at the moment of their placement into the retail market. Consequently, distributors or importers (if they are not the same entities) are responsible for such labelling, and not the manufacturer. However, manufacturers would be responsible for ensuring that the products that are being imported are accompanied with the appropriate documentation on conformity with product safety requirements, instructions, manuals and other documents, depending on the applicable technical standards and requirements applicable to the product in hand, and indicated with a conformity mark.

What is also important to note is that the Law on Trade foresees a special instrument to traders – lawsuit for unfair competition. Legal entities whose business reputation has been tarnished (e.g. by defamatory statements) may file a lawsuit seeking compensation for both tangible and intangible damages and request labelling of defamatory statements as unfair competition and their further prohibition, with elimination of the consequences thereof.

b. Electronic Trade and Consumer Protection

Electronic trade in Serbia is regulated by the Law on Electronic Trade. However, it explicitly foresees its application only to the providers of services of informatics society, i.e. traders in terms of the Law on Trade who provide services at a distance, for a fee (as a rule), through electronic equipment for processing and storage of data, at the personal request of service users, which especially includes trade via Internet, as well as offering information and advertising via Internet, which are registered in Serbia. This would mean that this law does not apply to online traders registered outside the territory of Serbia.

However, provisions of the Law on Consumer Protection are of mandatory nature, and their application is without prejudice to the governing law or domicile of the trader. Accordingly, the provisions of this law governing minimum legal requirements for concluding long-distance agreements, providing of necessary information prior to conclusion of these agreements, mandatory jurisdiction of Serbian courts in case of consumer protection disputes, and alike, apply.

The electronic trade in Serbia is still not operating in its full capacity due to lack of support in legislative solutions foreseen in regulations governing electronic business and financial transactions. This is why, for example, PayPal is enabled only partially, i.e. only for making payments abroad, and not for receiving payments in Serbia.

D. The Inspection and Quarantine of Import and Export Commodities

The legislation of the Republic of Serbia does not regulate import and export commodity inspection in detail. Namely, the Customs Law only sets out the general authorization of the customs authority to perform all customs control measures they deem necessary in the particular case, prescribing that the customs control measures include inspection of commodities, sampling, verifying the information given in declaration, as well as checking the authenticity of documents, examining the accounts and other records of business entities, inspection of vehicles, passengers' luggage or other commodities that persons carry with them or on them, and other similar actions.

On the other hand, there are numerous pieces of secondary legislation which regulate customs treatment of different types of commodities. For example, Rulebook on Shipments that are Subject to Veterinary and Sanitary Control and Manner of Conducting Veterinary-Sanitary Inspection of Shipments at Border Crossings (Pravilnik o vrstama pošiljaka koje podležu veterinarsko-sanitarnoj kontroli i o načinu obavljanja veterinarsko-sanitarnog pregleda pošiljki na *graničnim prelazima*, Official Gazette of RS, no. 56/10) regulates the customs control in relation to imported products of animal origin, food of animal origin, animal feed, by-products of animal origin and related objects. A complete list of regulations is available (only in Serbian) on the following link: http://www.upravacarina.rs/cyr/Informacije/Stranice/Propisi.aspx.

E. Customs Management

a. Overview of the Applicable Laws, Regulations and International Agreements

a) Customs Law

Even though the law regulating customs procedures in Serbia is the currently applicable Customs Law, which was enacted on 3 April 2010, and amended twice in 2012 and 2015, the organization of the customs administration is still mostly governed by the provisions of the previously applicable Customs Law (Carniski zakon, Official Gazette of the Republic of Serbia, No 73/2003, 61/2005, 85/2005, 62/2006, 63/2006, 9/2010 and 18/2010).

b) The Customs Tariff

The Serbian Customs Tariff is harmonized every year with the EU Combined Nomenclature. In that regard, the currently applicable Customs Tariff was published on 31 December in the Official Gazette and is valid for the year 2016.

c) Free Trade Agreements

Serbia entered into Free Trade Agreements with the following entities/countries:

(i) Interim agreement on trade and trade-related matters, as well as Stabilization and Association Agreement (SAA) with European Member States;

(ii) Central European Free Trade Agreement (CEFTA), with Albania, Bosnia and Herzegovina, FYR Macedonia, Moldova, Montenegro, Serbia and UNMIK Kosovo;

(iii) Russia/Belarus/Kazakhstan (October 2010);

(iv) Turkey;

(v) European Free Trade Association (EFTA), a trade association consisting of Iceland, Liechtenstein, Norway and Switzerland.

d) Bilateral Agreements on Customs Cooperation

Please be informed that there are bilateral agreements with 26 countries on cooperation and mutual assistance in customs mattersin force in Serbia, amongst which is the bilateral agreement with the People's Republic of China. Namely, the bilateral agreement concluded between former Socialist Federative Republic of Yugoslavia (SFRY) and the People's Republic of China came into force on 1 September 1989, whereas the Republic of Serbia, as a legal successor of SFRY, accepted the application and validity of all bilateral agreements concluded between SFRY and China in the period from 1955 until 1992.

b. Customs Management and Procedures

All goods entering or leaving the customs territory of the Republic of Serbia must pass through customs crossings, i.e. places designated for import, export and transit of goods, persons and vehicles across the customs line. The person importing goods is obliged to report the same to customs authority and without delay transport the goods to customs office or other place designated by the customs authority. Prior to delivery and prior to issuance of declaration, with the approval of the customs office, goods may be inspected, sampled, with an aim to determine the customs-approved treatment or use of the respective goods. Goods delivered to the customs authority must be included in the summarized declaration, which is issued immediately after such delivery.

In addition to the standard national summarized declaration, the documents prescribed by TIR Convention, documents prescribed by ATA Conventior, standard international documents – unique customs document (in Serbian: jedinstvena carinska isprava, JCI), and declaration on customs value (DCV), may also be used in a customs procedure.

Goods intended for placing under a customs procedure must be encompassed by the declaration, i.e. the declarant must, except in the procedure of placing goods into free circulation, submit a request to customs office for obtaining approval for its conducting.

