

## SERBIA: REAL ESTATE

### *Property Transfer Tax Payment as Condition to Title Registration in the Cadasre (again) Declared Unconstitutional*

#### Contact

#### **BOJOVIĆ · DAŠIĆ · KOJOVIĆ**

##### **Belgrade office**

Dobračina 38  
11000 Belgrade, Serbia  
Tel: +381 11 3284 212  
Fax: +381 11 3284 213  
E-mail: [office@bdklegal.com](mailto:office@bdklegal.com)

##### **Podgorica office**

Vuka Karadžića 13  
81000 Podgorica, Montenegro  
Tel/Fax: +382 20 230 396  
E-mail: [office.cg@bdklegal.com](mailto:office.cg@bdklegal.com)

[www.bdklegal.com](http://www.bdklegal.com)

The Constitutional Court of the Republic of Serbia declared on 19 April 2012 that Article 38a of the Property Tax Law (Zakon o porezima na imovinu, "Sl. glasnik RS", no. 26/2001, with amendments and supplements) is unconstitutional. The said Article stipulates that the registration of rights in land books, cadastre and other public records of real property cannot be performed without evidence that property transfer tax has been paid. The decision of the Constitutional Court has not yet entered into force, awaiting publication in the Official Gazette.

The Constitutional Court's decision actually repeats the position of the Federal Constitutional Court of former Yugoslavia assumed in 2002 (when Serbia was a federal unit of Yugoslavia), when the identical provision of the Property Tax Law was quashed as unconstitutional only to be re-enacted by the parliament a couple of years later. Given the actual budget deficit, one may expect that the Serbian Government would be tempted to propose to the Parliament to defy the Constitutional Court once again.