

BUSINESS AND CORPORATE LAW COMMITTEE

CHAIRPERSON: Nataša Lalović Marić, *Wolf Theiss*

VICE CHAIRPERSON: Dragan Lupšić, *Coca Cola Hellenic*

THE COMMITTEE'S MISSION:

The Business and Corporate Law Committee strives to contribute to the further development of corporate law and good business practice in Serbia, promoting more effective and consistent implementation of enacted laws. The committee's key areas of interest in the past two years have included the improvement of market liquidity through better regulatory protection of creditors, more efficient collection of claims, improvement of the legal framework for investment, public-private partnerships, and personal data protection.

THE COMMITTEE'S MEMBERS:

ATLAS CENTAR	KINSELLAR
AVIONICS & TELECOMMUNICATION SERVICES	KPMG
AVON COSMETICS	LALIN LAW
BALL PACKAGING EUROPE	L'OREAL BALKAN
BANCA INTESA	METRO CASH & CARRY
BDK ADVOKATI	MIKIJEVIĆ, JANKOVIĆ & BOGDANOVIĆ
BELGRADE OPEN SCHOOL	MK GROUP
BOJOVIĆ & PARTNERS	MOJI BREDOVI
BRITISH AMERICAN TOBACCO	MORAVČEVIĆ, VOJNOVIĆ & PARTNERI
CBS INTERNATIONAL	NAFTNA INDUSTRIJA SRBIJE
COCA COLA COMPANY	NAUMOVIĆ & PARTNERI
COCA COLA HELLENIC	NELT
CONTINENTAL WIND SERBIA	OSA RAČUNARSKI INŽENJERING
CROWE HORWATH	PHILIP MORRIS SERVICES
DELHAIZE	RAIFFEISEN BANK
DELOITTE	SBB
DELTA HOLDING	SEKULOVIĆ LAW OFFICE
DUFREY	SERBIAN BUSINESS SYSTEMS
EKI TRANSFERS	SIEMENS
EOS MATRIX	SOCIETE GENERALE BANK
ERSTE BANK	ŠTAMPA SISTEM
EUROBANK	TAG MEDIA
EXECUTIVE GROUP	TELENOR
HEMOFARM	TRS EUROPE
HYPO ALPE ADRIA BANK	VICTORIA GROUP
JANKOVIĆ, POPOVIĆ & MITIĆ	VIP MOBILE
JOHNSON & JOHNSON	VOJVOĐANSKA BANKA
JT INTERNATIONAL	WIENER STADTISCHE OSIGURANJE
KARANOVIĆ & NIKOLIĆ	WOLF THEISS
	ŽIVKOVIĆ & SAMARDŽIĆ LAW OFFICE

THE COMMITTEE'S FOCUS 2014-2016:

- More efficient collection of claims within bankruptcy and enforcement proceedings through the improvement of factoring possibilities and the mitigation of tax barriers to writing off bad debts in the business sector, through amendments to the Law on Insolvency and the Law on Enforcement and Security
- Overseeing amendments to the Law on Investments, the Law on Advertising and the Law on Public Procurement
- Advocating the enactment of a new law or amendments to the current Law on Personal Data Protection

THE COMMITTEE'S GREATEST ACCOMPLISHMENTS:

MORE EFFECTIVE REGULATORY FRAMEWORK FOR THE EFFICIENT COLLECTION OF CLAIMS

Amendments to the Law on Insolvency incorporate a large number of the Business and Corporate Law Committee's recommendations as a response to AmCham members' concern about the growth of illiquidity in the business sector. Long-awaited changes to bankruptcy regulations have lessened their negative effects on liquid operators and created conditions for a more intensive crediting activity, especially through:

- Specifying the grounds and obligations of the insolvency debtor's responsible persons with regard to initiating insolvency proceedings
- Ensuring that creditors' rights are protected in the event of reorganization, to prevent their rights being reduced without their explicit consent

- More specific regulation of the profession, duties, and rights of insolvency administrators

Amendments to the Law on Enforcement and Security contain considerably improved solutions compared to those previously provided within the Draft Law, primarily through:

- Reinstating provisions which secure efficient proceedings by judges
- Resolving collision between enforcement and extrajudicial settlement proceedings on immovable property – in case that several creditors conduct proceedings on the same immovable property priority is given to the already commenced settlement procedure (the previously proposed solution was to give priority to enforcement proceedings)
- Regulating legal remedies – elaborating provisions for legal remedies, introducing an objection and appeal procedure aimed at unifying judicial practice
- Detailing enforcement proceedings on immovable property – in order to provide greater protection of creditors' rights and prevent abuse of proceedings

CONSISTENT EFFORTS AT IMPROVING IMPLEMENTATION OF THE LAW ON INSOLVENCY, THE COMPANY LAW AND THE LAW ON PLEDGES ON MOVABLE ITEMS

In cooperation with the Supreme Court of Cassation, the Bankruptcy Supervision Agency and a group of professors from the Faculty of Law, a round table was organized to **discuss practical aspects of the Law on Insolvency**, in order to ensure better and more consistent implementation of the Law, and in particular its most recent amendments.

