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# Screening report

# Serbia

## Chapter 6 – Company Law

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## I. CHAPTER CONTENT

The chapter includes harmonised rules in the field of company law, including financial reporting requirements, intended to facilitate the exercise of the right of establishment.

In the field of **company law**, the Directive on coordination of safeguards which are required of companies for the protection of the interests of members and third parties (2009/101/EC – former First Company Law Directive) includes safeguards providing for mandatory disclosure requirements, limiting the grounds for invalidity of the obligations entered into by companies, as well as limiting the grounds for nullity of public and private limited liability companies. Directive (89/666/EEC) similarly provides for disclosure requirements in respect of branches opened in a Member State governed by the law of another State. Directive 2012/30/EU (recast of 77/91/EEC) contains rules on the formation of public limited liability companies and the maintenance and alteration of their capital. Directive 2009/102/EC requires Member States to ensure that their domestic law recognises single-member limited liability companies.

Directives 2011/35/EU and 82/891/EEC harmonise national rules for the protection of shareholders and creditors in the context of domestic mergers and divisions of public limited liability companies. Directive 2009/109/EC introduces simplified reporting and documentation requirements in the case of mergers and divisions. Directive 2005/56/EC on cross-border mergers provides for rules and procedures to facilitate cross-border mergers of public and private limited liability companies. Directive 2004/25/EC on takeover bids lays down harmonised rules to facilitate cross-border takeovers within the EU as well as improving transparency and protecting minority shareholders in the context of such takeovers. Directive 2012/17/EU on the interconnection of central, commercial and companies registers prescribes the establishment of the system of interconnection of business registers, comprising a European central platform through which national business registers will make their information available to cross-border disclosure mechanisms, including the e-Justice portal.

The *acquis* also provides for certain European legal forms: i.e. the European Economic Interest Grouping (EEIG - Regulation 2137/85) and the European Company (S*ocietas Europaea* or SE - Regulation 2157/2001), while leaving several aspects of their internal structure and operation to be regulated through the domestic law of Member States.

The shareholders' rights Directive 2007/36/EC introduces minimum standards for the exercise of certain rights of shareholders in listed companies. Commission recommendations (2004/913/EC, 2005/162/EC and 2009/385/EC, and 2009/384/EC) address corporate governance principles regarding remuneration of directors, the independence of non-executive directors and board committees, and remuneration in financial institutions. Commission Recommendation 2014/208/EU on the quality of corporate governance reporting ('comply or explain') provides guidance on how listed companies should explain their departures from the recommendations of the relevant corporate governance codes.

Directive 2004/109/EC requires harmonisation of transparency requirements related to listed companies.

In the field of **accounting**, the *acquis* includes recognition, valuation and disclosure rules and layouts for balance sheet and profit & loss account for annual and consolidated financial statements (Directive 2013/34/EU) of public and private limited liability companies. This Directive also sets out who needs an audit, as well as publication obligations. In addition, Regulation (EC) No 1606/2002 on the application of international accounting standards requires EU companies listed on a regulated market to draw up their consolidated financial statements in accordance with international accounting standards which have been endorsed by the EU. Under this Regulation, Member States may also decide to apply International Financial Reporting Standards to the individual and/or consolidated financial statements of companies.

Directive 2006/43/EC on **statutory audits** harmonises rules including inter alia the approval and registration of statutory auditors, external quality assurance, public oversight, auditor independence and the application of International Standards on Auditing (ISAs). Amending Directive 2014/56/EU establishes additional requirements to improve audit quality, with a focus on auditor independence, audit reports and public audit oversight. New Regulation 537/2014/EU introduces specific requirements regarding the statutory audit of public-interest entities (PIEs). PIEs are credit institutions, listed companies, insurance undertakings, and other entities designated as such by Member States. The Regulation also imposes specific requirements on the organisation of the public oversight system of statutory auditors and audit firms that audit PIEs.

## II. COUNTRY ALIGNMENT AND IMPLEMENTATION CAPACITY

This part summarises the information provided by Serbia and the discussion at the screening meetings. Serbia indicated that it can accept the *acquis* regarding company law and that it does not expect any difficulties to implement the *acquis* by accession.

