

Western Balkan Newsletter

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This newsletter provides general information and should not be construed as legal advice. Please consult our legal experts for specific guidance tailored to your unique circumstances.

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SERBIA · BANKING & FINANCE

Implementing the National Bank of Serbia's Decision on Third-Party Activity Risks

The National Bank of Serbia (hereinafter: NBS) adopted the Decision on Risk Management Arising from Activities Entrusted to Third Parties in early September ("Official Gazette of the RS", No. 77/2023). With this decision, the NBS aimed to improve the procedures of banks in managing risks associated with activities delegated to third parties and to introduce a higher level of control in this area.



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Among the activities that can be delegated to third parties, the Decision specifically highlights the provision of payment services, cash flow management, and debt collection, while activities such as procurement of goods and other standardized services are not covered. In accordance with the Decision, banks were required to amend their internal acts and procedures in the last quarter of 2023, review contracts concluded in this area, and establish specific records.

As for innovations in banking procedures, key changes can be identified and grouped into several categories. The first and most important area is the adjustment of internal acts to new regulations. This includes introducing thorough regulation of decision-making processes regarding the delegation of activities, alignment of supervision, evaluation of previous cooperation, and related issues, with an emphasis on compliance with new regulations. Special attention has been given to regulating the content of contracts between the bank and third parties. These contracts now must include provisions requiring service

providers not to jeopardize the bank's business reputation, while banks are obligated to monitor the execution of delegated activities. Additionally, there is a requirement to maintain detailed records of entrusted activities, including submitting statements from these records to the NBS.

A provision in article 4 of the Decision has attracted significant attention in the professional community, as it essentially limits the amount of compensation for debt collection services to 30% of the collected claims, including all rewards and costs of the service provider. According to the current legal tariff, a lawyer and a client can agree on a lower fee than specified in the tariff, but not exceeding 50% of the prescribed amount. The Serbian Bar Association has characterized this provision as unconstitutional and contrary to the Law on the National Bank of Serbia, as it indirectly changes fee regulations for lawyers and represents an exceeding of the NBS's authority. The Serbian Bar Association has emphasized the need to change this controversial provision and called on the NBS to make that change.



SERBIA · CORPORATE & COMMERCIAL LAW

Amendment of the Regulation on Electronic Archiving

The new Regulation on unique technical-technological requirements and procedures for the storage and protection of archival material and documentary material in electronic form was published in the Official Gazette of Republic of Serbia on December 26, 2023 and is applicable starting January 1, 2024.





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The older Regulation provided that documentation that is stored permanently, as well as that which is not stored permanently, is stored in a manner regulated by the regulations for reliable electronic storage (regulations adopted on the basis of the Law on Electronic Documents, Electronic Identification and Trust Services in electronic business). This solution remains when it comes to documentation that is stored permanently, while, as regards documentation that is not stored permanently, the creators and owners of documentary material in electronic form are obliged to ensure their integrity, authenticity, credibility, completeness and usability with a qualified electronic signature, that is, with a qualified electronic stamp.

A crucial change concerning the private sector is reflected in the fact that there is no longer an obligation to have a special software solution for reliable electronic storage, although it is still recommended for the private sector to use it because it is still necessary to harmonize electronic storage with the regulations adopted in accordance with the

Law on Electronic Documents, Electronic Identification and Trusted Services in electronic business.

Also, the new Regulation stipulates that if the creator of documentary material that is stored permanently submits certain documentary material to an authority within the framework of a procedure, such documentary material will continue to be reliably stored electronically by that authority.

Great doubts were caused by the position that stipulated that after the handover of archival material to the competent public archive, access rights for the purpose of managing archival material are revoked by the creator and the owner who handed over the material. With the new Regulation, this position is deleted, which enables the creators and owners of archival material to retain the right to access archival material that was handed over to the competent public archive for safekeeping.

SERBIA · REAL ESTATE

Serbia's New Energy Passport Laws and Their Real Estate Impact



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Energy passports (EPs), first introduced into Serbian law in 2010, are a powerful tool for assessing the energy efficiency of buildings.

Initially mandated of only for new build structures, in 2023 this requirement was extended to all buildings to align local rules with EU regulations and standards. Energy passports will gradually be rolled out to all types of structures over the next ten years.

All buildings, both public and private,

including homes and offices, will be required to have EPs. Public buildings will be the first to face this stipulation, within the next three years, whilst all commercial structures will have to introduce EPs within five years. By August 2033 all structures, including residential apartments, should receive the passports.

