

# Serbia and Montenegro

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## Serbian legal system adapts to corporate trends

**Milla Milson**  
**Harrisons Solicitors**  
**Belgrade**

The imposition of various reforms, regimes and radical changes during the 1990s put Serbia through a period of political and economic turmoil. After a decade of isolation and sanctions, the country entered the new millennium with the aim of eradicating the past and forming a civil state. In light of all this, the government sought to set up a corporate legal regime that would serve to abandon the old socialist programme, encourage foreign investment, restructure the Serbian ownership concept and social and corporate organization.

The essence of Serbian corporate finance can be found in the following pieces of primary legislation:

- The Enterprise Law
- The Privatization Law
- The Foreign Investment Law
- Law on Registration of Commercial Entities

### The Enterprise Law

The Enterprise Law regulates corporate formation, governance, maintenance and other relevant issues applicable to commercial enterprises in Serbia. The law is a wide-ranging document and it may therefore be wise to concentrate solely on the issue of corporate governance and shares.

All legal entities involved in commercial activities and registered with the commercial court are called enterprises. There are three types of enterprises: socially owned enterprises, public (state-owned) enterprises and economic associations.

Corporate governance of companies in Serbia is carried out and/or influenced by one of five different governing bodies: the general meeting of shareholders, the board of directors, the supervisory board, the general director and the employees council.

An enterprise may issue two types of shares: registered shares or bearer shares. Shares are considered registered if they are issued in nominative form (that is, specifying the owner's name) and the title ownership is recorded in the official shareholders' register. Bearer shares are not issued in nominative form and the title ownership is not registered in the shareholders' register, but are instead dependent on the holder of those bearer shares.

There are also two classes of shares: ordinary shares and preferred shares. Ordinary shares entitle their holders to exercise control over a joint-stock company and to participate in the profits and other distributions of the company, proportionate to their percentage of shareholding. Each ordinary share carries voting rights, and each shareholder may



exercise these voting rights personally or through an authorized agent (through an express proxy/mandate/power of attorney). Preferred shares entitle their holders to higher levels of dividends and priority distributions of the proceeds of the company's liquidated assets (in comparison to ordinary shares), as well as other rights set out by federal law and/or the company's articles of association. Preferred shares may be issued at a premium over ordinary shares.

### The Privatization Law

In June 2001, the Serbian government enacted the Law on Privatization (and revoked its predecessor – the Ownership Transformation Act, which was enacted with the aim of regulating the transformation of state-owned and socially owned companies into corporate entities (joint-stock companies and limited liability companies)). This new law on privatization is seen as the most important document in the privatization legal regime in that it seeks to materialize the changes to the Serbian ownership concept and social organization.

The main aim of the law is to govern the conditions and the procedures for changing the ownership of socially or state-owned capital (privatization). In doing this, the law encourages an institutional environment for foreign investment, establishes a distinct ownership structure and changes the overall property structure of society by stimulating an increasing incidence of investment.

### The Foreign Investment Law

The Foreign Investment Law was enacted in January 2002 (amended in January 2003), with the intention of providing a better legal framework to enable efficient development of the Serbian economy, strengthen its competitiveness, provide for wider participation of the Serbian commercial entities in the international market, strengthen the import of new equipment and modern technology, modernize business operation and expansion of exports.

The law has further strengthened the existing guarantees to foreign investors, placing them into a position equal to the one they would have within the EU. It thereby guaranteed foreign investment freedom, a non-discriminatory legal regime applicable to both domestic and foreign investors, full legal certainty and protection, the right of free transfer of profits and assets abroad and application of international agreements, while at the same time removing the custom limitations that previously applied to foreign investors.

### Law on Registration of Commercial Entities

A draft of the Law on Registration of Commercial Entities is still in the process of being adopted by the government. The main advantage of the law is that it will shift the responsibility for company registration from the Commercial Court to a newly formed agency for commercial registries. The aim of the agency will be to coordinate and maintain a register of all commercial entities. This will be done through the Register for Commercial Entities, which will be in the form of a unique electronic database, with details of all commercial entities throughout the whole of Serbia. Access to it will be possible through

the internet. This will both quicken the process of company registration and simplify the filing of any changes made in relation to company status.

### Legal system adapts

The country has definitely seen an increase in economic and corporate activity in the past decade and, with the influx of foreign investors, the new privatization regime and new enactments, it is becoming obvious that the legal system is growing to reflect these changes.

## Corporate and commercial

### Recommended firms

Harrisons Solicitors

Jankovic Popovic & Mitic

Karanovic & Nikolic

Prica & Spasic

CMS Strommer Hasche Sigle

Gide Loyrette Nouel

IKRP Rokas & Partners

Law Office Milosevic

Ninkovic

Wolf Theiss

### Harrisons Solicitors

English law firm Harrisons has had an office in Belgrade since 1997. The fact that the firm remains a force in Serbia and Montenegro, and that it continues to lead many of its domestic rivals on corporate finance work, is largely due to founding partner Mark Harrison. A man omnipresent on deals in Belgrade, he was formerly the head of the central and eastern European group at Eversheds and a Balkan consultant at Denton Wilde Sapte.