### II.a Company law

Company Law in Serbia is governed primarily by the Law on Companies (RS Official Gazette no.36-2011, 99-2011, 83-2014 5-2015), the Capital Market Law (RS Official Gazette no.31-2011) and Rulebook on content, form and methods of publication of annual, half-yearly and quarterly reports of public companies; the law on Takeover Bids (RS Official Gazette no.46-2006, 107-2009, 99-2011); the Law on Associations (RS Official Gazette no.51-2009 and 99-2011); the Law on Investment Funds (RS Official Gazette, no.46-2006, 51-2009, 31-2011 and 115-2014); Law on Banks (RS Official Gazette no.107-2005 and 91-2010); the Corporate Governance Code (RS Official Gazette no.99-2012), and the Law on Accounting and Law on Auditing (RS Official Gazette no.62-2013). Regulations governing the registration procedure for legal entities are: the law on the Serbian Business Registers Agency (RS Official Gazette no.55-04, 111-09, 99-11), the law on the procedure of registration with the Serbian Business Registers Agency (RS Official Gazette no.99-11, 83-14), and the Rulebook on the content of the Business Entities Register and documentation required for registration (RS Official Gazette no.6-12).

Serbian law recognises the following main legal forms of business entities: individual entrepreneur, limited liability company, general partnerships, limited partnership, joint stock company; also foreign company branch, cooperatives, public companies, socially owned enterprises, and representative offices.

The following table shows the number of main types of business entities registered in Serbia at end December 2014:

| Number and type of active companies - 31 December 2014 | |
|---|---|
| **Number of Companies** | **Company Type** |
| 2125 | General partnership |
| 336 | Limited partnership |
| 115401 | Limited Liability Company |
| 2037 | Joint-stock company |
| 2460 | Cooperative |
| 766 | Public company |
| 414 | Socially owned company |
| 215367 | Entrepreneurs |
| 336 | Foreign Company Branch |
| 1293 | Representative Office |

Serbia stated that **disclosure requirements in respect of companies, validity of obligations and grounds for nullity** are regulated by the Law on Companies and regulations governing the registration procedure for legal entities.

Legal personality is acquired by registration. The Serbian Business Registers Agency (SBRA) is a public agency, established in 2005 as the central institution for administering electronic business registers; it is responsible for the registration and disclosure of all information on business entities. Currently there are 19 business registers. Business entities are registered in the Business Entities Register. Applications must be approved within five days. Legal effect towards third parties occurs the day following publication on the SBRA website. Interested parties can access all registered data via the SBRA website (www.apr.gov.rs) free of charge. Copies may be obtained for a fee by submitting a request by post or email, accompanied by proof of payment (covering administrative costs only). Disclosure in the national gazette is not obligatory as maximum efficiency has been achieved through registration in the Business Entities Register. The same registration procedure applies for domestic and foreign companies. Serbia stated that the content and documents required for registration are in line with Directive 2009/101/EU.

Legal entities and entrepreneurs are required to submit annual financial statements to the Agency for public disclosure. Fines can be imposed for failure to do so. Serbia informed that, in 2015, the Register of Financial Statements and Data on Solvency will be ready to receive financial statements filed by large, medium and small enterprises in electronic format. The law provides for nullity of a company, as established by a court. The nullity has no effect on the company's transactions or obligations with *bona fide* third parties.

The SBRA is a member of the European Business Register (EBR) and EBR members have access to data contained in the SBRA register for business entities. Serbia stated that it will continue working towards alignment with Directive 2012/17/EU on the interconnection of central, commercial and companies register by end 2018, with implementation by the time of accession.

Regarding **disclosure requirements in respect of branches,** Serbia stated that it is aligned with Directive 89/666/EEC. A branch is formed by a resolution passed at the General Meeting. All branch offices, including foreign company branches, must register with the Business Entities Register, submitting data on business name and ID number of the company, address of branch, core activity, name of branch representative and scope of authorisations (if branch representative is different from the representative of the company). Additional documentation is required for the formation of a foreign company branch. Any change to registered data, or termination of a branch, must also be registered. A company bears unlimited joint and several liability for obligations towards third parties arising from branch activities. The law also regulates representative offices of foreign companies; these may only cover transactions relating to current operations. The foreign company is liable for obligations towards third parties that may arise in the operation of its representative office. Serbia stated that neither a branch nor a representative office have legal personality separate to the parent company.

