**UNOFFICIAL CLEAN VERSION**

Pursuant to Article 66, Paragraph 1, Item 1, Article 68, Paragraph 2, and Article 88, Paragraph 1 of the Legal Profession Act (Official Gazette of the Republic of Serbia, No. 31/11, 78/12 and 86/13), the Bar Association of Serbia, at its regular annual Assembly meeting in 2011 held on 29 October and 12 November 2011, at its first regular meeting in 2012 held on 24 June 2012 and at its second regular meeting in 2013 held on 11 May 2013, adopted the following

**STATUTE**

**OF THE BAR ASSOCIATION OF SERBIA**

1. GENERAL PROVISIONS

Article 1

This Statute shall regulate the following: tasks and activities and the internal organisation of the Bar Association of Serbia, the election and scope of authority of its bodies, the manner of exercising public powers, and other matters of importance for the work of the Bar Association of Serbia and the bar associations within its composition.

Article 2

The name of the Bar Association of Serbia is: *Адвокатска комора Србије*, written in the Serbian language and in Cyrillic letters.

The seat of the Association is in Belgrade, at Dečanska 13.

Article 3

The Bar Association of Serbia shall have its seal of a round shape with the name and seat of the Bar Association of Serbia written in the Serbian language and in Cyrillic letters.

The seal of the Bar Association of Serbia is of a round shape, 2.5 cm in diameter, containing the name and seat of the Bar Association of Serbia and the ordinal number of the seal.

In addition to the seal referred to in Paragraph 2 of this Article, the Bar Association of Serbia shall use the following seals: the Bar Association of Serbia – the Disciplinary Prosecutor; the Bar Association of Serbia – the Disciplinary Court; and the Bar Association of Serbia – the Attorney Academy.

The Bar Association of Serbia shall have its stamp of a rectangular shape, 5.5 cm x 2.5 cm, containing the name and seat of the Bar Association of Serbia, the space for reference number and date, and the ordinal number of the stamp.

The Bar Association of Serbia shall keep a book of seals and stamps wherein the impression of the seal, the stamp and the receipt stamp shall be entered according to their ordinal number, including the information about the person to whom the stamp or the seal has been issued and his/her signature; the Bar Association of Serbia shall also adopt separate rules regulating the manner of use of seals and stamps in more detail.

Article 4

The Bar Association of Serbia shall have its emblem.

The emblem of the Bar Association of Serbia is of an irregular round shape containing two concentric circles. The inner circle shows Themis, the Greek goddess of justice, blindfolded, holding a sword in her right hand and a set of scales in her left hand, with the shield on the left side of the pedestal with the inscribed year 1862. The outer circle encloses the emblem. The space between the circles contains the inscription “*Адвокатска комора Србије*“ in the Serbian language and in Cyrillic letters.

Article 5

The President of the Bar Association of Serbia shall represent and act on behalf of the Bar Association of Serbia.

Article 6

The Bar Association of Serbia shall have its own funds necessary for its work, which will be obtained in the manner prescribed by the relevant laws and this Statute.

The Bar Association of Serbia shall be liable for its obligations with all its assets.

Article 7

The work of the Bar Association of Serbia and the bar associations within its composition and their bodies shall be public.

This Statute shall stipulate the cases and the manner in which the public will be excluded from the activities of certain bodies of the Bar Association of Serbia and the bar associations within its composition in certain stages of their work.

**1. The Tasks of the Bar Association of Serbia and the Bar Associations within the Bar Association of Serbia**

1. *The Tasks of the Bar Association of Serbia*

Article 8

In addition to the public powers specified in Article 65, and other tasks specified in Article 66 of the Legal Profession Act, the Bar Association of Serbia shall perform the following tasks:

− represent the legal profession, act for and protect its interests;

− ensure conditions for the proper and lawful exercise of the legal profession; − take measures aimed at development of the legal profession;

− ensure improvement of expertise and ethics of the legal profession;

− ensure strengthening of the professional discipline and responsibility in the exercise of the legal profession;

− ensure replenishment of legal practitioners primarily from among law trainees; − maintain relations with the state and judicial bodies and other organisations;

− make proposals for improving the legal profession and the judicial and legal systems;

− make proposals concerning matters of importance for the exercise and protection of

constitutional freedoms and civil rights;

− perform other tasks of importance for the legal profession.

* 1. *Other Tasks of the Bar Association of Serbia*

Article 9

The Bar Association of Serbia shall:

− improve and promote the legal profession as an independent profession;

− exercise the public powers concerning the legal profession in accordance with the Legal Profession Act and this Statute;

− keep the Directory of Attorneys-at-Law, the Directory of Joint Law Offices, the Directory of Law Partnerships, Registers A and B of attorneys-at-law who are foreign nationals, and the Directory of Law Trainees for the territory of the Republic of Serbia;

This list will need to include the register of established EU lawyers.

− organise and administer the attorney exam;

− keep a single record of passed attorney exams for the territory of the Republic of Serbia;

− make decisions on the entries in or deletion from the Directory of Attorneys-at-Law, the Directory of Joint Law Offices, Registers A and B of attorneys-at-law who are foreign nationals, and the Directory of Law Trainees for the territory of the Republic of Serbia, in the capacity as a second-instance body;

This list will also need to include the register of established EU lawyers.

− make decisions on the entries in or deletion from the Directory of Law Partnerships;

− conduct disciplinary proceedings as a consequence of violation of duties and damage caused to the reputation of the legal profession, in accordance with the provisions of this Statute governing disciplinary proceedings;

− ensure the legality of work of attorneys-at-law, law trainees and the bodies and services of the Bar Association of Serbia, and the implementation and application of the Statute of the Bar Association of Serbia and the Code of Professional Ethics of Attorneys-at-Law;

This list should include established EU lawyers. I have not repeated the same point again

whenever work on behalf of attorneys-at-law is mentioned. Consideration should be given to

including a general clause at the beginning of the Statute to say that whenever attorneys-at-law

are mentioned, their number includes established EU lawyers registered with the bar.

− adopt its Statute and other general by-laws; − decide on the manner of use of its own funds;

− represent the interests of attorneys-at-law before the state and other agencies and organisations;

− establish international cooperation in the field of legal profession of interest to the legal profession of Serbia;

− represent attorneys-at-law and the legal profession of Serbia before domestic and foreign professional associations and organisations, legal persons and individuals;

− organise and conduct continuous training of attorneys-at-law, law trainees, graduate lawyers and the employees in law offices and law partnerships, as well as specialised professional training of attorneys-at-law,

− establish the Attorney Academy;

− arrange the provision of free legal aid in accordance with the law; − provide opinions on draft laws and other regulations;

− protect the rights and interests of attorneys-at-law and law trainees; − protect the interests and integrity of the Bar Association of Serbia;

− control the legality and adequacy of the work of bar associations within its composition in accordance with the law and this Statute;

− arrange the work and adopt training and work programmes of the Attorney Academy aimed at continuous professional training of attorneys-at-law, law trainees and persons employed in law offices in order to improve their theoretical and practical knowledge and skills in the areas of law and legal profession;

− adopt the programme of and administer the attorney exam; establish the Attorney Exam Committee and define the manner of its work and decision-making by a separate by-law;

− publish the scientific and professional magazine of the Bar Association of Serbia – the *Branič*, the Information Bulletin of the Bar Association of Serbia, and other regularand occasional publications;

− perform other duties defined by this Statute.

**European lawyers**

**Article 9a**

This article deals with European lawyers entitled to take advantage of the Lawyers’ Services directive (77/249/EEC) and the Lawyers’ Establishment Directive (98/5/EC), and will come into force only on the day that the Republic of Serbia accedes to the European Union.

The Serbian Bar Association shall open a new directory – Register E – for registered European lawyers, which shall be a public book.

A *registered European lawyer* is a lawyer registered in Register E of the Serbian Bar Association, under article 3 of the Lawyers’ Establishment directive (98/5/EC). The conditions for admission to Register E are that the lawyer in question is both an EU citizen and possesses one of the titles listed in Article 1 of 98/5/EC, and has presented a certificate of attestation in accordance with Article 3 of 98/5/EC.

A registered European lawyer is entitled to carry on the same professional activities as a Serbian attorney-at-law, including (but not restricted to) giving advice on the law of his or her home Member State, on Community law, on international law and on the law of the Republic of Serbia.

A registered European lawyer shall be subject to the Code of Professional Ethic of Serbian attorneys-at-law in respect of all activities pursued in the Republic of Serbia.

Before being registered on Register E, a registered European lawyer is required to possess, and demonstrate evidence of possession of, professional indemnity insurance at least equivalent to that required of Serbian attorneys-at-law. If the registered European lawyer is not in possession of such insurance, he or she may either contract for such insurance to cover all activities in the Republic of Serbia or apply to join one of the collective insurance schemes in existence for Serbian attorneys-at-law.

The Bar Association of Serbia shall be exclusively authorised to establish the amount of fee payable for registration in Register E, and to decide on requests for entry in Register E.

European lawyers who qualify for admission to the title of Serbian attorney-at-law under either Article 10 of 98/5/EC or after successfully completing the aptitude test/period of adaptation required under the Professional Qualifications Directive (2005/36/EC) shall be registered in the directory of attorneys-at-law under the terms of those directives, as appropriate.

European lawyers registered in Register E as described in the third paragraph of this Article, or registered in the directory of attorneys-at-law as described in the fourth paragraph of this Article will swear an oath on registration in identical terms to that described in Article 9 of this law.

Registered European lawyers will be issued with an ID on registration in Register E. The ID will contain his or her home country professional title in the official language or one of the official languages of his or her home Member State, in an intelligible manner and in such a way as to avoid confusion with being identified as a Serbian attorney-at-law. It will also indicate the professional body of which he or she is a member in the home Member State, together with the registration reference.

Registered European lawyers shall be subject to Article 28 about a notice board at the building where they have their office, and must display on that board their name and surname plus their home country professional title, which must be expressed in the official language or one of the official languages of their home Member State, in an intelligible manner and in such a way as to avoid confusion with the professional title of a Serbian attorney-at-law.

Registered European lawyers shall be subject to Article 29 about seals, and shall display on their seal their name and surname plus their home country professional title, which must be expressed in the official language or one of the official languages of their home Member State, in an intelligible manner and in such a way as to avoid confusion with the professional title of a Serbian attorney-at-law.

Registered European lawyers who belong to the same grouping in their home Member State and who practise under their home-country professional title in Serbia may pursue their professional activities in a branch or agency of their grouping in Serbia, subject to the conditions and qualifications set out in Article 11 of the Lawyers Establishment directive (98/5/EC). They shall also be entitled to practise in a joint law office in Serbia, including with Serbian attorneys-at-law.

A registered European lawyer who wishes to practise under home-country professional title shall inform the authorised bar association of the fact that he or she is a member of a grouping in the home Member State and furnish any relevant information on that grouping.

A registered European lawyer is not permitted to practise in Serbia within a grouping in which some persons are not members of the legal profession.

If a decision is taken to annul the registration of a registered European lawyer, there will be close cooperation regarding the decision with the competent authority in the home Member State of the lawyer in question.

Before initiating disciplinary proceedings against a registered European lawyer, the authorised bar association in the Republic of Serbia will inform the competent authority in the home Member State as soon as possible, furnishing it with all the relevant details.

Without prejudice to the decision-making power of the authorised bar association in the Republic of Serbia, it will cooperate throughout the disciplinary proceedings with the competent authority in the home Member State. In particular, the authorised bar association in the Republic of Serbia will take the measures necessary to ensure that the competent authority in the home Member State can make submissions to the bodies responsible in the Republic of Serbia for hearing any appeal.

Registered European lawyers have the right to vote in elections to the governing body of the Serbian Bar Association.

Regarding the requirements for registration in the directory of law trainees of an EU applicant from outside the Republic of Serbia, the Serbian Bar Association, in the light of the jurisprudence of the Court of Justice of the European Union, will compare the diplomas of the applicant, taking account of the differences between the national legal systems concerned, and, as appropriate, require the applicant to show that he or she has acquired the learning and skills that are lacking.

1. *The Tasks of the Bar Associations within the Bar Association of Serbia*

Article 10

The bar associations within the Bar Association of Serbia shall:

− improve and promote the legal profession as an independent profession in the territory for which they have been established;

− exercise public powers concerning the legal profession in accordance with the Legal Profession Act and this Statute in the territory for which they have been established;

− make decisions on the entries in and deletion from the Directory of Attorneys-at-Law, the Directory of Joint Law Offices, Registers A and B of attorneys-at-law who are foreign nationals, and the Directory of Law Trainees, in the capacity as the first-instance body;

This list will need to include the register of established EU lawyers.

− keep the Directory of Attorneys-at-Law, the Directory of Joint Law Offices, Registers A and B of attorneys-at-law who are foreign nationals, and the Directory of Law Trainees for the territory for which they have been established;

This list will also need to include the register of established EU lawyers.

− organise and administer the attorney exam in their respective territories; − keep a record of passed attorney exam in their respective territories;

− submit data on passed attorney exams to the Bar Association of Serbia;

− ensure the legality of work of attorneys-at-law, law trainees, bodies and services of the bar association and the implementation of the Statute of the Bar Association of Serbia, their own statute and the Code of Professional Ethics of Attorneys-at-Law;

− conduct disciplinary proceedings as a consequence of violation of duties and damage caused to the reputation of the legal profession, in accordance with the provisions of this Statute governing disciplinary proceedings;

− represent the interests of attorneys-at-law in the territory for which they have been established;

− establish international cooperation in the interest of the legal profession of the relevant bar association in accordance with the Legal Profession Act and the Statute of the Bar Association of Serbia;

− represent attorneys-at-law from their own territory in the matters of importance to the relevant bar association before domestic and foreign professional associations and organisations, legal persons and individuals;

− organise and conduct continuous training of attorneys-at-law, law trainees, graduate lawyers and employees in law offices, as well as specialised professional training of attorneys-at-law in accordance with the Statute of the Bar Association of Serbia;

− arrange the provision of free legal aid in the territory for which they have been established, in accordance with the law;

− protect the rights and interests of attorneys-at-law and law trainees in the territory for which they have been established;

− protect the interests and integrity of the relevant bar association; − issue regular and occasional publications;

− perform other tasks prescribed by the Legal Profession Act, this Statute and their own statute.

1. THE INTERNAL ORGANISATION

Article 11

The Bar Association of Serbia shall perform its tasks and duties specified by law and this Statute through its bodies and the bodies of the bar associations within its composition.

