Serbia

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I. LITIGATION

1 Preliminaries

1.1 What type of legal system has Serbia got? Are there any rules that govern civil procedure in Serbia?

Serbia is a civil law country. The primary legislation governing civil procedure is the Civil Procedure Act (Official Gazette of the Republic of Serbia, no. 71/2011) in force as of 1 February 2012. The Enforcement and Security Act (Official Gazette of the Republic of Serbia, nos. 31/11 and 99/11) governs enforcement procedures.

1.2 How is the civil court system in Serbia structured? What are the various levels of appeal and are there any specialist courts?

Courts in Serbia are first divided by jurisdiction. There are courts of general and special jurisdiction. Within this classification, jurisdiction is further determined by the type of dispute, parties, dispute value, penalty, etc.

Courts of general jurisdiction are: Basic courts; Higher courts; Appellate courts; and the Supreme Court of Cassation. Courts of special jurisdiction are: Commercial courts and the Commercial Appellate Court; Magistrates' courts and the High Magistrates Court; and the Administrative Court.

1.3 What are the main stages in civil proceedings in Serbia? What is their underlying timeframe?

The main stages are as follows:

(i) **filing of claim;**

(ii) **preparation of the main hearing:**

- After the court receives a claim, it first carries out a preliminary examination of the claim.
- After finding that all requirements are met, and in any event within 15 days of receipt of the claim, the court will serve the claim to the defendant together with a request to submit a statement of defence within 30 days.
- The court is obliged to schedule and hold a preparatory hearing within 30 days of the day of delivery the of statement of defence to the plaintiff.
- At the preparatory hearing (or at the first main hearing, if a preparatory hearing is not held) the parties are required to propose a timetable for conducting the procedure.

(iii) **main hearing;** and

(iv) **rendering of ruling:** the judge should make a ruling immediately upon completion of the evidentiary process and conclusion of the main hearing, while in more complex cases, a ruling can be made within eight days.

1.4 What is Serbia's local judiciary's approach to exclusive jurisdiction clauses?

In general, parties can agree on the jurisdiction of a foreign court unless the courts in Serbia have exclusive jurisdiction. Exclusive jurisdiction applies to e.g. disputes in relation to real estate located in Serbia, formation, certain corporate matters, etc.

1.5 What are the costs of civil court proceedings in Serbia? Who bears these costs?

The costs of a civil procedure include court fees (determined by court tariff), legal fees (courts recognise only the fees set out in the official attorneys' tariff, although in practice they are often higher), witness travel costs and salary lost by witnesses and experts, costs for expert opinions, and other expenses incurred during or in relation to the proceedings.

However, the court will take into consideration only costs which it deems were necessary for conducting the proceeding.

Each party temporarily bears its own costs and costs incurred on account of its actions. The party which loses the dispute is obliged to reimburse the other party's costs. If a party partially succeeds in the proceeding, the court can order that each party bear its own costs or that costs be divided on a *pro rata* basis.

1.6 Are there any particular rules about funding litigation in Serbia? Are contingency fee/conditional fee arrangements permissible? What are the rules pertaining to security for costs?

Under the applicable attorneys tariff, lawyers can agree on a success fee (as a fixed amount or percentage; in any event not to exceed 30 per cent of the amount awarded) if it is not contrary to the rule in the following question 1.7 regarding the sale of disputed rights, and does not affect his or her independence and is appropriate given the nature of the dispute. Generally, pure contingency and conditional fees are considered incompatible with the applicable attorneys tariff.

Regarding security for costs, a plaintiff who is a foreign citizen/citizen without citizenship must secure the defendant's costs, but only at the defendants' request.

1.7 Are there any constraints to assigning a claim or cause of action in Serbia? Is it permissible for a non-party to litigation proceedings to finance those proceedings?

Generally, any sale of a disputed right is allowed. However, any agreement pursuant to which an attorney at law purchases a disputed right, the realisation of which he or she was entrusted with, or arranged for himself or herself to participate in the division of the amount awarded to the client within the proceeding, is null and void.

