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PRIVATIZATION

AMENDMENTS TO THE AUCTION DECREE *(Official Gazette of the Republic of Serbia No.91/07)*

On 8 October 2007, the Government of the Republic of Serbia enacted the Amendments to the Decree on Sale of Capital and Property by Public Auction („**Amendments**“).

The principal novelty is the prohibition for an individual or legal entity controlled by an individual convicted or formally indicted for certain types of crimes punishable with a minimum 5-year prison sentence to participate in a privatisation auction. Accordingly, auction participants will in future have to submit adequate no-conviction and no-indictment certificates, along with an application to participate in the auction. A similar amendment is expected to be introduced into the Law on Privatization.

Prior to the Amendments, the Auction Decree allowed Serbian residents (individuals) to pay the purchase price for a privatised company in 6 installments. By virtue of the Amendments, this privilege is now restricted to a maximum of 2 purchases.

SECURITIZATION

DRAFT LAW ON SECURITIZATION

The National bank of Serbia has published a working draft of the Law Securitisation Law (“**Draft**”). This is a long-awaited first official draft law on securitization in Serbia. The matter has been so far regulated by the rules scattered in several laws, primarily the Law on Obligations. The draft regulates securitization procedure and establishment and operation of fund management companies.

The Draft distinguishes between two types of securitisation: (a) securitisation with assignment of receivables on the basis of which a management company issues and sells asset-backed securities to investors and (b) synthetic securitization, with assignment of credit risk on the basis financial derivatives. The synthetic securitization is supposed to be further regulated by the Securities Commission.

According to the Draft, the scope of persons who may act as initiators is limited to banks, financial leasing companies, insurance company and other financial institutions to be defined by the National Bank of Serbia.

The Draft requires written form and notarization (i.e court certification) for an agreement on assignment of receivables. Furthermore, the assignment must receive prior approval of the National Bank of Serbia. It is also prescribed that the agreement must be delivered to the Securities Commission within 3 days from the date thereof. The debtor must be notified of the assignment within 15 days.

The Draft confirms what is already prescribed by the Law on Obligations – that the accessory rights and security interests (e.g. pledge) transfer on the purchaser along with the receivables. In case of initiator's bankruptcy, it is provided that the transfer of a receivable secured by a mortgage is perfected at the moment of filing the application for mortgage registration.

Transfer of receivables subject to securitization is exempt from VAT.

Repurchase of securitized receivables is prohibited, with two exceptions: when uncollected receivables under asset-backed securities are below 10% of the securitization fund at the time of issuance of such securities and in case of receivables which do not fulfill conditions for assignment determined in the assignment contract.

The minimum capital of a securitization fund management company is set by the Draft at EUR 100,000. The operation of such company is subject to a license issued by the Securities Commission.

Fund's assets cannot be subject to a pledge, except for pledge created in favor of investor, do not form bankruptcy estate in case of bankruptcy of management company or initiator and cannot be used in enforcement proceedings against management company or initiator.

Finally, it should be noted that the Draft seeks to fill-in the legal void which currently exists with respect to data protection pertaining to debtors.

TOBACCO INDUSTRY

AMENDMENTS TO THE TOBACCO ACT *(Official Gazette of the Republic of Serbia No. 90/07)*

The amendments to the Tobacco Act came into force on 9 October 2007 („Tobacco Amendments“).

Starting from 1 January 2008, the tobacco producers will no longer be obliged to purchase domestic tobacco. Until that date, the mandatory purchase requirement is reduced from 50% to 30% of total tobacco used in the production process (but not less than 1200 t). A failure to meet this quota is threatened by a loss of license.

The validity period of retail sale permits has been extended from one to two years.

OUTDOOR ADVERTISING

DECISION ON ADVERTISING ACTIVITIES ON THE TERRITORY OF THE CITY OF BELGRADE

(Official Gazette of the City of Belgrade No.29/07)

The Decision regulates outdoor advertising in public areas (streets, roads, squares, public green areas) and other areas on the territory of Belgrade, which are not deemed public but are visible from public areas.

Public locations for outdoor advertising are supposed to be designated in a 10-year Location Plan, to be enacted by mid January 2008. If an existing billboard is found at a location not covered by the future plan, its owner will have to remove it within 7 days from the date of the enactment of the plan. Locations determined in the plan will be offered to interested parties at a public competition. Advertisers who have past outstanding obligations to the city will be excluded from competition for new locations. The selection criteria are the amount of offered lease fee and the experience in outdoor advertising in Belgrade. In this way, the Decision ensures advantage to incumbent billboard operators.

Placement of billboards is also subject to a special permit issued by the relevant city department in charge of public street maintenance. Permits will be valid during the entire period of validity of the Location Plan.

In addition to a lease fee, the placement of billboards is also subject to a local communal tax.

OIL

THE DECREE ON THE CONDITIONS AND MANNER OF IMPORTING AND PROCESSING OF OIL AND OIL PRODUCTS

(Official Gazette of the Republic of Serbia No.92/07)

The new Oil Decree does not challenge, but rather fortifies, the principal tenant of Serbian regulation in the area of oil trade and production, namely: the monopoly of the state oil producer NIS on oil processing and imports of all oil derivatives, except for EURO diesel. The monopoly remains guaranteed until 31 December 2010. Unlike the previous decree, the new one does not contain emergency provisions which allowed the Government of Serbia to exceptionally award the right to import derivatives to parties other than NIS.

The new Decree no longer places a ceiling on the permitted annual quantities of processed oil by a single client of NIS.

REAL ESTATE

SIXTH ANNUAL "CEE REAL ESTATE" CONFERENCE, PRAGUE

Kojovic Law office participated in the sixth annual CEE real estate conference in Prague, organized by Marcus Evans. Part of the focus was on real estate development and related investments in Serbia and Montenegro. Our senior associate Dragoljub Cibulic gave a presentation on the Serbian real estate regulatory framework and upcoming reforms in this area. The text of the presentation can be downloaded from our web-site www.kojoviclaw.com.

IT

TOP LEVEL DOMAIN .RS TO START IN 2008

After ICANN (Internet Corporation for Assigned Names and Numbers) assigned a new top-level domain (TLD) .rs for Serbia on 14th September 2007, the National Serbian Internet Domain Registry, an entity in charge of distribution of .rs domains, announced that transition to the new .rs TLD from the previous .yu domains will start late December 2007 or January 2008. The draft registration bylaw is currently debated and should be adopted by the end of October. Existing users of .yu domains shall have a 6-month priority with respect to re-registration of their existing domains. One entity will be allowed to register unlimited number of domains, in contrast to the existing .yu regulation which limits the number of domains to one per entity. Furthermore, natural persons will also have the right to register a .rs domain, contrary to the existing rules which allow registration of .yu domains only to legal entities. The .yu domains shall remain active until 30 September 2009.

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CONTACT: Law Office KOJOVIĆ Advokati/Attorneys at Law, Gospodar Jovanova 83, Serbia,
11 000 Beograd
Tel: (+381 11) 3036 468; Fax: (+381 11) 3036 469
E-mail: office@kojoviclaw.com

www.kojoviclaw.com