**1. The Bar Associations within the Bar Association of Serbia and Their Authority for the Territory for Which They Have Been Established**

Article 12

In the Republic of Serbia, there exists the Bar Association of Serbia with the seat in Belgrade, in charge of the territory of the Republic of Serbia, which includes the following bar associations:

1. the Bar Association of Vojvodina, with the seat in Novi Sad, in charge of the territory of the Autonomous Province of Vojvodina;
2. the Bar Association of Kosovo and Metohija, with the seat in Kosovska Mitrovica, in charge of the territory of the Autonomous Province of Kosovo;
3. the Bar Association of Belgrade, with the seat in Belgrade, in charge of the territory of all municipalities within the jurisdiction of the Higher Court in Belgrade;
4. the Bar Association of Zaječar, with the seat in Zaječar, in charge of the territory of all municipalities within the jurisdiction of the higher courts in Zaječar and Negotin;
5. the Bar Association of Kragujevac, with the seat in Kragujevac, in charge of the territory of all municipalities within the jurisdiction of the higher courts in Kragujevac and Jagodina;
6. the Bar Association of Niš, with the seat in Niš, in charge of the territory of all municipalities within the jurisdiction of the higher courts in Niš, Pirot, Vranje, Prokuplje and Leskovac;
7. the Bar Association of Požarevac, with the seat in Požarevac, in charge of the territory of all municipalities within the jurisdiction of the higher courts in Požarevac and Smederevo;
8. the Bar Association of Čačak, with the seat in Čačak, in charge of the territory of all municipalities within the jurisdiction of the higher courts in Čačak, Kraljevo, Užice, Kruševac and Novi Pazar;

1. the Bar Association of Šabac, with the seat in Šabac, in charge of the territory of all municipalities within the jurisdiction of the higher courts in Šabac and Valjevo.

The Bar Association of Serbia and the bar associations within its composition referred to in Paragraph 1 of this Article shall be autonomous and independent professional organisations of attorneys-at-law.

The bar associations referred to in Paragraph 1 of this Article shall regulate their internal organisation and work by their statute and general by-laws, in accordance with the law and this Statute.

The Bar Association of Serbia and the bar associations within its composition shall retain the property they have acquired so far and shall have the right to acquire property and dispose of such property independently in accordance with the law, this Statute and their own statutes.

All the attorneys-at-law whose law offices have their seats in Serbia shall be members of the Bar Association of Serbia and one of the bar associations within its composition.

Established EU lawyers must have the right to vote in their local bar association (and so

presumably be members of it first), and the wording here should reflect that – see Article 6.2 of

the 98/5/EC directive:

*‘Lawyers practising under their home-country professional titles shall be granted appropriate representation in the professional associations of the host Member State. Such representation shall involve at least the right to vote in elections to those associations' governing bodies.’*

**2. The Establishing of new Bar Associations**

Article 13

A new bar association within the Bar Association of Serbia may be established if the following conditions have been met:

1. if the jurisdiction of higher courts has changed with respect to the bar associations whose jurisdiction is based on the jurisdiction of the higher courts;
2. if an initiative is submitted to the Assembly of the Bar Association of Serbia, along with the study confirming that the conditions have been met for the work of a bar association, which will contain the following: the seat of the bar association, its organisation, premises, the manner of financing, the bodies of the bar association being established to govern it before the elections, the manner of conducting the first elections;
3. if the assembly of a bar association within the Bar Association of Serbia approves by a two-thirds majority vote of the total number of members or the total number of representatives the separation of a new bar association from the relevant bar association;
4. if the Assembly of the Bar Association of Serbia passes a founding decision, minding the interests of the legal profession, by a two-thirds majority vote of the total number of representatives.

The bar association(s) from which the newly founded bar association(s) is/are separating shall retain all the property acquired until the moment of separation of the newly established bar association(s).

If the Assembly of the Bar Association of Serbia passes a decision on founding a new bar association, that decision shall regulate all the matters and relations between the newly founded bar association and the bar association within the Bar Association of Serbia from which the newly founded bar association is separating.

Once a decision on founding a new bar association within the Bar Association of Serbia has been passed, the procedure shall be initiated for amending and supplementing the Statute of the Bar Association of Serbia and the statute(s) of the bar association(s) within the Bar Association of Serbia from which the newly founded bar association is separating.

1. THE BODIES OF THE BAR ASSOCIATION OF SERBIA

Article 14

The Bodies of the Bar Association of Serbia shall be:

* the Assembly,
* the President,
* the Vice-President,
* the Managing Board
* the Supervisory Board
* the Disciplinary Prosecutor
* the Disciplinary Court
* the Council.

**1. The Assembly**

Article 15

The Assembly of the Bar Association of Serbia shall be the highest body of the Bar Association of Serbia.

Article 16

The Assembly is comprised of the representatives elected by the assemblies of the bar associations within the Bar Association of Serbia.

Each bar association shall elect one representative in the Assembly of the Bar Association of Serbia per each 50 attorneys-at-law being the members of that bar association.

The bar associations within the Bar Association of Serbia shall establish their assemblies under a representation system, by forming election units ensuring approximately even representation of attorneys-at-law being their members and practicing in the territory of the relevant bar association; the representatives in the assembly of the bar association within the Bar Association of Serbia shall be elected by secret ballot only, as will be regulated in more detail by the statute of the bar association within the Bar Association of Serbia.

Notwithstanding the number of its members, no bar association within the Bar Association of Serbia shall have more than 49% of the total number of representatives in the Assembly.

The election procedure, the nomination criteria and the procedure for recalling representatives in the Assembly of the Bar Association of Serbia shall be governed by this Statute.

Article 17

The term of office of the representatives shall be for four years, and the representatives shall be eligible for re-election.

Article 18

The representatives of the bar association within the Bar Association of Serbia who are elected representatives in the Assembly of the Bar Association of Serbia shall acquire the rights and duties of a representative on the day their term of office has been confirmed by the incumbent Assembly representatives.

The rights and duties of the incumbent Assembly representatives shall continue until the term of office of the newly elected representatives in the Assembly of the Bar Association of Serbia has been confirmed.

If the term of office of a representative in the Assembly of the Bar Association of Serbia is terminated before the term to which he/she is elected, the Managing Board of the Bar Association of Serbia shall organise a by-election and notify thereof the bar association within its composition responsible for electing a new representative, unless the conditions have been met for applying the provisions of Article 77 of this Statute.

The vacant seat in the Assembly shall be taken by another representative to be elected in accordance with this Statute by the assembly of the bar association to which that seat belongs, of which the relevant bar association shall notify the Assembly and the Managing Board of the Bar Association of Serbia.

The term of office of the representative in the Assembly of the Bar Association of Serbia elected in the by-election shall last until the end of the term of other Assembly representatives and/or members of the bodies elected for that term.

Should the term of office of the representative elected in the by-election last less than two years, he/she shall not be deemed to have been a representative in that term.

Article 19

The Assembly of the Bar Association of Serbia shall:

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| --- | --- |
| (1) | Adopt: |
| 1. | the Statute, and decisions on amendments and supplements to the Statute; |
| 2. | its Rules of Procedure and the rules of procedure of the working bodies it establishes; |
| 3. | the Code of Professional Ethics of Attorneys-at-Law; |
| (2) | Decide on and discuss: |

1. All the matters of interest to the legal profession, the professional and social status of attorneys-at law and law trainees, the improvement of legal and judicial systems, and other matters concerning legal representation, which are of general importance to the public interest and the protection of rights and freedoms of citizens and legal persons, regarding which it shall pass relevant decisions;

1. decide on the establishing of new bar associations within the Bar Association of Serbia and determine territorial jurisdiction of each bar association within the Bar Association of Serbia;
2. verify the annual accounts and adopt the revenue and expenditure plan of the Bar Association of Serbia.
3. review and make decisions on reports on the work of the bodies of the Bar Association of Serbia;
4. establish the funds of the Bar Association of Serbia and adopt the rules on their administration;
5. establish permanent and provisional commissions;
6. perform other tasks in accordance with the law and this Statute;

(3) elect and recall, exclusively by a secret vote:

1. the President of the Bar Association of Serbia, in the first elections following the entry into force of this Statute;
2. the Vice-President of the Bar Association of Serbia;
3. the Disciplinary Prosecutor and his/her deputies;
4. the President, Deputy President and judges of the Disciplinary Court;
5. the members of the Supervisory Board;
6. the chairperson, deputy chairperson and members of other provisional boards, commissions and working bodies of the Assembly;

(4) Confirm:

1. the term of office of the representatives of the bar associations within the Bar Association of Serbia in the Assembly, and of the members of the Managing Board of the Bar Association of Serbia.

Article 20

The Assembly of the Bar Association of Serbia shall be constituted upon the confirmation of the term of office of all the representatives.

Article 21

The President of the Bar Association of Serbia shall convene a regular meeting of the Assembly at least once a year; if circumstances or issues arise that require an official position of the Assembly, the President shall convene an extraordinary meeting of the Assembly.

Upon a proposal submitted by the Managing Board of the Bar Association of Serbia, or by the managing board of at least one bar association within the Bar Association of Serbia, or by at least 20% of the total number of representatives in the Assembly, the President of the Bar Association of Serbia shall convene an extraordinary meeting of the Assembly within 30 days of receipt of the proposal.

The proposal referred to in Paragraph 2 of this Article shall be submitted in writing and contain the proposed agenda and materials related to the proposal.

Should the President of the Bar Association fail to convene the meeting within the deadline specified in Paragraph 2 of this Article, the proposing party may convene a meeting of the Assembly within further 30 days. The activities necessary for convening and organising an extraordinary meeting of the Assembly of the Bar Association of Serbia shall be conducted by the administration service of the Bar Association of Serbia following an order of the proposing party. The necessary cost of convening the meeting shall be borne by the Bar Association of Serbia, regarding which the Managing Board shall make a decision upon a reasoned proposal by the proposing party.

Upon receipt of the proposal to convene an extraordinary meeting of the Assembly of the Bar Association of Serbia, it shall not be possible to initiate the procedure for amending and supplementing the Statute of the Bar Association of Serbia concerning the submitted proposal and the reasons for convening the extraordinary meeting of the Assembly, until the extraordinary meeting of the Assembly has been convened.

Article 22

Meetings of the Assembly shall be public; a session may be held if more than a half of the total number of representatives is present. If there is no quorum, the chairperson shall state that the conditions to hold the session of the Assembly have not been met and that the session will not be held.

If the number of representatives in attendance decreases below the prescribed quorum during a session, the chairperson shall immediately inform the present representatives thereof and terminate the session.

The Assembly shall make valid decisions by a majority vote of the present representatives.

The Statute of the Bar Association of Serbia and amendments and supplements thereto shall be adopted by a majority vote of the total number of Assembly representatives.

Article 23

As a rule, the Assembly shall hold its meetings at the seat of the Bar Association of Serbia, but the President or the Managing Board of the Bar Association of Serbia may convene a meeting of the Assembly at another venue.

Invitations to attend a meeting of the Assembly, specifying the venue and time of the meeting, and accompanied by the proposed agenda and working materials related to the proposed agenda, shall be delivered to the Assembly representatives no later than eight days before the scheduled time of the meeting of the Assembly.

Exceptionally, in extraordinary circumstances, invitations for an extraordinary meeting of the Assembly may be communicated to the Assembly representatives via telegram, telephone or electronically, without the working material, and within a period shorter than the deadline defined in Paragraph 2 of this Article.

The existence of extraordinary circumstances referred to in Paragraph 3 of this Article shall be established by the Managing Board of the Bar Association of Serbia.

Article 24

The Assembly shall make decisions and conclusions.

Decisions shall be made with regard to adopting the Statute and general by-laws, and on other matters within the competence of the Assembly.

Conclusions shall be made in all other cases.

Article 25

A meeting of the Assembly shall be chaired by the President of the Bar Association of Serbia.

In the absence of the President, the meeting of the Assembly shall be chaired by the Vice-President.

If an extraordinary meeting of the Assembly of the Bar Association of Serbia has been convened upon a proposal by an authorised proposing party referred to in Article 21 of this Statute, the meeting of the Assembly shall be chaired by the President of the Bar Association of Serbia, or, in case the President is absent or unable to attend, by the Vice-President of the Bar Association of Serbia or a member of the Managing Board designated by the President of the Bar Association of Serbia, or an Assembly representative or a member of the Managing Board of the Bar Association of Serbia elected by the Assembly of the Bar Association of Serbia to chair the meeting.

The chairperson of an extraordinary meeting of the Assembly shall enable the authorised proposing parties to present their proposals due to which they have convened the meeting of the Assembly and the reasons why the President of the Bar Association failed to convene the extraordinary meeting of the Assembly, and ensure that the meeting is conducted in accordance with the Rules of Procedure.

The Rules of Procedure shall define the manner of conducting the meetings of the Assembly, the schedule and time of addressing the Assembly, which may be time-limited, and other matters of relevance to the work and conduct of the Assembly.

A meeting of the Assembly discussing and deciding about the recall of the President shall be chaired by the most senior representative in attendance.

**2. The President and the Vice-President of the Bar Association of Serbia**

Article 26

The President of the Bar Association of Serbia shall:

* represent and act on behalf of the Bar Association of Serbia;
* convene meetings of the Assembly and the Managing Board of the Bar Association of Serbia, propose the agenda and chair the meetings;
* sign decisions and other documents adopted by the Assembly and the Managing Board;
* pass decisions where such decisions are rendered in the administrative proceedings;
* implement decisions made by the Assembly and the Managing Board;

* make decisions concerning disposal of assets of the Bar Association of Serbia in accordance with the law, this Statute and the relevant decisions of the Managing Board and the Assembly of the Bar Association of Serbia;
* perform other duties specified in this Statute and other general by-laws of the Bar Association of Serbia.

The President of the Bar Association of Serbia shall be elected and recalled directly by the Assembly of the Bar Association of Serbia in the manner and procedure established by this Statute.

The rights and duties of the incumbent President of the Bar Association of Serbia shall continue until the term of office of the President-elect has been confirmed.

The President shall be responsible for his/her work to the Assembly of the Bar Association of Serbia.

Article 27

If the President of the Bar Association of Serbia is absent, he/she shall be substituted by the Vice-President of the Bar Association of Serbia, or, in case the latter is unable to do so, by the member of the Managing Board designated by the President.

Article 28

At the first electoral Assembly following the entry into force of this Statute, the President and the Vice-President of the Bar Association of Serbia shall be elected in the manner envisaged by this Statute. The election of the vice-president will then be made by the subsequent electoral assemblies to be held every four years.

The incumbent Vice-President shall subsequently become the President of the Bar Association of Serbia.