2 Before Commencing Proceedings

2.1 Is there any particular formality with which you must comply before you initiate proceedings?

Serbia's legal system does not provide for discovery, and in that respect, there are no obligatory steps before filing a claim. The situation is somewhat different if one intends to file a claim against the Republic of Serbia. In that case, the party must contact the Public Attorney's Office with a proposal for amicable dispute resolution. Only if the public attorney rejects the proposal or fails to respond within 60 days can the party initiate proceedings.

2.2 What limitation periods apply to different classes of claim for the bringing of proceedings before your civil courts? How are they calculated? Are time limits treated as a substantive or procedural law issue?

The limitation periods for bringing civil claims depend on the nature of a dispute. As a general rule, claims become time-barred after a period of 10 years. However, e.g. claims for damages become time-barred three years from the time a party learns of the damage and the person who caused such damage, and in any event, after a period of five years from the time the damage was caused. Mutual contractual claims of legal entities under sale of goods and supply of services contracts expire after three years. This period runs separately for each supply of goods and/or service provided. Labour dispute claims become unenforceable after three years, etc.

Limitation periods are prescribed by the law and cannot be altered by way of an agreement between the parties. They start running from the first day one party has a right to request fulfilment of an obligation from the other party. Filing of a claim or acknowledgment of debt interrupts the limitation periods and it starts running from the beginning.

Once a claim becomes time-barred it cannot be enforced before the courts. However, this is something the courts do not observe *ex officio*, but only when an objection is raised by a party.

3 Commencing Proceedings

3.1 How are civil proceedings commenced (issued and served) in Serbia? What various means of service are there? What is the deemed date of service? How is service effected outside Serbia? Is there a preferred method of service of foreign proceedings in Serbia?

A civil proceeding is commenced by filing a claim to the competent court. A claim can be filed directly at the court or sent by registered mail. Electronic filings are provided for in the applicable legislation, however, the courts are still not equipped to support this means of service.

The deemed date of service is the date when the party receives the document. If it is required that a party personally receives a document, if the addressee is not found at the delivery address, provided the address is correct, the courier will leave a written notice that the document can be collected at the court within 30 days of the attempted delivery date. In this case, copies of the document will be posted on the court noticeboard. The document shall be deemed delivered 30 days after the attempted delivery date.

If the party lives abroad, it must appoint a representative to receive the documents. If the party fails to do so, then the court will appoint one. Serving court documents outside Serbia is done through diplomatic channels. Services to legal entities that have representative offices in Serbia can be made to their representative office.

3.2 Are any pre-action interim remedies available in Serbia? How do you apply for them? What are the main criteria for obtaining these?

Interim remedies are available before, during and after the court or administrative proceeding. There are two types of pre-action interim remedies: preliminary injunctions for securing monetary claims and preliminary injunctions for securing non-monetary claims.

Preliminary injunctions for securing monetary claims can be ordered if a plaintiff made probable its claim and there is a danger that the respondent could sell, conceal or otherwise dispose of its assets, thus making collection of the claim impossible or significantly hindering it. Such measures include freezing orders on bank accounts, asset transfer restrictions etc.

Preliminary injunctions for securing non-monetary claims can be ordered if a plaintiff demonstrates the likelihood of its claim and the danger that fulfilment of the claim will be impossible or significantly hindered. A preliminary injunction may also be ordered if a plaintiff demonstrates the likelihood that such measure could prevent significant damage or the use of force. Such measures include prohibition of disposal or encumbrance of the defendant's assets, including real estate, an order to the defendant to desist from actions that could cause damage to the plaintiff, etc.

3.3 What are the main elements of the claimant's pleadings?

The claimant's pleading must fulfil certain formal requirements: to include a clear indication of the court; the parties and their addresses; the relief sought; and the facts on which the claim is based and evidence supporting these facts, if necessary.

3.4 Can the pleadings be amended? If so, are there any restrictions?

A pleading can be amended in the following manner: to change the claim; increase the existing claim or add a new one; or to sue a different person then the main defendant.