The customs system of the Republic of Serbia envisages the following categories of customs procedures:

(i) placing the goods in free circulation;
(ii) transit;
(iii) customs warehousing;
(iv) inward processing;
(v) processing under customs control;
(vi) temporary importation;
(vii) outward processing;
(viii) export.

c. Statistics

China has for many years been among the most important foreign trade and financial partners of the Republic of Serbia.

In 2015, on the list of 168 markets to which Serbia has exported its products, China was in the 43 place, whereas on the list of 201 countries from which Serbia imported products, China was in the 4 place. In 2015, China has participated with 0.1% in the total export of Serbia, i.e. with 7.3% in its total import, which in terms of value represents the following amounts – Serbian exports to China amounted to USD 20,8 million, while imports from China to Serbia amounted to USD 1 6 billion.①

IV.Labour

A. Brief Introduction of Labor Laws and Regulations

The following laws are inter alia applcable to employees:

(i) Labor Law (Zakon o radu, Official Gazette of the Republic of Serbia no. 24/05, 61/05, 54/09, 32/13 and 75/14);

(ii) Law on Employment of Foreigners (Zakon o zapošljavanju stranaca, Official Gazette of the Republic of Serbia no. 128/14);

(iii) Law on Safety and Health at Work (Zakon o bezbednosti i zdravlju na radu, Official Gazette of the Republic of Serbia no. 101/05 and 91/15);

(iv) Law on Mandatory Social Security Insurance Contributions (Zakon o doprinosima za obavezno socijalno osiguranje, Official Gazette of the Republic of Serbia no. 84/2004, 61/2005, 62/2006, 5/2009, 52/2011, 101/2011, 7/2012 - Adjusted dinar amount, 8/2013 - Adjusted dinar amount, 47/2013, 108/2013, 6/2014 - Adjusted dinar amount, 57/2014, 68/2014 – other law, 5/2015 - Adjusted dinar amount, 112/2015 and 5/2016 - Adjusted dinar amount);

(v) Law on Employment and Unemployment Insurance (Zakon o zapošljavanju i osiguranju za slučaj nezaposlenosti, Official Gazette of the Republic of Serbia no. 36/2009, 88/2010 and 38/2015);

(vi) Law on Pension and Disability Insurance(Zakon o penzijskom i invalidskom osiguranju, Official Gazette of the Republic of Serbia no. 34/2003, 64/2004 - decision of CC, 84/2004 – other law, 85/2005, 101/2005 – other law, 63/2006 - decision of CC, 5/2009, 107/2009, 101/2010, 93/2012, 62/2013, 108/2013, 75/2014 and 142/2014);

(vii) Individual Income Tax Law (Zakon o porezu na dohodak građana, Official Gazette of the Republic of Serbia no. 24/2001, 80/2002, 80/2002 – other law, 135/2004, 62/2006, 65/2006 - Corrigendum, 31/2009, 44/2009, 18/2010, 50/2011, 91/2011 – decision of CC, 7/2012 - Adjusted dinar amount, 93/2012, 114/2012 - decision of CC, 8/2013 - Adjusted dinar amount, 47/2013, 48/2013 - Corrigendum, 108/2013, 6/2014 - Adjusted dinar amount, 57/2014, 68/2014 – other law, 5/2015 - Adjusted dinar amount, 112/2015 and 5/2016 - Adjusted dinar amount).

The main piece of legislation in this area is the Labor Law. This law regulates the rights, duties and responsibilities arising out from the employment.

B. Requirements of Employing Foreign Employees

a. Work Permit

The Law on Employment of Foreigners recognizes two general types of permits for work: personal work permit and work permit. Personal work permit is issued on a personal request of a foreigner and allows the foreigner to enter into employment agreement, to be self-employed and to exercise rights in case of unemployment. This permit is issued to the foreigner with the permanent residence permit, refugees and certain special categories of foreigners. Additionally, under certain conditions personal work permit may be issued for reunification of the family. Work permit is granted upon the request of the employer (except work permit for self-employment) and there are three different types of such work permit: (i) work permit for employment, (ii) work permit for self-employment and (iii) work permit for special cases. The foreigner is entitled to perform only those works for which he/she has obtained the work permit. All abovementioned work permits have specific procedure regarding the required documentation and conditions that have to be fulfilled.

b. Application Procedure

Work permit is granted upon the request of the employer (except work permit for self-employment). Basic requirement in order to obtain a work permit is that a temporary residence has been granted to the foreigner upon

① According to the information presented on the official website of the Serbian Chamber of Commerce (http://pks.rs/MSaradnja.aspx?id=73&p=1&pp=2&).

his/her request.

The Law on Employment of Foreigners stipulates certain limitations regarding the issuance of the work permit for employment, providing that the work permit for employment is issued to the employer only under certain conditions, such as that prior to filing the request for the work permit the employer has not dismissed any employee working on the work post for which the work permit is requested due to redundancy, that the employer was not able to find suitable qualified employee among Serbian citizens, persons with personal work permit or the persons who have free access to the Serbian labor market in the one month period prior to filing the request for work permit, etc.

In addition, the limitations in establishing an employment relationship with foreigners are prescribed by way of potential introducing the so-called quota system, i.e. by limiting the number of the work permits that can be issued to foreigners.

The administrative fee amounts to approximately EUR 100.

Time frame is up to 30 days.The work permit for employment is issued for the period of duration of temporary residence, and can be renewed. Duration of other work permits is similar, until expiry of temporary residence or one year.

c. Social Insurance

Every employee has social insurance, which is consisted of the health insurance, pension and disability insurance and the insurance in case of unemployment. The social security contributions are mandatory and the basis for taxation is the registered income of the employee. The rates are as follows:

(i) For mandatory pension and disability insurance - 14% for the employee and 12% for the employer;
(ii) For mandatory health insurance - 5.15% for both the employee and the employer;
(iii) For unemployment insurance - 0.75% for both the employee and the employer.

C. Exit and Entry

a. Visa Types

A foreigner wishing to work in Serbia has to obtain temporary residence permit (visa type D). The following documentation must be submitted along with the request to the Ministry of Interior:

(i) 2 photos;
(ii) Copy of the white card (registration of arrival);
(iii) Copy of the passport;
(iv) Guaranty letter;
(v) Copy of the employment agreement;
(vi) Excerpt for the employer from the Serbian Business Registers Agency;
(vii) Proof of payment of administrative fees.