Article 29

The term of office of both the President and the Vice-President shall be for four years, and they may not be re-elected.

Article 30

The Vice-President shall deputize for the President in his/her absence, and perform other tasks entrusted to him/her by the President.

**3. The Managing Board**

Article 31

The Managing Board is the body of the Bar Association of Serbia exercising the rights and duties established by this Statute and other general by-laws.

The Managing Board shall have 23 members, and shall be comprised of 21 members delegated/elected by the bar associations within the Bar Association of Serbia in accordance with Article 32 of this Statute, and, by virtue of office, the President and the Vice-President of the Bar Association of Serbia.

Article 32

The members of the Managing Board of the Bar Association of Serbia shall be delegated/elected by the bar associations within the Bar Association of Serbia proportionally to the number of representatives elected to the Assembly, provided that each of the bar associations must have at least one member in the Managing Board.

The Bar Association of Belgrade shall delegate/elect eight members; the Bar Association of Vojvodina shall delegate/elect four members; the bar associations of Niš and Čačak shall each delegate/elect two members; and the bar associations of Zaječar, Kragujevac, Požarevac, Kosovo and Metohija and Šabac shall each delegate/elect one member.

The term of office of a member of the Managing Board of the Bar Association of Serbia shall be for four years.

The rights and duties of the incumbent Managing Board shall continue until the term of office of the new Managing Board of the Bar Association of Serbia has been confirmed.

The Managing Board of the Bar Association of Serbia shall be constituted by the confirmation of term of office of all the members thereof.

The term of office of a member of the Managing Board confirmed after the constitution of the Managing Board shall terminate concurrently with the term of other members of the Managing Board elected for that term.

The President and the Vice-President of the Bar Association of Serbia shall be members of the Managing Board by virtue of office.

The President of the Bar Association of Serbia is the Chairperson of the Managing Board and is responsible for directing its work.

The presidents of the bar associations within the Bar Association of Serbia shall participate in the work of the Managing Board, without the right to vote.

Article 33

The Managing Board shall perform the following tasks:

1. implement the decisions of the Assembly;
2. pass decisions regarding the existence of extraordinary circumstances warranting the scheduling of an extraordinary meeting of the Assembly in accordance with the provisions of this Statute;
3. draft the statute and other general by-laws adopted by the Assembly;
4. adopt the programme of the attorney exam and regulate the organisation and the manner of taking the attorney exam and the issuance of certificates of passed attorney exam; adopt the Tariff of Awards and Expenses Payable for the Work of Attorneys-at-Law,

As stated in the comments on the Legal Profession Act, the Tariff – unless it meets strict

conditions, such as being approved by the government – will be able to be challenged in court on

grounds of breaching EU competition law, and will in any case have to be reviewed by the

government on accession, due to Article 15 of the Services Directive (2006/123/EC). Therefore,

this task of the Managing Board should be reviewed.

the Rules on Directories and Other Records, the Rules on Foundation and Work of the Attorney Academy, the work programme, organisation and work of the Attorney Academy, and other general by-laws that have not been entrusted to the Assembly or other body by this Statute or any other general by-law;

1. monitor the work of the Attorney Academy of the Bar Association of Serbia;

1. adopt the curricula of continuous general, special and specialised training of attorneys-at-law at the proposal of the Attorney Academy;
2. adopt the curricula of general and special training of law trainees, graduate lawyers and persons employed in law offices and law partnerships at the proposal of the Attorney Academy;
3. make other decisions related to the work of the Attorney Academy of the Bar Association of Serbia;
4. appoint bodies of the Attorney Academy of the Bar Association of Serbia;
5. make decisions concerning all types of remuneration related to the work of the Attorney Academy of the Bar Association of Serbia;
6. establish the manner of election and work of members of committees in charge of attorney exams;
7. establish the content and the manner of keeping directories of attorneys-at-law, joint law offices, law partnerships and law trainees;
8. keep a single directory of attorneys-at-law, joint law offices, registers A and B of attorneys-at-law who are foreign nationals, and a directory of law trainees for the entire territory of the Republic of Serbia;
9. establish the design, content and the manner of issuance and validation of the official identification cards of attorneys-at-law;
10. decide on requests for entry, deletion and cancellation of registration in the directory of law partnerships, on requests to change the seat of the partnership, and on the manner of keeping the directory of law partnerships;
11. decide in the second instance, where prescribed by the Legal Profession Act and this Statute;
12. enforce final decisions of the Disciplinary Court;

As mentioned in the comments on the Legal Profession Act, the jurisprudence and the relevant

international instruments suggest that there should be a remedy open to the lawyer to appeal to an

independent court.

1. establish the amount of fee payable for entry into the directory of attorneys-at-law;

Nothing needs to change in the wording of this clause, but the decision-makers need to be aware

that their decision may be open to challenge on grounds of competition law, if the fee does not

reflect its real cost to the bar (i.e . it is not allowed to be an obstacle to entry)

1. establish the minimum amount of professional liability insurance coverage;
2. decide on organising elections for members of the bodies and offices of the Bar Association of Serbia;
3. make decisions on appointing the Election Commission, the Verification Commission, and the polling boards;
4. establish lists of candidates;
5. co-ordinate the position of the Bar Association of Serbia and the positions of state and other authorities regarding the matters requiring approval of the competent state authorities;
6. take measures and participate in the cooperation between the bar associations within the Bar Association of Serbia and the state authorities, judicial bodies, bar associations and other professional and expert organisations in the country and abroad;
7. propose measures to the state authorities concerning improvement of the legal profession and the judicial and legal systems;

1. monitor the work of attorneys-at-law, joint law offices and law partnerships in the territory of the Republic of Serbia and take adequate measures in accordance with the law and this Statute;
2. make decisions on the type, form and duration of measures aimed at the protection of professional rights and interests of attorneys-at-law and the implementation of such measures, provided that any measure concerning suspension shall not last more than three days, until the Assembly of the Bar Association of Serbia has decided on the measure;
3. monitor the work of the bar associations in its territory and provide recommendations regarding their work;
4. prepare the draft revenue and expenditure plan and ensure that it is properly implemented;
5. adopt the annual accounts of the Bar Association of Serbia;
6. designate the persons authorised to dispose of the assets, and establish the scope of their authority;
7. decide on awarding the Plaque of Merit and the Certificate of Honour of the Bar Association of Serbia, and other awards and commendations;
8. determine the principal orientation of the *Branič* magazine and other printed and electronic publications and presentations of the Bar Association of Serbia;
9. decide on the appointment of the editor-in-chief of the *Branič* magazine, and appoint editors and members of the editorial boards of the magazine and other printed and electronic publications and presentations of the Bar Association of Serbia;
10. appoint and dismiss lecturers and mentors of the Attorney Academy of the Bar Association of Serbia, upon obtaining the opinion of the Curriculum Council of the Attorney Academy;
11. nominate candidates for elective members of the High Judicial Council and the State Prosecutorial Council, in accordance with this Statute;
12. designate representatives of the Bar Association of Serbia and members from the ranks of attorneys-at-law in the relevant bodies and organisations;
13. decide on the status, financial and other matters regarding the employees of the service of the Bar Association of Serbia;
14. decide on the matters and issues that have not been entrusted to the Assembly or any other body by the law, this Statute or any other general by-law;
15. decide on the membership of the Bar Association of Serbia in international lawyers’ organisations and associations, and appoint representatives of the Bar Association of Serbia in such organisations and associations;
16. adopt general by-laws in accordance with this Statute;
17. adopt its Rules of Procedure;
18. perform other tasks entrusted to it by the Assembly.

Article 34

In order to perform the tasks within its competence, the Managing Board may establish permanent of provisional working bodies, and appoint members of such bodies from among attorneys-at-law and law trainees even if they are not members of the bodies of the Bar Association of Serbia.

Article 35

The Managing Board shall work in meetings to be attended by a majority of the total number of its members whose term of office has been confirmed (verified), and it shall make valid decisions by a majority vote of the present members.

Meetings of the Managing Board of the Bar Association of Serbia shall be held at least once a month.

Meetings of the Managing Board shall be public, while the Rules of Procedure of the Managing Board shall specify the cases where the publicity of work may be precluded.

The President of the Bar Association of Serbia shall convene meetings of the Managing Board, which may be regular or extraordinary.

A meeting of the Managing Board shall be convened within 10 days of receipt of a written and reasoned proposal submitted by at least three members of the Managing Board or the managing board of a bar association within the Bar Association of Serbia.

*3.1. The Secretary of the Managing Board*

Article 36

The Secretary of the Managing Board of the Bar Association of Serbia shall be appointed from among the members of the Managing Board and dismissed by the President of the Bar Association of Serbia.

The Managing Board of the Bar Association of Serbia may initiate the procedure to dismiss the Secretary of the Managing Board of the Bar Association of Serbia.

The term of office of the Secretary of the Managing Board shall be four years, and the same person may be re-appointed provided that he/she is still a member of the Managing Board.

The Secretary of the Managing Board shall be in charge of organising the meetings and ensure the implementation of decisions made by the Managing Board.

**4. The Supervisory Board**

Article 37

The Supervisory Board is the body of the Bar Association of Serbia in charge of controlling the disposal of assets of the Bar.

The Supervisory Board is an independent body of the Bar Association of Serbia responsible for its work to the Assembly of the Bar Association of Serbia.

Article 38

The Assembly of the Bar Association of Serbia shall elect the members of the Supervisory Board directly, by electing one member from each bar association within the Bar Association of Serbia.

The term of office of the Supervisory Board shall be four years, and its members may not be re-elected.

The rights and duties of the incumbent Supervisory Board shall continue until the term of office of the newly elected Supervisory Board has been confirmed.

At its first meeting, to be held within 30 days of the date of confirmation of the term of office, the Supervisory Board shall elect its Chairperson and Vice-Chairperson, and shall adopt its Rules of Procedure.

Article 39

The Supervisory Board shall review the annual accounts, and inspect, at least twice a year, the financial operations of the Bar Association of Serbia, whereupon it shall make relevant findings and submit its report to the Assembly at its regular annual meeting.

The Supervisory Board is authorised to provide opinions and recommendations to the bodies of the Bar Association of Serbia and the Assembly of the Bar Association of Serbia concerning the disposal of assets of the Bar so that its property and financial resources are adequately maintained and used by the competent bodies in accordance with the law and this Statute.

**5. The Disciplinary Bodies**

Article 40

The disciplinary bodies of the Bar Association of Serbia shall be: the Disciplinary Prosecutor and the Disciplinary Court.

The disciplinary bodies shall be elected directly by the Assembly of the Bar Association of Serbia in accordance with this Statute.

The term of office of the disciplinary bodies shall be four years. The rights and duties of the incumbent disciplinary bodies shall continue until the term of office of the newly elected disciplinary bodies has been confirmed.

The disciplinary bodies shall act independently, and other bodies of the Bar Association of Serbia shall not exercise control over the work of the disciplinary bodies, or give them orders on how to proceed in disciplinary matters, or otherwise affect the independent position of the disciplinary bodies.

The disciplinary bodies shall submit reports on their work and be responsible to the Assembly of the Bar Association of Serbia.

Disciplinary responsibility of attorneys-at-law and law trainees shall be established by the disciplinary bodies in the disciplinary proceedings regulated by this Statute.

The disciplinary bodies of the Bar Association of Serbia shall act as second-instance bodies in the disciplinary proceedings, unless otherwise provided in this Statute.

Attorneys-at-law and law trainees shall be responsible for minor and major disciplinary violations of duty and honour of the legal profession, as regulated by the Legal Profession Act and the Statute of the Bar Association of Serbia.

The disciplinary bodies shall act urgently, especially in the cases where a decision has been made to temporarily prohibit one from engaging in the practice of law.

*5.1. The Disciplinary Prosecutor*

Article 41

The Disciplinary Prosecutor shall be an independent body of the Bar Association of Serbia.

The Disciplinary Prosecutor shall have 16 deputies, so that two deputies shall be from each bar association within the Bar Association of Serbia; the deputies shall have the same rights and duties in disciplinary proceedings as the Disciplinary Prosecutor, and they shall be obliged to act in accordance with the Disciplinary Prosecutor’s binding instructions

The Disciplinary Prosecutor shall initiate disciplinary proceedings, bring an indictment and prosecute the case before the Disciplinary court, seek further remedy, and propose to the Managing Board to impose the measure of temporary prohibition from engaging in the practice of law (suspension).

The Disciplinary Prosecutor of the Bar Association of Serbia may take over cases, initiate disciplinary proceedings, bring indictments, plead cases, and seek further remedy concerning any cases within the competence of any disciplinary prosecutor of a bar association within the Bar Association of Serbia.

Article 42

The disciplinary prosecutor of a bar association within the Bar Association of Serbia, and his/her deputies, shall be elected in accordance with the statute of the relevant bar association.

The disciplinary prosecutors and their deputies at the bar associations within the Bar Association of Serbia shall be independent in their work and responsible to the assembly that elected them.

The disciplinary prosecutors and their deputies at the bar associations within the Bar Association of Serbia shall be subordinated to the Disciplinary Prosecutor of the Bar Association of Serbia, and they shall act on the instructions of the Disciplinary Prosecutor of the Bar Association of Serbia.

*5.2. The Disciplinary Court*

Article 43

The disciplinary courts of the Bar Association of Serbia and of the bar associations within the Bar Association of Serbia shall be independent in their work.

Article 44

The Disciplinary Court of the Bar Association of Serbia shall act as the second-instance court in disciplinary proceedings.

The Disciplinary Court of the Bar Association of Serbia shall comprise the President of the Court, the Deputy President, and 16 judges.

The work of the Disciplinary Court shall be managed by the President of the Court; in the absence of the President of the Court, the work of the Disciplinary Court shall be managed by the Deputy President.

The Disciplinary Court shall hear cases in chambers consisting of three judges of the Court. The presiding judge and the judges of a chamber shall be appointed by a decision of the President of the Disciplinary Court. A chamber shall make decisions by a simple majority vote.

Article 45

In the first instance, cases will be heard before the disciplinary court of the relevant bar association within the Bar Association of Serbia.

The disciplinary courts of the bar associations within the Bar Association of Serbia shall be elected in accordance with the statute of the relevant bar association.

1. **The Council**

Article 46

The Bar Association of Serbia shall have the Council of the Bar Association of Serbia as one of its bodies.

The Council shall provide opinions and submit proposals to the Assembly and the Managing Board regarding matters of significance to the legal profession.