A claimant's pleading can be amended until the end of the main hearing. However, if amendments are made after the pleading is served to the defendant, it is necessary to obtain the defendant's approval. If the defendant objects to the amendments, the court can still allow them if it considers them expedient and that they will not prolong the dispute unnecessarily.

4 Defending a Claim

4.1 What are the main elements of a statement of defence? Can the defendant bring counterclaims/claim or defence of set-off?

In the statement of defence, the defendant should raise procedural objections, if any, and state whether it admits or rejects the claim. If it rejects the claim, the defendant must present the facts upon which it bases its allegations and evidence to support those facts.

A defendant can bring counterclaims/claim if: the counter-claim is related to the plaintiff's claim; if those two claims could be set-off; or if in the counter-claim the defendant is asking for determination of a right or legal relationship which is relevant for ruling on the plaintiff's claim.

4.2 What is the time limit within which the statement of defence has to be served?

Within 15 days of receipt of a claim, the court should deliver it to the defendant to answer. A defendant must file its statement of defence within 30 days of receiving the claim with attachments.

4.3 Is there a mechanism in your civil justice system whereby a defendant can pass on liability by bringing an action against a third party?

If a defendant is sued as the possessor of a certain object or the user of a certain right, and it claims that he/she is holding this object or exercising such right on behalf of someone else, he/she may invite that other person (his/her predecessor) to enter the litigation in his/her place. The other person (the predecessor) may be invited by the defendant no later than the preparatory hearing stage, or if a preparatory hearing was not held, then at the main hearing, but in any case before the main matter of the proceeding comes up for discussion. The plaintiff's approval is necessary only if it has claims against the defendant which are not related to the predecessor.

In certain situations, a defendant could have recourse to claim against a third party, and sue for the amount he/she paid to the plaintiff.

4.4 What happens if the defendant does not defend the claim?

If the defendant does not submit a statement of defence within the deadline, the court could rule in favour of the plaintiff, if the following conditions are fulfilled:

- the claim was served properly to the defendant, and it was warned of the consequences of the failure to respond;
- the facts on which the claim is based are not contrary to the evidence submitted by the plaintiff or the generally known facts;
- justification of the plaintiff's claim arises from the facts stated in the lawsuit; and
- there are no generally known facts which could have prevented the defendant from submitting the statement of defence.

4.5 Can the defendant dispute the court's jurisdiction?

Yes, the defendant can dispute the court's jurisdiction in its statement of defence. If the claim is not submitted for response before the preparatory hearing stage, or if a preparatory hearing was not held, then at the main hearing, but in any event before entering in discussion for the main matter.

5 Joinder & Consolidation

5.1 Is there a mechanism in your civil justice system whereby a third party can be joined into ongoing proceedings in appropriate circumstances? If so, what are those circumstances?

A third party can join litigation between other parties if it has a legal interest in one of them succeeding. A third party can join the proceedings until such time as a final and binding ruling is made, but also in the process on extra-ordinary legal remedies. The third party undertakes the litigation in the state in which it is at the time of joining and is authorised to make the same submissions, within the same deadlines as the party which it joined.

5.2 Does your civil justice system allow for the consolidation of two sets of proceedings in appropriate circumstances? If so, what are those circumstances?

If one court is handling several disputes between the same persons or several disputes in which the same person is the defendant against several plaintiffs or the plaintiff against several defendants, all of these proceedings can be consolidated into a joint proceeding, if that would expedite the proceeding or reduce the costs. For all consolidated proceedings, the court may make a joint ruling.

5.3 Do you have split trials/bifurcation of proceedings?

The court may order that individual claims be heard separately in the same proceeding, and thereafter, may rule on these claims separately.

6 Duties & Powers of the Courts

6.1 Is there any particular case allocation system before the civil courts in Serbia? How are cases allocated?

In order to ensure an equal caseload for all judges, newly received cases are first sorted by urgency and type of procedure, and then are randomly distributed to judges based on the time of their receipt and pursuant to the court's annual schedule.

