

# Bulgaria

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## Changes to the Bulgarian legal framework

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The Bulgarian legal system is constantly improving and adopting EU patterns. In order to facilitate lower business start-up costs in Bulgaria, amendments to the Commercial Act were adopted in November 2008. Since then, the registration of a limited liability company – the most common legal form for a business – is made with an initial payment of Lev1,750 (€890), representing 35% of the minimum capital requirement of Lev5,000. However, following registration, the remaining part of the capital, up to the statutory minimum of Lev5,000, will be paid within a two-year period.

### Credit Institutions Act

Changes to the Bulgarian Credit Institutions Act (CIA) were introduced in March 2009. They seek to implement into Bulgarian legislation the European Council Directives requirements regarding the procedural rules and criteria for the evaluation and preliminary assessment of the acquisitions and the increase of holdings in the financial sector.

The prior written approval of the Bulgarian National Bank (BNB) will be required for persons who have decided to directly or indirectly acquire shares or voting rights in a bank licensed in Bulgaria if, as a result of the acquisition, their shareholding becomes qualifying or reaches or exceeds the thresholds of 20%, 33% or 50% of the voting rights or capital of the bank, as well as when banks become subsidiaries. BNB approval will also be required when the shareholding becomes qualifying or the above thresholds are reached or exceeded as a result of share acquisitions on the stock exchange of another regulated market. The BNB, as supervising

authority, will make its assessment based on five criteria:

- The applicant's reputation;
- The reputation and experience of any person directing the target bank's activities as a result of the acquisition;
- The financial soundness of the applicant, particularly in relation to the type of business pursued and envisaged in the target bank;
- Compliance on a continuing basis with applicable prudential requirements and, in particular, whether the group of which it will become a part has a structure that makes it possible to exercise effective supervision and exchange information among supervisors and determine the allocation of responsibilities among them; and
- Any suspicious circumstances that may be indicative of money laundering and/or the financing of terrorism.

### The definition of a qualifying shareholding has been adjusted

The scope of banks' activities is put in compliance with the activities subject to mutual recognition under Annex I to Directive 2006/48/EC. The licences of banks seated in Bulgaria will be updated within six months of the entry into force of the changes based on application to the BNB, in connection with the resolution for the change of their statutes. The licences of banks seated in other countries that carry out activities in Bulgaria through branches will be updated as per the same procedure after a compliance assessment of the changes in the CIA and the permitted scope of activity of the respective bank.

The additional criterion of being fit and proper is introduced with regard to the members of the managing bodies of banks seated in the Republic of Bulgaria, their executive directors and procurators. From now on, members of the management and supervisory boards, as well as the procurators of the credit institutions, will be appointed only after

approval by the BNB, rather than simply following notification to the national bank.

Based on these changes, the BNB will have more rights to intervene in banks' activities by giving recommendations and directions for the improvement of the corporate management of certain banks in compliance with the best international practices and to monitor their execution.

One significant aspect is the replacement of the current notification regime upon commencement of activity by non-banking financing institutions with the registration regime. Before the changes, filing a notification to the BNB with the specification of the scope of services rendered within 14 days of the start of activity was sufficient. Non-banking financial institutions should register with the BNB within six months of the changes in the CIA coming into force. The register will be public and a certificate will be issued upon registration.

The requirements and procedure for registration are specified in the newly-adopted Regulation 26 for Financial Institutions by the BNB. The main requirements are: minimum capital, qualification, professional experience and the reputation of the managers and representatives of the financial institution, as well as of the persons exercising control over the capital of the institution. Upon receipt of the information, the BNB may allow or refuse registration.

Non-banking financial institutions will be obliged to submit information on the credits granted by them in the Central Credit Registry (CCR) with the BNB, as well as having access to the information held with the CCR. A financing institution violating the conditions for access to and use of the information from the CCR may be deregistered. This change in the law is aimed at more effective risk management.

### Foreigners Act

Changes to the Foreigners Act were recently adopted. They introduce the European

requirements for the presence of third-country citizens in Bulgaria and their expulsion when their presence is illegal.

Due to the development of the local and global economy, the requirements for the issuing of a permanent residence permit have also changed. Permanent residence permits may be obtained by foreigners who have invested more than Lev1 million in explicitly listed and legal spheres of the Bulgarian economy, partially or fully state-owned companies in which shares are traded on the Bulgarian regulated market, investments in concession agreements and investments related to intellectual property rights.

Permanent residence permits can be obtained upon the investment in a Bulgarian company of not less than Lev6 million. Until this time, the investment threshold was \$500,000. The requirement for the investor to have been present in Bulgarian territory for six months and one day during the previous year has been removed. These changes seek to guarantee a more favourable status for substantial, serious investors in the Bulgarian economy.