The administrative fees for visa type D amount to approximately EUR 150.

Time frame is up to 30 days. It should be noted that the physical presence of the foreigner is necessary during submission of the request for issuance of the temporary residence permit. Temporary residence is approved for the period of up to one year and can be renewed.

b. Restrictions for Exit and Entry

The Law on Foreigners recognizes the situations of illegal entry as well as the situations when entry can be denied to foreigners. Additionally, this piece of legislation envisions sanctions for illegal movement across the state border.

D. Trade Union and Labor Organizations

Trade union organization is highly developed in the Republic of Serbia, with more than 25,000 registered trade unions. It is important to emphasize the fact that the majority of registered trade unions are registered in the public sector or in public companies, while the presence of the trade unions in private sector is less noticeable. Trade unions have the right to be informed by the employer on economic and occupational-social matters relevant for the position of employees, or trade union members.Further to that, the employees of the employer with more than 50 employees are entitled to organize the work council, a body which provides opinions and participates in deciding on the employees' social and economic rights. However, this body is rather rare in practice.

E. Labor Disputes

Labor disputes are solved in different manners. The vast majority of labor disputes are resolved by a competent court of general jurisdiction, covering all the subject-matters, while a smaller percentage is resolved in

accordance with alternative dispute resolution mechanisms. Alternative methods for resolving the labor disputes are mediation and arbitration.

V. Intellectual Property

A. Brief Introduction of IP Laws and Regulations

The intellectual property legal framework in Serbia consists of several relatively recently enacted laws, which are significantly harmonized with the relevant international and the EU standards. For example, Serbia ratified the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), while Serbian trademarks framework is in accordance with the Madrid Agreement Concerning the International Registration of Trademarks, together with the Protocol to the Madrid Agreement.

The following laws are the primary pieces of legislation regulating the intellectual property rights:

(i) Law on Patents (Zakon o patentima, Official Gazette of RS, no. 99/2011);

(ii) Law on Trademarks (Zakon o žigovima, Official Gazette of RS, no. 104/2009 and 20/2013);

(iii) Law on Copyright and Related Rights (Zakon o autorskim i srodnim pravima, Official Gazette of RS, no. 104/2009, 99/2011 and 119/2012);

(iv) Law on Indications of Geographical Origin (Zakon o oznakama geografskog porekla,Official Gazette of RS, no. 18/2010);

(v) Law on Legal Protection of Industrial Design (Zakon o pravnoj zaštiti industrijskog dizajna, Official Gazette of RS, 104/2009 and 45/2015);

(vi) Law on the Protection of Topographies of Semiconductor Products (Zakon o zaštiti topografija poluprovodničkih proizvoda, Official Gazette of RS, no. 55/2013);

(vii) Law on Protection of Business Secret (Zakon o zaštiti poslovne tajne, Official Gazette of RS, no. 72/2011).

Additionally, the Criminal Code (Krivični zakonik, Official Gazette of RS, no. 85/2005, 88/2005) regulates actions that are deemed to violate intellectual property rights, while the Law on Special Powers for Efficient Protection of Intellectual Property Rights (Zakon o posebnim ovlašćenjima radi efikasne zaštite prava intelektualne svojine, Official Gazette of RS, no. 46/2006 and 104/2009) regulates special powers of the state administrative authorities and the organizations that exert public powers for the purpose of efficient protection of intellectual property rights.

Law on Patents regulates the legal protection of inventions by a patent or a petty patent. A patent is defined as a right granted for an invention in any field of technology. In order to be protected and recognized as a patent, the invention has to be new, to involve an inventive step compared to existing inventions, and to be susceptible to industrial application. The subject matter of an invention protected by a patent may be a product, a process, use of a product and use of a process. A patent or a petty patent may not be contradictory to the public order and morality. A foreign natural person and a legal entity that do not have their residence or seat in Serbia, have the same rights regarding the protection of their inventions as a domestic natural person and a legal entity, where such treatment derives from international treaties binding Serbia.

Law on Trademarks governs ways of acquisition and the protection of rights with respect to signs used in trade of goods and/or services.A trademark is defined as the right that protects a sign used in the course of trade to distinguish goods and/or services of one natural person or a legal entity from identical or similar goods and/or services of another natural or legal person.A trademark that has been granted international registration for the territory of Serbia, under the Madrid Agreement Concerning the International Registration of Trademarks, and/or the Protocol to the Madrid Agreement Concerning the International Registration of Trademarks is also considered a trademark.A trademark may be individual, collective, or a warranty trademark.

The Criminal Code contains a few provisions describing criminal acts against intellectual property rights. It proscribes producing, import, export, offering for placement on the market, placing on the market, storing or using for commercial purposes a patented product or a procedure. The Criminal Code also prohibits publishing or otherwise presenting in public without permission the essence of another's patent that has been applied for, before such patent is published in the manner set out by the law. Furthermore, it is forbidden to apply for a patent without permission or to fail to give a name or to give an incorrect name of the inventor in the application. Punishments range from a fine, to imprisonment from 6 months up to 8 years. Furthermore, it is prohibited to use someone else's company name, trademark or special mark for goods, or to incorporate particular features of those marks into a firm, trademark or special mark for goods of another person, with the intention to deceive buyers or users of services. Punishment ranges from a fine to imprisonment of up to three years.

B. Patent Application

Filing the application with the competent authority represents the initiation of the procedure for the protection of an invention. The application may be filed in a language other than Serbian, but in that case the translation to Serbian must be submitted as well.

An application filed abroad has the same effects as a national application, unless otherwise stipulated by appropriate international agreements.

In proceedings before the competent authority, a foreign natural or a legal entity that does not have a residence or a seat in Serbia must be represented by a representative listed in the Register of Representatives kept by the competent authority, or by a domestic attorney.

An application for the protection of an invention has a few necessary elements: a request for the grant of a right; a description of the invention; one or more patent claims for the protection of an invention; a drawing referred to in the description and/or claims; and an abstract.

C. Trademark Registration

The procedure of the trademark registration starts by filing an application for trademark registration. The elements of the application are: the request for the trademark registration, the sign the protection is requested for, the list of goods and/or services to which the sign relates to. A trademark may be related to one or more types of goods and/or services.

