

# Western Balkan Newsletter

**Issue 5**  
October 2024



# Contents

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04

**SERBIA**

**Banking & Finance**

Proposition on  
Amendments to the Law  
on Protection of Users of  
Financial Services  
– Lower Interest Rates  
and Other Changes

---

12

**SEBIA**

**Civil Law**

Alimony Fund

---

20

**NORTH MACEDONIA**

**Procedural Law**

Amendments to the Free  
Legal Aid Law in North  
Macedonia

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.

---

06

**SERBIA**

**Corporate & Commercial Law**

E-registration of Data Changes at the Business Registers Agency: Faster, Cheaper, More Efficient

---

08

**SERBIA**

**Real Estate**

New Regulation on Construction Waste Management – Improvement in the Environment Protection Area

---

10

**SERBIA**

**Employment Law**

Efficient Settlement of Labor Disputes in Practice – Without Charges to the Employer or Employee

---

14

**SERBIA**

**Environmental Law**

National Assembly Adopts Draft Law on Environmental Impact Assessment

---

16

**BOSNIA & HERZEGOVINA**

**Intellectual Property**

Legal Protection of Photographs in the Virtual World as Copyright

---

18

**MONTENEGRO**

**Environmental Law**

Montenegro has Adopted their First Law on the Use of Energy from Renewable Sources

---

22

**ALBANIA**

**Employment Law**

Albania Enhances Work-Life Balance in Public Administration

---

24

**KOSOVO**

**Administrative Procedure Law**

New Law Boosts Sustainable Investments in Kosovo

SERBIA · BANKING & FINANCE

# Proposition on Amendments to the Law on Protection of Users of Financial Services – Lower Interest Rates and Other Changes



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At the beginning of September, the National Bank of Serbia (NBS) announced a public debate on the Draft Law on Protection of Users of Financial Services. However, this Draft has not yet entered parliamentary procedure.

The said Draft Law includes a new directive on consumer loans no. 2023/2225, issued by the European Commission.

Primarily, the Law introduces new limitations on interest rates. Thus, different rules are prescribed for different types of borrowing. The Law provides for a lower interest rate

applicable to overdue monetary obligations of persons under specific contracts. This interest rate would additionally represent the limit on effective interest rates for newly approved loans.

The Law also imposes upper limits on nominal interest rates for variable-rate loans and fixed-rate mortgage loans, based on the average weighted interest rate, which is determined by the NBS. For example, new mortgage loans will be capped at one-fifth above the average weighted rate, while temporary NBS measures will apply to interest rates on older loans, limiting rate increases until 2026. Similar caps will apply to cash and consumer loans, with a maximum set at one-quarter above the average rate.





In addition, the Law increased the limit necessary for entering distance contracts by using two-factor authentication from RSD 600,000 to RSD 1,200,000 for loans, and RSD 2,400,000 for deposits. The idea of advisory services has been introduced, as a specific category of services which can be provided by banks only. Moreover, banks are prohibited from making loan approval conditional on the mandatory use of another service, except in specific cases,

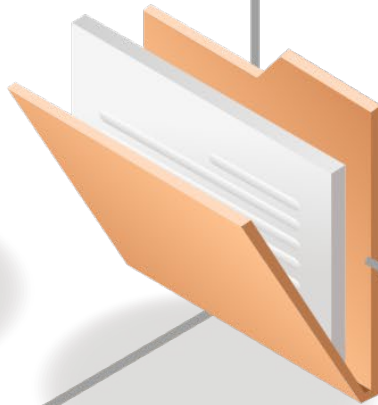
while simultaneously, they are granted the right to offer grouped service packages which are priced lower compared to the sum of individual services. The Law also introduces other innovations regarding mortgage loans, and the assessment of borrowers' creditworthiness and other issues.

The amendments to the law align Serbian legislation more closely with European standards and address some disputed issues

which have appeared in practice. On the other hand, part of the public has criticized the prescribed interest rate limits, describing them as excessive interference within the market competition among banks. Meanwhile, the NBS defends these provisions, arguing their necessity in the prevention of a sudden rise in market interest rates and the easing of the burden on individual borrowers.

SERBIA · CORPORATE & COMMERCIAL LAW

# E-registration of Data Changes at the Business Registers Agency: Faster, Cheaper, More Efficient



**Midway through the year, the Business Registers Agency (hereinafter: BRA) provided the option for submitting electronic registration applications for changes to the registered data of business entities recorded in the relevant registers throughout the BRA's portal.**

We must note that e-registration applications for data changes have been introduced as an option, meaning that registration application for changes to any data or registration of documents which are subject to registration can still be submitted in the traditional way (in person at the BRA counters or by mail), compared to registration applications for the establishment of business entities, which can only be submitted electronically.