Exactly how this certification requirement will be enforced remains unclear, but a set of byelaws regulating the issue is expected to be adopted in the coming year.



According to the legislation, once the ten-year implementation period has expired, EPs will have to be appended to property sale and lease agreements.

Energy passports are issued by appropriately licensed companies, whose contact details are available from the Central Register of Building Energy Passports (CREP). The cost of the passports will vary, but the prices are expected to range from 100 euros for individual apartments to several thousand euros for large buildings.

Energy passports play a key role in promoting sustainable construction and aid global efforts to reduce greenhouse gas emissions. They are used to assign

energy performance ratings (EPRs) to buildings and help owners and buyers better understand energy consumption patterns of their properties. However, their impact on property prices is not immediately obvious, as prices depend on numerous factors, including location, buyer awareness, investment potential, and market trends. Energy passports are just one additional consideration that can influence the price of a property.

In conclusion, energy passports can prompt owners to consider making their properties more energy efficient and so help global efforts to mitigate climate change.



SERBIA · EMPLOYMENT LAW

"Moja Prva Plata" Again in 2024



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Despite a slight delay compared to previous years, the National Employment Service of the Republic of Serbia continues its support for young individuals in their quest for initial work experience through the "Moja prva plata" program. This marks the fourth consecutive year that the government recognizes the importance of providing assistance to young people entering the job market.

In the second half of December 2023, the process of submitting applications from employers and candidates, as well as the process of connecting them, was completed, and in the first half of January 2024, the finalization of the process is expected in the form of the conclusion of the contract and the beginning of the training of unemployed persons.

In relation to the method of participation, the conditions for participation, the duration of the program and the framework of participation, there were no changes compared to the previous year. Accordingly:

- the program includes, as earlier, unemployed persons with at least high school degree and no work experience gained in jobs within the level of education at which they will be trained, as well as persons who have work experience of less than 6 months, gained in jobs within the level of education at which they will be trained, whereby, these persons must meet the other remaining conditions prescribed in the public call, with the restriction that persons who were earlier beneficiaries of this program cannot participate in the program;

- employers must also fulfill the conditions that are exhaustively stated in the public call, among which we particularly emphasize the condition that the employer has settled obligations based on taxes and contributions for mandatory social insurance within the legal deadlines, as well as that he has an employed mentor in charge of training;
- the program lasts 9 months;
- the program does not imply establishment of the employment relationship with the candidate, nor is there any obligation on the part of the employer to employ the candidate upon completion of the program;
- the obligation to notify the National Employment Service of all changes that are important for the implementation of the contract within 8 days from the date of the change.

As in previous years, the trend of increasing the compensation received by candidates continues, so this year it will be:

1. for persons participating in the program with high school degree – 28.000 RSD
2. for persons participating in the program with higher education – 34.000 RSD

whereby there is a possibility for employers to pay additional compensation to candidates.

At this point, we single out the basic obligations of employers in connection with the implementation of this program as particularly important:

- the obligation to submit a report on the implementation of the program to the National Employment Service, on a monthly basis,
- the obligation to issue to the user of the program a certificate of completed training on specific jobs,
- the obligation to enable the National Employment Service to control the implementation of contractual obligations,

As in previous years, there is a possibility that the employer, within 30 days from the day of termination of training, replaces the employee with the next unemployed person from the list who meets the necessary conditions, for the remaining time defined by the contract plus the period of the replacement. We believe that in this segment there is a space for further improvement of the conditions for the implementation of the program, since the possibilities for replacing the candidate in the event of interruption of the program according to currently available information are still significantly narrowed - the candidate can only be replaced by another candidate who initially applied for training with the employer where the candidate is replaced.

In any case, the "Moja prva plata" program not only provides financial incentives to young people entering the labor market, but also enables the first contact between young people and employers who recognize the value of their contribution. This program has become an indispensable part of the initiatives of the National Employment Service with the aim of reducing unemployment among young people and facilitating their access to professional development, and the fact that this year more than 13,000 young people applied for it, for about 10,600 positions advertised by about 7,000 employers, confirms its success and its importance.

The "Moja prva plata" program not only provides financial incentives to young people entering the labor market, but also enables the first contact between young people and employers who recognize the value of their contribution.

SERBIA · CIVIL LAW

Upcoming Changes to Serbia's Immigration Laws



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1st of February 2024 is date of entering into a force of amendments to the Law on Foreigners and the Law on Employment of Foreigners in the Republic of Serbia.