Serbia's Law on Companies provides that a **single-member company** can be a limited liability company or a joint stock company**.** Data is registered in the Business Entities Register and is available to the public via the Serbian Business Registers Agency (SBRA) website. The sole member exercises the powers of the general meeting and all decisions must be recorded in writing. Legal transactions are drawn up by the sole member and the company's legal representative. The property of the sole member is separate from the company property. Sole member liability is limited to the amount of unpaid capital. The Law provides for the protection of creditors in the case of abuse of the rule of limited liability. In such cases, the sole member is liable with his own assets in the amount above the unpaid capital. A creditor may take legal action within six months of learning of the abuse, but not later than five years.

The area of **capital formation, maintenance and alteration of public limited liability companies** is governed by the Law on Companies which prescribes the minimum content of an instrument of incorporation. The minimum share capital for joint stock companies is RSD 3 million (around EUR 25,000), and for limited liability companies it is RSD 100 (less than EUR 1). Capital contribution may be made in cash or kind; the latter cannot be labour or services. Distributions to shareholders are made at the end of the fiscal year, from the company’s profit. Interim dividends are possible. The total amount of payments to shareholders in a business year cannot exceed the year-end profit. A company may not subscribe for its own shares, but it may purchase its own shares under certain conditions and is obliged to dispose of them within one to three years, depending on the grounds on which they were acquired. The law prohibits a company from providing direct or indirect financial assistance to shareholders, employees or third parties for the acquisition of company shares.

Serbian law allows for an increase and reduction in share capital and provides for equal treatment of shareholders in the same position. Shareholders have pre-emptive rights to purchase a new issue of shares. Newly issued shares, and respective shareholders, are registered in the Central Securities Depository. Share capital reduction provides for creditor protection, except where the law specifically states that this does not apply. Decisions on share reduction must be published in the Company Register for three months. Creditors may request to have their claims secured before the expiry of these three months and have recourse to court proceedings if their requests are not granted. The law also regulates the withdrawal and cancellation of company shares.

Serbia stated that it is almost fully aligned with the acquis covering company formation maintenance and alteration, except regarding retention of own shares for non-listed joint stock companies. Serbia stated that compliance in this respect would be achieved by end 2018.

Serbian law regulates d**omestic mergers and divisions of public limited liability companies** in a unified manner, but with certain differences as described here. Serbian law recognises four types of status change: merger by acquisition, merger by formation of new company, division by transferring entire assets and liabilities to a newly-formed or existing company, and separation whereby a company transfers part of its assets and liabilities to a newly-formed or existing company. A status change involving two or more companies requires an *agreement on status change*, while a status change involving only one company (being divided) requires only a *division plan*. The law provides for a simplified process in the case of a merger by acquisition where the receiving company holds minimum 90% equity interest in the share capital, or 90% voting shares of the transferring company. With several provisos, members of the transferring company shall acquire equity interests or shares in the receiving company proportionate to that held by them in the transferring company. After the status change, a company undergoing division is dissolved without being liquidated.

The law prescribes the mandatory contents of the draft *agreement on status change* or *division plan.* These must be drawn up in writing and certified according to the law. At least 30 days before the general meeting these documents must be published on the website of the Serbian Business Registers Agency. For at least one month before the general meeting, shareholders shall have access to the draft documents, (via the company website or at the company's registered office), as well as to annual financial statements for the last three years for each company involved, including an auditor's opinion, if they were audited. However, if all shareholders so agree, accounting statements are not required. Likewise, reports of the administrative or management bodies of each of the merging companies including an audit report are not required if so agreed by all share/security holders with a right to vote.

An *agreement on status change* takes effect when adopted at the general meeting of all companies involved, or on the date when signatures to the contract are authenticated in accordance with the law - whichever is later - unless the agreement envisages a later effective date. A *division plan* becomes effective when adopted at the general meeting of the company undergoing the status change, unless the division plan envisages a later effective date.

Legal effect occurs from the date of registration of status change. Registration - in the Business Entities Register - may not be done before the expiration of 30 days from the effective date of the status change. The law stipulates the documents that should accompany an application for registration of status change. Details of the legal effects of the change are defined in the law.