The firm is particularly recommended for its corporate advice, and in the past few years has worked on several privatizations and takeover deals, including the \$100 million privatization of Beopetrol, the Soros Fund's investment in cable TV in Montenegro, the European Bank for Reconstruction and Development's secured convertible loan to pharmaceuticals company Hemofarm and the privatization of two Serbian tobacco producers.

In the mergers and acquisitions arena, last year the firm advised steel producer Sartid on its takeover, Duvanska Industrija Vranje on its privatization, the resale of Beopetrol and the sale of chemical company Zupa.

The firm has one partner and 11 associates in Belgrade.

**Key contact partner**

Mark Harrison

**Leading lawyer**

Mark Harrison

**Jankovic Popovic & Mitic**

Jankovic is one of Serbia and Montenegro's premier corporate law firms, involved in many privatizations (often advising the government) and mergers and acquisitions. Nenad Popovic heads the M&A department, which last year worked on the privatization of aluminium converter Nissal, the privatization of Poren-Beton producer Kolubara Gasbeton, the acquisition of Pivara and the takeover of a majority shareholding in Somboled Sombor.

The banking department, headed by Milos Mitic, was busy last year advising the banks involved with a share purchase agreement with Trust Baka, a credit facility for a local bank and a leasing agreement to a local corporate in Serbia.

The firm has six partners and nine associates in Belgrade, and operates associations with Austrian firm Lansky Ganzger & Partner, German firm Niebaum Kohler Punge Soeder and English firm Stephenson Harwood.

**Key contact partners**

Nikola Jankovic

Milos Mitic

Nenad Popovic

**Karanovic & Nikolic**

Name partners Dragan Karanovic and Dejan Nikolic are both recommended as leading lawyers at top firm Karanovic & Nikolic. The firm, which is young by comparison with most of its contemporaries, covers a wide range of practice areas, including privatization, due diligence, share acquisition, financing structures, securities and the transfer of property as well as company formation, labour and taxation.

Deals in recent years included flooring manufacture Sintelon's joint venture with Tarkett Sommer, the joint venture between TBI Holding and Dunav Insurance Company (the largest insurer in the country), and Philip Morris' involvement with the privatization of the tobacco industry in Serbia. Other clients include ING Bank, the Export Development Corporation Canada, Zepter International, Lukoil, Danone and Epic.

**Key contact partners**

Dragan Karanovic

Dejan Nikolic

**Leading lawyers**

Dragan Karanovic

Dejan Nikolic

**Prica & Spasic**

Long among the vanguard for privatization advice in Serbia, Prica & Spasic helped the Serbian government with its first privatization in January 2002, which was the \$90 million privatization of Beocin, the country's largest cement producing plant. CMS Strommer Hasche Sigle advised the privatization agency.

The firm is among the oldest and best-established law firms in Serbia and Montenegro. It began in Zemun-Belgrade in 1925 under Bogdan Prica, was taken over by Rodoje Prica in 1975, and expanded with the addition of Darko Spasic in 1981 and Mihajlo Prica in 1991. It is regarded by the legal market as a solid, experienced team of corporate finance lawyers.

Rodoje Prica is the firm's leading lawyer, highly recommended by his clients and competitors alike.

**Key contact partner**

Radoje Prica

**Other notable firms**

The most important deal for highly-rated law firm **Ninkovic** last year was the acquisition of Apatinska Pivara by Interbrew, on which lawyers Djurdje Ninkovic, Ivan Krsikapa and Olga Serb Gretic advised Apatinska Pivara as part of the €520 million (\$639 million) deal. The firm has one partner and four associates dedicated to corporate and commercial work.

Austrian firm **Wolf Theiss** opened its Belgrade office in March 2002 and now has 12 lawyers working there. HVB Bank Jugoslvija and Western Union are the firm's key clients. Contact partners are Horst Ebhart, who is the regional manager, and Dieter Spranz. **Gide Loyrette Nouel** is another firm to open an office recently in the country. The French firm extended its central and eastern Europe network with an office set up in Belgrade in 2004 staffed by a mix of Serbian, Croat and French lawyers. The firm also has offices in Warsaw, Prague, Istanbul and Moscow.

**CMS Strommer Hasche Sigle** is a mix of the German and Austrian branches of the CMS Legal network, taking lawyers from both countries and managed from both offices. It has grown in recent years and now has 12 lawyers stationed in Belgrade, with Dejan Simic heading the banking and finance department and Radivoje Petrikic acting as managing partner. Greek firm **IKRP Rokas & Partners** has had a presence in Serbia since 1998, and the office cooperates closely with the firm's Athens office. Although not strong enough to be a real independent force in the country, Rokas does have some good lawyers in Belgrade, the best of which is Yorgos Chairetis.