Article 47

Members of the Council of the Bar Association of Serbia shall be: the President and Vice-President of the Bar Association of Serbia; previous presidents and vice-presidents of the Bar Association of Serbia; the Disciplinary Prosecutor; the President of the Disciplinary Court of the Bar Association of Serbia and the Dean of the Attorney Academy of the Bar Association of Serbia; previous disciplinary prosecutors and presidents of the Disciplinary Court of the Bar Association of Serbia; the Secretary of the Managing Board of the Bar Association of Serbia; previous secretaries of the Managing Board of the Bar Association of Serbia; presidents of the Bar Association of Yugoslavia from the Bar Association of Serbia; presidents of the councils of the bar associations within the Bar Association of Serbia; and the members directly elected by the Assembly of the Bar Association of Serbia for a term of four years.

As a rule, the Chairperson of the Council shall be the immediate previous president of the Bar Association of Serbia; if this is not feasible, the members of the Bar Association of Serbia shall elect the Chairperson of the Council of the Bar Association of Serbia from among themselves, by a majority vote.

Article 48

The Chairperson of the Council of the Bar Association of Serbia, the President of the Bar Association of Serbia, the Managing Board of the Bar Association of Serbia, any permanent member of the Council, and the managing board of any bar association within the Bar

Association of Serbia, are authorised to propose that a meeting of the Council of the Bar Association of Serbia be convened.

The Council shall submit reports on its work to the Assembly of the Bar Association of Serbia.

The Assembly and the Managing Board of the Bar Association of Serbia shall include in the agenda and discuss in their next meeting the proposals and opinions of the Council of the Bar Association of Serbia.

The Chairperson of the Council of the Bar Association of Serbia shall be notified about scheduled meetings of the Managing Board and the Assembly of the Bar Association of Serbia.

**7. The Conference of Attorneys-At-Law**

Article 49

The Conference of Attorneys-at-Law of Serbia is the broadest forum in which the attorneys-at-law express their opinion on the most important matters concerning the legal profession.

The Managing Board of the Bar Association of Serbia shall convene the Conference of Attorneys-at-Law, draft the agenda and determine the time and venue of the Conference.

The Assembly of the Bar Association of Serbia shall also be convened on the day of the Conference of Attorneys-at-Law of Serbia.

Article 50

The Conference of Attorneys-at-Law of Serbia shall be opened and chaired by the President of the Bar Association of Serbia until the working presidency and the minute-taker have been elected.

Article 51

The Conference of Attorneys-at-Law of Serbia shall make recommendations, and the Assembly of the Bar Association of Serbia shall decide on them immediately after the closing of the Conference of Attorneys-at-Law of Serbia.

**8. The Serbian Young Attorneys Section**

Article 52

The bar associations within the Bar Association of Serbia may establish young attorneys sections.

The bar associations within the Bar Association of Serbia shall adopt the rules regulating the organisation and work of the section.

The Serbian Young Attorneys Section shall be the association of young attorneys sections of the bar associations within the Bar Association of Serbia, bringing together and co-ordinating the work of the young attorneys sections of the bar associations within the Bar Association of Serbia. The Serbian Young Attorneys Section shall comprise the members of the young attorneys sections of the bar associations in Serbia.

The Managing Board of the Bar Association of Serbia shall decide on the membership of the Serbian Young Attorneys Section in international professional associations, and on the representatives of the Section in such international associations and institutions, at the proposal of the Section.

Members of a young attorneys section may be attorneys-at-law younger than 40 years of age.

Article 53

The bar associations within the Bar Association of Serbia may regulate in their statutes the manner of organisation and work of law trainees in their respective bar associations.

IV. THE ELECTION PROCEDURE, TERMINATION OF TERM OF OFFICE, AND THE RECALL PROCEDURE FOR MEMBERS OF THE BODIES AND OFFICIALS OF THE BAR ASSOCIATION OF SERBIA

**1. Election and Term of Office of Members of the Bodies and Officials**

Article 54

Attorneys-at-law registered in the Directory of Attorneys-at-Law of the Bar Association of Serbia shall have the right to elect and be elected members of the bodies and officials in the Bar Association of Serbia in accordance with this Statute.

Article 55

The Assembly of the Bar Association of Serbia shall elect members of the bodies and officials directly and by secret ballot, for a term of four years, unless otherwise provided in this Statute.

The members of the bodies and officials of the Bar Association of Serbia may serve no more than two terms in the same office.

The representatives in the Assembly of the Bar Association of Serbia shall be elected directly and exclusively by secret ballot, by the assemblies of bar associations within the Bar Association of Serbia, in accordance with this Statute.

The representatives in the Assembly of the Bar Association of Serbia shall acquire their rights and duties on the day of confirmation of their term of office by the incumbent Assembly of the Bar Association of Serbia. Until the newly elected Assembly of the Bar Association of Serbia has been constituted in accordance with the provisions of this Statute, the rights and duties of the Assembly of the Bar Association of Serbia shall be exercised by the incumbent Assembly of the Bar Association of Serbia.

The term of office of the hitherto incumbent Assembly shall terminate upon constituting the new Assembly of the Bar Association of Serbia within the meaning of the provisions of this Statute.

The members of the Managing Board of the Bar Association of Serbia shall be elected directly and exclusively by secret ballot, by the assemblies of bar associations within the Bar Association of Serbia in accordance with this Statute.

The members of the Managing Board of the Bar Association of Serbia shall acquire their rights and duties on the day of confirmation of their term of office by the incumbent Assembly of the Bar Association of Serbia. The rights and duties of the incumbent Managing Board shall continue until the term of office of the newly elected members of the Managing Board of the Bar Association of Serbia has been confirmed.

Upon constituting the new Managing Board of the Bar Association of Serbia within the meaning of the provisions of this Statute, the term of office of the hitherto incumbent Managing Board shall terminate, and the confirmation of term of office of other members of the Managing Board shall be conducted by the Assembly of the Bar Association of Serbia.

The President of the Bar Association of Serbia, the Vice-President of the Bar Association of Serbia, the Supervisory Board of the Bar Association of Serbia, the Disciplinary Prosecutor of the Bar Association of Serbia and the deputies of the Disciplinary Prosecutor of the Bar Association of Serbia, the President, Deputy President and judges of the Disciplinary Court of the Bar Association of Serbia, as well as the members of the Council of the Bar Association of Serbia, shall be elected by the Assembly of the Bar Association of Serbia directly and exclusively by secret ballot.

The President and the Vice-President of the Bar Association of Serbia shall be elected for a term of four years.

The Supervisory Board of the Bar Association of Serbia, the Disciplinary Prosecutor and deputies of the Disciplinary Prosecutor of the Bar Association of Serbia, the President, Deputy President and the judges of the Disciplinary Court of the Bar Association of Serbia shall be elected for a term of four years.

**2. The Bodies Responsible for Conducting the Elections**

Article 56

The body responsible for conducting the elections is the Election Commission of the Bar Association of Serbia.

The Election Commission shall be appointed for a term of four years.

Article 57

The bar associations within the Bar Association of Serbia may establish polling boards as the bodies tasked with implementing the election procedure, if the elections are conducted at several election units or if the number of candidates and/or voters is so high that the election results cannot be determined accurately and efficiently without such polling boards.

In the bar associations within the Bar Association of Serbia where the election procedure – voting is conducted at one polling station and in one day, and the numbers of candidates and voters enable an accurate and efficient determination of the election results within a reasonable time after the voting, the Election Commission itself shall conduct the election, while the Managing Board shall appoint a larger number of members to the Election Commission if necessary.

*2.1. The Election Commission*

Article 58

The Election Commission shall be appointed by the Managing Board of the Bar Association of Serbia.

Within 15 days of receipt of a written notification of the commencement of the election procedure, the bar associations within the Bar Association of Serbia shall submit to the Managing Board of the Bar Association of Serbia their proposals of candidates for the Chairperson, Deputy Chairperson, members and deputy members of the Election Commission.

The Chairperson, Deputy Chairperson, members and deputy members of the Election Commission, as well as the chairpersons and members of other bodies envisaged by this Statute to be responsible for conducting the elections, may not be candidates or propose candidates for the bodies and offices of the Bar Association of Serbia. In case the Chairperson or a member of the Election Commission, or the chairperson or a member of another body responsible for conducting the elections became a candidate or proposed candidates for the bodies or offices of the Bar Association of Serbia or a bar association within the Bar Association of Serbia, their term of office in the body responsible for conducting the elections shall terminate and a new procedure for appointing that member shall be conducted; if the person in question is the chairperson of an election body, the body shall be dismissed and the Managing Board of the Bar Association of Serbia shall appoint a new body responsible for conducting the elections.

Article 59

The Election Commission of the Bar Association of Serbia shall:

1. ensure a lawful election procedure;
2. be responsible for technical preparations for the elections;
3. supervise the implementation and provide explanations regarding the implementation of this Statute and the implementation of specific election activities;
4. establish forms to be used in the implementation of election activities prescribed by this Statute;
5. propose the establishing of polling boards to the Managing Board of the Bar Association of Serbia, if it finds that the elections would thus be conducted more effectively and that the election results would be determined accurately and efficiently;
6. prepare the electoral roll containing all the representatives in the Assembly of the Bar Association of Serbia whose term of office has been confirmed;
7. establish the design, quantity and the manner of protection of the ballot papers to be used at polling stations, and validate the ballot papers;
8. establish the election documents to be submitted to it;
9. determine whether the candidate proposals have been prepared and submitted in accordance with this Statute;

1. determine whether the conditions have been met for the nomination of proposed candidates;
2. establish the lists of candidates for members of the bodies of the Bar Association of Serbia and offices of the Bar Association of Serbia;
3. in the case of an objection to the list of candidates, submit its opinion to the Managing Board of the Bar Association of Serbia on the grounds of the objection and the materials necessary to make a decision on the objection;
4. conduct the voting procedure, unless polling boards have been established for that purpose;
5. control the work of the polling boards, if established, and ensure that they act in accordance with the law and the relevant statutes;
6. establish and publish the results of the elections;
7. keep records of their activities to be signed by all the members of the Election Commission of the Bar Association of Serbia;
8. submit a report on the conduct of the elections to the Assembly of the Bar Association of Serbia;
9. establish the manner of keeping and handling the election materials;
10. perform other tasks envisaged by this Statute.
    1. *The Polling Board*

Article 60

The Managing Board of the Bar Association of Serbia may appoint polling boards comprising the chairperson, deputy chairperson, two members and two deputy members for each candidate list, no later than a week before the day of elections. The bar associations within the Bar Association of Serbia shall submit to the Managing Board of the Bar Association of Serbia their proposals of candidates for chairpersons, deputy chairpersons, members and deputy members of the polling boards, no later than 15 days of receipt of a written notification of the commencement of the election procedure.

If the number of candidates on a candidate list is considerably higher than the number of posts to which the candidates are being elected, the Managing Board of the Bar Association of Serbia may appoint a larger number of members and deputy members of the polling board than specified in Paragraph 1 of this Article, in order to ensure efficient conduct of the election procedure and determination of the voting results.

The polling boards shall directly implement the voting procedure at the polling stations, under the supervision of the Election Commission, and shall ensure validity and secrecy of the ballot; together with the Election Commission, the polling board shall determine the voting results concerning the list of candidates for which the polling board has been appointed.

The polling boards shall be appointed to conduct elections or by-elections, and shall be dismissed upon completing the election activities and submitting the report on voting results, the records of their activities and the election materials to the Election Commission of the Bar Association of Serbia.

**3. Calling the Elections**

Article 61

The decision on commencing the election procedure shall be made by the Managing Board of the Bar Association of Serbia no later than 120 days before the end of its term of office. Based on this decision, the President of the Bar Association of Serbia shall notify all the bar associations within the Bar Association of Serbia of the commencement of the election procedure and invite them to submit their proposals of candidates for the positions of chairperson, deputy chairperson, members and deputy members of the Election Commission and the Verification Commission of the Bar Association of Serbia.

The decision on calling the elections shall be made by the Managing Board of the Bar Association of Serbia no later than 90 days before the end of its term of office.

When making the decision on calling the elections, the Managing Board of the Bar Association of Serbia shall determine the number of seats in the next Assembly of the Bar Association of Serbia, in accordance with the provisions of this Statute.

The decision on calling the elections shall establish the list of offices and the number of members of the bodies of the Bar Association of Serbia to be elected directly and exclusively by secret ballot, the schedule of conducting the election activities, the appointment of the Election Commission of the Bar Association of Serbia, as well as the deadlines for proposing candidates and establishing the list of candidates.

By its decision on calling the elections, the Managing Board of the Bar Association of Serbia shall appoint the Election Commission of the Bar Association of Serbia consisting of the Chairperson, the Deputy Chairperson and a member and a deputy member from each bar association within the Bar Association of Serbia, as well as the Verification Commission of the Bar Association of Serbia comprising three members and three deputy members.

The Verification Commission of the Bar Association of Serbia shall monitor and ensure legality of the activities conducted at the bar associations within the Bar Association of Serbia with the view to electing the representatives to the Assembly of the Bar Association of Serbia and the members of the Managing Board of the Bar Association of Serbia; as a rule, the Verification Commission shall attend the meetings of the electoral assemblies of the bar associations within the Bar Association of Serbia and submit the report on the conduct of the procedure including the proposal to the Assembly of the Bar Association of Serbia to confirm the term of office (of all or some of the representatives). The Verification Commission of the Bar Association of Serbia shall work in its full composition and make decisions by a majority vote.

The decision on calling the elections shall be published in the Information Bulletin, on the website and the bulletin board of the Bar Association of Serbia, and it shall be delivered to all the bar associations within the Bar Association of Serbia.

Article 62

The bar associations within the Bar Association of Serbia shall submit the lists of candidates for the Assembly and the members of the Managing Board of the Bar Association of Serbia

no later than 30 days before the end of the term of office of the representatives in the Assembly of the Bar Association of Serbia and the officials of the Bar Association of Serbia.

The Verification Commission of the Bar Association of Serbia shall submit the report on legality of the conducted election procedures in the bar associations within the Bar Association of Serbia and propose the confirmation of term of office of the representatives elected to the Assembly and the members of the Managing Board (all or some of them), no later than 10 days before the end of the term of office of the representatives in the Assembly of the Bar Association of Serbia, and the members of bodies and officials of the Bar Association of Serbia.

1. **Nomination**

Article 63

Any attorney-at-law who meets the following requirements may be nominated for the position of President of the Bar Association of Serbia:

1. has at least 15 years of experience in the practice of law before the nomination;
2. has served at least one term in the bodies of the Bar Association of Serbia or a bar association within the Bar Association of Serbia prior to the nomination;
3. no disciplinary measure has been imposed against him/her in the period of 10 years preceding the nomination;
4. has not been found criminally responsible for an offence rendering him/her unfit for the practice of law;
5. speaks a foreign language;
6. is not a member of any body of a political party.

