

# 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

# Crowdfunding Regulation To Be Finalised



**Marina Timotić**

**Attorney at Law**

marina.timotic@vp.rs

In yet another indication of Serbia's accelerating progress in adopting European standards, the National Bank of Serbia (NBS) is putting the final touches on the Crowdfunding Bill, a piece of legislation certain to delight many young Serbian entrepreneurs.

The NBS is seeking to ensure the proposed provisions comply with other local rules and Regulation 2020/1503, the EU's text governing the area.

Enacting crowdfunding legislation is envisaged by Serbia's 2024 Start-up Ecosystem Development Action Plan, which calls for 300 start-ups to be registered in the country by the end of the year and RSD 900 million in grants to be made available to the sector.

Crowdfunding should be viewed as an additional form of support for small and medium-sized enterprises

(SMEs) and start-ups that seek finance but are not always able to find it through traditional channels, by borrowing from banks or issuing debt securities. The forthcoming law ought to regulate the provision of crowdfunding services, requirements for incorporation and operation of crowdfunding providers, oversight of the sector, and consumer protection issues.

However, crowdfunding is far from being a novelty for Serbia's businesses. As early as 2017, entrepreneurs attracted USD 700,000 in early-stage financing for a variety of ideas and projects.





Successful fundraisers have included *Nebeska Tema*, a documentary film about singer-songwriter Vlada Divljan, which raised USD 40,000 on IndieGoGo, and Belgrade-based board game studio Forsage Games, which was able to raise as much as USD 300,000 in five Kickstarter campaigns. Finally, Kafe Bar 16 took in more than RSD 1,300,000 on Donacije.rs to help the social business continue helping residents of the Belgrade Children's Shelter during the Covid-19 pandemic.

Crowdfunding is much more than just an alternative way to access

finance. Its many and varied advantages include its use of digital technology and transparent nature, whilst its accessibility and visibility allow even non-professional investors to participate. Nevertheless, just as with any other project, crowdfunding requires detailed preparation. Once the draft bill has been finalised, it will be published on the NBS website and put up for public consultation, in line with long-standing procedure, before moving to Parliament.



SERBIA · CORPORATE & COMMERCIAL LAW

# Serbian Business Registers Agency Amends Capital Registration Procedure



**Nemanja Mitić**  
**Trainee Lawyer**  
nemanja.mitic@vp.rs

**The Serbian Business Registers Agency (SBRA) has altered its procedure for registering capital increases and/or decreases, which will from now on be registered as the amount of capital resulting the increase or decrease.**