## Financial and corporate

### Recommended firms

#### Tier 1

CMS Cameron McKenna  
Djingov Gouginski Kyutchukov & Velichkov

#### Tier 2

Borislav Boyanov & Co  
Penkov Markov & Partners  
Spasov & Bratanov  
Tsvetkova Bebov & Partners (Landwell)

#### Tier 3

Antov & Partners  
Cerha Hempel Spiegelfeld Hlawati  
Dimitrov Petrov & Co  
Georgiev Todorov & Co  
Gugushev & Partners  
Kambourov & Partners  
Rizova & Partners  
Schoenherr

#### Tier 4

Boteva & Kantutis  
Dinova & Rusev  
Novel Consult  
Studio Legale Sutti

Bulgaria's mortgage-lending/real-estate bubble burst as a result of the global credit crisis, and prices have fallen dramatically. Work for lawyers involved in big commercial real estate

has therefore also dropped off, though throughout 2009 there was advice needed on the re-negotiation of relevant financings.

Foreign direct investment took a hit in autumn 2008 following the effects of the financial crisis, as investors started to focus on more developed markets.

In 2009, the nature of assignments coming law firms' way changed considerably. With bank lending (especially to real-estate developments) restricted, much of the work involved corporate and/or financial restructurings. M&A activity also shifted from straight transactions to strategic acquisitions and distressed sales.

However, there were indications that bank lending would loosen up somewhat towards the end of 2009 following the dropping of mandatory bank reserve thresholds.

Capital market activity was also very low in 2009. The Bulgarian exchange is young compared to others in the region, which has meant that what confidence there was suffered a serious blow when the effects of the global financial crisis hit the country.

The conflict between the interests of local and international firms – based on differing opinions on the Bulgarian Bar Association's requirements for law firms to operate in the country – stepped up a notch in 2009, with a group of the international firms appealing to the EU for a decision on whether or not local players have been acting out of step with EU directives on freedom of practice.

However, many firms have a fairly optimistic vision of the future, as well as reporting steady workflow in terms of corporate and regulatory advice. As one partner notes: "Yes, there is a financial crisis, but the world has not stopped. The sky has not fallen in."

### CMS Cameron McKenna

CMS Cameron McKenna is known in the Bulgarian market as leader of the international firms, working on some of the pre-eminent deals.

Banking and finance head Reneta Petkova and Teodora Ivanova recently advised the EBRD (European Bank for Reconstruction and Development) on its €80 million syndicated loan provided to ProCredit Bank Bulgaria, as well as on the provision of a loan to UniCredit Bulbank for the financing of small- and medium-sized enterprises in the country.

The firm's corporate department, led by David Butts, has had a busy year, acting on some very large mandates. Petkova and Ivanova advised a US media corporation on a potential acquisition of a media company's interests in a portfolio of selected Bulgarian TV channels, radio stations and magazines

valued at €1.1 billion. This was part of a planned global acquisition effort.

The team has also been advising Spain's Iberdrola Renovables on the proposed €150 million acquisition of a 74MW wind farm project in northern Bulgaria. A partner at a competing firm says of Butts: "He's an asset to this market. He works hard and gets things done."

CMS's project finance practice also has an excellent reputation. Acting on another mandate from the EBRD, Petkova, Teodora Ivanova and Elitsa Ivanova advised the development bank on the provision of loans to Bulgarian commercial banks for the financing of energy efficiency and renewable energy projects, as well as on the separate matter of financing a biomass power plant elsewhere in the country.

Also in project and infrastructure finance, Petkova and Yoana Zhechkova advised a joint venture of Tishman International Companies and GE Real Estate on obtaining €56 million in financing from an Austrian bank for the first phase of development of the Sofia Airport Centre project.

### Leading lawyers

David Butts  
Reneta Petkova

### Djingov Gouginski Kyutchukov & Velichkov

Djingov Gouginski Kyutchukov & Velichkov expanded its presence in the market this year with the hire of a number of associates, and has continued to be involved in mandates that put it at the top of the Bulgarian market.

In August 2008 Violetta Kunze and Zdravka Ugrinova represented Central European Media Enterprises on its 80% acquisition of the TV2 Media Group. Also in M&A, Omourtag Petkov advised Miller Developments (Scotland) on its €120 million acquisition of the owner company of a pre-leased shopping mall in Varna in November 2008.