Article 64

Any attorney-at-law who meets the following requirements may be nominated for the position of Vice-President of the Bar Association of Serbia:

1. has at least 15 years of experience in the practice of law before the nomination;
2. has served at least one term in the bodies of the Bar Association of Serbia or a bar association within the Bar Association of Serbia prior to the nomination;
3. no disciplinary measure has been imposed against him/her in the period of 10 years preceding the nomination;
4. has not been found criminally responsible for an offence rendering him/her unfit for the practice of law;
5. speaks a foreign language;
6. is not a member of any body of a political party.

Article 65

Any attorney-at-law who meets the following requirements may be nominated for the position of member of the Managing Board of the Bar Association of Serbia:

1. has at least 10 years of experience in the practice of law before the nomination;

1. no disciplinary measure has been imposed against him/her in the period of 10 years preceding the nomination;
2. has not been found criminally responsible for an offence rendering him/her unfit for the practice of law;
3. is not a member of any body of a political party.

Article 66

Any attorney-at-law who meets the following requirements may be nominated for the position of member of the Supervisory Board of the Bar Association of Serbia:

1. has at least 10 years of experience in the practice of law before the nomination;
2. no disciplinary measure has been imposed against him/her in the period of 10 years preceding the nomination;
3. has not been found criminally responsible for an offence rendering him/her unfit for the practice of law;
4. is not a member of any body of a political party.

Article 67

Any attorney-at-law who meets the following requirements may be nominated for the position of Disciplinary Prosecutor of the Bar Association of Serbia:

1. has at least 15 years of continuous experience in the practice of law before the nomination;
2. has served at least one term in the bodies of the Bar Association of Serbia or a bar association within the Bar Association of Serbia prior to the nomination;
3. no disciplinary measure has been imposed against him/her in the period of 10 years preceding the nomination;
4. has not been found criminally responsible for an offence rendering him/her unfit for the practice of law;
5. is not a member of any body of a political party.

Article 68

Any attorney-at-law who meets the following requirements may be nominated for the position of deputy of the Disciplinary Prosecutor of the Bar Association of Serbia:

1. has at least 10 years of continuous experience in the practice of law before the nomination;
2. no disciplinary measure has been imposed against him/her in the period of 10 years preceding the nomination;
3. has not been found criminally responsible for an offence rendering him/her unfit for the practice of law;
4. is not a member of any body of a political party.

Article 69

Any attorney-at-law who meets the following requirements may be nominated for the position of President of the Disciplinary Court of the Bar Association of Serbia:

1. has at least 15 years of experience in the practice of law before the nomination;
2. has served at least one term in the bodies of the Bar Association of Serbia or a bar association within the Bar Association of Serbia prior to the nomination;
3. no disciplinary measure has been imposed against him/her in the period of 10 years preceding the nomination;
4. has not been found criminally responsible for an offence rendering him/her unfit for the practice of law;
5. is not a member of any body of a political party.

Article 70

Any attorney-at-law who meets the following requirements may be nominated for the position of Deputy President of the Disciplinary Court of the Bar Association of Serbia:

1. has at least 10 years of experience in the practice of law before the nomination;
2. has served at least one term in the bodies of the Bar Association of Serbia or a bar association within the Bar Association of Serbia prior to the nomination;
3. no disciplinary measure has been imposed against him/her in the period of 10 years preceding the nomination;
4. has not been found criminally responsible for an offence rendering him/her unfit for the practice of law;
5. is not a member of any body of a political party.

Article 71

Any attorney-at-law who meets the following requirements may be nominated for the position of judge of the Disciplinary Court of the Bar Association of Serbia:

1. has at least 10 years of experience in the practice of law before the nomination;
2. no disciplinary measure has been imposed against him/her in the period of 10 years preceding the nomination;
3. has not been found criminally responsible for an offence rendering him/her unfit for the practice of law;
4. is not a member of any body of a political party.

Article 72

Any attorney-at-law who meets the following requirements may be nominated for the position of elective member of the Council of the Bar Association of Serbia:

1. has at least 25 years of experience in the practice of law before the nomination;
2. has served at least one term in the bodies of the Bar Association of Serbia or a bar association within the Bar Association of Serbia prior to the nomination;
3. no disciplinary measure has been imposed against him/her in the period of 10 years preceding the nomination;
4. has not been found criminally responsible for an offence rendering him/her unfit for the practice of law;
5. is not a member of any body of a political party.

Article 73

Any attorney-at-law who meets the following requirements may be nominated for the position of representative in the Assembly of the Bar Association of Serbia:

1. has at least 5 years of experience in the practice of law before the nomination;
2. no disciplinary measure has been imposed against him/her in the period of 5 years preceding the nomination;
3. has not been found criminally responsible for an offence rendering him/her unfit for the practice of law;
4. has contributed to the reputation of the legal profession and the protection of its independence;
5. is not a member of any body of a political party.

Article 74

The Assembly representatives and the members of the Managing Board of the Bar Association of Serbia shall be elected directly and by secret ballot only, by the assemblies of the bar associations within the Bar Association of Serbia in accordance with the provisions of this Statute regulating the procedure of electing members of the bodies and officials of the Bar Association of Serbia.

Article 75

The right to propose candidates for the members of the bodies and offices in accordance with this Statute belongs to each representative in the Assembly of the Bar Association of Serbia, to any bar association within the Bar Association of Serbia, and/or to a group of at least 20 attorneys-at-law who are members of the Bar Association of Serbia.

The nominations shall be submitted in writing to the Election Commission of the Bar Association of Serbia, by hand or registered mail. The nominations shall be entered in the register of the Bar Association of Serbia. The nomination shall contain the following information: the name and surname of the attorney-at-law nominated for the position of member of a body or an office; the seat of the candidate’s law office; the bar association within the Bar Association of Serbia of which the candidate is a member; the body or office for which the candidate is nominated; and the consent of the candidate.

The nominator may nominate only one candidate. The nomination must be signed by and affixed with the seal of the attorney-at-law nominating the candidate; the consent of the attorney-at-law being nominated shall be signed personally and affixed with his/her seal.

Along with the nominations for the positions of President and Vice-President of the Bar Association of Serbia, the candidates shall submit their work programmes.

Along with the nomination, the nominator shall submit the certificate of professional status issued by the bar association of which the candidate is a member, indicating the years of candidate’s experience in the practice of law, whether the candidate has been found responsible for disciplinary violations, and if so, when and for what violation of duty and honour of the legal profession, the period in which the candidate was a member of the body or an official of the bar association, and the candidate’s statement of consent, the statement indicating that he/she is not a member of any body of a political party, and the statement indicating that he/she speaks a foreign language.

Article 76

The same candidate cannot be in more than one list of candidates for the position of member of a body or an office of the Bar Association of Serbia at the same time. If the same attorney-at-law has been nominated in several electoral lists of the Bar Association of Serbia, the Election Commission of the Bar Association of Serbia shall request him/her to choose which list he/she will remain in.

Should the candidate fail to act on the request of the Election Commission of the Bar Association of Serbia referred to in the previous Paragraph, the Election Commission of the Bar Association of Serbia shall include him/her in the list corresponding to the nomination which the Bar Association of Serbia received earliest.

Attorneys-at-law elected as members of bodies or offices at both the Bar Association of Serbia and a bar association within the Bar Association of Serbia shall be obliged to state within 15 days which position they will assume in the relevant term of office

Representatives in the Assembly of the Bar Association of Serbia or the assemblies of the bar associations within the Bar Association of Serbia may be nominated for the positions in the bodies or offices of the Bar Association of Serbia. In case an assembly representative is elected to a position in the bodies or offices of the Bar Association of Serbia his/her term in the Assembly of the Bar Association of Serbia shall terminate.

Article 77

Should the candidate elected to the position of representative in the Assembly of the Bar Association of Serbia, member of the Managing Board of the Bar Association of Serbia or the Supervisory Board of the Bar Association of Serbia, Disciplinary Prosecutor or deputy of the Disciplinary Prosecutor of the Bar Association of Serbia, President, Vice President or judge of the Disciplinary Court of the Bar Association of Serbia, decline the position, or if his/her term ends on any grounds before the expiry of the term, the next candidate with the highest number of votes received in the regular elections shall be considered elected to that position.

As regards the positions of representative in the Assembly of the Bar Association of Serbia and member of the Managing Board of the Bar Association of Serbia, the term shall be confirmed to the next candidate for the relevant position who received the highest number of votes in the elections at the bar association whose representative’s term has ended, which shall be established based on the reports of the election commissions of the bar associations with the Bar Association of Serbia and the report of the Verification Commission of the Bar Association of Serbia. The term of office of the representative in the Assembly or member of the Managing Board of the Bar Association of Serbia elected subsequently in this manner

shall be confirmed by the Assembly of the Bar Association of Serbia, and shall last until the end of that election term.

If it is not possible to apply the provisions of this Article, the Managing Board shall call by-elections, which will be conducted in accordance with this Statute.

Article 78

The nominations shall be submitted within a period established by the Managing Board of the Bar Association of Serbia in its decision on calling the elections, provided that the period cannot be shorter than 30 days and longer than 45 days starting from the date of the decision on calling the elections.

From the first day of the period established for submitting the nominations until the day of establishing the candidate lists, the Election Commission shall meet continually. Administrative tasks for the Election Commission shall be performed by the Service of the Bar Association of Serbia, which shall act on the instructions of the Election Commission of the Bar Association of Serbia.

**5. Establishing the List of Candidates**

Article 79

The Election Commission shall check whether the requirements for nominating a candidate have been met and establish the lists of candidates no later than 10 days before the day of the electoral meeting of the Assembly of the Bar Association of Serbia. The candidates shall be listed in Cyrillic alphabetical order, by their surname, name and the bar association within the Bar Association of Serbia of which the candidate is a member. The lists of candidates shall be submitted for verification to the Managing Board of the Bar Association of Serbia.

The list of candidates established by the Election Commission shall contain more candidates than there are members of the bodies or offices for which the elections are conducted.

Should the Election Commission establish that a nomination does not meet the requirements prescribed in this Statute, it shall invite the nominator to remedy the identified deficiencies within three days of receipt of the written notification. If the nominator fails to remedy the identified deficiencies, the Election Commission of the Bar Association of Serbia shall make a decision rejecting the nomination.

An objection to the decision of the Election Commission of the Bar Association of Serbia rejecting the nomination may be filed within 48 hours of the day of receipt of the decision rejecting the nomination.

An objection to the decision of the Election Commission of the Bar Association of Serbia establishing the list of candidates may be filed within 48 hours of the day of its publication. The decision establishing the list of candidates shall be published on the website and the bulletin board of the Bar Association of Serbia, and it shall indicate the time of its publication.

The right to objections referred to in Paragraphs 4 and 5 shall be permitted to the nominator and the candidate.

The objections referred to in Paragraphs 4 and 5 of this Article shall be decided upon by the Managing Board of the Bar Association of Serbia within further 48 hours.

The decision by the Managing Board of the Bar Association of Serbia on the objections shall be final.

Article 80

The Election Commission of the Bar Association of Serbia shall be able to work in the presence of its Chairperson or Deputy Chairperson and more than a half of its members; it shall make valid decisions by a majority vote of the members present. Only members of the Election Commission may vote, or in the absence of a member, the deputy of the absent member of the Election Commission. Should the Chairperson of the Election Commission identify and warn of any deficiencies during the work of the Election Commission, and if those have not been remedied, the Chairperson of the Election Commission is authorised to immediately terminate the election procedure and order that an election activity or the entire election procedure be repeated, of which he/she shall notify the Managing Board and the Assembly of the Bar Association of Serbia. Following such a decision of the Chairperson of the Election Commission, the Deputy Chairperson and the members of the Election Commission shall not be able to proceed. Upon the decision of the Chairperson of the Election Commission, the Assembly of the Bar Association of Serbia shall make a decision on the further conduct of the elections.

No later than five days before the electoral meeting of the Assembly of the Bar Association of Serbia, the Election Commission shall submit verified lists of candidates to the representatives in the Assembly of the Bar Association of Serbia, the bar associations within the Bar Association of Serbia, and publish the lists on the website and the bulletin board of the Bar Association of Serbia, indicating the time of publication.

**6. The Election Materials**

Article 81

The election materials shall comprise:

1. the decision of the Managing Board of the Bar Association of Serbia on the commencement of the election procedure, the notification of the President of the Bar Association of Serbia on the commencement of the election procedure, and the decision on calling the elections;
2. the nominations;
3. the lists of candidates;
4. the verified lists of candidates;
5. the electoral roll;
6. any objections and decisions on the objections;
7. the ballot papers
8. the control sheets;

1. the records of the Election Commission establishing the voting results for each list of candidates;
2. the records of the Election Commission on the conduct of the election procedure and the voting results;
3. the report of the Verification Commission of the Bar Association of Serbia.

Article 82

The electoral roll shall contain surnames and names of the representatives in the Assembly of the Bar Association of Serbia whose term of office has been confirmed, listed by the bar associations within the Bar Association of Serbia and in Cyrillic alphabetical order by surname of representative.

No alterations of the electoral roll may be made on the day of the electoral meeting of the Assembly of the Bar Association of Serbia.

Article 83

Upon verification of the lists of candidates, the Election Commission of the Bar Association of Serbia shall prepare and validate the ballot papers.

The ballot paper shall contain: the date of the electoral assembly; the name of the body or office for which the elections are conducted; the ordinal number placed in front of the surname and name of the candidate; the surname and name of candidate in Cyrillic alphabetical order, indicating the bar association within the Bar Association of Serbia of which the candidate is a member; the note about the number of members or offices for which the voting is conducted by circling the ordinal number in front of the name of the candidate.

Article 84

The Election Commission shall establish the design, format and the number of ballot papers which must be equal to the number of voters entered in the electoral roll. The ballot papers shall be printed in one place under the supervision of the Election Commission of the Bar Association of Serbia; the ballots may be printed on watermarked paper.

The Election Commission shall validate the ballot papers by its seal. The shape and content of the seal shall be established by the Election Commission of the Bar Association of Serbia. The Chairperson of the Election Commission of the Bar Association of Serbia shall be responsible for the lawful use of the seal and the work of the Election Commission of the Bar Association of Serbia.

Article 85

The control sheet shall contain information about the date and place of the electoral meeting of the Assembly of the Bar Association of Serbia, and the title of the candidate list being voted for.