The Law on Companies provides that members of the management or supervisory boards are jointly liable to shareholders for damage caused - deliberately or through gross negligence - when preparing and implementing the status change. Also, a shareholder, under certain conditions, may take legal action before a competent court to rebut a status change.

Serbian stated that it is not aligned in the area of **cross-border mergers,** but that it is familiar with the terms of the relevant Directive (2005/56/EC), and foresees legislative alignment and implementation later in the accession process.

**Takeover bids** are regulated by the Law on Takeover Bids (and, as relevant, the Law on Companies), as well as the Rulebook on the contents and form of takeover bids. The law governs the conditions and procedures for takeovers of joint stock companies, the rights and obligations of participants involved, and supervision of the takeover by the Securities Commission.

The law defines voluntary and mandatory takeover. Mandatory takeover is required if a person, acting individually or with persons acting in concert, directly or indirectly, acquires more than 25% of the voting shares of the offeree company. Mandatory takeover also applies to any person who, based on a takeover bid, has acquired at least 75% of voting shares when, after the bid, the person has acquired at least 5% of additional voting shares of the offeree company or, in the course of 18 successive months, acquires at least 3% of additional voting shares of the offeree company. Furthermore, mandatory takeover applies to any person who, as a result of a takeover bid, has acquired less than 75% of voting shares when, after the bid, the person acquires additional voting shares of the offeree company. The law stipulates the mandatory content of the takeover bid. Notice of intent must be published in a daily newspaper within one business day of takeover obligation. Within 15 days the offeror must send an application for approval to the Securities Commission. When approval is granted, a summarised text of the takeover bid must be made public. The decision must be submitted to the offeree company and all shareholders; the management board of the offeree company must inform the employees. Within 10 days of the takeover bid being made public, the board of the offeree company must publish its reasoned opinion. Any shareholder can seek financial remuneration (at equal price) from the court if a mandatory bid has not been given.

Serbia stated that the law provides clear rules for determining the offer price in a takeover bid. Consideration for payment of shares can be in cash or securities, or a combination of both. Competing takeover bids are possible. The validity period of the bid cannot exceed 60 days, or, if there is a competing bid, 70 days. There are also provisions (in Serbia's Law on Companies) governing squeeze-out and sell-out, where the threshold is 90%.

Serbia stated that further alignment is needed in the field of takeover bids, and this is expected during the next three years.

Serbia explained that national legislation (Law on Companies and, as relevant, the Law on Associations) does not regulate the legal forms as prescribed by the **Statutes for a European Company and a European Economic Interest Grouping**. However, some work has already been carried out regarding the IT system and national authorities responsible. Serbia stated that it will harmonise its national legislation in these areas by end 2018 or upon accession to the EU.

**Rights of shareholders in listed companies** are regulated by the Law on Companies. The convocation for general meetings is sent to the shareholders 30 days prior to the meeting date via the Central Securities Depository (CSD). The Law specifies the mandatory contents of the notice to convene the general meeting. If the general meeting is to be reconvened, the convocation must be sent to shareholders at least 10 days beforehand. There is also special provision to convene an extraordinary general meeting - between two ordinary general meetings - if necessary (e.g. loss of assets by 50%). Shareholders day is the 10th day prior to the general meeting and all shareholders registered with the CSD on that day have the right to participate in and vote at the general meeting. One or more shareholders holding at least 5% of the share capital are entitled to include items on the agenda and proposals for decisions. This must be done 20 days before the general meeting date, and 10 days before an extraordinary meeting date. The law provides for shareholder participation in the general meeting by electronic means. Voting by proxy is also allowed. The law also provides that shareholders may vote by correspondence. Shareholders have the right to ask questions and receive answers. All decisions passed must be posted on the company website within three days of the general meeting, along with the voting results for each item.