Vessela Stancheva advised Hypo Investment Bank in January 2009 on the subscription of shares issued by Financia Group. Stancheva went on to advise the state general reserve fund of Oman on the acquisition of a 30% stake in the capital of Corporate Commercial Bank. One partner at a competing firm says of Stancheva: "She's conscientious, pleasant to deal with and has a good, practical focus on getting things done."

Another deal, this time in the project finance market, was handled by name partner Nikolai Gouginski. He advised Credit Suisse, UniCredit and a group of lenders on the €300 million financing and restructuring of

security for the construction and development of the Tsankov Kamak dam and hydropower cascade.

The firm also advised OTP Bank and DSK Bank on two real-estate development loans, involving hotels and retail spaces, and totalling more than €130 million.

#### Leading lawyers

Assen Djingov  
Nikolai Gouginski  
Stephan Kyutchukov  
Vessela Stancheva

### Borislav Boyanov & Co

Borislav Boyanov & Co slips down to tier two this year, as commentators consider this to be a more accurate reflection of its position in the Bulgarian market.

However, the firm has had a relatively busy year, acting for high-profile clients across practice areas. On the capital markets side, Damian Simeonov advised UniCredit Markets & Investment Banking on the issue of exchangeable bonds by Chimimport, the second-largest listed company in Bulgaria.

In the banking market, Simeonov led again when the firm advised a syndicate of banks on the financing of a group of European companies investing in Bulgaria's construction and real-estate sector, as well as a syndicate of three banks on the financing of privatisation of the Bulgarian Maritime Fleet. Simeonov and Nadia Hadjova also provided regulatory advice to Deutsche Bank and Credit Suisse on various financial regulatory matters.

In addition to continuing to advise Warburg Pincus on its acquisition of 13 cable television operators and Allied Irish Bank on its acquisition of a 49.9% interest in Bulgarian American Credit Bank, the firm has been handling some new deals.

One example of a straight acquisition was advice given to a private-equity fund on the acquisition of a controlling interest in Cabletel, the largest cable television operator in the region.

Yordan Naydenov also led a team advising a foreign investor on the distressed acquisition of Kremikovtski, a large steel producer. The deal demanded some innovative work, as it took place in conjunction with bankruptcy proceedings.

#### Leading lawyers

Borislav Boyanov  
Raina Dimitrova  
Yordan Naydenov  
Damian Simeonov

### Penkov Markov & Partners

Penkov Markov moves up a tier this year after receiving strongly positive feedback from the clients and peers. The firm went on something of a hiring spree this year, taking on a number of associates from rival firms and from in-house positions. The team of Vladimir Penkov and Milena Gaidarska is described as "excellent" by one client, while Svetlin Adrianov and Ivan Markov are also singled out for praise by clients.

One of the firm's highlights this year was advising the Bulgarian Privatisation Agency and the Bulgarian government on the privatisation of 70% of the Bulgarian Maritime Fleet. Led by managing partner Vladimir Penkov, the deal was the largest privatisation of the year and the second-largest ever in Bulgaria on price-per-share.

Greek private-equity house Global Finance mandated the firm in a number of transactions this year. A team consisting of Vladimir Penkov and Milena Gaidarska the company on a multi-stage M&A transaction for Bulgarian insurance company Euroins, which required an issuance of convertible preferred equity certificates and substantial local regulatory advice. Penkov and Gaidarska also advised Global Finance on the financing of a construction project, and the implications of a private bond issue.

Vienna Insurance Group mandated the Ivan Markov on its acquisition of TBI Bulgaria, which involved the transfer of TBI's insurance group to Vienna Insurance Group and the negotiation of substantial regulatory hurdles set by the Commission for the Protection of Competition and the Financial Supervision Commission.

#### Leading lawyers

Svetlin Adrianov  
Ivan Markov  
Vladimir Penkov

### Spasov & Bratanov

Spasov & Bratanov has a particularly strong reputation in Sofia. One competitor singles out name partner Georgi Spasov for praise: "He's an impressive, resourceful lawyer with an excellent case-by-case understanding. He has my deepest respect."

The firm has been active on some big-ticket deals over the last 12 months, especially in the M&A market. One transaction saw the team advise OTP Bank and OTP Garancia on the €652 million sale of their insurance business to Groupama. On the buy side, the firm represented MTG broadcasting in its €620 million acquisition of Nova TV, First Private Channel and other affiliated companies.

Spasov & Bratanov's largest recent assignment was acting for Credit Suisse and Banc of America Securities as mandated lead arrangers in the €1.25 billion acquisition, by Bain Capital, of the Bulgarian side of the global bathroom and kitchen division of American Standard. Vassil Hadjov and Alexander Angelov were the lawyers involved.