The records of handover of the election materials shall contain information about the individuals attending the handover and the specification of election materials being handed over.

Article 86

The election materials shall be kept for at least four years.

**7. The Electoral Meeting of the Assembly**

Article 87

The electoral meeting of the Assembly of the Bar Association of Serbia shall be convened by the incumbent President of the Bar Association of Serbia.

The electoral meeting of the Assembly of the Bar Association of Serbia shall be attended by the incumbent representatives in the Assembly of the Bar Association and the newly elected representatives in the Assembly of the Bar Association of Serbia.

The electoral meeting of the Bar Association of Serbia shall be chaired by the incumbent President of the Bar Association of Serbia until the term of office of the newly elected representatives has been confirmed, following which the meeting shall be chaired by the representative elected by public vote by the Assembly of the Bar Association of Serbia, until the new President of the Bar Association of Serbia has been elected.

At the electoral meeting of the Assembly of the Bar Association of Serbia, the incumbent representatives of the Assembly of the Bar Association of Serbia shall discuss and vote on the reports on the work of the incumbent bodies of the Bar Association of Serbia.

Article 88

The Verification Commission of the Bar Association of Serbia shall submit to the Assembly of the Bar Association of Serbia the report on the conduct of election procedure in the bar associations within the Bar Associations of Serbia for the positions of Assembly representatives and members of the Managing Board of the Bar Association of Serbia, and shall propose that the term of office of (all or some of) the representatives in the Assembly and the members of the Managing Board of the Bar Association of Serbia be confirmed.

Following the confirmation of term of office of the newly elected representatives in the Assembly of the Bar Association of Serbia at the electoral meeting of the Assembly of the Bar Association of Serbia, the incumbent Election Commission and the Managing Board of the Bar Association of Serbia shall report on the conduct of election procedure and the established lists of candidates.

**8. The Voting**

Article 89

The voting shall be conducted by ballot.

The voting is conducted exclusively by secret ballot.

The Election Commission/polling boards must not influence the voter’s decision in any manner.

Article 90

The Managing Board of the Bar Association of Serbia may, if appropriate, propose to the Assembly of the Bar Association of Serbia to conduct the voting and determine the voting results electronically, if the necessary technical requirements have been met, including adequate software, electronic voting ID cards, and the necessary equipment (computers, ID card readers, etc.).

Article 91

On the day of electoral meeting of the Assembly of the Bar Association of Serbia, the Election Commission of the Bar Association of Serbia shall establish whether the election materials have been prepared, whether such materials are complete, valid and compliant with the provisions of this Statute, and whether the conditions have been met to ensure secrecy of the ballot; the above findings shall be entered in the records of the work of the Election Commission.

Article 92

Before the commencement of voting, the Election Commission of the Bar Association of Serbia shall inspect the ballot boxes in the presence of the first voter, and shall enter the findings in the control sheet to be signed by the members of the polling board and the first voter. The control sheet signed in this manner shall be placed in the ballot box, whereupon the ballot box shall be sealed. The above procedure shall be registered in the records of the work of the Election Commission of the Bar Association of Serbia.

At the moment of opening the ballot box, the presence of control sheet therein shall be established. If there is no control sheet in the ballot box, the voting shall be repeated for that electoral list.

Article 93

The Election Commission of the Bar Association of Serbia shall establish the identity of the voter based on his/her personal identity card or attorney-at-law identification card, whereupon the ordinal number in front of the name of the voter shall be circled in the electoral roll. The Voter shall sign the electoral roll and take the ballot papers.

The voting is performed by circling the ordinal number in front of the surname of candidate. The voter shall vote for as many candidates as there are positions and offices to which members and officials are being elected.

The voter may vote only for the candidates listed on the ballot paper.

After the voting, the voter shall put the ballot paper into the ballot box made of transparent material and leave the polling station.

Article 94

During the voting, the Election Commission of the Bar Association of Serbia shall be responsible for the order at the polling station and ensure that the election procedure is conducted in accordance with the law and the Statute.

**9. Establishing the Voting Results**

Article 95

Upon completion of the voting, the Election Commission of the Bar Association of Serbia shall proceed with establishing the election results at the polling station. The ballot boxes must not be taken out of the room in which the voting took place until the final voting results have been established. The establishing of the voting results shall be conducted in the presence of members of the Election Commission of the Bar Association of Serbia, members of the polling board (if it has been established), and members of the Verification Commission of the Bar Association of Serbia.

Article 96

The Election Commission of the Bar Association of Serbia shall establish the number of unused ballot papers, place them in a separate envelope, and seal the envelope.

The number of voters shall be established based on the electoral roll.

Upon opening a ballot box and inspecting the control sheet, the valid ballot papers shall be separated from the invalid ones. An invalid ballot paper is a ballot paper that has not been taken over by the Election Commission, a ballot paper that has not been filled in, or has been filled in such a manner that it can not established with certainty which candidate the voter voted for, or a ballot paper on which a number of candidates exceeding the number of positions and offices to which members and officials are being elected has been circled.

If it has been established that the number of ballot papers in the ballot box exceeds the number of persons who voted, the voting shall be repeated for that electoral list.

Article 97

Upon establishing the voting results, the Election Commission of the Bar Association of Serbia shall make an official record in which it shall enter the information about the number of ballot papers received, the number of unused ballot papers, the number of invalid ballots, the number of valid ballots, the number of voters according to the electoral roll, the number of voters who took over the election materials, the number of persons who voted, and the number of votes given to each candidate.

Article 98

Duly elected are those candidates who have received the highest number of votes.

In case two or more candidates have received the same number of votes so that the election of members of the bodies or officials cannot be completed, the candidate with more years of experience in the capacity as an attorney-at-law as at the day of nomination shall be deemed elected.

Article 99

The Election Commission of the Bar Association of Serbia shall communicate the election results to the Assembly of the Bar Association of Serbia.

If, based on the election documents, the members of the Election Commission of the Bar Association of Serbia have identified irregularities that evidently affected the election results, they shall propose to the President of the Election Commission, and he/she, in turn, to the Assembly of the Bar Association of Serbia, that the voting be declared null and void.

The decision on repeating the election procedure shall be made by the Assembly of the Bar Association of Serbia.

Article 100

If the Election Commission of the Bar Association of Serbia has not identified any irregularities and has not proposed to the Assembly of the Bar Association of Serbia to declare the voting null and void, and following the report submitted by the Election Commission to the Bar Association of Serbia, the Verification Commission of the Bar Association of Serbia shall submit its report to the Assembly of the Bar Association of Serbia indicating that the elections have been conducted in accordance with the law and the Statute, and propose that the term of office of the elected individuals be confirmed.

Article 101

Any candidate, nominator and voter (representative in the Assembly of the Bar Association of Serbia) shall have the right to raise objections. An objection shall be lodged with the Verification Commission of the Bar Association of Serbia.

The Verification Commission shall decide on the objection immediately.

Article 102

After the objections have been decided on, the Assembly of the Bar Association of Serbia shall made a decision confirming the term of office of the newly elected officials and members of the bodies, based on the proposal of the Verification Commission of the Bar Association of Serbia.

Article 103

Any candidate, nominator and voter (representative in the Assembly of the Bar Association of Serbia) may file a complaint to the Administrative Court against the decision of the Assembly of the Bar Association confirming/not confirming the term of office, within 48 hours of the date of receipt of the decision.

Should the Administrative Court accept the complaint and declare an election activity or the entire elections null and void, the election procedure shall be repeated within 10 days of the date the decision of the Administrative Court’s decision has become final.

Article 104

If the number of representatives in the Assembly of the Bar Association of Serbia, or the number of members of the Managing Board of the Bar Association of Serbia, is reduced by more than one fourth, and if it is not possible to apply the relevant provisions of this Statute, by-elections shall be conducted in the manner and pursuant to the procedure envisaged in this Statute for regular elections.

Article 105

The term of office of a representative in the Assembly of the Bar Association of Serbia, or a member of a body of the Bar Association of Serbia elected in the by-elections shall terminate concurrently with the term of other representatives or members of the body elected for that term.

Should the term of office of a representative, a member of a body, or an official elected in the by-elections last less than two years, he/she shall not be deemed to have served that term.

**10. Termination of the Term of Office and Recall of Members of the Bodies and**

**Officials of the Bar Association of Serbia**

Article 106

The term of office of representatives in the Assembly of the Bar Association of Serbia, members of the bodies and officials of the Bar Association of Serbia shall terminate on the day of confirmation of the term of the newly elected representatives, members of the bodies and officials of the Bar Association of Serbia.

Article 107

The representatives of the bar associations in the Assembly of the Bar Association of Serbia, the President and Vice-President, the members of the Managing Board, the members of the Supervisory Board, the members of the disciplinary bodies, the Disciplinary Prosecutor and his/her deputies, the President, Vice-President and judges of the Disciplinary Court of the Bar Association of Serbia, shall be responsible for their work only to the Assembly of the Bar Association of Serbia, and may not be held responsible for expressed opinions and positions, if such opinions and positions are in accordance with the Constitution of the Republic of Serbia, the Legal Profession Act, the Statute of the Bar Association of Serbia and the Code of Professional Ethics of Attorneys-at-law.

The members of the bodies and officials of the Bar Association of Serbia shall act in accordance with the interests of the profession; they shall rely on their own judgement when making decisions and ensure that the decisions made by the bodies of which they are members or officials are observed and implemented.

Article 108

The term of office of a representative in the Assembly, a member of a body, or an official of the Bar Association of Serbia shall terminate before the end of the term to which he/she has been elected in the following cases:

* if he/she no longer has the status of bar association member;
* if he/she is deceased;
* if he/she has recalled;
* if he/she has resigned, and
* for other reasons.

Article 109

A representative in the Assembly or a member of a body of the Bar Association of Serbia can be recalled:

1. if he/she has not performed his/her duties for more than six months;
2. if absent without a valid reason from two consecutive meetings during his/her term;
3. if he/she fails to implement the conclusions and decisions of the bodies of the Bar Association of Serbia he/she is in charge of implementing;
4. if he/she does not inform the bar association of which he/she is a member about his/her work in the bodies of the Bar Association;
5. if his/her work and conduct harm the reputation of the Bar Association of Serbia and the legal profession;

Absence without a valid reason of a representative in the Assembly or a member of a body of the Bar Association of Serbia shall be considered a major breach of duty of an attorney-at-law.

Article 110

An official of the Bar Association of Serbia can be recalled:

1. if he/she fails to implement decisions, conclusions and orders of the bodies of the Bar Association of Serbia;
2. if his/her acts are not in conformity with decisions, conclusions and orders of the bodies of the Bar Association of Serbia;
3. if he/she does not inform the bodies of the Bar Association of Serbia about his/her work;
4. if his/her acts and conduct harm the reputation of the Bar Association of Serbia and the legal profession.

Article 111

The procedure for recalling a representative in the Assembly, or a member of a body of the Bar Association of Serbia can be initiated by:

1. the Assembly of the Bar Association of Serbia;
2. the body of the Bar Association of Serbia whose member is being recalled;
3. the bar association within the Bar Association of Serbia of which the individual being recalled is a member.

Representatives in the Assembly of the Bar Association of Serbia, members of the bodies and officials of the Bar Association of Serbia shall be recalled in accordance with the procedure envisaged for their election, as specified in this Statute.

Article 112

The Verification Commission of the Bar Association of Serbia shall monitor the legality of the procedure of recalling a representative in the Assembly or a member of the Managing Board of the Bar Association of Serbia and report thereon to the Bar Association of Serbia.

The Verification Commission of the Bar Association of Serbia shall warn the bar association within the Bar Association of Serbia of any violation of the provisions of the Statute of the Bar Association of Serbia.

A representative in the Assembly or a member of the Managing Board of the Bar Association of Serbia may not be recalled without an opinion obtained from the body of which the individual concerned is a member (i.e. the Assembly or the Managing Board of the Bar Association).

Should the assemblies of the bar associations within the Bar Association of Serbia fail to implement the procedure of recalling a representative in the Assembly or a member of the Bar Association of Serbia in accordance with this Statute, any decision on recalling the individual shall be null and void.

Upon discussing the report of the Verification Commission, the Assembly of the Bar Association of Serbia shall make a decision on the status of term of office of the representative in the Assembly or member of the Managing Board of the Bar Association of Serbia and shall notify thereof the bar association within the Bar Association of Serbia whose member is the representative in the Assembly or member of the Managing Board of the Bar Association of Serbia against which the recall procedure is initiated.

The Assembly of the Bar Association of Serbia shall make a decision on recalling the individual in question by an absolute majority vote – 50% plus one vote of the total number of representatives in the Assembly of the Bar Association of Serbia.

Article 113

The body initiating the procedure of recalling a member of a body or an official elected directly and exclusively by a secret vote of the representatives in the Assembly of the Bar Association, shall submit to the Assembly of the Bar Association of Serbia a written and reasoned proposal accompanied by the evidence corroborating the reasons for recalling the

representative in the Assembly, or the member of a body, or the official of the Bar Association of Serbia.

The Assembly of the Bar Association of Serbia shall establish the proposal of the decision on recalling the relevant individual, and the representatives in the Assembly shall decide on the proposal exclusively by a secret vote.

**11. Election of Candidates for the Positions of Elective Members of the High Judicial Council and the State Prosecutorial Council**

*11.1. The Procedure and Requirements for the Election of Candidates for the Positions of Elective Members of the High Judicial Council and the State Prosecutorial Council*

Article 114

An elective member of the High Judicial Council and the State Prosecutorial Council from the ranks of attorneys-at-law shall have at least 15 years of professional experience in the practice of law.

Article 115

The procedure of nominating candidates for the position of elective member of the High Judicial Council and/or the State Prosecutorial Council from the ranks of attorneys-at-law shall be organised and conducted by the Bar Association of Serbia in a manner ensuring the broadest representation of its members.

The decision establishing the nominations of candidates for the position of elective member of the High Judicial Council or the State Prosecutorial Council shall be made by the Managing Board of the Bar Association of Serbia.

Upon receipt of the decision on initiating the election procedure issued by the High Judicial Council and/or the State Prosecutorial Council, the Managing Board of the Bar Association of Serbia shall invite the bar associations within its composition to submit their nominations of candidates for these positions.

The public invitation to submit nominations of candidates for the position of elective member of the High Judicial Council and/or the State Prosecutorial Council shall be published by the Bar Association of Serbia, and the bar associations within their composition shall be notified thereof.

The right to nominate candidates for electoral members of the High Judicial Council and the State Judicial Council shall be vested in the bar associations within the Bar Association of Serbia and groups consisting of at least 20 attorneys-at-law.