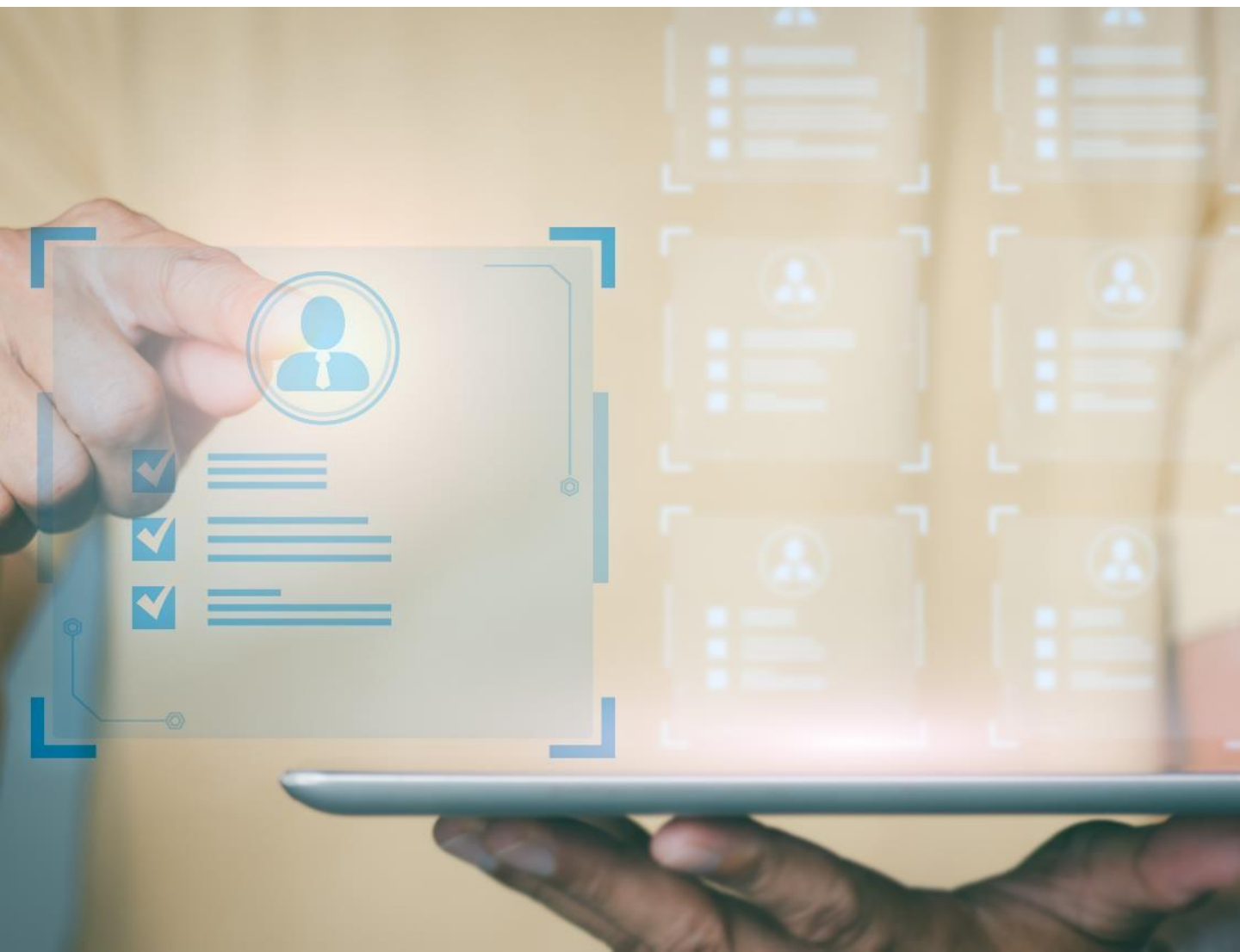
Previously, the SBRA registered and timestamped each individual incoming payment, an approach that proved impractical as the display format was insufficiently clear and the total of all payments could not be viewed. The option chosen by the SBRA is now to register only the final amount after the change, whilst individual incoming payments will not be listed.

The same rule will be applied for capital decreases: here, the SBRA will delete all registered incoming payments and record the difference between the current capital and the decrease as the new capital amount. In other words, only the end state following the decrease will be registered.

An identical procedure will be used for registering members' contributions (regardless of whether companies have only one or multiple members), with both monetary and non-monetary capital and shares covered by the change.

The amended procedure will mean the deletion of all currently displayed incoming payment/entry dates, and the date of the decision introducing the change will be registered as the incoming payment/entry date. This arrangement is envisaged by Articles 147v, 300, and 323 of the Companies Law (Official Gazette of the Republic of Serbia Nos. 36/2011, 99/2011, 83/2014 – Other Law, 5/2015, 44/2018, 95/2018,

91/2019, and 109/2021), which stipulate that registered capital is deemed to be increased or decreased as of the date of registration with the SBRA, pursuant to the law regulating business registration. Previously, the SBRA had registered the date indicated in the proof of payment of capital issued by the registrant's bank as the incoming payment date, whereas henceforth the registration date will be the date of the SBRA's decision formally recognising the capital increase.



SERBIA · REAL ESTATE

# No-Cost Conversion of Usage Rights to Registered Ownership, Six Months On





Early August 2023 saw the entry into force of amendments to the Planning and Construction Law (Official Gazette of the Republic of Serbia No. 62/2023), with the key change being the repeal of the Law on Conversion of Usage Rights to Land Zoned for Construction into Registered Ownership at Charge and the consequent removal of the charge for this conversion.

The amendments also envisage a new Spatial and Urban Planning Agency with powers over the no-cost conversion procedure. The Agency was finally constituted in January 2024.

Any entity that was previously subject to the conversion charge is now able to apply for the no-cost conversion procedure (except for sports clubs, for which the process is yet to be determined).

Once an application is made, the Spatial and Urban Planning Agency certifies the intended uses of land parcels as suitable for conversion into registered ownership by the applicant without charge.