By allowing the submission of e-registration applications for data changes, the BRA has made a significant step towards accelerating the process and diminishing administrative costs (both for the authority conducting the procedure and for the person submitting the e-applications, as a slightly reduced fee is paid compared to

paper submissions), thereby making the entire process remarkably more efficient.

The BRA portal, in addition to e-applications for changes to business entity data, enables electronic submission of a wide range of other applications, such as: issuing excerpts from the register, initiating and suspending liquidation procedures, amending legal forms, initiating status changes, filing complaints against decisions, and submitting requests for error rectification in the register, etc.

With the e-application, documents must be submitted exclusively in an electronic or digitized form, i.e., documents which are signed with a valid electronic certificate issued in the Republic of Serbia or in countries that have established reciprocity agreements with Serbia on this matter, such as Montenegro and North Macedonia.

In conclusion, these innovations complete the story on the digitization of the register managed by the BRA, thus, we can say that complete e-registration exists in Serbia, allowing the business environment of this country to keep up with the trends in the EU.



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SERBIA · REAL ESTATE

## New Regulation on Construction Waste Management – Improvement in the Environment Protection Area

On 18th October 2024, a new Regulation on the Arrangement, Management, Disposal and Deposit of Construction Waste during work performance came into power. This Regulation introduces significant changes compared to the previous Regulation on Construction Waste Management, which remains in power, with the new Regulation referring to its key provisions.



The Regulation introduces specific guidelines for planning, management and disposal of construction waste, with the intention of achieving enhanced results in view of environmental protection and reduction of waste generated by construction activities.

One of the key changes relates to the obligation to prepare a construction waste management plan. This plan must be prepared whilst performing the construction work on category B, V and G structures, as per the regulation on the method and procedure for managing construction and demolition waste.

Furthermore, investors are obligated to, when submitting a request for a construction permit or a decision on the approval for the execution of works, submit a decision on consent to the construction waste management plan. This provision aims to secure timely preparation and implementation of the plan during all stages of the construction process.

Contractors must keep the construction waste management plan at the construction site from the application of the works to the issuance of the working permit. In addition, contractors are obligated to strictly implement all measures outlined by the plan, to ensure proper waste disposal and reduce negative impact on the environment.

As for waste storage, the Regulation states the owners of

construction waste, in most cases investors, must temporarily store waste at the construction site until the work is completed or the request for a working permit submitted. However, the owner of said waste may be a contractor, if the ownership has been transferred to him via a contract. This Regulation clearly defines the responsibility between the investor and contractors, to prevent unauthorized waste disposal.

One key aspect of the Regulation is the obligation of contractors to suspend the works if said works lead to the creation of hazardous waste. The contractor is obligated to immediately inform the investor, the construction inspector and the inspector responsible for environmental protection. This provision is important due to the increased risk to human health and the environment, and thus requires prompt reaction.

Natural and legal persons have a six-month deadline to align their business with the new Regulation. Investors, whose construction permits have been issued after 4th August 2023, must submit a document on the movement of construction waste, while filing for a working permit. However, if a licensed operator for waste management isn't within a 30-mile radius from the construction site, investors are free from the obligation of delivering this document.

The new Regulation on Construction Waste Management represents a step towards stronger ecological standards within the

construction field. Better defined obligations of investors and contractors, as well as more rigorous treatment of hazardous waste, will contribute to the reduction of negative impact of construction activities on the environment and enable more efficient management of construction waste.



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SERBIA · EMPLOYMENT LAW

# Efficient Settlement of Labor Disputes in Practice – Without Charges to the Employer or Employee

Peaceful settlement of labor disputes is becoming an increasingly significant instrument for maintaining stable labor relationships, ensuring efficient protection of rights and reducing costs for the parties involved. We are witnesses to the overwhelming burden placed on the courts in the Republic of Serbia, which are, due to the limited human and technical resources, often unable to adequately meet the demand for efficient judicial protection.



The possibility of a labor dispute lasting several years in court, in addition to the significant costs it may impose to the parties, may lead to the decision to seek the settlement elsewhere – by turning to the Republic Agency for Peaceful Settlement of Labor Disputes.