With regard to **remuneration of directors, the independence of directors, and the committees of the supervisory board,** Serbia's Law on Companies and its Corporate Governance Code (CGC) provide detailed rules and guidance regarding the transparency of remuneration (policy and report) of directors, and grant shareholders the right to decide on remuneration of directors (including supervisory board members) at the General Meeting. The remuneration committee can make proposals (and later draft an evaluation report) on the amount and structure of remuneration of every director. The CGC provides more detailed recommendations for fixed and variable (performance-related) remuneration, and share-based remuneration. Non-executive directors are entitled to fixed remuneration only. Remuneration and incentives for directors must be presented separately on the company's financial statement. The CGC recommends having independent members on the board of directors (i.e. supervisory board). Public joint-stock companies must establish an audit committee, with an independent director as chairperson. Other committees may be established. The board of directors should engage in active dialogue with company members and regularly report to shareholders; they are responsible for the long-term sustainability of the company. Refunds (e.g. bonuses, cash incentives) can be sought if publicly disclosed information proves incorrect (within one year from publication).

Serbia stated that **remuneration policies in the financial services sector** are regulated by corporate governance principles in line with basic EU *acquis* principles. The banking sector is the most significant actor. The shareholder assembly determines remuneration for members of the bank's managing board; there is no obligation to publicly disclose this remuneration. Banks are obliged to establish an adequate remuneration policy (including bonuses and benefits) for its employees, including the fostering of reasonable and prudent assumption of risks. For investment firms, the general meeting of shareholders makes decisions on remunerations for directors and board members; the level of remuneration and benefits (e.g. share schemes) may depend on the business results of the company. Investment firms are obliged to manage risks. Serbia's Securities Commission governs risk management procedures.

Regarding t**ransparency requirement**s, Serbia stated that its national law regulates the cover, content and timelines for annual and interim (i.e. six-monthly, quarterly) financial reporting - including for consolidated accounts - and the publication thereof. It also regulates the additional information required, as well as information on major holdings, notification of voting shares and acquisition of own shares, exemptions, equal treatment of shareholders, and easy access to information on a non-discriminatory basis. Public companies must publish regulated information on their websites. Rules for domestic public companies apply also to foreign public companies trading on the Serbian market. Serbian public companies that trade on a market outside the Republic are required to also disclose information as provided for under the rules of the foreign country. Financial statements are prepared applying international standards (i.e. International Accounting Standards and International Financial Reporting Standards). Serbian law requires that annual reports of public companies remain publicly available for five years. All public companies, regardless of size, are subject to mandatory audit. The Securities Commission is the competent body for supervising implementation of the law.

Serbia stated that not all transparency requirements of Directive 2004/109/EC are aligned with the *acquis*. These include the definition of home/host Member State; information requirements for issuers of debt securities (article 18); exemptions (article 8); languages (article 20); third countries (article 23); and the possibility for the competent authority to delegate tasks. Furthermore, Serbia stated that it is not aligned with revised transparency Directive 2013/50/EU. Serbia stated that it plans to complete alignment with the *acquis* in this area by end 2018.

### II.b Corporate accounting and auditing

Corporate **accounting** in Serbia is regulated by the Law on Accounting which entered into force in July 2013. The law regulates the classification of legal entities, the organisation of official accounting documents, the conditions and methods for keeping business ledgers, the content of financial statements, the public disclosure of financial statements and annual report on operations, the Registry of financial statements, the National Commission for Accounting, and the supervision regarding implementation of the Law. Serbia informed that this law was going through parliamentary procedure at the time when the new EU Directive 2013/34/EU was being introduced and as such is currently only partially aligned with the acquis. During 2014, Serbia passed all necessary implementing acts.

The Ministry of Finance is responsible for the Law on Accounting and related implementing acts. The National Commission for Accounting (founded in compliance with the former Law on Accounting and Audit) is an advisory body to the Ministry of Finance. Its tasks include monitoring developments in the field of corporate accounting and application of International Financial Reporting Standards (IFRS). Commission members (7) are appointed by the Government; the Securities Exchange Commission and the National Bank of Serbia may each propose one member; the remaining five are proposed by the Ministry of Finance. Members have a professional background in finance, accounting, and audit. The Commission is obliged to report on its operations at least once a month to the Ministry of Finance.