The Spatial and Urban Planning Agency should process applications within eight days (an improvement on the current longer case handling time). Applicants will be charged only the actually incurred processing costs, and the certificate will be provided online to the real estate cadaster for registration of ownership.

The only restriction is that conversion will not be permitted for cadastral parcels planned for public facilities or public spaces.

Where only a portion of a cadastral

parcel is planned for a public facility or a public space, conversion will require an approved reparcelling plan to split the portion from the remainder of the parcel.

More than six months from their enactment, the positive impacts of these changes are becoming apparent. According to the findings of recent research conducted by the National Alliance for Local Economic Development (NALED), as many as 66 percent of all conversion applicants intend to invest in expanding their production capacity, suggesting the amended law has promoted business growth.



**Jovana Čapaković**

**Senior Partner – Attorney at Law**

[jovana.capakovic@vp.rs](mailto:jovana.capakovic@vp.rs)

SERBIA · EMPLOYMENT LAW

# A New Decision of the Constitutional Court in Favor of Working Mothers

The Constitutional Court of the Republic of Serbia determined for the fifth time the unconstitutionality of certain provisions of the Law on Financial Support to Families with Children (hereinafter: the Law). Since the start of its application (July 1, 2018) this Law was the subject of criticism which proved to be justified, especially bearing in mind the high percentage of success of submitted initiatives for the evaluation of the constitutionality of its provisions.



**Marijana Momić**  
Senior Attorney at Law  
marijana.momic@vp.rs

Last conducted procedure was initiated in relation to the provision of Article 13, paragraph 1 of the Law, which read:

*"The salary compensation basis, i.e. the salary compensation for the persons referred to in Article 12 of this law, is determined based on the sum of the monthly bases on which the contributions to incomes that have a salary character were paid, for the last 18 months preceding the first month of leave due to complications related to with pregnancy maintenance, or maternity leave, if the leave was not used due to complications related to pregnancy maintenance."*

The parts of the provision about which the initiative was submitted are: "absences due to complications related to

*pregnancy maintenance, or" and "if leave due to complications related to pregnancy maintenance was not used."*

Described provision led to the solution in which the salary compensation for the period of maternity leave, leave from work for childcare and leave from work for special childcare was calculated in a different way depending on the fact whether the working mother used leave due to complications related to by maintaining the pregnancy (the so-called pregnancy sick leave).

If the working mother did not use pregnancy sick leave before the maternity leave or used some other type of leave other than pregnancy sick leave, the 18 months preceding the start of the maternity leave are taken as the relevant period for calculating the salary compensation.

On the other hand, if the working mother used pregnancy sick leave, the 18 months preceding the start of pregnancy sick leave were taken as the relevant period for the calculation of salary compensation. Accordingly, period of pregnancy sick leave was not included in the period that is relevant for the calculation of salary compensation during maternity leave.

In practical application, this solution led to a less favorable treatment of mothers who used pregnancy sick leave, especially those who would only have a relevant average income for the 18 months observed by law for the calculation of salary compensation if the period of pregnancy sick leave was taken into account.

The Constitutional Court found that such different treatment does not aim at a legitimate goal and that it has no objective and reasonable justification and found that Article 13, paragraph 1 of the Law is unconstitutional in the part "absence due to complications related to maintaining a pregnancy, or" and "if not used leave due to complications related to the maintenance of pregnancy", whereby the said part of Article 13, paragraph 1 of the Law ceased to be valid on February 14, 2024., when the decision of the Constitutional Court was published, and that way, working mothers who used pregnancy sick leave were completely equalized with working mothers who did not use this leave.

Although the same solution is contained in Articles 16b, paragraph 1 of the Law (leave from

work for child care and leave from work for special child care and salary compensation, i.e. salary compensation of the child's father, if the child's mother is a person who independently performs activities or as the holder of a family farm, she has the status of a person who independently performs activities according to the law regulating personal income tax) and 18, paragraph 1 of the Law (other benefits based on the birth and care of a child and special care of a child) they were not the subject of the assessment of the Constitutional Court, and remain unchanged for now. To simplify, the latest Decision of the Constitutional Court refers exclusively to employed mothers. However, we can certainly expect that the last Decision of the Constitutional Court in favor of employed mothers will impact the change of the same provisions applicable to other types of users of compensation.