The Republic Agency for Peaceful Settlement of Labor Disputes was founded under the 2004 Law on Peaceful Settlement of Labor Disputes of the Republic of Serbia, as a special organization within the state administration, focused on the peaceful resolution of individual and collective labor disputes. This agency represents the first specialized public institution in the Republic of Serbia dealing with said labor disputes. Nevertheless, similar institutional models of extrajudicial resolution of collective and individual labor disputes exist within the neighboring countries of the region (in Bosnia and Herzegovina (Republika Srpska), as well as in Montenegro since 2008), and cooperation between these institutions fosters regional integration, facilitates the exchange of experiences in the labor law area, and promotes the establishment of efficient extrajudicial protection in the field of labor relations.

The benefits of resolving labor disputes outside of court, through the Republic Agency for Peaceful Settlement of Labor Disputes, are numerous, with the most notable being free and efficient access to justice, allowing parties to resolve disputes within 30 days. This model not only alleviates the workload of courts, but also guarantees fair proceedings within a reasonable timeframe. A key principle of procedures before the Republic of Serbia Agency for Peaceful Settlement of

Labor Disputes' arbitrators is the principle of goodwill – both parties are free to choose peaceful dispute resolution (except in disputes involving activities of public interest).

Besides collective labor disputes (which, among other things, include disputes related to negotiation, and/or amendments of collective agreements, their application, the right to union organizations, and strikes), the Republic Agency for Peaceful Settlement of Labor Disputes resolves individual labor disputes as well, with such cases often involving requests frequently seen in labor disputes before the courts of the Republic of Serbia.

Individual labor disputes, brought before the Republic Agency for Peaceful Settlement of Labor Disputes, include procedures concerning:

1. termination of employment contracts;
2. working hours;
3. right to annual leave;
4. payment of wages/salaries, wage/salary compensation, and minimum wage stipulated by the law;
5. reimbursement of expenses for meals within working hours, transport to and from work, holiday entitlement, and other reimbursements stipulated by the law;
6. payment of retirement severance, jubilee awards, and other entitlements stipulated by the law;
7. discrimination and workplace harassment (where specific procedural rules are applied,

due to the vulnerable nature of such disputes).

An arbitrator's decision within individual labor disputes before the Republic Agency for Peaceful Settlement of Labor Disputes, whether based on the agreement of both parties or the arbitrator's decision on the matter, holds the power of an enforceable document. This decision becomes final and enforceable upon delivery to the parties, where, if the ruling specifies that an action must be completed within a set timeframe, the decision becomes enforceable once that period has elapsed.

With the numerous advantages of resolving individual labor disputes through the arbitrators of the Republic Agency for Peaceful Settlement of Labor Disputes, this approach to dispute resolution between employer and employee is becoming an increasingly common mechanism for securing legal protection within labor relations.



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SERBIA · CIVIL LAW

# Alimony Fund

In July 2024, in the Republic of Serbia, the proposition of the Law on Temporary Child Support from the Alimony Fund was published.



The Alimony Fund would provide support for children up to the age of 18, whose parent (despite being obligated to do so by an enforceable document, i.e., a final and enforceable court judgment) doesn't pay child support for at least two consecutive months. The mentioned funds would be provided from the budget of the Republic of Serbia, and the management of the fund would fall under the jurisdiction of the Ministry of Family Welfare and Demography.

The procedure for exercising the child's right to support from the Alimony Fund could be initiated ex officio by the Office of the Public Guardian, the parent living with the child or by the child's guardian, in the name and on behalf of the child. When submitting a request, it would be sufficient to simply provide a statement that the enforceable collection of child support failed, without further evidence; however, the exact content of the request will be prescribed by the bylaw. The procedure would be governed by the rules of administrative procedures, before the Office of the Public Guardian (i.e., the Center for Social Work, determined according to the

municipality in which the child resides) and under the principle of urgency. The duration of Temporary Child Support would last as long as the child support debtor doesn't start fulfilling their obligations, or the child turns 18 years of age.

The need for issuing such regulations arises from the fact that under the current legal provisions, a child who is the creditor of the child support obligation, which is determined by a final and enforceable document – a court judgement, has the option to initiate enforcement proceedings against their parent – the debtor of the child support obligation and to collect the awarded, yet unpaid, child support by force. However, we have seen in practice that such proceedings may take a long time, and that the child support debtors usually use various means to avoid this obligation. If the Alimony Fund were to exist, the risk of the parent failing to pay the said child support sum would be transferred from the child to the state.



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SERBIA · ENVIRONMENTAL LAW

# National Assembly Adopts Draft Law on Environmental Impact Assessment

At end of August this year, the National Assembly of the Republic of Serbia adopted the Draft Law on Environmental Impact Assessment, an instrument designed as a preventive measure for environmental protection. This decision is an integral part of the technical documentation, necessary for the implementation of projects. Before a specific project is approved, it must be determined whether its implementation adversely affects public health, biodiversity, ecologically significant areas, ecosystems, water, air, soil, climate, material assets, or the interaction between these factors. It is essential to note that the following amendments are of particular importance, as they foster cooperation in the field of environment protection by aligning Serbian regulations with EU Directives – in this specific case, Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment, which was amended by Directive 2014/52/EU.