Serbia's Accounting Law defines company size by the criteria of number of employees, average value of operating assets, and operating income. The law introduces the concept of micro legal entities. Entrepreneurs applying double-entry book-keeping system are treated as micro legal entities. Public Interest Entities (PIEs) are defined in Serbia's Law on Auditing. PIEs include large legal entities (as classified in the Law on Accounting); legal entities that are considered public companies pursuant to the Law on the Capital

Market; and all legal entities declared to be of public interest by the Government, irrespective of their size. Serbia confirmed that financial institutions (banks, insurance companies, broker-dealer companies, financial leasing companies, voluntary pension and investment management companies, close ended and private investment funds) are also considered PIEs.

Serbia applies International Financial Reporting Standards (IFRS), and IFRS for small and medium sized enterprises (SMEs) as approved by the International Accounting Standards Board. The Ministry of Finance is responsible for the translation (into Serbian) and publication of these standards, and is currently cooperating with the IFRS Foundation in this regard.

Under Serbian law, large-sized legal entities, parent entities (those obliged to prepare consolidated financial statements) and public companies are required to prepare annual and/or consolidated financial statements in accordance with full IFRSs. If parent undertakings (after consolidation) do not exceed half of the criteria applying to small undertakings, they can be exempted from preparing consolidated financial statements.

Medium sized entities are obliged to apply IFRS for SMEs, but they have the option to apply full IFRS if they so choose. IFRS for SMEs also applies for small sized entities. Simplified accounting rules apply for micro entities where abridged versions of balance sheet and profit and loss account only are required - they can however choose to apply IFRS for SMEs if they wish. Serbia stated that the layout for the balance sheet and profit and loss account is in line with EU requirements. According to Serbia, the law requires the true and fair disclosure of financial information and operations, and all management and supervisory bodies of an undertaking must take collective responsibility for the preparation and publishing of financial statements.

The Law on Accounting requires all large legal entities and public companies to prepare a management report; Serbia stated that the contents of this are in line with *acquis* requirements. Public companies are also obliged to include a review of the rules on corporate management. Medium-sized undertakings are not required to prepare a management report. Although exempt from preparing a management report, micro, small and medium sized legal entities must include information on the acquisition of own shares in the notes to the financial statements. Auditing of annual and consolidated financial statements is carried out in accordance with the Law on Auditing, and includes an opinion on whether the management report is consistent with financial statements for the same business year.

Sanctions are stipulated for non-application of accounting rules. Any interested party can submit a report to the competent authority regarding a suspected offence. Financial penalties can be imposed by court authorities for failure to compile and present financial statements in accordance with the law.

The Serbian Business Register Agency (SBRA) is responsible for publishing all financial statements and related documents on its website. Unless otherwise regulated by a separate law, all undertakings must submit relevant financial statements and documentation by 30 June of the year following the financial year in question, and those undertakings obliged to prepare consolidated annual financial statements must submit by

31 July. Serbian law ensures public access to financial statements and related documentation for the previous three financial reporting years, free of charge.

The Securities Exchange Commission supervises enforcement of the law concerning investment funds and investment fund management companies, stock exchange and broker societies; the National Bank of Serbia supervises banks, financial institutions and insurance companies; and the Tax Administration oversees the proper recording of business transactions in business ledgers.

Serbia stated that the Law on Accounting does not cover country by country reporting by extractive industry and loggers of primary forest companies on their payments to governments. However, Serbia informed that starting in April 2015 it has a clear roadmap for implementation through cooperation with the Swiss Government and World Bank and intends to be fully aligned with the *acquis* in this area by 2018.

Serbia stated that it is partially aligned with Directive 2013/34/EU and foresees full alignment by end 2018. Furthermore, regarding amending Directive 2014/95/EU on disclosure of non-financial and diversity information by certain large undertakings and groups, Serbia stated that it will align in this area by the date of accession, at the latest.

**Statutory audits** are regulated by the Law on Auditing which entered into force in July 2013. Serbia stated that the law was in compliance with Directive 2006/43/EC and relevant EU Recommendations. Audit is mandatory for annual financial statements of large and medium-sized legal entities (as classified in Serbia's Accounting Law), public companies, all legal entities and entrepreneurs whose operating revenues in the previous year exceeded EUR 4,400,000 in RSD equivalent, and all consolidated financial statements. The law regulates the performance of mandatory statutory audits of annual financial and consolidated statements; the approval of statutory auditors and audit firms and the rules for revoking auditing licenses; the manner of conducting audits; the rules for carrying out quality assurance; and introduces an independent public audit oversight system. The law also defines certain prohibitions regarding non-audit services, influence in share capital, and participation in management bodies. Mandatory rotation/replacement of auditors is also provided for.