No substantial changes may subsequently be made to the application regarding the representation of the sign, nor may the list of goods and/or services be amended.

In proceedings before the competent authority, a foreign natural person or a legal entity that does not have a residence or a seat in Serbia must be represented by a representative listed in the Register of Representatives kept by the competent authority or by a domestic attorney.

D. Measures for IP Protection

The Intellectual Property Office, together with the relevant courts, ministries and other state bodies, is the main institution in charge for the protection of intellectual property rights. All intellectual property rights have a developed protection system in Serbian legal framework.

a. Protection of Patents

There are Several forms of Patent Protection.

a) Infringement Action

(i) Unauthorized use of a patent - Infringement of a right

Upon the publication of the patent application, the right holder or the holder of an exclusive license is entitled to an infringement action against any person infringing his right by means of any unauthorized action.

By any unauthorized action, the Law on Patents entails: making, offering for sale, placing on the market or using the product made by means of the protected invention or from importing or storing the product for such purposes; using the patented process; offering the patented process for sale; producing, offering for sale, placing on the market, using, importing or storing for such purposes a product directly obtained from the patented process; offering for sale or supplying products that constitute essential elements of an invention to parties unauthorized to use such invention, if the offeror or supplier knew or should have known that such products are intended for use of someone else's invention.

Plaintiff may request prohibition of acts causing the infringement of rights, as well as compensation for damages caused by the infringement, together with other requests stipulated by the law.

(ii) Provisional measures

The court may, pending a final decision, pronounce a provisional measure, such as: withdrawal from the market of products made or obtained by the infringement of right, as well as prohibition of the further performance of infringing acts.

b) Establishment of the Right to Protection

The inventor, his successor in title or employer are entitled to require through a civil action before the court the establishment of his right to the protection of an invention instead of or, together with the person who has already filed an application for that invention.

c) Protection of Employer's or Employee's Rights

An employer or employee that is entitled to the protection or commercial use of an invention made in the

course of the employment, may require through a civil action before the court the establishment and protection of his rights.

d) Recognition of Status of Inventor

In case that any other person has been designated as the inventor in a patent or petty patent application, the inventor is entitled to require through a civil action before the court the establishment of his status as inventor, and order the entry of his name in all relevant documents.

b. Protection of Trademarks

There are several forms of trademarks protection.

a) Infringement Action

Unauthorized use of a registered trademark – Infringement of a right:

Any unauthorized use of the registered trademark or the sign applied for registration by any commercial participant is considered an infringement of the right. The following use is considered as an unauthorized use: (i) use of a trademark identical to an earlier protected mark of the trademark holder for goods and/or services which are identical to the goods and/or services the trademark is registered for; (ii) use of a trademark identical to an earlier protected trademark of the trademark holder for a similar kind of goods and/or services, or of a trademark which is similar to the trademark holder's earlier protected trademark for identical or similar kind of goods and/or services, if there is a likelihood of confusion among the relevant segment of the public due to such indistinguishability and/or similarity, including the likelihood of association of that trademark with the trademark holder's earlier protected trademark.

The trademark holder is also entitled to prohibit the following: (i) affixing the protected trademark to the goods, the packaging for the goods or labeling tools; (ii) offering goods, their placement into the market, or their storage for such purposes, or offering services under the protected trademark; (iii) import or export of the goods under the protected trademark; (iv) using the protected trademark in business documentation or in advertisements.

Additionally, the imitation of a trademark or the sign applied for registration, as well as adding words "type", "manner", "according to the procedure" or a like, to the protected trademark, also constitutes an infringement.

Plaintiff may request termination of the infringement, exclusion from the channels of commerce of the infringing objects as well as compensation for damages caused by the infringement, together with other requests stipulated by the law.

b) Legal Suit for Challenge of Trademark

If an application was filed in contravention to the principle of good faith or if a trademark was registered on the basis of such an application or on the basis of an application that constituted a breach of a legal or contractual obligation, any person whose legal interest has been violated therefrom may request the court to declare that person as an applicant, or the right holder.

VI. Environmental Protection

A. Department Supervising Environmental Protection

The environment protection primarily falls under the competence of the Ministry of Agriculture and Environment Protection (the "Environment Protection Ministry"). This ministry executes public administration duties such as preparation of drafts of laws for the Government, enforcement of the laws regulating the environment protection, enacting of secondary pieces of legislation (e.g. rulebooks, orders or instructions) and inspection and supervision of the companies' compliance with laws. There are also specially formed bodies within the Environment Protection Ministry responsible for professional duties regarding the environment protection, such as the Agency for Environment Protection, Agency for Ionizing Radiation Protection and Nuclear Safety and Institute for Protection of Nature.

The Agency for Environment Protection is mainly responsible for maintenance of the IT system of environment protection, monitoring of quality of air and water and implementation of enacted programs for the control of quality, collection and processing of data on environment protection and preparation of reports on current situation of the environment and cooperation with competent bodies and authorities of the EU.

The Agency for Ionizing Radiation Protection and Nuclear Safety is inter alia in charge for issuance of licenses for conducting ionizing radiation and nuclear activities, licenses for sale of radioactive and nuclear materials, maintaining the Registry of Issued Licenses and Registry of Sources of Radiation, enacting secondary pieces of legislation and preparing of programs of control and protection from radiation.

The Institute for Protection of Nature is competent for the procedure for nature protection, conducting of the field research and drafting a study for protection of areas, determining the borders of area which is to be protected area, suggesting the measures for protection and categories of protected natural goods, monitoring of the protected areas and implementation of measures for its protection, issuance of conditions for (construction or similar) works in the protected areas and conditions for protection of nature in the procedure of preparation of project documentation, spatial and urbanistic plans, programs and strategies and international cooperation in this field.