In the short term after the publication of the Decision of the Constitutional Court, on February 22, 2024. The Ministry for Family Care and Demography has issued an Instruction on the actions of municipal -city administrations in the application and implementation of the Decision of the Constitutional Court.

In the instruction, it is specified that the city-municipal administrations will ex officio review all decisions on compensation of salary, which are not final and legally binding.

On the other hand, the Law on the Constitutional Court regulates that a proposal to amend a final or

legally binding individual act, adopted on the basis of a law or other general act, which was determined by a decision of the Constitutional Court to be inconsistent with the Constitution, generally accepted rules of international law, confirmed international contracts or the law, can be submitted within six months from the date of publication of the decision in the "Official Gazette of the Republic of Serbia", if no more than two years have passed from the submission of the individual act to the submission of the proposal or initiative for the initiation of the procedure.

Accordingly, beneficiaries can submit a request to amend an individual decision based on the last Decision of the Constitutional Court if the decision on compensation of salary was delivered to them starting from April 19, 2019., whereby the request itself can be submitted no later than August 14, 2024. The request is submitted to the authority that issued the decision on compensation of salary.

SERBIA · CIVIL LAW

# Open Balkan: Free Access to Labour Market of Republic of Serbia, North Macedonia and Albania



**Jelena Plamenac**  
Senior Attorney at Law  
jelena.plamenac@vp.rs

## Unified Labour Market of Open Balkan members: Republic of Serbia, North Macedonia and Albania has started on the 1st of March 2024.

In future, citizens of this three countries can work in any of them – Open Balkan members, based only on ID number and without temporary residence or working permit processes.

It has been announced that ID number can be received in few steps, by registration via online portal, fulfilling form and attaching valid biometrical document, everything via [e-Uprava portal](#) „Welcome to Serbia“, which started

operating on the 5th of March 2024. After registration, the interested party can access the eGovernment portal of the destination country and submit a request for free access to the labor market. The destination country makes the final decision after verification. After receiving the approval, the interested party can be employed, under the same conditions as a local citizen of the country, for up to two years, and after the expiration of this period, the period of stay and employment can be extended, it has been written on the site of Chamber of Commerce and Industry of Serbia.

SERBIA · ENVIRONMENTAL LAW



**Jelena Plamenac**  
**Senior Attorney at Law**  
jelena.plamenac@vp.rs

# Public Calls for Applications Announced for Serbia IPARD III Programme

## **Measure 1 – Investments in physical assets of agricultural holdings**

The first public call has been announced, with applications accepted from 23 February to 24 May 2024.

The call is open to natural and legal persons and co-operatives investing in the following sectors: dairy, meat, eggs, vegetables, fruit, seeds and seedlings, cereals and industrial plants, grapes, and fisheries. Eligibility extends to investment in new facilities, procurement of equipment for such

new facilities, new plantations or renewal of existing plantations of perennial fruits, new plantations of seedlings, and construction and equipping of greenhouses. This round of support is not available for the procurement of equipment for existing facilities or agricultural machinery.

## **Measure 3 – Investments in physical assets concerning processing and marketing of agricultural and fishery products**

The call for applications is expected to be open from 22 April to 21 June 2024.

## **Measure 7 – Farm diversification and business development (rural tourism)**

The call for applications is expected to open in the summer of 2024.

BOSNIA & HERZEGOVINA · BANKING & FINANCE

# Restrictions and Oversight of Cash Payments in Bosnia and Herzegovina



## A secure financial and banking system is crucial for the nation's economy and a precondition for Bosnia and Herzegovina to open accession negotiations with the European Union (EU).

The Law on the Prevention of Money Laundering and Financing of Terrorism was published on 19 February 2024 in the Official Gazette of Bosnia and Herzegovina. This piece of anti-money laundering and counter terrorism financing (AML/CFT) legislation has replaced the previous law governing this area and took effect eight days after its publication.

