

# Serbia: Decree on Strategic Partnership in Privatisation

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**The new Privatisation Act** (*Zakon o privatizaciji*, "Official Gazette of RS" no. 83/2014), adopted in August 2014, introduced 'strategic partnership' as one of the privatization methods. 'Strategic partnership' can take the form of a corporate joint venture between the state and an investor or the form of acquisition of shares by strategic investor in exchange for fresh contributions or debt to equity swap. Both forms of 'strategic partnership' are now further regulated by the Decree on Strategic Partnership (*Uredba o strateškom partnerstvu*, "Official Gazette of RS" no. 129/2014) ("**Decree**"). The exact form of 'strategic partnership', the qualification criteria and the main elements of a future contract, including post-closing obligations and remedies in case of non-compliance) are determined by the Government.

'Strategic investor' is to be selected in a public tender run by a Government-appointed Committee for implementation of strategic partnership. An invitation for submission of bids has to be published in a daily newspaper regularly distributed on the territory of Serbia and on the web page of the Privatization Agency of the Republic of Serbia ("**Privatization Agency**"), at least 30 days prior to the bid submission deadline. Following the submission of the bids in a sealed envelope by the bidders, the Committee evaluates the bids, determines their compliance with the qualification criteria and proposes to the Government a ranking list. The Government pronounces the winning bidder. The Privatisation Agency then negotiates the strategic partnership agreement with the winning bidder for a period of up to 45 days from the decision on the winning bidder. Upon the expiry of the negotiations deadline, if the negotiations were successful, the Committee delivers to the Ministry of Economy a report on negotiations, together with a draft agreement on strategic partnership signed-off by both parties and a clearance of the bidder by the Authority for Prevention of Money Laundering. The Ministry of Economy forwards these documents to the Government for a final decision on the signing of the agreement. Once the Government approves the signing, the agreement on strategic partnership should be signed within further 15 days unless this deadline is extended by the Government at its discretion.

The Privatisation Agency is authorized to control the fulfilment of the post-closing obligations of the strategic partner, based on an auditor's report and an evaluation by independent expert. The control

procedure is to be regulated by a governmental decree. Based on a report received from the Privatisation Agency, the Ministry of Economy determines the status of the post-closing obligations of the strategic partner and, in case of non-compliance, proposes remedial measures to the Government.

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