B. Brief Introduction of Laws and Regulations of Environmental Protection

Provisions regulating the environment protection are dispersed through a vast number of laws and by-laws, and this field of law is one of the most comprehensive. The basic legal framework pertaining to the environment protection is set out by the following laws:

(i) Law on Environmental Protection (Zakon o zaštiti životne sredine, Official Gazette of the Republic of Serbia no. 135/2004, 36/2009, 36/2009 – other law, 72/2009 – other law and 43/2011 – the decision of the Constitutional Court, 14/2016) governs the integral system of environment protection, which enables healthy environment and balance between economic development and environment protection in the Republic of Serbia, harmonization of human activities and economic plans, programs and projects with sustainable use of the renewable and non-renewable energy sources, so as the long-term preservation of eco-systems and sustainable use or managing of the natural resources;

(ii) Law on Environmental Impact Assessment(Zakon o proceni uticaja na životnu sredinu, Official Gazette of the Republic of Serbia no. 135/2004 and 36/2009) governs procedure of assessment of impact of projects that could impair environment, content of the study of environmental impact assessment, participation of public, cross board reporting on projects that could impair environment of other state and supervision on compliance with the law;

(iii) Law on Strategic Environmental Impact Assessment(Zakon o strateškoj proceni uticaja na životnu sredinu,Official Gazette of the Republic of Serbia no. 135/2004 and 88/2010) governs the conditions, manner and procedure of environmental impact assessment of plans and programs with aim to enable healthy environment and improvement of sustainable development and implementation of basic principles of environment protection in the procedure of preparation and adoption of plans and programs;

(iv) Law on Integrated Prevention and Control of Environmental Pollution (Zakon o integrisanom sprečavanju i kontroli zagađivanja životne sredine, Official Gazette of the Republic of Serbia no. 135/2004 and 25/2015) regulates the conditions and procedure for issuance of the integrated license for facilities and activities that could impair health of people, environment or material goods, provides list and definition of such activities and facilities, and regulates supervision of compliance with obligations set under the law;

(v) Law on Waters (Zakon o vodama, Official Gazette of the Republic of Serbia no. 30/2010 and 93/2012) refers to the legal status of waters, integral management of waters, water facilities and land near water, sources and manner of financing of activities related to the water and supervision of compliance with obligations set under the law;

(vi) Law on Waste Management (Zakon o upravljanju otpadom, Official Gazette of the Republic of Serbia no. 36/2009, 88/2010 and 14/2016) envisages the types and classification of waste and further regulates obligations of subjects performing waste management, planning and organization of waste management, procedure for obtaining a license for waste management, cross board transport of waste, reporting on waste and supervision of compliance with obligations set under the law;

(vii) Law on Flammable Fluids and Flammable Gases(Zakon o zapaljivim i gorivim tečnostima i zapaljivim gasovima, Official Gazette of the Republic of Serbia no. 54/2015) governs the safety conditions and implementation of measures for protection from the fire and explosions during construction, reconstruction and remediation of facilities for production, processing, warehousing and transport of flammable fluids and flammable gases;

(viii) Law on Air Protection(Zakon o zaštiti vazduha, Official Gazette of the Republic of Serbia no. 36/2009 and 10/2013) stipulates the management of air quality and measures for protection and improvement of air quality, organization, control and implementation of such measures;

(ix) Law on Soil Protection(Zakon o zaštiti zemljišta, Official Gazette of the Republic of Serbia no. 112/2015) governs the soil protection, systematic monitoring of a soil quality, remediation measures and soil recultivation;

(x) Law on Protection from Ionizing Radiation and Nuclear Safety (Zakon o zaštiti od jonizujućih zračenja i o nuklearnoj sigurnosti, Official Gazette of the Republic of Serbia no. 36/2009 and 93/2012) regulates the measures for protection of people and environment from harmful effects of ionizing radiation and measures for nuclear safety regarding any nuclear activity. Conditions for conducting business activities with sources of ionizing radiation,

nuclear materials and radioactive waste are also foreseen by the respective law;

(xi) Law on Protection from Non-Ionizing Radiation(Zakon o zaštiti od nejonizujućih zračenja, Official Gazette of the Republic of Serbia no. 36/2009) envisages the measures and conditions for protection of people and environment from harmful effects of non- ionizing radiation caused by the use of sources of non-ionizing radiation;

(xii) Law on Chemicals (Zakon o hemikalijama, Official Gazette of the Republic of Serbia no. 36/2009, 88/2010, 92/2011, 93/2012 and 25/2015) introduces the integrated management of chemicals, classification, packaging and labelling of chemicals, registry of chemicals, systematic monitoring of chemicals, restrictions and prohibitions of production and placing into circulation of detergents.

C. Evaluation of Environmental Protection

The Republic of Serbia has the status of candidate for the membership in the European Union as of 2012 and the negotiations regarding accession of the Republic of Serbia to the membership of the European Union have started back in 2014. Since then, the Republic of Serbia is on its way of harmonization of the national regulations with the regulations of the European Union. In that regard, the European Commission enacts each year a report on progress of a state candidate for the membership in every field of law, including the environment protection. The Annual Report of the European Commission on Progress of Republic of Serbia from 2015 says that the Republic of Serbia is still in early phase of preparations for harmonization with EU regulations in the field of environment protection. The European Commission expressed its concerns with regards to reporting on emissions of polluting materials in the commercial and mining industry, quality of water, quality of air, industrial pollutions and risk management, so as management of chemicals and nature protection. It has been remarked that the quality of air in seven out of eight city agglomerations exceeds tolerance limit for several polluting substances and that with regards to the quality of water there has been no improvement comparing to a previous period. General recommendation was that harmonization process in this field must be intensified and new funds invested in order to improve the capacity of the public administration to implement further amendments of the laws and effectively supervise business operations that could influence the environment.

VII. Dispute Resolution

A. Methods and Bodies of Dispute Resolution

The Serbian legislation provides for a few mechanisms for resolving disputes which will be described below.

a. Litigation

Although the mechanisms for alternative dispute resolution exists, the traditional litigation proceedings before the courts is still the most usual mechanism for dispute resolution. The litigation proceedings are governed by the Law on Civil Procedure (Zakon o parničnom postupku, "Official Gazette of RS", nos. 72/2011, 49/2013 - CC decision, 74/2013 - CC decision and 55/2014) (the "Law on Civil Procedure"). The principals and provisions of the Law on Civil Procedure clearly indicate that the litigation proceedings are organized as an adversarial type of procedure.