Key differences from the previous law:

- Alignment of Bosnia and Herzegovina rules with EU regulations and directives;
- Better legal definition of 'close associates';
- New concepts of cryptocurrencies and occasional transactions;
- Creation of a standing AML/CFT co-ordinating body;
- A cap on cash payments by obliged entities at KM 30,000 without exception (previously lawyers, notaries public, financial institutions, and other entities were all exempt);
- New requirement for obliged entities to undertake customer due diligence measures for occasional transactions exceeding KM 2,000;

- More detailed requirements for registering reports of physical cross-border movements of cash;
- Greater restrictions on unusual transactions (such as performing and updating customer due diligence and identifying beneficial owners);
- Optional facilitated, less onerous customer due diligence requirements for sale and purchase contracts for some types of customers.

Within 30 days of the entry into force of the law, the Council of Ministers of Bosnia and Herzegovina is required to appoint Bosnia and Herzegovina's representatives in global, European, and regional AML/CFT bodies, pursuant to the constitutional structure of Bosnia and Herzegovina (representatives of the central government, entities, cantons, and the Brčko District) and the articles of association, regulations, procedures, and statutory powers of those bodies.

The new legislation is intended to reduce AML/CFT risk, strengthen prevention and enhance efforts to address organised crime, and facilitate the country's EU accession.



**Edna Basara**

**Trainee Lawyer**

[edna.basara@sarajliclaw.com](mailto:edna.basara@sarajliclaw.com)



