

**September 2011**

## **In focus: Law on Legal Practice**

### ***Introduction***

The new Law on Legal Practice (*the “Official Gazette of the Republic of Serbia”, no. 31/2011*) which came into force on May 17, 2011 (from here on referred to as: the “**Law**”) stipulates the rules, conditions as well as forms for practice of law, rights and duties of attorneys at law and law trainees, together with the work of the Bar Association. The most significant changes introduced by this Law include the mandatory professional indemnity insurance for attorneys, the establishment of the Directory of Law Partnerships, the establishment of the Attorney Academy and the attorney exam, as well as the requirements for registration of attorneys—foreign nationals with the Serbian Bar Association.

### **1. Mandatory Professional Indemnity Insurance for Attorneys**

A significant addition to the existing regulations introduced by the new Law is the mandatory professional indemnity insurance for attorneys. Each practicing attorney at law has to have a signed mandatory professional indemnity insurance contract with an insurance company registered for this type of insurance. The Law authorizes the Bar

Association to conclude the agreement of collective professional indemnity insurance for all attorneys registered with it. The Bar Association is entitled to refuse to extend the duration or issuance of the Attorney Identification Card to an attorney at law who is not insured either individually or through collective insurance. The Serbian Bar Association is also entitled to determine the minimum sum insured for this type of liability.

*The implementation of provisions regulating mandatory professional indemnity have been delayed until a period of one year has elapsed starting from the Law’s entry into force, which means that they shall come into force on **May 17, 2012.***

### **2. Law Partnerships**

The new Law foresees that an attorney at law can practice law independently, in a joint law office or as a member of a law partnership (hereinafter: the “**Partnership**”). The Law also constitutes the creation of the Directory of Partnerships managed by the Serbian Bar Association. A Partnership will be authorized to practice law after it had been admitted and registered in the Directory of Partnerships.

*The existing partnerships are obligated to file a request to be registered under the Directory of Partnerships within six months*

after the Law's entry into force i.e. by November 17, 2011.

### **3. Attorney Academy and Attorney Exam**

One of the most important changes introduced by the Law is the establishment of the Attorney Academy and the attorney exam.

The Attorney Academy is envisioned as a special body responsible for continuous professional trainings of attorneys at law, law trainees, graduate lawyers and other persons employed in law offices and partnerships. The establishment, organization and operation of the Attorney Academy as well as the adoption of general and specialized training programs shall be determined by the Serbian Bar Association

The attorney exam is a special kind of exam designated for attorney at law and graduate lawyers who have passed the bar exam, whose aim is to assess a candidate's knowledge of national and international rules and regulations regarding the practice of law. The Serbian Bar Association is in charge of arranging all relevant issues regarding the organization and realization of the exam.

The provisions of the Law concerning the attorney exam shall become effective after expiry of a one year period from the Law's entry into force, i.e. on May 17, 2012.

### **4. The Registration of Attorneys – Foreign Nationals**

The new Law, unlike the previous one, sets forth the precise requirements needed to be fulfilled so that attorneys – foreign

nationals could become members of the Serbian Bar Association.

A foreign national can be registered in the Directory of Attorneys at Law if he/she has practiced law in his/her country of origin in accordance with its regulations. If a foreign national meets these requirements, his/her name shall be listed in Register A of the Directory of Attorneys at Law. Attorneys listed in Register A of the Directory of Attorneys at Law have limited authorization to practice law in Serbia – they are limited to giving oral and written legal advices and opinions regarding implementation of law of their home countries or international law. Attorney – foreign national shall be authorized to practice law to the same extent and manner as local attorneys at law, if he/she, upon taking the bar exam and the attorney exam in Serbia, registers himself/herself in Register B of the Directory of Attorneys at Law, provided that within the period of three years from the date of registration he/she can act in the Republic of Serbia only together with a local attorney at law.

The Law sets certain limitations to attorneys – foreign nationals: foreign nationals cannot elect or be elected as members of bodies and holders of positions in the Serbian Bar Association or other recognized local bar association. Furthermore, foreign nationals are not allowed to hire law trainees. They cannot be appointed to serve as temporary representatives, tax agents or defense attorneys appointed by the state. They are not entitled to provide free legal aid or to represent a party who is exempt from payment of court costs or to act as mediators.

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