In addition to the requirements envisaged by the Constitution of the Republic of Serbia and the Law on the High Judicial Council, and/or the Law on the State Prosecutorial Council, the nominated candidate shall meet the following requirements:

1. has served at least one term in the bodies of the Bar Association of Serbia or a bar association within the Bar Association of Serbia prior to the nomination;
2. has not been found responsible for any disciplinary violations in the period of 10 years preceding the nomination;
3. has not been found criminally responsible for an offence rendering him/her unfit for the practice of law;
4. is not a member of any body of a political party.

Article 116

The nomination for an elective member of the High Judicial Council and/or the State Prosecutorial Council shall contain:

1. curriculum vitae of the proposed candidate;
2. the certificate of professional status issued by the bar association within the Bar Association Serbia of which the proposed candidate is a member, indicating the professional status of the candidate and whether he/she has exercised the rights arising from retirement and disability insurance;
3. the certificate issued by the bar association within the Bar Association of Serbia of which the proposed candidate is a member, indicating that he/she has not been found responsible for any disciplinary violations in the period of 10 years preceding the nomination;
4. the statement of the candidate indicating that he/she is not a member of any body of a political party.

The Bar Association of Serbia shall *ex officio* obtain the report indicating that the proposed candidate has not been found guilty of a criminal offence.

Article 117

The list of candidates proposed for the position of elective member of the High Judicial Council and/or the State Prosecutorial Council shall be published in a suitable manner.

Article 118

The Managing Board of the Bar Association of Serbia shall elect the candidate for the position of elective member of the High Judicial Council and/or the State Prosecutorial Council by a secret majority vote.

Article 119

The Bar Association of Serbia shall submit to the National Assembly of the Republic of Serbia the list of candidates nominated for the position of elective member of the High Judicial Council and/or the State Prosecutorial Council.

*11.2. The Rights and Duties of Elective Members of the High Judicial Council and the State Prosecutorial Council from the Ranks of Attorneys-at-law*

Article 120

The elective members of the High Judicial Council and the State Prosecutorial Council from the ranks of attorneys-at-law shall have the following rights and duties:

1. to regularly inform the Managing Board of the Bar Association of Serbia about their work in these bodies and the issues of significance to the legal profession as a whole;
2. to collect information on the work of courts and judges, and/or the prosecutors and prosecutor’s offices in the territories of the bar associations within the Bar Association of Serbia and act in accordance with such information before the body of which he/she is a member.

Article 121

Failure of an elective member of the High Judicial Council and/or the State Prosecutorial Council from the ranks of attorneys-at-law to act in accordance with the provisions of Article 120 of this Statute constitutes grounds for initiating the procedure of his/her recall.

**12. The Responsibility of the Bar Association of Serbia and Its Bodies**

Article 122

In exercising its rights and duties, the Bar Association of Serbia shall be governed by the Constitution, the law, this Statute and by other regulations and agreements it has entered into.

Article 123

The bodies of the Bar Association of Serbia shall be responsible for their work to the Assembly of the Bar Association of Serbia.

Article 124

Members of the bodies and officials of the Bar Association of Serbia shall be responsible for their work to the Assembly of the Bar Association of Serbia.

Members of the bodies and officials of the Bar Association of Serbia shall act, speak and vote based on their own judgement, and they may not be held responsible for their expressed opinion or vote; no recall procedure may be initiated on such grounds by a bar association within the Bar Association of Serbia.

In exercising their rights and duties, members of the bodies and officials of the Bar Association of Serbia shall act in accordance with the Constitution, the law, this Statute and other general by-laws of the Bar Association of Serbia with the view to protecting and promoting independence of the legal profession.

Article 125

The President of the Bar Association of Serbia shall suspend the implementation of any decision of the Managing Board of the Bar Association of Serbia he/she deems unlawful until the next meeting of the Managing Board of the Bar Association of Serbia.

V. PUBLIC POWERS

Article 126

The Bar Association of Serbia shall exercise public powers directly through its bodies and the bodies of bar associations within its composition.

The bar associations within the Bar Association of Serbia, in the capacity as first-instance bodies, shall exercise the public powers entrusted to them by the Law and this Statute through their respective bodies.

Article 127

The Bar Association of Serbia and the bar associations within its composition shall have the following public powers:

1. to make decisions concerning requests for entry in the Directory of Attorneys-at-Law, the Directory of Joint Law Offices, Registers A and B of attorneys-at law, the Directory of Law Trainees, and the Directory of Law Trainees – Volunteers;

This list will need to include the register of established EU lawyers.

1. to make decisions on requests for entry, deletion and cancellation of registration in the Directory of Law Partnerships, on requests to change the seat of the partnership, and on the manner of keeping the Directory of Law Partnerships;
2. to decide on requests for a temporary leave of absence from the practice of law;
3. to decide on requests to continue the practice of law after the temporary leave of absence;
4. to make decisions on a temporary prohibition from practicing law;
5. to appoint a temporary replacement who will take over the law office;
6. to decide on initiating and conducting disciplinary proceedings against attorneys-at-law or law trainees, as well as on their disciplinary responsibility and imposition of disciplinary measures;
7. to establish the content and the manner of keeping the directories referred to in Items 1) and 2) of this Paragraph, as well as the uniform manner of their maintenance for the entire territory of the Republic of Serbia;
8. to maintain the directories referred to in Item 1) of this paragraph;
9. to issue and extend the validity of official identification cards of attorneys-at-law and law trainees;
10. to adopt the program of and plan the organisation and the manner of taking attorney exams;
11. to adopt the Code;
12. to adopt the Tariff;

See previous comments about the application of competition law to the tariff. Decisions will have

to be made about what to do about the tariff.

1. to establish the amount of fee payable for registration in the Directory of Attorneys-at-Law;

See previous comment about the application of competition law to the registration fee if it is

considered an obstacle to access to the profession and does not reflect the real costs of the bar in

providing admission.

1. to establish the amount of regular fees payable to the competent bar association in its territory.

The same comment as the one above applies to this fee.

Article 128

The Bar Association of Serbia shall be exclusively authorised to directly exercise the following public powers:

1. to make decisions on requests for entry, deletion and cancellation of registration in the Directory of Law Partnerships, on requests to change the seat of the partnership, and on the manner of keeping the Directory of Law Partnerships;
2. to prescribe the content and establish the manner of keeping the directories, as well as the uniform manner of their maintenance for the entire territory of the Republic of Serbia;
3. to adopt the program of and plan the organisation and the manner of taking attorney exams;
4. to adopt the Code;
5. to adopt the Tariff;

Again, the same comments about the tariff.

1. to establish the amount of fee payable for registration in the Directory of Attorneys-at-Law.

Again, the same comments about the fee.

In its capacity as the second-instance body, the Bar Association of Serbia shall also exercise the following public powers:

1. decide on requests for entry in the Directory of Attorneys-at-Law, the Directory of Joint Law Offices, Registers A and B of attorneys-at-law, the Directory of Law Trainees, and the Directory of Law Trainees – Volunteers;

Again, the same comments about a register for established EU lawyers.

1. decide on requests for a temporary leave of absence from the practice of law;
2. decide on requests to continue the practice of law after the temporary leave of absence;
3. decide on a temporary prohibition from practicing law;
4. appoint a temporary replacement who will take over the law office;
5. decide on initiating and conducting disciplinary proceedings against attorneys-at-law or law trainees, as well as on their disciplinary responsibility and imposition of disciplinary measures;

I mentioned at the beginning about the need for the definition of ‘attorneys-at-law’ to include

also registered EU lawyers. This is a good example of where the power needs to be extended also

to registered EU lawyers, and why a general definition at the beginning may be the easiest way of

coping with these references.

1. keep the directories referred to in Item 1) of this Paragraph;
2. issue and extend the validity of official identification cards of attorneys-at-law and law trainees;
3. establish the amount of regular fees payable to the competent bar association in its territory.

Again, the fee.

Article 129

The bar associations within the Bar Association of Serbia shall exercise the following public powers in the capacity as the first-instance bodies:

1. decide on requests for entry in the Directory of Attorneys-at-Law, the Directory of Joint Law Offices, Registers A and B of attorneys-at-law, the Directory of Law Trainees, and the Directory of Law Trainees – Volunteers;

This list will need to include the register of established EU lawyers.

1. decide on requests for a temporary leave of absence from the practice of law;
2. decide on requests to continue the practice of law after the temporary leave of absence;
3. decide on a temporary prohibition from practicing law;
4. appoint a temporary replacement who will take over the law office
5. decide on initiating and conducting disciplinary proceedings against attorneys-at-law or law trainees, as well as on their disciplinary responsibility and imposition of disciplinary measures;
6. keep the directories referred to in Item 1) of this Paragraph;
7. issue and extend the validity of official identification cards of attorneys-at-law and law trainees;
8. establish the amount of regular fees payable to the competent bar association in its territory.

Again, the fee.

Article 130

Directories of attorneys-at-law, joint law offices, law partnerships, and registers A and B of attorneys-at-law who are foreign nationals shall be public books.

This list will need to include the register of established EU lawyers.

Excerpts from these directories and certificates issued based on the data contained therein shall be public documents.

Article 131

In exercising their public powers and in conducting proceedings and deciding about rights, obligations or legal interests, the Bar Association of Serbia and the bar associations within its composition shall be governed by the provisions of the law regulating the general administrative procedure.

**1. Registration in the Directory of Attorneys-at-Law**

Article 132

The right to practice law shall be acquired based on a decision on entry in the Directory of Attorneys-at-Law and by taking the attorney’s oath.

The procedure for exercising the right to practice law shall be initiated by a written request of a candidate to be registered in the Directory of Attorneys-at-Law submitted to the bar association within the Bar Association of Serbia in whose territory the seat of the candidate’s law office will be established.

The procedure of registration in the Directory of Law Partnerships shall be initiated by a written request of the founders – members of a law partnership, submitted to the Bar Association of Serbia.

(1) Who must be registered in the directory?: These are the ways that an EU lawyer will, on accession, be able to practise in Serbia, and so be registered:

(i) the EU lawyer who is practising under home country title while established in Serbia under 98/5/EC;

(ii) the EU lawyer who has gained access to the Serbian title under either:

(a) the Professional Qualifications Directive (2005/36/EC) by taking an aptitude test or undergoing a period of adaptation; and

(b) the Establishment Directive (98/5/EC) Article 10, by being established in Serbia for three years (this lawyer will already be registered as an EU lawyer, but will move from the European register to the register of local lawyers).

The lawyer in (i) is not a Serbian lawyer, and will have to be registered on the European list mentioned above – that lawyer is dealt with in (2) immediately below. The lawyer in (ii) has become a Serbian lawyer through the fast-access routes permitted by the two directives, and will have to be registered on the existing list of Serbian lawyers, but without most of the conditions (for instance, 1) – 4) and 9) etc.) mentioned in the list of conditions below. The two routes will be described under Article 13.

(2) Conditions for registering EU lawyers practising under home title: there are conditions for registering European lawyers who practise under home title, which are different to those listed here, and those listed under foreign lawyers. There are very few conditions, and they will have to be listed in the Act – see Article 3 para 2 (98/5/EC):

*‘The competent authority in the host Member State shall register the lawyer upon presentation of a certificate attesting to his registration with the competent authority in the home Member State. It may require that, when presented by the competent authority of the home Member State, the certificate be not more than three months old. It shall inform the competent authority in the home Member State of the registration.*’

Beyond this basic requirement of a certificate from the home bar, there are four more which are implied by other provisions of the directive:

1. the person must be an EU national

2. the person must be a lawyer with one of the listed titles

3. the person must have valid professional indemnity insurance

4. the person must not be practising within a forbidden legal structure

It is not permitted to go beyond those conditions and add more (such as Serbian nationality, general health and full working capacity etc. – see, for instance, Case 506/04 *Graham J. Wilson v. Ordre des avocats du barreau de Luxembourg* (19 September 2006).

(3) Consequences of different conditions for local and European lawyers: If you keep the conditions below for just Serbian lawyers, it will be more difficult for a Serbian lawyer to gain registration on the local list than for a European lawyer. Member States which have had such stricter conditions for their own lawyers have found that their nationals migrate to another Member State to qualify, and then come back to register as a European lawyer in their home state, thus undermining the local list (forum shopping) – see, for instance, (Case C‑118/09) *Koller*. Therefore, it is wise – but not compulsory - to ensure that access to the local list and to the European list is subject to broadly similar conditions.

(4) Services directive: Article 16 of the Services Directive (2006/36/EC) forbids No. 9) below to be used against EU lawyers coming into Serbia when it is a member of the EU, because among the prohibitions is:

‘*a ban on the provider setting up a certain form or type of infrastructure in their territory, including an office or chambers, which the provider needs in order to supply the services in question*;’

(5) Competition law: Consideration should also be given to the question of EU competition law. Access to the profession cannot contain unjustifiable obstacles which prevent the number of lawyers increasing, so reducing the competition to existing lawyers. The only one below which I believe may cause a problem is No. 9), which makes it a pre-condition to have a convenient workspace – this may be seen as an unjustifiable obstacle for young, poorly resourced candidates. It is already banned – see above – for incoming lawyers from other Member States, and so may be struck down as anti-competitive even among Serbian lawyers. This is particularly the case now when a lawyer can practise fully from a lap-top anywhere in the world. Another issue which may cause a problem is the fee which has to be paid by a candidate for the Bar to become a member, particularly if the fee goes beyond the actual administrative cost of the procedure for admitting someone to membership – it may also be then be considered an anti-competitive obstacle to widening membership.

(6) Serbian lawyers migrating: All the above – and most of the comments throughout the document - relate to EU lawyers coming into Serbia. But Serbian lawyers will have the right to provide temporary services and establish law offices in another Member State. This right is guaranteed to them by the Treaty, and cannot be prevented by local measures. There are rules which will have to change accordingly if a Serbian lawyer is to take advantage of the directive and practise freely in another Member State – for instance, No 9) below which requires a lawyer to have an office in Serbia at all (since a lawyer should be able to stay on the register if he or she practises abroad without an office in the home state), Article 27, which forbids a lawyer from having more than one office, and possibly Article 37 if it implies that the lawyer practising elsewhere in the EU (and not in Serbia) is obliged to take out insurance nevertheless in Serbia.