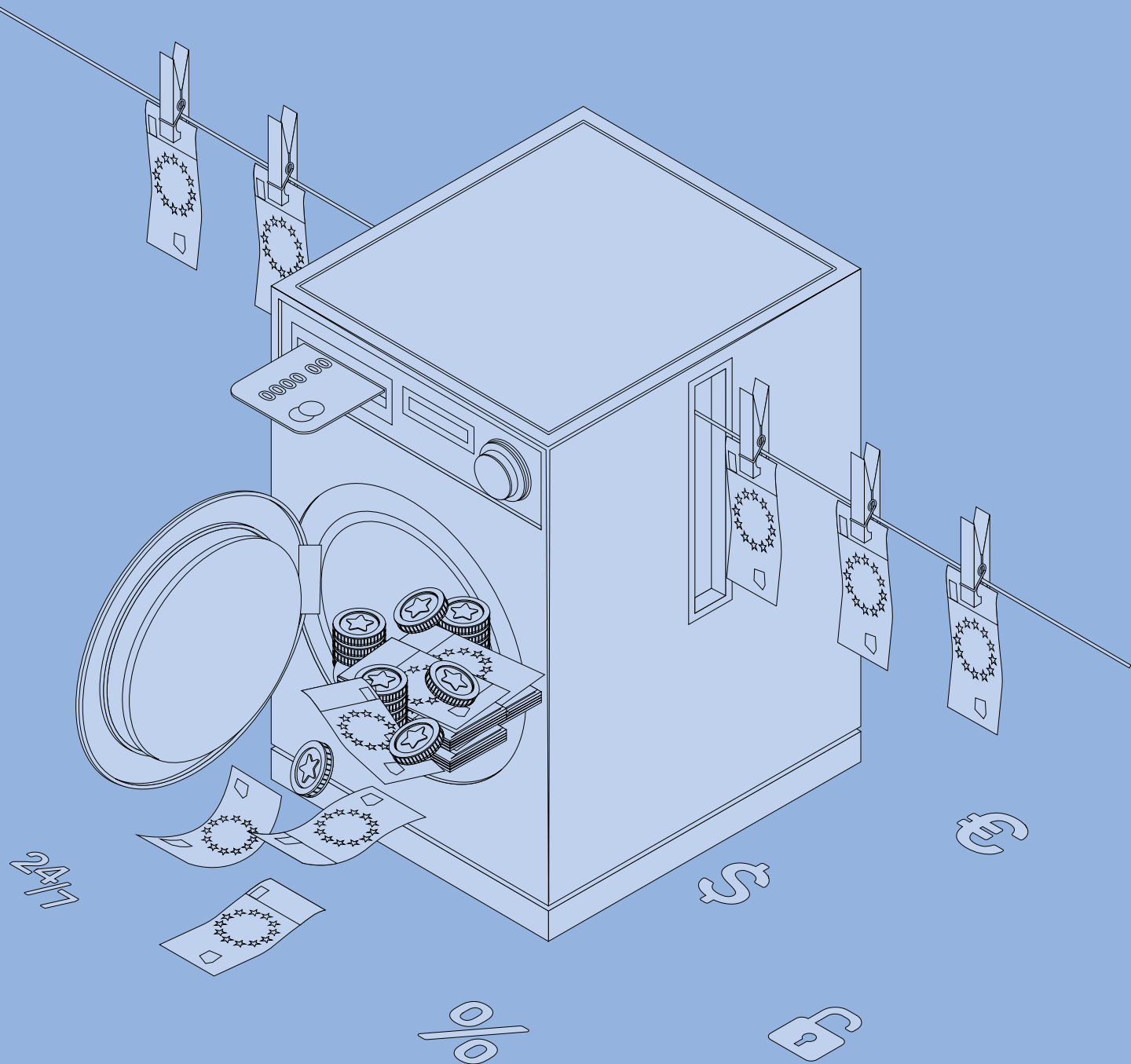
**Adnan Sarajlić**

**Attorney at Law**

[adnan.sarajlic@sarajliclaw.com](mailto:adnan.sarajlic@sarajliclaw.com)

MONTENEGRO · BANKING & FINANCE

# Implementing the new Law on the Prevention of Money Laundering and Financing of Terrorism





The new Law on the Prevention of Money Laundering and Financing of Terrorism entered into force on 12 December 2023, whilst late March and early April of 2024 saw the entry into effect of the byelaws designed to permit its implementation, namely the Regulation on detailed criteria for developing risk assessment guidelines and guidelines for establishing money laundering and terrorism financing risk management systems, Regulation on detailed criteria, implementation, and training for remote client identification, and Regulation on the provision of data, information, documentation, explanations, and notifications to the Financial Intelligence Unit.



**Vasilisa Pejović**  
**Attorney at Law**  
vasilisa.pejovic@vp.rs

The new legislation introduces new requirements for individuals to qualify as anti-money laundering and counter terrorism financing (AML/CFT) Compliance Officers and Deputy Compliance Officers. In addition to not having been convicted of an offence carrying a term of imprisonment greater than six months, these requirements are:

- 1) Having completed the requisite training course.
- 2) Having passed the professional examination; and
- 3) Being a licensed AML/CFT Compliance Officer.

AML/CFT Compliance Officer training is provided by adult education providers, whilst the professional examination is offered by a commission appointed by the head of the

Financial Intelligence Unit. The licenses, which are valid for five years and may be extended, are also issued by the Financial Intelligence Unit.

Other changes include an expanded list of obliged entities, provided in Article 4 of the Law, which now comprises lawyers and notaries public in cases prescribed by this article of the statute.

The new piece of legislation seeks to align national law with global and European Union (EU) AML/CFT standards, which will allow Montenegro to be recognised as a safe destination for foreign investment.

Fines for non-compliance or violations of the law range from 3,000 to 20,000 euros.

NORTH MACEDONIA · CULTURE

# New Law Promotes Macedonian Language Protection and Promotion



**Daniela Todorovska**

**Attorney at Law**

[daniela.todorovska@vp.rs](mailto:daniela.todorovska@vp.rs)

**On January 26, 2024, the Assembly of the Republic of North Macedonia adopted the Law on the Use of the Macedonian Language, which replaced the previous law enacted in 1998.**

The law regulates the use of Macedonian, an official language of North Macedonia, and sets out the need for its protection, promotion, and enrichment. It also requires official documents issued by legislative, executive and judicial authorities and local governments, as well as textbooks, broadcasts, print media, translations, and other texts published in accordance with the legal provisions, to be proofread in the Macedonian language.

The law prescribes mandatory proofreading of all materials, with publication of the name of the

proofreader, as well as mandatory employment of proofreaders in all public institutions and government bodies, state institutions, schools, publishing houses, and media outlets, which is expected to promote interest in studying the Macedonian language. These proofreaders must pass the proofreader examination and receive a proofreading license from the Ministry of Culture in accordance with the law.

An inspectorate to oversee compliance with the law is also expected to be created.

The new law provides a legal basis for enacting a national strategy for the Macedonian language and introduces initiatives such as scholarships for students in the fourth year of secondary school and undergraduate, master's and doctoral students, which are considered to be major steps in motivating young people to study Macedonian.