The courts are bound by the claims filed in the proceedings, hence they cannot decide beyond the bounds of the claims submitted by the parties. The parties are free to dispose with their claims throughout the entire proceedings, unless such disposal is contrary to compulsory regulations, public order, moral rules or good practice. As a general rule, hearings are open to public, subject to the restrictions prescribed by the law. The parties are required to present all facts and propose evidence in order to support their claim. On the other hand, the courts only exceptionally determine the facts and take evidence on their own initiative.

The territorial jurisdiction of the courts is generally determined by the registered seat or place of residence of a defendant. Of course, there are exceptions to this general rule regarding territorial jurisdiction (e.g. territorial jurisdiction for disputes related to a real estate).

As for the disputes with a foreign element, the Law on Resolving Conflicts of Laws with Regulations of Other Countries (Zakon o rešavanju sukoba zakona sa propisima drugih zemalja, "Official Gazette of SFRY", nos. 43/82 and 72/82 – Amend. "Official Gazette of FRY ", no. 46/96 and "Official Gazette of RS", no.46/2006 – other law) (the "Law on Resolving Conflicts of Laws") generally envisages that the parties are free to choose the forum and applicable law for their relationship. However, the Law on Resolving Conflicts of Laws reserves the exclusive jurisdiction of Serbian courts for certain types of disputes.

A party to the proceedings may be any natural person or a legal entity. The forms of association, which usually do not have a litigation capacity, may have such capacity, if the court decides so. Parties may represent themselves before a court, or may be represented by their legal representative or by an appointed attorney at law. The right of audience is also granted to persons who fulfil certain requirements (e.g. relatives of natural persons.

lawyers who passed the bar exam employed by a legal entity in dispute).

In order to prove the disputed facts, the parties may propose to the court to perform an investigation, order expertise, hear witnesses and parties, or inspect documents. The parties must present all the facts and propose evidence until the end of a preliminary hearing. At the preliminary hearing, the court has to set out a timeframe for conducting the proceedings, with the precise number of hearings and schedule for taking evidence.

The parties to the proceedings may file an appeal against a first instance judgment, and the appeal may be rejected, or the second instance court may confirm, reverse or set aside the first instance judgment and return the case to the first instance court for a retrial. The second instance court must decide on the appeal within nine months from receipt of the case file from the first instance court. When the judgment becomes final and binding, the parties to the proceedings may challenge it by extraordinary remedies, if the prescribed requirements are met.

In addition to the general rules, the Law on Civil Procedure prescribes special rules pertaining to labor disputes, disputes concerning collective agreements, trespass to land disputes, payment order, small claims disputes, commercial disputes and consumer's disputes.

When it comes to the bodies competent to resolve disputes between the parties, there are courts of general jurisdiction and courts of special jurisdiction, i.e. commercial courts. The court of general jurisdiction usually adjudicates civil litigation whereby at least one of the parties is a natural person, while the commercial courts are entitled to resolve disputes involving business entities.

The courts of general jurisdiction:

(i) The first instance courts-Basic Courts and Higher Courts;

(ii) The second instance courts-Higher Courts and Courts of Appeal.

The commercial courts:

(i) The first instance-Commercial Courts;

(ii) The second instance-Commercial Appellate Court.

The Supreme Court of Cassation, which is at the top of the court hierarchy, is entitled to decide on extraordinary legal remedies filed against final and binding court decisions. Also, the Supreme Court of Cassation is bound to ensure the unification of court practice.

b. Arbitration

In 2006 the Serbian parliament adopted the Arbitration Law (Zakon o arbitraži, "Official Gazette of RS", no. 46/2016) (the "Law on Arbitration"), which regulates the arbitration and arbitration procedure, when the arbitration is based in Serbia. This law, based on the UNCITRAL model law, pertains to both international and domestic arbitration. The Arbitration Law prescribes the basic mandatory requirements regarding an arbitral agreement, arbitrability of the dispute, administration of arbitration, role of a state court, etc.

According to the Arbitration Law, arbitration agreement must be in writing, and it may be in the form of a separate clause in the relevant contract or in the form of a separate contract. As for the arbitrability of the dispute, the dispute must pertain to the rights of which the parties may freely dispose, and the subject matter must not be in the exclusive jurisdiction of the state courts. Administration of arbitration is entrusted to a permanent arbitral institution, which may be established by chambers of commerce, professional or civil associations. The parties can also agree an ad hoc arbitration, which is organized in accordance with the parties' agreement and the Arbitration Law.

The parties are free to designate the rules of procedure or to refer to the already existing rules. The most notable arbitral institution in Serbia, Foreign Trade Court of Arbitration attached to the Serbian Chamber of Commerce (the "Court of Arbitration"), has its own rules. When it comes to an ad hoc arbitration, UNCITRAL Arbitration Rules are most commonly used. The Arbitration Law entitles arbitration tribunals to issue interim reliefs at a request of the parties, if it is not otherwise agreed by the parties. The provisions of the Arbitration Law and the rules of the Court of Arbitration insist on the procedure without hearings, although the parties to the proceedings may request from the arbitration tribunal to hold the hearings. As for the rules on evidence, the regulations contain only the basic rules regarding this matter.

Upon completion of the proceedings, the arbitration tribunal renders an award which is in practice unavailable to the public. The parties may request from the state court to annul the arbitration award, which is final and binding, under the special conditions prescribed by the Arbitration Law.

As we already mentioned, the most notable arbitral institution in Serbia is the Court of Arbitration. Besides the Court of Arbitration, the Serbian Chamber of Commerce has also established the Permanent Court of Arbitration which is competent for domestic arbitration disputes only.

c. Mediation

The Law on Mediation in Resolving Disputes (Zakon o posredovanju u rešavanju sporova, Official Gazette of RS, no. 55/2014) (the "Law on Mediation") came into force on 1 January 2015. Mediation is defined as any procedure, regardless of its designation, whereby the parties voluntarily strive to settle their dispute through

negotiation, with assistance of one or more mediators who helps the parties to reach an agreement. Mediation is applicable to disputes where the parties may freely dispose, and the subject matter must not be in the exclusive jurisdiction of the state courts or other state bodies. In addition, the Law on Mediation is also applicable to a mediation pertaining to disputes which contain a foreign element, if it is conducted in Serbia. Mediation may be conducted before, during, or after completion of the proceedings before a court. The Law on Mediation prescribes the basic rules regarding mediators, procedure of mediation, agreement on mediation, costs, etc.