6.2 Do the courts in Serbia have any particular case management powers? What interim applications can the parties make? What are the cost consequences?

The court can decide only within the limits of the claims filed by the parties. A judge can only review evidence and determine those facts and circumstances presented by the parties. On the other hand, the judge is in charge of the process. Among other things, a judge sets the timetable, and can subpoena witnesses or the parties to furnish certain documents. In some cases, the judge can also appoint an expert even in the absence of a motion by the parties. If it transpires from the outcome of the hearings and evidentiary proceedings that the parties are not entitled to the filed claims, a judge may determine facts and introduce evidence which the parties failed to put forward.

6.3 What sanctions are the courts in Serbia empowered to impose on a party that disobeys the court's orders or directions?

If a person participating in the proceedings offends the court or other participants in the process, interferes with, or disobeys the orders of the court to maintain order, a judge may impose a fine of RSD 10,000 to RSD 150,000 and have the offending party removed from the courtroom.

6.4 Do the courts in Serbia have the power to strike out part of a statement of case? If so, in what circumstances?

No.

6.5 Can the civil courts in Serbia enter summary judgment?

The courts in Serbia may enter a summary ruling in several situations: (i) if the defendant acknowledges the claim; (ii) if the defendant fails to file a response to the claim; (iii) if the defendant fails to appear at a preliminary or first main hearing or if he/she comes to the hearing, but decides not participate in the hearing, and does not deny the claim; or (iv) if the plaintiff forgoes the claim until the conclusion of the main hearing. Additional conditions must be met.

6.6 Do the courts in Serbia have any powers to discontinue or stay the proceedings? If so, in what circumstances?

A court will discontinue proceedings when e.g. a party dies, a party loses legal capacity, a party's legal representative dies or his/her power or attorney terminates, a legal entity ceases to exist, or if the competent authority decides to ban its activity, bankruptcy proceedings are instigated, in time of war or emergencies, etc.

The court can stay proceedings in numerous circumstances provided for by law, e.g. when parties during the proceedings commence mediation.

7 Disclosure

7.1 What are the basic rules of disclosure in civil proceedings in Serbia? Are there any classes of documents that do not require disclosure?

Unlike common law countries, Serbia's legal system does not provide for discovery.

7.2 What are the rules on privilege in civil proceedings in Serbia?

A party and witness can refuse to provide information obtained in confidence:

- as a representative of a party;
- as a religious confession; and
- as an attorney, doctor or other professional if there is a duty to keep professional secrets.

A party may refuse to provide information if this would result in severe shame, significant monetary damage or criminal prosecution (of itself or a certain circle of immediate relatives or spouse).

7.3 What are the rules in Serbia with respect to disclosure by third parties?

The court may order a third party to disclose a document if it is a document which a third party, must provide or show, or if it is a document which by its contents is of a mutual nature for the third party and a party to the dispute. The third party is entitled to request reimbursement of document disclosure costs.

7.4 What is the court's role in disclosure in civil proceedings in Serbia?

This is not applicable.

7.5 Are there any restrictions on the use of documents obtained by disclosure in Serbia?

This is not applicable.

8 Evidence

8.1 What are the basic rules of evidence in Serbia?

A basic principle of Serbian civil procedure is that courts rule on the basis of verbal, direct and public hearings. The court decides which evidence shall be presented in order to prove important facts and circumstances. Parties must prove the facts on which they base their claim and do so by submitting documents, calling witnesses and requesting expert opinions and investigations.

A party shall state the facts and propose evidence on which it bases its claim or challenges the allegations and evidence of the opposite party, in accordance with the law. Proving includes all facts relevant to the ruling. The court decides which evidence will be presented to ascertain the essential facts. Facts that a party has admitted in court during the proceedings and facts that a party has not challenged are not provable. Facts that are common knowledge are also not provable. Evidence is presented at the main hearing, in accordance with the timeframe.