The grounds for the adoption of the new Law lie in the desire to better regulate certain issues which lead to ambiguities in practice, such as the tendency to fragment (“tear”) projects into smaller parts to evade environmental impact assessments, the regulation of cases where a request for approval of a study is denied, or the regulation of issues of accountability and verification of the accuracy of data and information within both the request and the study on the impact assessment of the project.

Crucial changes compared to the previous Law, include an extension of the timeframe, from 10 to 15 days, granted to the public, interested authorities and organizations to voice their opinions on the need for environmental impact assessment. Furthermore, the period for submitting opinions on environmental impact assessment studies has been extended to 40 days, with the competent authority having the jurisdiction to prolong said period to 60 days, should the

project’s complexity require it. In addition, per the amendments, public discussions may now take place within 30 days after the public has been informed, whereas the previous minimum was 20 days.

It crucial to emphasize that this Draft Law envisions stricter penalties for corporate offenses, with increased minimum fines and more clearly defined transgressions.

Together, the extended timeframes for public participation in decision-making on impact assessment and the refined punitive measures should foster greater transparency within these projects, as well as increased accountability of those who pioneer them.





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BOSNIA AND HERZEGOVINA · INTELLECTUAL PROPERTY

# Legal Protection of Photographs in the Virtual World as Copyright





Creation which draws from already existing work is not a new phenomenon. We can safely say it has existed as long as creativity itself, and yet, its widespread popularity has flourished with the rise of digitization.



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Enforcement and protection of copyright and related rights in Bosnia and Herzegovina is governed by the Law on Copyrights and Related Rights (hereinafter “the Law”), which stipulates those photographs, as well as works produced similarly to photographs, are specifically considered works of authorship.

Even though the Law clearly defines the means of copyright and related rights protection (specifically through misdemeanor provisions), their constant abuse often sees its reflection in the virtual world.

The Law determines that a third party may use photographs only when given permission by the photographer, as the author, who, in such cases, is entitled to special compensation; however, we arrive at a quarry – do we lose our copyright by publishing a photograph, as authored work, on the internet?

If you, as the author, authorized the platform and/or third party to publish and share your content,

your copyright is not being infringed by the “share” option, as it is clearly stated who the author of said content is; however, further shares where the author is not credited constitute a violation of moral rights which the author has acquired.

An individual who decides to share a post on their social network must be conscious that today, in a limitless space such as the internet, copyright is often infringed, thus, aside from using the “watermark” option, you can protect your authored work through the Institute for Intellectual Property of Bosnia and Herzegovina (hereinafter “the Institute”).

Ultimately, whether you have protected your copyright via the Institute or not, every form of exploitation of your work without your authorization constitutes a breach of copyright, whether digital or in any other form.

In any case, your copyright can be legally protected!



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MONTENEGRO · ENVIRONMENTAL LAW

# Montenegro has Adopted their First Law on the Use of Energy from Renewable Sources



Law on the Use of Energy from Renewable Sources, which came into power this year on 31st August, implements key provisions which aim to boost the use of renewable energy sources and to correspond with the European legislation. With this Law, Montenegro aims to improve the energetic transition towards sustainable solutions and reduce the fossil fuels dependency.

This Law sets concrete goals for enhancing the share of renewable energy in the overall energy consumption, including the areas of electricity, heating, cooling, and transportation. The Law also encompasses all renewable sources, such as solar power, wind, hydro-energy, biomass, and geothermal sources, which enable wide application in various sectors.

One of the key elements of this Law is the introduction of financial incentives for renewable energy projects, such as feed-in tariffs (incentive purchase prices per kWh generated from renewable energy) and auctions, as well as tax relief for investors. It also promotes the direct sale of surplus generated energy on the market, allowing renewable energy manufacturers to generate additional income.

Transmission and distribution operators are obligated to prioritize the integration of renewable energy into the energy system, while suppliers must increase the share of renewable energy in their supply. Additionally, the Law recognizes the importance of citizens and energy communities during this

transition, by allowing them to manufacture, use and distribute energy via the so-called prosumer model, which enables them to actively participate in the creation, adaptation, or even production of what they consume.

As for the administrative aspect, the Law simplifies the procedure for receiving project permits within the area of renewable energy, thus accelerating the development of said projects and decreasing bureaucratic obstacles. In addition, a monitoring system and progress reports on achieving national renewable energy goals are provided.