The parties are free to designate the rules of mediation and to appoint mediator(s), as well as to withdraw from the procedure at any point. The mediation procedure should last 60 days, if it is not otherwise agreed, and it is closed for the public. All data, proposals and statements given in the mediation procedure are confidential, provided that the parties did not agree otherwise. Evidence produced in the mediation procedure may not be used before the court, arbitration or in any other procedure. According to the Law on Mediation, the agreement reached by the parties is an enforceable title, if it contains such clause and if the signatures of the parties and mediator(s) are certified by the court or notary public

The mediation procedure may be conducted only by the appointed physical person(s), who fulfils the special requirements prescribed by the Law on Mediation.

B. Application of Laws

a. Litigation

Although the Law on Civil Procedure has been amended several times in the last couple of years, these amendments have not produced the expected effects yet. The courts still tend to allow the parties to propose evidence after completion of the preliminary hearing, even though the conditions for such action are not met. Further, the courts either do not strictly follow the timeframe set to conducting the proceedings or initially set an unreasonably long timeframe. In that regard, it should also be noted that the usual period between two hearings is three to six months, due to the fact that the courts are overloaded. The courts usually render judgments after a couple months after completion of the first instance proceedings, while the second instance courts usually do not decide on appeals within nine months, which time limit is clearly set out by the Law on Civil Procedure.

When it comes to application of the substantive law, the courts often differently interpret applicable provisions, even in relatively simple disputes with similar facts. Therefore, the court practice is not completely unified. In addition, contribution of the Supreme Court of Cassation is modest in this area, despite its obligation to ensure the unification of court practice.

b. Arbitration

According to a statistic provided by the Serbian Chamber of Commerce, the Court of Arbitration has resolved 44 cases in the last three years, which is a very small number in comparison to the number of cases that has been entrusted to the state courts in this period. The mentioned low figure of the cases resolved by the Court of Arbitration is most probably the result of lack of awareness of the advantages of arbitration. Additionally, foreign entities involved in large transactions usually choose foreign institutional arbitrations as a competent forum for resolving potential disputes arising from the respective transactions.

Due to the fact that awards made by the Court of Arbitration are unavailable to the public, it is hard to make a conclusion on practice created by this institution.

c. Mediation

Due to poor results of the previous law in this area, the legislator adopted the Law on Mediation which contains a more precise legal framework than its predecessor. This should increase the number of disputes resolved by mediation, and consequently decrease the number of cases before the state courts. As the Law on Mediation came into force relatively recently, evaluation of the application of this piece of legislation cannot be provided at this moment.

VIII. Others

A. Anti-commercial Bribery

a. Brief Introduction of Anti-commercial Bribery Laws and Regulations

There is no specific national anti-corruption or anti-commercial bribery legislation in Serbia. The relevant legal framework is comprised of various laws. Additionally, Serbia ratified many relevant international conventions including the United Nations Convention against Corruption.

The primary piece of anti-commercial legislation is the Criminal Code. It recognizes both passive and active

bribery, and applies them to commercial bribery, as well as to trading in influence. The Criminal Code applies to anyone who commits a crime in Serbia.

The following laws provide additional help in regulating anti-commercial bribery:

(i) The Law on Liability of Legal Entities for Criminal Offences (Zakon o odgovornosti pravnih lica za krivična dela, Official Gazette of RS, no. 97/2008);

(ii) Anti-Corruption Agency Act (Zakon o Agenciji za borbu protiv korupcije, Official Gazette of RS, no. 97/2008, 53/2010, 66/2011);

(iii) National Anti-Corruption Strategy in the Republic of Serbia for the Period 2013-2018 (Nacionalna strategija za borbu protiv korupcije u Republici Srbiji za period od 2013. do 2018. godine, Official Gazette of RS, no. 57/2013);

(iv) Action Plan for the Implementation of the National Anti-Corruption Strategy in the Republic of Serbia for the Period 2013-2018 (Akcioni plan za sprovođenje Nacionalne strategije za borbu protiv korupcije u Republici Srbiji za period od 2013. do 2018. godine, Official Gazette of RS, no. 110-7203/2013);

(v) Law on the Protection of Whistleblowers (Zakon o zaštiti uzbunjivača, Official Gazette of RS, no. 128/2014);

(vi) Code of Business Ethics (Kodeks poslovne etike, Official Gazette of RS, no. 1/2006).

The Code of Business Ethics:

This document, enacted by the Chamber of Commerce and Industry of Serbia, represents a useful guideline on what business conducts may (not) be seen as bribing.

An employee, a member of a legal entity's body, as well as members of their families are prohibited from offering, giving, promising or accepting money, gifts or other services of a significant value from another party that is in a business relationship with the legal entity. A significant value means a value higher than a half of an average net salary in Serbia.

Accepting and giving presents of a smaller value is allowed, unless accepting such a present represents a requirement for conclusion of a deal, or places the donor in a better position compared to his competitors. Accepting a lunch or a similar offer, which is a part of the generally accepted business practices and for which it is considered that it cannot influence making of the decision, is allowed as an expression of a courtesy towards business partners.

The Anti-Corruption Agency Act defines the competencies of the Anti-Corruption Agency, among which is the supervision of the implementation of the National Strategy for Combating Corruption as well as of the Action Plan for Implementation of the National Strategy for Combating Corruption, which are set out in two relevant abovementioned laws.

The Law on the Protection of Whistleblowers governs the rights of whistleblowers, the duties of the state and other authorities, as well as of legal entities and natural persons towards whistleblowing, and other relevant matters.

b. Department Supervising Anti-commercial Bribery

In Serbia there is no specific department supervising directly anti-commercial bribery. However, there are several state authorities and non-governmental organizations that work in different ways on suppression of corruption in general, including commercial bribery. The main authorities are the Anti-corruption Council, the Anti-corruption Agency, and the Prosecutor's Office for Organized Crime.

a) State Authorities

The Anti-Corruption Council is an advisory body of the Government. Its main responsibilities include proposing and monitoring the implementation of anti-corruption measures, providing advice and analysis on anti-corruption issues, proposing new anti-corruption regulations, and preparing awareness raising campaigns.