8.2 What types of evidence are admissible, which ones are not? What about expert evidence in particular?

Admissible types of evidence under the Serbian legal system include: witnesses, written witness statements – affidavit, experts, records of examination of the parties, documents and items gathered from on-site investigations. Expert witnesses prepare written opinions which are delivered to the parties for comment, and if necessary are later called on to discuss their findings. Only in extraordinary circumstances, and where there is no conflict with public policy, can evidence which is not listed above be used.

8.3 Are there any particular rules regarding the calling of witnesses of fact? The making of witness statements or depositions?

Witnesses must appear in person before the court and give testimony at the oral hearing. The court may decide to accept affidavit evidence from a witness, or that a witness be examined via conference call or audio-visual means. However, a judge may at any time decide to subpoena the witness to affirm the statement in person.

8.4 Are there any particular rules regarding instructing expert witnesses, preparing expert reports and giving expert evidence in Court? Does the expert owe his/her duties to the client or to the Court?

Expert witnesses are called when it is necessary to determine or clarify facts for which expert knowledge (which the court does not have) is needed. The parties can propose experts from the lists of court-vetted expert witnesses. Expert witnesses are instructed by the court.

Expert witnesses prepare written opinions which are delivered to the parties for comment, and if necessary, they are later called to discuss their findings. They must be objective and impartial.

8.5 What is the court's role in the parties' provision of evidence in civil proceedings in Serbia?

The court renders its ruling, following conscientious and careful assessment of each piece of evidence separately, all of the evidence as a whole and based on the findings of the whole process.

9 Judgments & Orders

9.1 What different types of judgments and orders are the civil courts in Serbia empowered to issue and in what circumstances?

There are several types of rulings:

- **Partial ruling:** if there are several claims in one proceeding and conditions are met for ruling on only some of the claims.
- **Interim ruling:** if a defendant contested both the grounds and amount of the claim, and conditions are met for rendering a ruling with respect to the grounds of the claim, for practical reasons the court may render an interim ruling.
- **Ruling based on a confession:** if the defendant acknowledges the claim.
- **Ruling based on renunciation:** if the plaintiff forgoes the claim until the conclusion of the main hearing.
- **Ruling based on failure to respond:** if the defendant fails to file a response to the claim (subject to additional requirements).
- **Ruling based on defendant's absence:** if the defendant fails to appear at a preliminary or first main hearing or if he/she attends to the hearing, but decides not to participate in the discussion, and does not deny the claim, (subject to additional requirements).
- **Additional ruling:** if there were several claims and the court failed to rule on some of them or part of a claim.
- **Court settlement:** if parties wish to reach a settlement before the court.

9.2 What powers do your local courts have to make rulings on damages/interests/costs of the litigation?

Court rulings regularly include rulings on litigation costs. The court will award only costs which it deems were necessary for conducting the process. The court can award suffered damages (both pecuniary and non-pecuniary), at the request of a party. It can also award default or agreed interest.

9.3 How can a domestic/foreign judgment be enforced?

A plaintiff can initiate an enforcement procedure before the court once the domestic ruling becomes final and binding. The enforcement motion must be rendered by the court, but the enforced collection can be conducted by either a court or bailiff.

A foreign court ruling must be recognised by the Serbian courts before it can be enforced. The foreign ruling must be final and binding and enforceable pursuant to the laws of the country of origin. Reciprocity is another requirement for recognition. Courts will refuse to recognise a foreign court ruling:

- if it is contrary to the public order of Serbia;
- if domestic courts have exclusive jurisdiction;
- if the other party was not granted the right of defence (i.e. the party proves that owing to procedural irregularities it was not able to defend itself or that there was lack of proper service of process);
- if there is already a final and binding ruling in the same matter between the same parties (rendered by the domestic courts or another foreign court); and
- the court will stay the recognition procedure if there is a procedure pending regarding the same legal matter before domestic courts.

