

Serbia and Montenegro

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The first wave of reforms in Serbia in 2000 (after the Milosevic era) was aimed both at improving corporate governance and privatization, and developing the legal system to commence harmonizing it with that of the EU. The latter process is important for investment opportunities in Serbia, as it focuses on creating a generally recognizable environment for potential foreign investors, in particular those that have already invested in the region. Recently enacted amendments to legislation relating to privatization seek to clarify legal loopholes, and will be of interest to larger companies entering the market by this mechanism.

Privatization

The privatization process in Serbia is regulated by the Privatization Law, the Share Fund Law, the Securities Law and additional rules providing the legal framework necessary for completion of the privatization procedure of social and state-owned companies. Application of these laws has been difficult in the past, and the new amendments to these laws (adopted in May this year by the Serbian parliament) are expected to finally provide a stable legal framework for privatization and M&A transactions, and should also help to stabilize and develop the still fragile and rather undeveloped Serbian financial markets.

The amendments were introduced to deal with the problems that have been encountered in the privatization process since 2001. The main focus of the amendments relates to: (i) the automatic termination of unfulfilled sale and purchase agreements (agreements used by the Privatization Agency for the sale of state-owned capital); (ii) huge debts owed by the companies to the state (and its agencies and companies); and (iii) the position of the Share Fund (the state fund that holds those the shares that were not privatized in a former privatization process).

Termination of the agreement

The changes predict that serious breaches of the sale and purchase agreement by the buyer results in immediate and automatic termination of the agreement, whereby all shares held by the buyer are transferred to the Share Fund, which can dispose of them by public tender or on the financial markets. This

amendment has been made due to the problems faced by the Privatization Agency in enforcing the terms of the agreement.

Conditional release of debts toward the state

Because it is almost impossible to privatize large state-owned companies that are severely indebted to the state with no prospect of ever paying off those debts, the amendments to the privatization legislation provided that these debts should be conditionally released, whereby the state is granted the possibility of settlement out of the purchase price in the event of the successful completion of the privatization of such companies. Having provided these rules, the amendments clearly increase the number of companies that are potential targets for privatization, and provide an opportunity for the Serbian economy to recover more quickly.

Position of the Share Fund

The position of the Share Fund in the past was vague because the relevant legislation provided unclear solutions. Nevertheless, the amendments give the Share Fund a more active role in the management of the shares its portfolio (for example, it can vote on major decisions in companies), and in the sale of the shares in the financial markets, as well as at public tenders organized by the Share Fund to seek strategic partners for large and state-owned companies.

New legislation

Along with the abovementioned changes in the area of privatization, the recently proposed Takeover Law is aimed at closing similar loopholes that led to several doubtful and non-transparent takeovers in recently (for example, the sale of the shares of one of the Serbia's biggest water companies).

To avoid inconsistency with other laws governing the issue, as previously seen in practice with takeovers, the legislator decided to incorporate all relevant matters into one document, as has happened in other countries in the region.

Another intention was to harmonize this process with the corresponding EU regulations, which explains the similarity with the EU Directive on Takeover Bids (Directive 2004/25/EC). The law is therefore harmonized with the EU Directive, which should provide a solid basis for future public takeovers in Serbia, stability in the financial markets, fair and

equal treatment of foreign and domestic companies in the process, and fair treatment of shareholders.

The main provisions of the draft Takeover Law relate to the threshold levels for mandatory bids, matters of transparency, disclosure of and access to information, the protection of minority shareholders (which are set at the highest level), and the role of the Securities Commission, which is given more authority to supervise the takeover process in Serbia.

A transition process

The new set of laws governing privatization and M&A issues in Serbia is still dominated by the fact that Serbia is undergoing transition. However, with this new set of amendments and new laws, Serbia faces issues seen in countries that have already been through the transition process. Although the official reasoning behind this legislation is inspired by the EU harmonization and accession processes that Serbia strives towards, it is important to stress that these amendments are also governed by the needs of the market, and especially those of foreign investors, in a continued effort to develop a new financial climate.

Corporate and commercial

Recommended firms

Tier 1

Harrisons Solicitors

Jankovic Popovic & Mitic

Karanovic & Nikolic

Prica & Spasic

Tier 2

CMS Reich-Rohrwig Hasche Sigle

Gide Loyrette Nouel

IKRP Rokas & Partners

Law Office Milosevic

Ninkovic

Studio Legale Sutti

Wolf Theiss

Harrisons Solicitors

Harrisons Solicitors has been active in Belgrade since 1997 and is highly regarded by peers and clients for consistently providing "expert advice." Undoubtedly one of the leading firms in Serbia and Montenegro, its lawyers in Belgrade are able to conduct business in French, Serbian, German and English and, through its office in Podgorica, it is well placed in the market to secure a solid amount of local work.

Founding partner Mark Harrison has traditionally been the most visible lawyer at Harrisons, and this year he played a pivotal role in a one of the most significant investments in the country, assisting US Steel on the purchase of Sartid, a Serbian steel producer. Although (for the time being at least) less visible in high-value deals, Goran Martinovic has been recommended by the market as an "excellent, and up-and-coming legal practitioner," as has his colleague, Inis Matijevic, who is singled out by his peers for his legal competency.