Statutory audits may only be performed by certified auditors or auditing firms holding a valid permit. These permits are issued, and revoked, by the Ministry of Finance. A permit may also issue to a third country auditor or audit firm holding a valid license in accordance with the Law; the same rules apply as those for domestic auditors. A third country auditor is obliged to pass an additional exam. Licensed certified auditors can entrust certain tasks to other persons who don't have licenses, provided their work is planned and monitored by a licensed certified auditor or the lead auditor. There are 242 licensed certified auditors and 60 audit companies registered in Serbia.

The Chamber of Authorised Auditors is responsible for the exam program for acquiring an auditor certificate, as well as the organisation of continuous professional development for licensed certified auditors. It maintains the official register of audit firms and auditors, and also keeps a register of measures imposed. The Chamber set up a special department for quality assurance consisting of one manager, two controllers and two assistant controllers; these controllers are experienced professionals with at least five years practical work experience on statutory audits. According to Serbia, the Rulebook on methodology of quality assurance provides concrete instructions and questionnaires prepared on the basis of International Standards on Auditing (ISA) and the International Standard on Quality Control (ISQC).

Serbia established a system of public audit oversight in October 2013. The Public Oversight Board was selected by the Government on a proposal from the Ministry of Finance, the National Bank of Serbia and the Securities Commission. Serbia stated that the Board is an independent body governed by non-practitioners. The Board oversees the work of the Chamber of Authorised Auditors, the issuance of licenses and permits to auditors and audit firms, the quality assurance of audit firms, independent auditors and licensed certified auditors, and the imposition of measures. The Public Oversight Board started operating at end 2013 and has held 14 sessions to date. If requested, the Chamber of Authorised Auditors can assist at Board meetings and provide any necessary information.

Sanctions are imposed by the Ministry of Finance on a proposal by the Public Oversight Board and must be published in the official register. Chamber is obliged, once a year, to publish the results of audit inspections and controls on its website. Serbia stated that the first results are expected in 2015.

All audit firms and licensed certified auditors employed in audit firms are subject to quality control at least once in a six-year period. Audit firms carrying out statutory audits of public interest entities are controlled at least once every three years. The Public Oversight Board can also propose unscheduled investigations.

Regarding the audit of public-interest entities, audit firms carrying out such audits are obliged to prepare and publicly disclose a Transparency Report which includes information such as their legal structure, audits performed, financial information, and information concerning the basis for partners' remuneration. Once a year, in writing, these audit firms must confirm - to the Audit Committee of the public interest entity - their independence from the firm being audited, and also discuss any possible threats to their independence. The key audit partner cannot be appointed as a member of the managing board of the public interest entity that was audited for at least two years following signature of the audit report.

Serbia stated that it plans to align with EU Directive 2014/56/EU by the end of 2018 at the latest.

## III ASSESSMENT OF THE DEGREE OF ALIGNMENT AND IMPLEMENTING CAPACITY

Overall, Serbia has reached a good level of alignment with the *acquis* covered by this chapter. In the area of **company law** the key remaining aspect for alignment is the concept of cross-border mergers. In the field of **accounting and auditing**, further alignment is necessary to comply with more recent EU legislation.

### III.a. COMPANY LAW

Serbia is aligned with Directive 2009/101 regarding **disclosure requirements, validity of obligations and grounds for nullity.** Serbia has yet to align with Directive 2012/17/EU on the interconnection of central, commercial and companies' registers, and stated that it foresees alignment in this area by end 2018, and implementation by the time of accession.

Serbia is aligned with Directive 89/666/EEC concerning **disclosure in respect of branches**.

Serbia's Law on Companies is aligned with Directive 2009/102/EC on **single-member companies**.

Serbia is largely aligned with the *acquis* on **capital formation, maintenance and alteration of public limited liability companies**; compliance regarding the retention of own shares for non-listed joint stock companies needs to be achieved.

