

Serbia: Amendments to the Law on Civil

JUNE 2014

Procedure/New Law on Mediation

On 23 May 2014, the National Assembly of Serbia adopted amendments to a set of laws in the area of civil procedure, specifically the Law on Civil Procedure^[1] ("LCP") and the Law on Non-Contentious Proceedings^[2] ("LNCP")^[3]. The amendments are applicable as of 31 May 2014, except for the provisions of LNCP related to public notaries, which shall become applicable on 1 September 2014.

The National Assembly has also passed a new Law on Mediation, which will become applicable on 1 January 2015.

Law on Civil Procedure (LCP)

Four amendments stand out. Firstly, as a rule, the disputes in the first instance will no longer be heard in front of a single judge but in front of a three-member panel consisting of one professional judge and two laymen. The single-judge system remains in place in property, housing, possessory, IP infringement, discrimination disputes, disputes on violation of personal rights, disputes related to appointment and dismissal of corporate bodies, disputes related to collective agreements, consumer disputes and disputes related to strikes. A single judge also acts upon letter rogatory. Notably, however, the change does not apply to commercial and labour disputes, which will continue to be handled in the first instance by a single judge.

Secondly, the circle of persons permitted to represent a party in litigation is restricted. An individual can be represented by attorney at law, a lineal kin, a sibling, a spouse or a person with bar exam who is engaged by a local municipality to provide free legal aid. Legal entity can be represented by an employee having passed bar exam, while an employee party to a labour dispute can be represented by a representative of his/her trade union holding a bar exam.

Thirdly, the availability of *revision*, an extraordinary legal remedy that does not stay enforcement of a final judgment, is extended. Previously, revision could have been resorted to if the value of dispute was no less than EUR 300,000 in commercial disputes and no less than EUR 100,000 in civil disputes. The thresholds are now lowered to EUR 100,000 and EUR 40,000 in commercial and civil disputes, respectively. Revision is also made available, irrespective of the value of dispute, in cases where the

first-instance judgment is revoked on the appeal and the matter decided by the appellate court.

Finally, in the litigation against the Republic of Serbia, the claimant is no longer required to try mediation with the state public attorney before initiating litigation.

Law on Non-Contentious Proceedings (LNCP)

The most important novelty is the authority of the court to delegate certain matters not involving public interest, such as inheritance cases, the matter of wills, certification of pre-litigation court-settlements and certification of documents in general. The proceedings related to withdrawal of individual's legal capacity and determination of expropriation compensation cannot be delegated.

The new Law on Mediation

This legislation replaces much criticized 2005 Law on Mediation. It is influenced by the Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters ("**Directive**").

The law establishes a single registry of mediators. While parties in dispute are still permitted to appoint whomever they wish to mediate their dispute, only a mediation by a registered mediator is considered mediation within the auspices of the Law on Mediation with all legal consequences stemming from the law, such as the tolling of the statute of limitations during the 60-day period from the execution of the agreement to mediate. Notwithstanding this provision, no party to the agreement to mediate is precluded from launching a litigation at any time.

The Ministry of Justice is in charge of issuing licenses to mediators and generally supervising their work. It is also supposed to enact the Code of Ethics of the Mediators.

Successful mediation normally results in an out-of-court settlement. Settlement can be made a directly enforceable instrument if it is notarized and contains a statement of the debtor authorizing the creditor to initiate enforcement proceedings.

[\[1\]](#) *Zakon o izmenama i dopunama Zakona o parni?nom postupku* (Official Gazette of the Republic of Serbia no. 55/2014).

[\[2\]](#) *Zakon o izmenama i dopunama Zakona o vanparni?nom postupku* (Official Gazette of the Republic of Serbia no. 55/2014).

[3] Minor amendments to the Law on Enforcement Proceedings (*Zakon o izmenama i dopunama Zakona o izvršenju i obezbeđenju*, Official Gazette of the Republic of Serbia no. 55/2014) have also been adopted, but they are of no particular relevance.



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