Recently, one of the firm's associates, Alexander Preradovic, left the firm to join Prica & Spasic, but in a surprise and pleasing move for Harrisons, he returned to his former firm shortly afterwards. He rejoins an extremely strong corporate and commercial team that this year acted for the Serbian government as exclusive legal advisor on the restructuring and privatization sale of Livnica Kikinda and Sever Subotica. The firm's stellar reputation for corporate advice was further strengthened by its involvement in Telekom Gore's €110 million (\$133 million) privatization.

Harrison's well-developed and extensive regional links certainly helped the firm to secure the role of exclusive legal advisor to the government of Serbia on the recent restructurings and privatizations of Livnica Kikinda and Sever Subotica. These two high-profile transactions were worth €87 million and €65 million respectively.

Over the past year the firm also advised on a number of high-end mergers and acquisitions, most notably, in October 2004, advising Banca Intesa on the tender sale of Eksimbanka. More recently, the firm acted as exclusive legal advisor to Unicredito Italiano on the tender sale of Serbia's Novosadska banka.

Leading lawyers

Mark Harrison

Goran Martinovic

Mirjana Mijuskovic

Key contact partner

Mark Harrison

Jankovic Popovic & Mitic

Jankovic Popovic & Mitic's Belgrade office comprises four partners and nine associates, and is described by its peers as "a good solid Serbian practice." The firm's main operations are based in Belgrade, but it is also represented in Vienna and Sarajevo through its relationship with Austrian firm Lansky Ganzger & Partners.

The firm boasts one of Serbia's most successful corporate practices, and once again this year it has advised an eminent client base on a number of privatizations, mergers and acquisitions. In one notable privatization, the firm acted for German company Mann & Hummel in relation to its acquisition of an additional 25% of the share capital of Unico Filter DD Tesanj. It was also involved in a number of takeover bids over the past year. In one transaction of this type, a Jankovic Popovic & Mitic team advised Knaufl, a leading French polystyrene processing firm, in relation to the acquisition of a controlling stake in Vunizol AD Surdulica.

Head of the corporate and commercial department Nikola Jankovic is seen as one of the driving forces behind the firm's successful mergers and acquisitions practice, and in April 2005 he guided Alpine Mayreder through its takeover bid of two road construction companies. In the same month, fellow name partner Milos Mitic led a team that acted for leading computer and software firm Microsoft in relation to preparing a strategic partnership agreement with the Serbian government.

Leading lawyers

Aleksandar Hadzic
Nikola Jankovic
Julijana Jevtic
Milos Mitic

Key contact partners

Nikola Jankovic
Julijana Jevtic
Milos Mitic

Karanovic & Nikolic

Karanovic & Nikolic has four partners and a total of 26 lawyers, making it the largest commercial law firm in Serbia and Montenegro. The firm possesses a considerable resource network due to its membership of SEE Legal, a regional alliance of leading law firms from south-eastern Europe, and conducts business in English, Russian and German and Serbian. Over the year the firm has been involved in a number of large telecommunications and privatization deals, and its clients praise the firm's "international background and banking experience."

The European Bank for Reconstruction and Development (EBRD) is one of Karanovic & Nikolic's clients, and it has retained the firm on many occasions in the past. Most recently, the firm acted for the EBRD in relation to a direct investment facility in a domestic company that produces, markets and distributes technical gases. In another EBRD instruction, Karanovic & Nikolic acted as local counsel in connection with the €60 million (\$72 million) loan granted to the city of Belgrade for the development of transportation, water supply and heating infrastructure in the city.

Karanovic & Nikolic has been active in project finance this year, and at the time of writing was advising on the Airport City Belgrade project, a real estate development encompassing the largest business park in Serbia. Its strong reputation for acquisition finance was also confirmed recently by the firm's role acting for Philip Morris on the €387 million financing for its acquisition of Duvanska Industrija Nis, one of the country's largest tobacco firms.

Karanovic & Nikolic has developed a solid reputation for corporate work, which was enhanced further this year by its representation of Holcim, a Swiss company, on issues relating to its acquisition (through privatization) of the Novi Popovac cement factory, which was the first privatization under Serbia and Montenegro's new Privatization Law enacted in June 2001. Among the year's other corporate highlights, the firm advised Danish brewer Carlsberg in relation to its €60 million acquisition of the shares of local brewery, Celarevo, and acted for Matav on its €110 million (\$133 million) privatization, one of the highest-profile Serbian privatizations this year.

Leading lawyers

Patricia Gannon
Milos Vuckovic
Dragan Karanovic
Dejan Nikolic

Key contact partners

Patricia Gannon
Milos Vuckovic
Dragan Karanovic
Dejan Nikolic

Prica & Spasic

Prica & Spasic is one of the oldest and most established law firms in Serbia and Montenegro, founded in Belgrade in 1925 by Bogdan Prica. The esteemed Rodoje Prica took over the firm in 1975, and Darko Spasic and Mihajlo Prica later joined this widely admired practice. Most of the firm's lawyers have received part or all of their training abroad, and much of Prica & Spasic's clientele consists of large multinational corporations.