9.4 What are the rules of appeal against a judgment of a civil court of Serbia?

The general rule is that a first-instance court ruling can be appealed within 15 days from the day of receipt of the ruling on the following grounds:

- severe violation of rules of civil procedure (e.g. a party was not given an opportunity to present its case before the court, the court did not have jurisdiction, or the party was denied the right to use its own language, etc.);
- erroneous or incomplete determination of facts of the case; and
- erroneous application of the substantive law (e.g. the court failed to the apply the necessary legal provision or it applied the wrong provision).

Extraordinary legal remedies that can be filed against final and binding court rulings are:

- revision (within 30 days of receipt of the ruling if the dispute value exceeds EUR 100,000);
- request for review of final ruling (available only to the Republic Public Prosecutor); and
- request for retrial (e.g. a party was not given an opportunity to present its case before the court, the ruling is based on the false testimony of a witness or expert or counterfeit document, a party learned of new facts or was able to use evidence which was not available earlier, etc.).

II. ALTERNATIVE DISPUTE RESOLUTION

1 Preliminaries

1.1 What methods of alternative dispute resolution are available and frequently used in Serbia? Arbitration/Mediation/Expert Determination/Tribunals (or other specialist courts)/Ombudsman? (Please provide a brief overview of each available method.)

Of the various ADR processes, the most often used in Serbia are arbitration and mediation.

Parties can agree to defer to institutional or *ad hoc* arbitration all future disputes or disputes from a particular legal transaction. The

arbitration agreement must be in writing. The agreement must refer to disputes that are 'arbitrable' and must be concluded between parties that have all necessary capacity and qualification for its conclusion. Parties are free to appoint the number of arbitrators which they deem appropriate and necessary.

Mediation has still not developed its full potential, but it is increasingly present in the market. The Agency for the Amicable Settlement of Labour Disputes has been particularly active in recent years, rendering final and binding decisions in various individual and collective labour disputes. There is also the Centre for Mediation which handles disputes of a broader scope.

1.2 What are the laws or rules governing the different methods of alternative dispute resolution?

The Mediation Act (Official Gazette of the Republic of Serbia, no. 18/2005) is a general instrument regulating the principles and general rules of mediation. The Labour Disputes (Amicable Settlement) Act (Official Gazette of the Republic of Serbia, nos. 125/04 and 104/09) governs the work and procedures of the Agency for the Amicable Settlement of Labour Disputes.

Arbitration in Serbia is regulated by the Arbitration Act (Official Gazette of the Republic of Serbia, no. 46/06) which is based on the UNCITRAL Model Law.

1.3 Are there any areas of law in Serbia that cannot use Arbitration/Mediation/ Expert Determination/Tribunals/Ombudsman as a means of alternative dispute resolution?

The Mediation Act applies to property relations between individuals and legal entities: commercial; family; labour and other civil law relations; and administrative and criminal procedures, in which the parties act freely, unless the law stipulates the exclusive authority of a court or other relevant authority. For example, it is not applicable to disputes relating to the termination of employment and the payment of minimum wage.

Parties may agree to arbitration for the resolution of a pecuniary dispute concerning rights that they can freely dispose of, save for disputes that are reserved to the exclusive jurisdiction of the courts.

1.4 Can local courts provide any assistance to parties that wish to invoke the available methods of alternative dispute resolution? For example, will a court - pre or post the constitution of an arbitral tribunal - issue interim or provisional measures of protection (i.e. holding orders pending the final outcome) in support of arbitration proceedings, will the court force parties to arbitrate when they have so agreed, or will the court order parties to mediate or seek expert determination? Is there anything that is particular to Serbia in this context?

A court can intervene in an arbitral proceeding only in situations determined by the Arbitration Act, i.e. it can take only those actions which are expressly allowed under the act. These include the following:

- issuance of interim measures – both in domestic and international arbitration;
- appointment of arbitrators, if the parties or appointment authority have not done so;
- deciding on the challenge of the arbitrators, again if the parties have not chosen a different procedure or if they have not chosen a permanent arbitral institution, which typically means *ad hoc* arbitrations;
- if the arbitral tribunal is deciding on its jurisdiction as an interlocutory question, the court shall issue a final ruling on that matter at the request of one of the parties;
- assistance with reviewing evidence, at the request of the arbitral tribunal;
- each party may request that the award of the arbitral tribunal be deposited with the court;
- deciding on the request for annulment of a domestic arbitral award; and
- recognition and enforcement of a foreign award.