#### Leading lawyers

Boyko Bratanov  
Jana Djambazova  
Vassil Hadjov  
Georgi Spasov

### Tsvetkova Bebov & Partners (Landwell)

Over the last 12 months, Tsvetkova Bebov & Partners (Landwell) has been busy with a wide range of matters, especially in commercial/M&A and financial services practice areas.

The firm has gained considerable respect among peers, with one competitor saying: "They are strong, innovative and broad-minded lawyers. Their clients are happy with them – for good reason."

The M&A and commercial law team, led by Galina Bunkova, was boosted with the hire of former Djingov Gouginski lawyer Veselka Petrova, who joined as a partner. One highlight saw the commercial team assist Amer Sports and Atomic in their acquisition of Pamporovo-Ski and Orion ski and snowboard manufacturers, handling legal due diligence, full-scope transactional support and post-closing support.

The firm also assisted Balkancar Zarya in its acquisition of Watts industrial tyres, which involved a full range of services across various jurisdictions.

On the sell side, the team advised software vendor Telerik on a venture capital investment into the company by Boston-based Summit Partners. This was another complex deal, involving pre-transactional restructuring and full support through each stage of the deal.

The financial services team, led by Nikolay Bebov, has also been busy acting for a range of blue-chip Bulgarian and international groups on some complex and innovative mandates.

#### Leading lawyers

Nikolay Bebov  
Galina Bunkova  
Irina Tsvetkova  
Maria Urmanova

### Other ranked firms

Cerha Hempel Spiegelfeld Hlawati moves into the third tier this year on the back of

some positive feedback from the market. The Sofia office has a new managing partner in Boyko Guerginov, a German-trained lawyer with an excellent reputation for quality work across jurisdictions.

The firm has been providing advice to some high-profile clients over the last year. One notable matter involved counsel to Alfa Finance Holding on the joint-venture creation of a bank. Another mandate saw the firm advise Commerzbank on its merger with Dresdner Bank.

**Dimitrov Petrov & Co's** strong focus on M&A work has continued, with the firm acting in large deals on both the buy and sell sides. The firm advised on the 70% capital increase and acquisition of a construction company by a large private-equity fund, and represents Stellar International Property Fund in all of its real-estate and M&A deals in Bulgaria.

**Georgiev Todorov & Co** moves down a tier this year – as have two other firms – reflecting the fast pace of change in the Bulgarian legal market. In the M&A market, Arno Mamasian and Miglena Peneva advised Titan Sport on the acquisition of PFK CSKA, a professional football club. The deal involved a due diligence report, negotiation and conclusion of the share purchase agreement for the entire capital of the company. A privatisation mandate for the firm saw it advise the Bulgarian Telecommunications Company (BTC) on the €60 million sale of its radio and TV broadcasting arms.

*Leading lawyers:* Valentin Georgiev and Ivan Todorov.

**Kambourov & Partners** dropped a tier this year but has still been involved in a number of high-profile matters, acting in M&A deals on both buy and sell sides, advising in large restructurings, and acting for investors in development projects.

In one instruction, Yavor Kambourov and team gave legal advice, assistance and representation to state authorities and individuals in relation to the internal restructuring of Emporiki Bank – Bulgaria, following the bank's acquisition by Crédit Agricole. This also covered regulatory issues, as well as advice on the €80 million-plus financing of a real-estate acquisition and office complex project.

*Leading lawyers:* Yavor Kambourov, Mitko Karushkov and Vladimir Rangeloff.

**Schoenherr's** Sofia office, led by managing partner Alexandra Doytchinova, has been working in particular in the technology, media and telecoms sectors, advising on the acquisition of Bulgarian television and radio stations. The firm was also instrumental in the establishment of a Bulgarian joint venture relating to the development and operation of

wind farms. Its practice and solid reputation continues to grow in the market.

**Dinova & Rusev** (formerly PI Partners) has reincorporated following the break-up of the PI Partners network. Led by Anelia Dinova and Milen Rusev, the firm is making its presence felt in the Bulgarian market, acting on a range of regulatory, capital markets, corporate due diligence and project finance matters, with clients including EFG Eurobank Ergasias, Assos Capital and Mitsubishi Heavy Industries.

### **Other notable firms**

**Wolf Theiss**, led by Richard Clegg, has been active with M&A work, privatisation and other large financings – including acting as lead counsel for Raiffeisen Zentralbank Österreich on a €93 million financing of the acquisition of Mall Varna through a share deal. Its most recent privatisation work was for AGP Development and involved Terem, a state-owned military industrial plant.