The firm has this year worked on a number of high-profile deals, including the tender sales of Eksimbanka and Novosadska Banka. Radoje Prica continues to be highly regarded in the market for the quality of his commercial advice, and Prica & Spasic continues to attract a good number of instructions in the corporate and commercial sphere.

Clients of the firm include Tarkett Sommer, IBM, Ikea, AstraZeneca, 3M Alcatel, Pfizer and Xerox.

Key contact partner

Radoje Prica

CMS Reich-Rohrwig Hasche Sigle

CMS Reich-Rohrwig Hasche Sigle continues to be visible on some of the highest-profile corporate and commercial work in the country, and is frequently retained by clients of the calibre of ABN Amro, Globe Trade Centre and Bank Austria Creditanstalt. From among the team, peers single out partner Stojan Semez for commendation, one competitor commenting that he "is pedantic and on the ball, with excellent experience." Leading lawyer Natasha Zavisim is also "highly recommended" for the quality of her corporate advice.

The firm has forged ahead in the banking field. Among the year's highlights, it advised Raiffeisen Zentralbank Osterreich on two deals: a €20 million (\$24.4 million) financing package granted to trade company MK Komerc and another €20 million financing package forwarded to Serbia's leading mobile phone operator. In another telecommunications sector deal, CMS advised Hypo Alpe Adria Bank on €50 million-worth of financing granted to another local mobile phone operator.

In what was the biggest private transaction in Serbia at the time of writing, CMS turned its attention to the lucrative beer industry, advising Interbrew on its €500 million acquisition of the leading Serbian brewery, Apatinska Pivara. This deal marked the first acquisition completed successfully under the new takeover regulations in Serbia, and was the first time a substantial purchase of shares had been bought on the Belgrade Stock Exchange. This year CMS lawyers also advised Michelin on the acquisition of the controlling shareholding in the largest Serbian tyre producer, TMH, and acted for Unicredito in its efforts to acquire one of Serbia's leading banks, Delta Bank.

CMS continues to boast an extremely strong project finance team that has acted for a number of illustrious international clients. One such firm was the Ball Corporation, the world's largest producer of metal and plastic containers for the beverage and food industry, which CMS Belgrade advised on the construction of a beverage can production plant in Serbia. At €120 million, this is the largest direct investment in Serbia to date. In a smaller but highly prestigious deal, the firm advised Deutsche Bank on financing the reconstruction of Belgrade's airport, and in a €25 million transaction, the firm represented leading Serbian real estate development company, the Globe Trade Centre, on the construction of the largest business centre in Belgrade. And, although petrol prices have continued to soar throughout the world, CMS won an instruction from OMV in relation to its establishment of a network of petrol stations in Serbia.

Leading lawyers

Radivoje Petrikic
Stojan Semez
Natasha Zavisim

Key contact partner

Radivoje Petrikic

Other notable firms

French market leader **Gide Loyrette Nouel** is a new face in the Serbian legal market, but already it has developed a reputation for having the ability to target French clientele effectively. The firm also has the advantage of being able to draw upon the resources of its offices in Paris, Warsaw, Prague, Istanbul and Moscow. **IKRP Rokas & Partners** set up its Serbia and Montenegro office in early 1998, and the outfit now contains a number of consultants who advise on Serbian law, as well as being able to provide guidance on issues arising in Bosnia and Herzegovina, and Croatia. **Law Office Milosevic** has recently been involved in representing the sellers on the €18 million (\$22.1 million) takeover of a domestic coffee company, and is considered by the market to be a leader in privatization work. The firm also joined forces with international firm Linklaters to represent Pancevacka Pivovara when it was bought by Efes Pilsen for €600 million.

Ninkovic is a smaller law firm led by Djurdje Nonkovic, who has practised in the UK for many years. The firm has developed a fruitful niche acting on insurance sector matters, and as such it has provided legal services to specialist insurance companies and Lloyd's underwriters for over 25 years. **Studio Legale Sutti** is a small but noteworthy Italian firm with a 10-strong team in Belgrade that is able to conduct business in English, French, German, Spanish, Serbian and Romanian. Clients of the firm include Banca Antoniana Popolare and Veneta Banca Intesa. The Belgrade office's corporate and commercial practice is spearheaded by the "widely admired" Dubravka Kosic. And leading Austrian firm **Wolf Theiss** retains its reputation as a premier corporate and commercial law firm, specializing in mid-size privatization deals. Among

the year's highlights in this area, it has acted for the Serbian Privatization Agency on the tender of seven large agricultural and food companies and advised Gallaher on the privatization of the Serbian tobacco industry. From among the team, associate Bojana Bregovic is considered by peers to be "a rising star" and has recently worked on a number of high-profile transactions.