The Law agrees with European directives, and Montenegro undertakes to international cooperation in the renewable energy field, thus contributing to global efforts in the fight against climate change and sustainable development.

Bylaws for implementing this Law will be enforced within 12 months from the enforcement day of the said Law.



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NORTH MACEDONIA · PROCEDURAL LAW

# Amendments to the Free Legal Aid Law in North Macedonia



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**On 17th September 2024, the Assembly of the Republic of North Macedonia adopted the amendments to the Law on Free Legal Aid to more efficiently comply with the Law on Forensic Experts. These amendments include all recommendations from the European Council, which are listed in the document created for the purpose of the free legal aid project. It is expected that this will resolve the backlog of cases and ensure citizens' right to justice.**

These amendments were imperative and necessary – following the enactment of the Law on Forensic Experts in 2023, the Bureau for Judicial Expertise ceased to conduct expert evaluations, leaving many free legal aid cases stalled in the courts. The amendments now clearly define the entities responsible for preparing evaluations for cases approved for free legal aid, as well as the methods by which they are selected or appointed. Additionally, the following procedures are regulated:

- Preparation of expert findings and opinions;
- Testifying in court proceedings in cases with free legal aid;
- Payment of fees and expenses to court experts.

The project "Towards a Consolidated and More Efficient Free Legal Aid System in North Macedonia" will continue to assist the authorities and relevant entities in the process of ensuring efficient, accessible and professional free legal aid services in North Macedonia, in accordance with European standards and best practices. The project will also support the Ministry of Justice in the second phase of the amendments to the Law on Free Legal Aid planned period. The project is part of the "Horizontal Facility for the Western Balkans and Turkey", the joint program of the European Union and the European Council, which is implemented by the European Council.

ALBANIA · EMPLOYMENT LAW

# Albania Enhances Work-Life Balance in Public Administration



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On 1st August 2024, the Council of Ministers approved decision no. 530, which endorses defined rules on the balance of time spent at work and time needed for rest, additional working hours and the compensation thereof, all within state administrative institutions, independent institutions and units of local government. This decision provides us with essential amendments compared to its predecessor, decision no. 568, dated October 2021.

These amendments were proposed by the Minister of State for Public Administration and Anti-Corruption, who initiated the discussion during the Assembly.

Although it is expressly stated that working hours remain the same (8 hours and 30 minutes from Monday to Thursday, and 6 hours on Friday), public administration employees now have the opportunity to begin their workday earlier and finish earlier, or to start their shift later and conclude their day accordingly. Nevertheless, the decision ensures that all employees are present in the office within the time slot from 9:30h to 15:30h from Monday to Thursday, and from 9:30h to 13:00h on Friday.



These amendments were followed by amendments to the Labor Law - previously, according to the Labor Law, administrative employees could not receive annual leave which exceeded one calendar week, while now, it has been expressly determined that the duration of annual leave is 22 business days, with two additional days of rest for all employees.

This initiative emerges as a response to a series of requests,

which the Ministry received from all public administration employees. Now, for the first time, the concept of flexible working hours is introduced, with the aim to optimize the process of human resources management, as well as to guarantee a better work and private life balance for all employees within the state administration.

Furthermore, this initiative is part of the broader effort to revitalize

public administration. By introducing flexibility into the workplace, the aim is to make the public sector a more appealing employer, especially in comparison to the private sector, which has increasingly attracted employees over the years.

KOSOVO · ADMINISTRATIVE PROCEDURE LAW

# New Law Boosts Sustainable Investments in Kosovo



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The Law on Sustainable Investments no. 08/L-209, which came into power following the decision of the Constitutional Court, repeals previous legislation on foreign and strategic investments in Kosovo. It establishes a comprehensive legal framework for promoting and protecting investments, focusing on sustainable development principles, investor rights, and state incentives. Key state objectives include boosting production and exports, enhancing competitiveness, fostering innovation, empowering marginalized groups, and ensuring environmental sustainability.

Prioritized sectors under this Law include manufacturing, agriculture, IT, healthcare, and tourism. The previous Investment Agency is replaced by the Agency for Investments and Exports and the Agency for Innovation and Business Support, and the Investment Council will oversee the evaluation and implementation of strategic investment projects.

To qualify for special support, strategic investments must align with state objectives, be financially viable, and meet a minimum threshold of ten million Euros, with emphasis on those promoting employment and regional development. The Law also streamlines licensing processes and sets up mechanisms for resolving disputes through arbitration, aiming to create a conducive business environment and attract both domestic and foreign investments that align with Kosovo's development goals.







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