ALBANIA · CORPORATE & COMMERCIAL LAW

# Albania's Gambling Dilemma: From Ban to Legalization



**Magdhalini Lena**  
**Attorney at Law**  
magdhalini.lena@vp.rs

**In 2018, the Albanian government made an arbitrary and immediate decision to ban all types of gambling in the country. This decision resulted in much tension between economic actors, gambling associations, and businesses operating in the field.**

The government's objectives in making this decision were to ensure economic well-being, promote family values, and address gambling addiction in the general population. However, in the five years of its operation the ban has failed to halt gambling, instead

driving it underground where games of chance were operated illegally.

With the government having failed to tackle illegal gambling and faced with pressure from industry associations, the Council of Ministers proposed a new Gambling Bill in July 2023. The proposed piece of legislation entered parliamentary procedure on February 8, 2024, and was enacted and published in Albania's official journal on March 12, 2024. The law cleared the parliamentary Legislative Committee without much debate but faced greater hurdles in the Economy and Finance Committee.

The government argues that the new law seeks to regulate betting, after admitting it has proven unable

to control illegal games of chance. According to the new legislation, sports betting will only be allowed online, and the number of operators will be restricted to ten, to be selected by a special commission according to strict criteria.

One of the most impactful arguments that swayed the majority of legislative commissioners, members of parliament tasked with scrutinizing new laws for compliance with the general legal framework, was the rule whereby annual revenue from gambling taxes will for the first time be directed into a dedicated state fund that will be used to promote Albanian sports..

KOSOVO · ADMINISTRATIVE PROCEDURE LAW

# Kosovo Administrative Dispute Resolution Law



The newly enacted Law on Administrative Disputes has been ratified by the Assembly of Kosovo.

This legislation delineates the principles, regulations, and procedural framework for the adjudication of administrative disputes against public bodies due to their action or failure to act in administrative proceedings. The primary objectives of this Law are to ensure the expeditious adjudication of such cases and to safeguard proper judicial protection of parties' rights.

The latest Law differs from the previous iteration in several respects, including:

- authorising courts to pursue proceedings in writing in some cases without the physical presence of the parties;
- providing a broader list of legal actions that may initiate an administrative dispute;
- shortening time limits and other measures aimed at enhancing court efficiency;
- prohibiting reconsideration and reinstatement of legal cases by public bodies;
- limiting the reconsideration and reinstatement of cases by second-instance courts and confining such actions to first instance courts;
- facilitating electronic communication and remote hearings, when circumstances permit;
- specifically determining courts' competence to review the legality of byelaws

enacted by public authorities;

- legally regulating the principle that expenses incurred in administrative disputes are to be borne by the party found to be at fault;
- regulating the procedure for the enforcement of court decisions, including granting legal authority to judges to impose fines on accountable officials.

This law will come into effect one year after its publication in the Official Gazette of Kosovo, which will allow an appropriate preparatory period for training judges, lawyers, and other legal professionals for its implementation. The Ministry of Justice remains dedicated to establishing an Administrative Court within the following year, as part of administrative justice reform efforts pursued by the Government of Kosovo.



**Besim Parduzi**

**Attorney at Law**

besim.parduzi@vp.rs



# Regional Coverage

## **VP Serbia**

34 Teodora Drajzera St,  
11000 Belgrade  
info@vp.rs

## **VP Bosnia and Herzegovina**

28 Marsala Tita St,  
71000 Sarajevo  
office.ba@vp.rs  
Contact support  
Adnan Sarajlic  
\* Independent lawyer working  
with VP Law Firm

## **VP Montenegro**

56 Hercegovačka St,  
81110 Podgorica  
office.mne@vp.rs  
Contact support  
Vasilisa Pejovic  
\* Independent lawyer working  
with VP Law Firm

## **VP North Macedonia**

22A/1-3 Dimitrie Chupovski St,  
1000 Skopje  
office.mk@vp.rs  
Contact support  
Daniela Todorovska  
\* Independent lawyer working  
with VP Law Firm

## **VP Albania**

2/8 Abdyl Frasher St,  
1008 Tirana  
office.al@vp.rs  
Contact support  
Magdhalini Lena  
\* Independent lawyer working  
with VP Law Firm

## **VP Kosovo**

12 Garibaldi H13 St,  
10000 Pristina  
office.ks@vp.rs  
Contact support  
Besim Parduzi  
\* Independent lawyer working  
with VP Law Firm