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**The New Constitution of the Republic of Serbia**  
(*Službeni glasnik Republike Srbije № 98/06*)

Following its confirmation by national referendum, the new Constitution of the Republic of Serbia was proclaimed by the National Assembly on November 8<sup>th</sup>, 2006 (“**New Constitution**”).

The aim of this Newsletter is to present the most important provisions of the New Constitution relative to the economic area.

❖ **Abolishment of social ownership**

The New Constitution abolishes social ownership, a legal category that was specific to the former Socialist Federal Republic of Yugoslavia. This ownership concept lent itself to abuse in practice, as a result of its inherent inability to allow determination of the title holder.

The New Constitution guarantees equal protection to private, public (*see below*) and cooperative property.

With respect to the existing socially-owned property, the New Constitution provides that this ownership form will be turned into private ownership according to the terms, in the manner and within the deadlines as prescribed by law. The reader should be recalled that the current privatization process in Serbia is regulated by the Privatization Act. (“*Sl. glasnik RS*”, *№. 38/2001, 18/2003 and 45/2005*). The Privatization Act prescribes mandatory privatization of social property, whereas the former Serbian Constitution of 1990 (“**1990 Constitution**”) guaranteed the equality of social ownership and other ownership forms.

❖ **Definition of public ownership – setting forth conditions for essential decentralization**

The New Constitution introduces the category of public ownership and public property, defined as property of state, regional autonomy (i.e. Vojvodine) or local municipality. Pursuant to the existing legislation, all assets used by local municipalities and public companies founded by local municipalities are owned by the Republic of Serbia. Having in mind that the New Constitution explicitly allows local municipalities to own property, change in the existing legislation is expected.

❖ **Urban construction land**

Possibility of constituting private ownership over urban construction land is another major novelty introduced by the New Constitution. Again, implementation of this possibility would require amendments to the current legislation, which, based on the 1990 Constitution, prescribes that only the state may own public urban construction land, whereas private investors may only lease such land.

#### ❖ **Competition and consumers' protection**

The New Constitution explicitly prohibits acts which, contrary to the law, limit the freedom of competition by creation or abuse of monopolistic or dominant position. This declaration upholds the existing legislation on concentrations and abuse of dominant position. The 1990 Constitution embodied stricter standards in this regards, by explicitly prohibiting "creation and incitement "of monopoly. However, this provision of the 1990 Constitution did not find its reflection in practice.

The New Constitution also offers declarative protection to consumers, by prohibiting "any acts against health, security and privacy of the consumers, and any dishonorable acts on the market".

#### ❖ **Foreign investment guarantees**

Unlike the 1990 Constitution, the New Constitution explicitly states that the acquired rights stemming from capital investments cannot be diminished by law.

National treatment is guaranteed to foreign investors (this was also the case under the 1990 Constitution).

Similarly to the 1990 Constitution, the New Constitution provides that foreigners may acquire real property in accordance with law or international treaty. According to the existing legislation, this right of foreigners is subject to the requirement of reciprocity.

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