Serbia is aligned with the *acquis* in the area of **domestic mergers and divisions of public limited liability companies**. Serbia will need to introduce provisions to align with Directive 2005/56/EC on **cross-border mergers of public limited liability companies**.

In terms of compliance with the **takeover bids** Directive (2004/25/EC), Serbian law includes the general principles and provisions on the main elements, in particular the mandatory bid rule and derogations from this rule. Further alignment is required in the areas of supervisory authority and applicable law, as well as multiple-vote securities and breakthrough.

Serbia will need to ensure that a European Company (*Societas Europaea*) and European Economic Interest Groupings can be created and can operate in Serbia, in line with the **statutes for a European company** and for **European economic interest grouping**.

Serbia is aligned with the *acquis* on **rights of shareholders in listed companies** (Directive 2007/36/EC).

Regarding **remuneration of directors and the independence of directors and the committees of the supervisory board**, Serbian law includes provisions in line with the main elements of Commission Recommendations 2004/913/EC, 2005/162/EC and 2009/385/EC. Further compliance with the principles of Recommendation 2009/384/EC (on remuneration policies in the financial services sector) is foreseen by Serbia when aligning national legislation with Directive 2013/36/EU and Regulation (EU) No.575/2013 (which relate to chapter 9-financial services). Serbia will also need to comply with the principles of Recommendation 2014/208/EU on corporate governance reporting ('comply or explain').

On **transparency**, Serbia is broadly aligned with Directive 2004/109/EC. Remaining areas to align with include definition of home/host member state; exemptions regarding securities issued by EU Member States or public international bodies; information requirements for issuers of debt securities; languages; third countries; and the possibility for competent authorities to delegate tasks. Serbia must also align with amending Directives 2008/22/EC, 2010/73/EU, and 2010/78/EU; as well as Directive 2013/50/EC, in particular by ensuring that annual reports of public companies remain publicly available for 10 years. Serbia intends to complete alignment in this area by end 2018.

### III.b. Corporate accounting and auditing

In the area of **accounting**, Serbia is partially aligned with Directive 2013/34/EU on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings.

Serbia's use of the criteria of *average value of assets* and *operating income* for defining company size is not compliant with the *acquis* and will need to be amended.

Serbia already applies International Financial Reporting Standards (IFRS) for SMEs. Serbia will need to align with the *acquis* concerning the accounting framework for small companies regarding limited disclosure in financial statements.

The content of the management report corresponds to EU requirements. Serbia will however have to align with the *acquis* so that medium sized companies are no longer exempted from preparing such a report.

Serbia has to exempt all small groups from the obligation to prepare consolidated financial statements.

Serbia must ensure that requirements of other legislation (e.g. the Accounting Directive, capital maintenance rules, etc.) still apply even if IFRS financial statements are prepared by certain undertakings.

Directive 2013/34/EU provides for a more in-depth audit of the management report, beyond a simple consistency check between financial statements and management report (e.g. check for material misstatements or compliance with applicable legal requirements). Serbia should ensure provision in this regard when drafting amendments to its accounting legislation.

Serbia will need to introduce provisions, and ensure implementation, regarding the obligation of large undertakings and all public-interest entities active in the extractive industry or the logging of primary forests, to prepare and make public a report on payments made to governments on an annual basis. Serbia must also align with amending Directive 2014/95/EU on the disclosure of non-financial and diversity information by certain large undertakings and groups.

Serbian legislation is aligned with the Directive on **Statutory Audits** (2006/43/EC). Serbia recognises the need for further amendments so as to align with amending Directive 2014/56/EU and Regulation (EU) No 537/2014. Both acts will further enhance the independence of auditors, increase transparency, and strengthen audit supervision, with specific requirements applying to the statutory audits of public-interest entities. Serbia plans to do this by 2018 at the latest. In particular, Serbia must ensure that quality assurance, investigations and sanctions concerning the statutory audits of public-interest entities are carried out by a competent authority responsible for audit oversight. The sanctioning system can be delegated to another authority, but this authority must be independent from the profession. Furthermore, Serbia needs to introduce the possibility for shareholders representing 5% or more of the voting rights or share capital of the public-interest entity, to bring a claim before a national court for the dismissal of the statutory auditor(s) or audit firm(s) where there are proper grounds for doing so.