The Anti-Corruption Agency is an autonomous and independent state authority.It supervises implementation of the National Strategy for Combating Corruption as well as of the Action Plan for Implementation of the National Strategy for Combating Corruption, which are performed by the special group within the Ministry of Justice. The Agency reports to the Serbian National Assembly.

The Prosecutor's Office for Organized Crime has investigative and prosecutorial responsibilities in corruption cases.

b) Non-Governmental Organizations

The non-governmental organizations often conduct researches and issue publications on corruption in general, including commercial bribery. Their work aims to examine the scope of corruption in different sectors in Serbia, giving the institutional analyses of causes and mechanisms of corruption, and suggesting effective programs of fight against corruption.

As an example, the Transparency International Serbia is a part of a wide network of Transparency Interna-

tional and a leading anti-corruption non-governmental organizations in Serbia.

c. Punitive Actions

The Criminal Code defines following actions as violations related to commercial bribery:

a) Trading in Influence

The Code proscribes soliciting or accepting, as well making a promise or an offer, either directly or through a third party, of a reward or any other benefit in order to use their official or social position, or their real or assumed influence to intercede for the (non-)performance of an official act.

Furthermore, the abuse of their official or social position, or real or assumed influence, either directly or through a third party, in order to intercede for performance of an official act that should not be performed, or for non-performance of an official act that should have been performed, is prohibited.

b) Passive Bribery

The Code prohibits to an official to directly or indirectly solicit or accept a gift or other benefit, or promise of a gift or other benefit for themselves or another to:

operform an official act within their competence or in relation to their official powers that should not be performed or not to perform an official act that should be performed; or

operform an official act that they are obliged to perform, and for not performing the actions that should not be performed.

c) Active Bribery

The Code proscribes:

omaking or offering a gift or other benefit to an official or another person, to within their official competence or in relation to their official powers:

(i) perform an official act that should not be performed or not to perform an official act that should be performed; or

(ii) perform an official act that they are obliged to perform, and for not performing the official actions that should not be performed.

oacting as an intermediary in abovementioned actions.

The sanctions range from six months up to twelve years of imprisonment. The legal entity may be liable for fines ranging from 100,000.00 RSD (810 EUR) up to 500,000,000.00 RSD (4,065,000 EUR).

d) The Law on the Liability of Legal Entities for Criminal Offences

Serbia recognizes corporate criminal liability. This law prescribes that a legal entity is held liable for criminal offences that have been committed for its benefit by a responsible person within the scope of their work and powers.

The legal entity is also held liable where the lack of supervision or control by the responsible person for a natural person allowed the commission of a crime by that natural person for the benefit of the legal person.

A legal entity may be exonerated from a punishment if it detects and reports a criminal offence before learning that criminal proceedings have been instituted, as well as if, on a voluntary basis or without delay, it removes incurred detrimental consequences or returns the proceeds from crime unlawfully gained.

B. Project Contracting

Public procurement law (Zakon o javnim nabavkama, Official Gazette of RS, no. 124/2012, 14/2015 and 68/2015)governs the public procurement procedure.

a. Permission System

A bidder in the public procurement procedure must have a valid permit issued by the competent body to carry out the economic activity that is the subject of the public procurement, if such permit is stipulated by a special regulation.

b. Prohibited Areas

A contracting authority cannot award a public procurement contract to a bidder in case of an existing conflict of interest. A person involved in a conflict of interest cannot be a subcontractor of the bidder to whom the contract was awarded, or a member of the group of bidders to whom the contract was awarded.

However, if the contracting authority demonstrates that prohibition to conclude contract would cause great difficulties in work or business of contracting authority disproportionate to the value of public procurement, or that it would substantially undermine the interests of Serbia, that it has taken all measures to prevent adverse impacts,

or that other bidders do not meet requirements of the procedure, the Republic Commission for the Protection of Rights in Public Procurement Procedures at the request of contracting authority may approve the conclusion of the contract.

c. Invitation to Bid and Bidding

A bidder may submit only one bid. A bid may be submitted directly, by mail or via email.

There are several types of bids: independent bid, a bid with a subcontractor, or a joint bid. A bidder that submitted an independent bid may not at the same time participate in a joint bid, or act as a subcontractor, nor can the same person participate in several joint bids.

The bidders must state in bids whether they intend to entrust partial execution of the public procurement to a subcontractor, as well as a percentage of total procurement value to be entrusted to the subcontractor, which cannot be greater than 50%, together with the share of the procurement that will be done by the subcontractor. A bidder has to provide evidence on its subcontractors' fulfilment of mandatory requirements.

Joint bid is a bid submitted by a group of bidders. Each bidder from the group of bidders must individually fulfil mandatory requirements.

Costs for the preparation and submission of a bid are exclusively placed on the bidder and cannot be reimbursed by the contracting authority.

The contracting authority sets the period of validity of bids, and this period must be stated in the bid, but cannot be shorter than 30 days from the date set for the opening of bids.

C. Others Issues

The Law on Investments (Zakon o ulaganjima, Official Gazette of RS, no. 89/2015) provides the general legal framework for investments in Serbia. Foreign investors have the same rights and duties regarding their investments as domestic investors, unless otherwise specified by this or some other law.

An investment is defined as a company or its branch established by an investor, shares in Serbian companies, proprietary rights on movable and immovable assets (such as ownership, pledge, easement), rights gained based on a PPP agreement, intellectual property rights, as well as rights to perform activities on the basis of an authorization issued by a public authority. The law specifies that monetary claims originating from a trade, monetary claims coming from a loan extended for trade financing, and portfolio investments do not constitute an investment.

Import of equipment (besides motor vehicles) that represents an investment of the foreign investor, is free from customs and other import duties, if the imported equipment is in accordance with the regulations concerning health and public safety, as well as environmental protection.

This act also prescribes various investment incentives for investors, such as state aid, tax incentives, relief from payment of administrative fees, customs incentives and incentives related to compulsory social insurance.