As the most important change, we underline the unified, electronic submission of requests for temporary residence and requests for work permit, with deadline for issuance of decision by the competent authority within 15 days, which will make the process much easier and faster. In addition, it is expected that the sticker in the passport regarding the approved residence will be replaced by a unique residence and work permit in the form of a biometric document, which would at the same time enable foreigners to use administrative services through the e-Government/e-Uprava

portal (for example: use of an electronic signature).

For foreigners who need a D-visa to enter and work in the Republic of Serbia, it will be sufficient as a basis for residence and work during the duration of the visa (180 days), without conducting the double procedure that existed until now.

Also, competent authorities in Republic of Serbia has already started to approve temporary residence for period of 3 years (instead of 1 year) and it has been removed the previous doubt whether foreigners who have been granted temporary residence in the Republic of Serbia on grounds other than employment, as ownership of real estate and residence based on family reunification, can work in the Republic of Serbia, with the explicit provision regarding that possibility.

SERBIA · ENVIRONMENTAL LAW

Continuation of the IPARD III Program in Serbia in 2024



The Committee for Monitoring the Implementation of the IPARD III Program in the Republic of Serbia met on 13th of December 2023 announced that the first public calls within the IPARD III cycle are expected in mid-January 2024, first for Measure 1, which is the greatest interest for users and later for other measures. Also, the European Commission approved the re-accreditation of already existing measures within the IPARD Program.

We remind that IPARD III program is financed by EU starting from its adoption in March 2022 within the budget of 378.000.000 EUR with target to achieve European standards in environmental area and agricultural empowerment in Republic of Serbia.

Measures that are supported under the IPARD program are the following:

Measure 1: Investments in physical property of agricultural properties;

Measure 3: Investments in physical property which pertain to processing and marketing agricultural and fishery products;

Measure 4: Agri-environmental-climate measures and organic production measures;

Measure 5: Implementing local rural development strategies – LEADER approach;

Measure 6: Investments in rural public infrastructure;

Measure 7: Diversification of agricultural properties and development of operations and

Measure 9: Technical aid (supporting the Management Body in implementing the IPARD program),

while IPARD III Program covers measures 1, 3, 7 and 9 with planned period of realization up to 2027.

BOSNIA & HERZEGOVINA · CIVIL LAW

Streamlined Foreigner Migration in Bosnia and Herzegovina



With increasing numbers of people moving across borders in search of better working conditions, Bosnia and Herzegovina has joined trends common across the European Union in seeking to improve the position of foreign nationals residing in the country or looking to settle there.

Amendments to the Foreign Nationals Law introduce the following changes:

- People with internships and researcher jobs have been recognised as entitled to settle in Bosnia and Herzegovina;
- Public health safeguards have been enhanced (threats to public health may result in complete or partial limitation of freedom of movement across the country, whilst foreign nationals may have their visas annulled or revoked);
- Long-stay ('D') visas can now be issued to nationals of countries not requiring visas for more than 90 days in any given 180-day period;
- Invitation letters can now be provided by foreign nationals with diplomatic status in Bosnia and Herzegovina;
- Visas can now be applied for online;
- Foreign nationals may be allowed to remain in Bosnia and Herzegovina until their applications for visa extension are considered;

- Temporary family reunion visas may now be issued to close family members of foreign nationals residing in Bosnia and Herzegovina as researchers in cases where such foreign nationals are permitted to reside in the country for less than one year and are not likely to be granted permanent residence;
- Blue Card holders may now change employers after 12 months, as opposed to the previously mandated 24 months;
- A foreign national without a work permit may work in Bosnia and Herzegovina if their temporary residence is extended for the course of divorce proceedings to determine custody of a child who is a national of Bosnia and Herzegovina;
- A foreign national must leave Bosnia and Herzegovina within 30 days after their work permit has expired;
- New grounds for deportation have been introduced (where a foreign national has been denied residence in Bosnia and Herzegovina and has not left the country within the voluntary compliance period);
- The Foreign Nationals Office may now confiscate foreign nationals' passports for an extended period of time.

The latest round of changes to these regulations seek to bring the country into closer alignment with the EU, facilitate inward migrations, streamline visa issuance, help safeguard public health, and bring more clarity to issues of temporary residence.



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MONTENEGRO · EMPLOYMENT LAW



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Key Amendments in the Pension and Disability Insurance Law

On 29 December 2019, the Montenegrin Parliament adopted amendments to the country's Pension and Disability Insurance Law, which entered into force on 31 December after being published in the Official Gazette of Montenegro. The law formally took effect on 1 January 2024, excepting only its Article 17(1), which applies retrospectively from 3 November 2023.