In 2014, the committee also worked on **improving implementation of the Company Law and the Law on Pledges on Movable Items**, organizing a round table attended by representatives of the Business Register Agency line registers and clearing up ambiguities encountered in its application.

IMPROVEMENT OF THE LAW ON INVESTMENTS AND THE LAW ON ADVERTISING

The committee had an active role in providing comments on the **Draft Law on Investments** through a number of text iterations during the public discussion and the process of proposing amendments within the Economic Caucus. All the committee's proposals were incorporated into the new Law on Investments, and the greatest improvement was made by:

- Formulating the subject of expropriation in a more precise manner and ensuring that the legal basis for expropriation is not extended beyond the property rights on real estate, in accordance with the Law on Expropriation, thus excluding any previous mention of the expropriation of business
- Allowing the protection of rights in front of foreign arbitration tribunals

In the period, the committee also worked on improving the text of the **Law on Advertising**, which has led to a large number of its provisions being adopted as a clear response to concerns expressed by AmCham members during the public discussion.

Amendments to the Law on Public Procurement were adopted in mid-2015 in an emergency procedure and without any public debate, which

unjustifiably omitted any consultation with the private sector. **A Round table discussion on Amendments to the Law on Public Procurement** recommended that the mechanisms and capacity which the law provides to the supervisory authorities be improved, while as a positive aspect the new law provisions effectively relieved bidders from excessive administrative burden.

For the two past years, AmCham has been committed to changing **the Law on Personal Data Protection**, taking into account the obstacles that the existing law presents, especially to multinational companies. The committee was active during the drafting of the Model Law on Personal Data Protection by the Commissioner as well as in the public debate on the draft law in the second half of 2015, when it conducted several consultations with members of the working group. Despite these efforts, the Law has not yet entered Government procedure, and the committee's activities in the upcoming period will continue to focus on monitoring the process of amendments to the law and harmonizing its provisions with EU regulations.

FOCUS IN THE UPCOMING PERIOD 2016-2018:

The committee will continue to work on:

- Improving the Law on Personal Data Protection and harmonizing with relevant EU legislation
- Improving the proposed amendments to the Law on Insolvency
- Improving the proposed amendments to the Law on Public Procurement
- More efficient and consistent implementation of legislation

WIDE ANGLE

Nataša Lalović Marić, *Wolf Theiss*

At the end of 2013, in an informal conversation with the then President of AmCham, I suggested that a specific committee be set up within this reputable institution which gathers together this country's leading businesses, to address issues of corporate law and, through a practical approach and action out in the field, to help improve Serbia's business environment. I believed that setting up such a specialized committee was important since, as a lawyer and thus an (in)direct participant in a large number of transactions in Serbia and the region, I am repeatedly witness to the majority of problems which members of the business community face in their business activities, and which are quite often the consequence of legislation which is inadequately developed and inconsistent with the specific characteristics of our legal system and economy, as well as a lack of, or inadequate, practical implementation.

The need to establish this group was recognized, and the committee started operating at the beginning of 2014. The committee's many activities, in line with the times in which we live, sometimes differed from those initially planned, but were always intensive and effective. We listened to the needs of our member companies and did our best to make our agenda and activities suit their needs.

We are proud of our contribution to the process of amending the Law on Insolvency and adopting the Law on Enforcement and Security and the Law on Investments. We initiated a dialogue on amendments to the Law on Personal Data Protection, worked on improving the Law on Advertising, and took part in efforts to overcome PPP related challenges. We organized a large number of seminars with representatives of relevant institutions, aiming to better inform our members about the practical implementation of laws.

Finally, I would like to say a big thank you to Miloš Đurković for showing understanding of the need to set up yet another committee to address 'lackluster' legal issues, as well as issues of vital importance! A big thank you also goes to Amalija Pavić, who shouldered the largest burden in setting up our committee and, together with us, dealt with all the challenges we were facing, encouraging us to be better and more efficient. Finally, we owe a big thank you to all the committee's members, particularly the representatives of Raiffeisen Bank, our colleagues from KN, JPM, BDK, and MJB, and the representatives of the business community for their selfless contribution to the committee's activities, for making it possible, two years later, to be proud of what we have done and what we have accomplished!