The Mediation Act, however, in further provisions specifies situations in which parties can be referred to mediation against their will. Under the Civil Procedure Act, a judge must familiarise the parties with their right to resolve the dispute through mediation. However, although the Mediation Act sets lack of compulsion as a basic principle for referring to mediation, it provides that parties will be referred to mediation if the court assesses that the dispute could be resolved by mediation. The court can make this referral after receipt of the response to the claim, or after the preparatory hearing, or at any time later in the proceedings. Mediation can last 30 days and this deadline can be extended by a court or other competent body at the request of the mediator or the parties if there are justifiable reasons.

1.5 How binding are the available methods of alternative dispute resolution in nature? For example, are there any rights of appeal from arbitration awards and expert determination decisions, are there any sanctions for refusing to mediate, and do settlement agreements reached at mediation need to be sanctioned by the court? Is there anything that is particular to Serbia in this context?

Arbitral awards are final and binding. They cannot be appealed, however, the parties are entitled to file a claim for setting aside domestic arbitral awards (an award rendered in arbitration which is seated in Serbia). A foreign arbitral award cannot be set aside by the courts in Serbia, but it goes through the process of recognition and enforcement. Grounds for refusal of recognition correspond to those in Article V of the New York Convention.

Mediation is voluntary and there are no sanctions for refusing to mediate. A settlement reached by way of mediation has the legal force of an out-of-court settlement and general rules of contract law apply. If the settlement is taken on record by a judge, it gains legal force of a court settlement and becomes an enforceable document.

2 Alternative Dispute Resolution Institutions

2.1 What are the major alternative dispute resolution institutions in Serbia?

The Centre for Mediation, the Agency for Amicable Settlement of Labour Disputes and the Foreign Trade Court of Arbitration at the Chamber of Commerce and Industry of Serbia.

2.2 Do any of the mentioned alternative dispute resolution mechanisms provide binding and enforceable solutions?

A domestic arbitral award has the same legal power and effect as a final and binding domestic ruling and is enforced in accordance with the Enforcement and Security Act. A foreign arbitral award is final and binding and becomes enforceable once recognised by a domestic court.

Rulings of the Agency for Amicable Settlement of Labour Disputes are final, binding and enforceable. Agreement reached by way of mediation has the legal force of an out-of-court settlement.

3 Trends & Developments

3.1 Are there any trends in the use of the different alternative dispute resolution methods?

For some types of cases, parties have begun to resort to mediation over the last couple of years. Foreign investors still typically prefer international commercial arbitration. Nevertheless, despite its numerous disadvantages, litigation remains the main dispute resolution method in Serbia.

3.2 Please provide, in no more than 300 words, a summary of any current issues or proceedings affecting the use of those alternative dispute resolution methods in Serbia?

With respect to alternative dispute resolution, the Chamber of Commerce and Industry of Serbia is home to the Foreign Trade Court of Arbitration (handling international commercial disputes) and the Permanent Court of Arbitration (handling domestic commercial disputes; however, it does not have extensive caseload).

There have been significant reforms in Serbia's legal system in the last number of years. Given that Serbia is a candidate for EU accession, the latest wave of reform was guided by the need to harmonise domestic rules with EU law. It started in 2006 with the adoption of a new Constitution, followed by the adoption of numerous laws reorganising the court system from 2008 to 2010, changing the structure of the court network, changing jurisdictions, reducing and reorganising the workforce. Late 2011 and early 2012 witnessed the introduction of new laws on civil, enforcement and criminal proceedings. Numerous new laws have also been adopted in the areas of corporate law, finance, and real estate, etc. Reform is underway and new changes to the existing court network and procedural rules are expected in the first half of 2013.

The current reforms of the commercial chambers might affect their status and continuity. This is a development which will be closely monitored over the next two years.

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