Article 17(1) introduces a single pensionable age threshold for both men and women at 65 years of age and 15 years of pensionable service, cumulatively, or 61 years of age and 40 years of pensionable service, or 40 years of effective pensionable service regardless of age.

Under Article 17, beneficiaries of pension insurance who have spent at least 20 years in effective employment in metalworking and mining jobs subject to enhanced pensionable service rules become entitled to their national contributory pension when they reach 30 years of pensionable service. Notwithstanding this provision, beneficiaries in these two sectors whose employment has terminated for one of the reasons set out in Article 197n of the law may retire with 25 years of pensionable service or at least 15 years spent in effective employment on a job subject to enhanced pensionable service. The entitlement to the national contributory pension

pursuant to this provision can be exercised at the latest by 31 December 2024.

A second amendment to the Pension and Disability Insurance Law has raised the minimum pension to 450 euros in a bid to shield low-income pensioners from the cost of living crisis and high inflation.

NORTH MACEDONIA · TAX LAW

VAT Law Requires Tax Agents for Foreign Firms in North Macedonia

With North Macedonia following evolving trends as part of its integration into the global economy, the country's market is open to receiving goods and services from abroad, especially from European Union (EU) member states. As a result, taxpayers based abroad often provide services in North Macedonia that are subject to local value added tax (VAT). To address these issues, the North Macedonian Value Added Tax Law has been amended to mandate the appointment of tax agents.



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The amendments require foreign businesses that do not have a registered office or subsidiary in North Macedonia but sell VAT taxable goods and services locally to register as VAT payers and appoint tax agents.

In December 2023, to allow implementation of these amendments, a piece of secondary legislation was adopted to regulate how foreign businesses can apply and register for VAT, how the Register of Tax Agents will be maintained, and what documentation is required to register.

The changes may affect the cost to North Macedonians of services provided by foreign companies, such as Netflix. To date, for example, those who wished to watch a movie on Netflix or download an app from the Android Play Store would simply pay online for the service,

and the provider had no obligation to declare or pay North Macedonian VAT. However, the recent amendments become mandatory for all such companies on 1 January 2024.

The alignment of VAT regulations with EU rules is expected to raise additional income for the government as well as address unfair competition.

ALBANIA · TAX LAW

Albania Reforms Income Taxation



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Albania's Income Tax Act, first adopted in December 1998, is one of the country's key pieces of legislation. With the country seeing ever greater economic development, this law has undergone a series of changes in response to the fiscal policies of the executive and the needs of the business community.

The government announced the changes at the beginning of 2023, finalising the draft legislation in the last quarter of the year in General Instruction No. 26 of 8 September 2023 and Normative Act No. 7 of 14 December 2023.

The Income Tax Act and its associated secondary legislation sets out rules for the collection and administration of personal income tax and corporate income tax,

which payable by both businesses and natural persons in particular circumstances. profit. The new law provides a broader definition of employment income for tax purposes than previous legislation.

The new law introduces progressive income taxation by establishing annual thresholds and tax rates. Employees who earn up to 200,040 ALL per year will be taxed at a rate of 13%, while those with greater incomes will be subject to a 23% tax rate.

The new changes have also affected the self-employed, which will no longer be treated as small businesses, which are subject to a zero tax rate, but will rather be taxed at 15% if they earn from 0 to 14,000,000 ALL and at 23% for incomes exceeding 14,000,000 ALL.

The guidance states that a self-employed person who derives 80% of their gross income from a single client, or 90% of their gross income from fewer than three clients, will be subject to payroll tax at the prescribed rate.

Accountants from the Institute of Chartered Accountants and members of the National Bar Association have previously claimed that the new law is illegal, creates inequality between taxpayers, and encourages evasion. Both of these associations are expected to petition the Constitutional Court to overturn the new law.

KOSOVO · CIVIL LAW

Kosovo IVF Legislation Promotes Women's Autonomy

Following extensive deliberation and considerable advocacy efforts, the Assembly of Kosovo has given its initial approval to draft legislation governing reproductive health and assisted fertilisation, commonly known as IVF.



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The draft law received overwhelming support from the majority of the 63 members of parliament in attendance during the session. Only one MP voted against the proposed law, while four chose to abstain.

The proposed law stipulated that unmarried women over 18 years of age, in sound physical health, and in 'favorable social circumstances', as well as those deemed 'capable of fertilisation and parental care', may use the

IVF procedure.

The amendments mark a substantial step forward in the realm of women's rights, enabling women to make autonomous decisions about having children, free from any obligation of spousal support, and without necessitating matrimonial status.



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