Article 133

Unless otherwise stipulated by the Legal Profession Act, the conditions for issuing a decision on entry in the Directory of Attorneys-at-Law shall comprise the following:

1. a law degree obtained from a law school in the Republic of Serbia, or a law degree obtained abroad and recognised in accordance with the regulations governing university education;
2. the judicial exam and attorney at law exam passed in the Republic of Serbia;
3. the citizenship of the Republic of Serbia;
4. general health and full legal capacity to act;
5. that the candidate is not employed;
6. that the candidate has not been found guilty of a criminal offence rendering him/her unfit for the practice of law;
7. that the candidate has not been registered for performing any other independent business activity; or that he/she does not act in the capacity as a statutory representative, a director or chairperson of the board of directors of a legal entity, a member or chairperson of the executive board of a bank, a representative of the state funds, an administrative receiver, a procurator or a person whose employment contract prevents competition;
8. that the candidate is worthy of practicing law;
9. that the business premises appropriate for practicing law have been ensured and that the technical requirements have been met in accordance with the relevant by-law of the Bar Association of Serbia;
10. that at least three years have passed since the final decision on rejecting the request for entry in the Directory of Attorneys-at-Law made by any of the bar associations within the Bar Association of Serbia, if the candidate had previously submitted a request that was rejected.

A candidate whose life and work suggest, based on the generally accepted ethical norms and the Code, that he/she will not practice law in good faith and that he/she will not protect the reputation of the legal profession, shall be considered unfit for the practice of law.

It is within the discretion of the relevant bar association to assess whether the conditions for entry in the Directory of Attorneys-at-Law referred to in Paragraph 1, Items 6) and 8) of this Article have been met.

Article 134

In addition to the request for entry, the candidate shall be required to submit evidence and data confirming that the following conditions stipulated by the Legal Profession Act have been met:

1. the birth certificate;
2. the certificate of citizenship of the Republic of Serbia;
3. the diploma obtained from a law school or the graduation certificate;
4. the certificate of passed judicial exam;
5. the certificate of passed attorney exam;
6. the court certificate confirming that no criminal proceedings is being conducted against the candidate;
7. the certificate of the social welfare centre confirming that the candidate has the required legal capacity to act;
8. a doctor’s certificate confirming the candidate’s general health;
9. a copy of ID card;
10. the certificate confirming that the candidate has terminated his/her employment contract or a statement that he/she will terminate his/her employment contract;

1. a statement that the candidate has not been registered for performing any other independent business activity; or that he/she does not act in the capacity as a statutory representative, a director or chairperson of the board of directors of a legal entity, a member or chairperson of the executive board of a bank, a representative of the state funds, an administrative receiver, a procurator or a person whose employment contract prevents competition;
2. the certificate of the candidate’s previous employer indicating whether any disciplinary proceedings have been initiated against the candidate, and if so, the time and type of violation of duty and the disciplinary measure imposed against the candidate;
3. two photographs.

The bar association shall obtain *ex officio* the following evidence confirming that the conditions stipulated in Article 6, Paragraph 1 of the Legal Profession Act have been met:

1. that the candidate has not been found guilty of a criminal offence rendering him/her unfit for the practice of law;
2. that the candidate is worthy of the practice of law;
3. that at least three years have passed since the final decision on rejecting the request for registration in the Directory of Attorneys-at-Law made by any of the bar associations within the Bar Association of Serbia, if the candidate had previously submitted a request that was rejected;
4. the opinion of the bar association within the Bar Association of Serbia in whose territory the candidate has performed his/her professional activity before submitting the request for registration in the Directory of Attorneys-at-Law;

At the request of a bar association, legal entities and state and judicial authorities and organisations are required, pursuant to the Legal Profession Act, to provide the bar association with complete and accurate data about the candidate, which the bar association needs in order to establish whether the conditions defined in Article 6 of the Legal Profession Act have been met.

Article 135

A requests submitted for entry in the Directory of Attorneys-at-Law shall be recorded at the first meeting of the managing board of the relevant bar association and its members shall be notified thereof and called to submit written and reasoned objections or proposals concerning the submitted requests, if any.

The registration deadline shall begin on the date of the meeting of the managing board at which the relevant request was recorded.

The body deciding on the registration can interview the candidate requesting registration and ask him/her to clarify certain facts; in case there are any objections concerning his/her request, the body deciding on the registration shall inform the candidate thereof and provide him/her with an opportunity to submit his/her position on such objections within eight days.

The person who has submitted the request for entry in the Directory of Attorneys-at-Law may attend the meeting of the managing board at which the decision shall be made on his/her

request and provide the necessary oral explanations or proposals upon approval of the chairperson.

The public shall be excluded from the discussion and voting procedure concerning requests for entry in the Directory of Attorneys-at-Law.

Article 136

The bar association may postpone the decision-making concerning the request until the final decision has been made in the criminal proceedings if the candidate has been accused of a criminal offence rendering him/her unfit for the practice of law.

If the candidate meets the conditions stipulated in Article 6, Paragraph 1 of the Legal Profession Act, the bar association shall make a decision on his/her registration in the Directory of Attorneys-at-Law.

The bar association shall reject the request for entry in the Directory of Attorneys-at-Law submitted by a candidate who does not meet the conditions stipulated in Article 6, Paragraph 1 of the Legal Profession Act.

The bar association shall immediately inform the Bar Association of Serbia and all the other bar associations within its composition about the decision referred to in Paragraph 3 of this Article.

Article 137

The managing board shall decide on the request for entry in the Directory of Attorneys-at-Law within the deadline that cannot exceed 60 days from the day of submission of the request.

If the managing board fails to decide on the request for registration within 60 days, the candidate can file a complaint to the Managing Board of the Bar Association of Serbia.

The managing board of the bar association within the Bar Association of Serbia or the Managing Board of the Bar Association of Serbia shall cancel the registration if it is subsequently established that the prescribed conditions for registration were not met.

A complaint may be filed with the Managing Board of the Bar Association of Serbia against the decision of the managing board of the bar association within the Bar Association of Serbia, by which the request for registration was rejected or by which the registration of a candidate in the Directory of Attorneys-at-Law of the bar association within the Bar Association of Serbia was cancelled, within 15 days of the day of receipt of the decision.

The complaint shall be submitted in two copies to the bar association within the Bar Association of Serbia, which made the decision in the first instance.

The decision on the complaint shall be made by the Managing Board of the Bar Association of Serbia.

An administrative lawsuit may be initiated against the final decision of the Managing Board of the Bar Association of Serbia.

Article 138

The bar association shall enable the candidate to take the attorney’s oath within 30 days of the date of decision on his/her registration in the Directory of Attorneys-at-Law, provided that the candidate has paid the costs of registration; in the case of a foreign national, the candidate is also required to submit the professional liability insurance contract executed in the Republic of Serbia.

The attorney’s oath shall be taken before the president of the bar association or the person authorised by the president.

The attorney’s oath shall read as follows:

“I solemnly swear that I will discharge the duties of an attorney in good faith, that I will abide by the Constitution, laws and other regulations, including the statute of the bar association and the Code of Professional Ethics of Attorneys-at-Law, and that I will protect the reputation of the legal profession through my acts and conduct.”

Following the verbal taking of the oath, the candidate shall sign the solemn statement containing the text of the oath.

The EU directives say nothing about requiring EU lawyers to take an oath. It may be that, since it is not mentioned in the directive, the requirement of taking an oath for an EU lawyer would be struck down by the court, even though the wording seems to me quite unobjectionable.

Article 139

The candidate who was employed before submitting the request for registration in the Directory of Attorneys-at-Law shall, before taking the oath, provide evidence confirming that he/she has terminated the employment contract, that he/she has entered into a professional liability insurance contract, as well as proof of payment of the prescribed registration fee.

Article 140

The bar association shall make the decision on entry in the Directory of Attorneys-at-Law and issue the attorney-at-law identification card to the candidate on the day he/she has taken the oath.

The attorney-at-law identification card shall serve as proof of the status of attorney-at-law.

The attorney-at-law identification card shall contain the name and surname of the attorney-at-law, his/her personal number or unique identification number (JMBG), his/her photograph, ordinal number and the date, month and year of his/her registration in the Directory of Attorneys-at-Law, as well as other data of importance for establishing the status of attorney-at-law envisaged by the relevant general by-law of the Bar Association of Serbia.

(1) EU lawyers identifying information: There are provisions in the directive regarding information relating to EU lawyers – Article 4 paras 1 and 2 (98/5/EC):

‘*1. A lawyer practising in a host Member State under his homecountry professional title shall do so under that title, which must be expressed in the official language or one of the official languages of his home Member State, in an intelligible manner and in such a way as to avoid confusion with the professional title of the host Member State.*

*2. For the purpose of applying paragraph 1, a host Member State may require a lawyer practising under his home-country professional title to indicate the professional body of which he is a member in his home Member State or the judicial authority before which he is entitled to practise pursuant to the laws of his home Member State. A host Member State may also require a lawyer practising under his homecountry professional title to include a reference to his registration with the competent authority in that State.*’

It seems obvious that Serbia should choose to exercise this right.

(2) ID cards: Regarding ID cards in general, the CCBE issues ID cards for European lawyers – see <http://www.ccbe.eu/index.php?id=30&L=0>. This is particularly useful in being more easily recognised across borders. Many Member States now use the CCBE card as their own national identity card, with the local bar information on one side, and the CCBE information on the other. Some bars use their cards to carry electronic information about their lawyers, which can be used on national electronic systems to access court files, say.

**2. Registration in the Directory of Joint Law Offices**

Article 141

Two or more attorneys-at-law may establish a joint law office by entering into a contract regulating their mutual business and property relations.

The contracting parties shall submit to the competent bar association the contract referred to in Paragraph 1 of this Article and the request for entry in the Directory of Joint Law Offices, within 15 days of the conclusion of the contract.

All attorneys-at-law from a joint law office shall have the same seat of office in the Republic of Serbia.

The joint law office should have a plaque displayed, containing the title “*Zajednička* *advokatska kancelarija*” and the name of the joint law office, in accordance with thememorandum of association of the joint law office and this Statute.

The name of the joint law office shall contain only the surname(s) of one, more or all members of the joint law office.

The joint law office shall not have the status of legal entity.

The joint law office shall dissolve by mutual agreement, or if only one attorney-at-law remains therein.

Joint practice must be open to EU lawyers as well (Article 11 of 98/5/EC):

‘*Where joint practise is authorised in respect of lawyers carrying on their activities under the relevant professional title in the host Member State, the following provisions shall apply in respect of lawyers wishing to carry on activities under that title or registering with the competent authority:*

*(1) One or more lawyers who belong to the same grouping in their home Member State and who practise under their home-country professional title in a host Member State may pursue their professional activities in a branch or agency of their grouping in the host Member State. However, where the fundamental rules governing that grouping in the home Member State are incompatible with the fundamental rules laid down by law, regulation or administrative action in the host Member State, the latter rules shall prevail insofar as compliance therewith is justified by the public interest in protecting clients and third parties.*

*(2) Each Member State shall afford two or more lawyers from the same grouping or the same home Member State who practise in its territory under their home-country professional titles access to a form of joint practice. If the host Member State gives its lawyers a choice between several forms of joint practice, those same forms shall also be made available to the aforementioned lawyers. The manner in which such lawyers practise jointly in the host Member State shall be governed by the laws, regulations and administrative provisions of that State.*

*(3) The host Member State shall take the measures necessary to permit joint practice also between:*

*(a) several lawyers from different Member States practising under their home-country professional titles;*

*(b) one or more lawyers covered by point (a) and one or more lawyers from the host Member State.*

*The manner in which such lawyers practice jointly in the host Member State shall be governed by the laws, regulations and administrative provisions of that State.*

*(4) A lawyer who wishes to practise under his home-country professional title shall inform the competent authority in the host Member State of the fact that he is a member of a grouping in his home Member State and furnish any relevant information on that grouping*.’

Article 11 (1) above makes clear that Serbia may have to allow forms of joint practice by EU lawyers other than the ones currently permitted under Serbian law to Serbian lawyers. EU lawyers are allowed to continue to practise in their home joint practices in Serbia, and it is only when the fundamental rules governing that grouping in the home Member State are incompatible with the fundamental rules laid down by law, regulation or administrative action in Serbia that Serbian law can prevail - but provided that compliance with Serbian law is justified by the public interest in protecting clients and third parties. Given the EU’s reluctance to see restrictions on legal forms – see Article 15 of the Services directive (2005/36/EC) already quoted – that is a tough test. So, for instance, limited liability partnerships are almost certain to be permitted to cross borders under EU law. And if they are to be permitted to EU lawyers practising in Serbia, the question will arise whether they should also be allowed to Serbian lawyers. In any case, if Serbian lawyers are to be able to compete with incoming EU lawyers for the big-ticket work with possible liabilities running into many millions of euros, limited liability partnerships may be the only way to even out the playing field for Serbian lawyers.

Of great interest also to Serbian bars is Article 11(5), which deals with the ability of EU lawyers who are in joint practice with non-lawyers to practise in Serbia. Essentially, Article 11 (5) gives the power to the Serbian government to ban such structures from entering Serbia, but this is hedged around with conditions. The CCBE has issued guidance on the interpretation of Article 11 (5):

<http://www.ccbe.eu/fileadmin/user_upload/NTCdocument/EN_12092014_EN_CCBE_1_1412929215.pdf>

Article 142

The managing board of the bar association in whose territory the seat of the joint law office will be established shall decide in the first instance on the request for entry in the Directory of Joint Law Offices.

Article 143

In case a party to the memorandum of association of the joint law office has the seat of his/her office outside the seat of the joint law office, he/she shall submit a request to have the seat of the office moved to the seat of the joint law office along with the request for entry into the directory of joint law offices.

Article 15 para 2 of the Services directive (2006/36/EC) requires a Member State to evaluate in the light of fixed criteria – non-discrimination, proportionality and necessity - the following, which may apply to 3) and 4) above:

*(e) a ban on having more than one establishment in the territory of the same State;*

In addition, Article 15 para 2 (b) will require the Serbian government to evaluate the restriction on current legal forms in general for law firms:

*(b) an obligation on a provider to take a specific legal form;*

Article 144

A joint law office shall have its seal containing the title “*Zajednička advokatska kancelarija*” and the name and address of the seat of the joint law office, in accordance with the memorandum of association and this Statute.

Any attorney-at-law being a member of a joint law office shall use his/her own seal along with the seal referred to in Paragraph 1 of this Article.

The joint law office shall have one seat in the Republic of Serbia.

Article 15 para 2 of the Services directive (2006/36/EC) requires a Member State to evaluate in the light of fixed criteria – non-discrimination, proportionality and necessity - the following, which may apply to 3) and 4) above:

*(e) a ban on having more than one establishment in the territory of the same State;*

Article 145

The power of attorney may be given to individual members or all the members of the joint law office.

Article 146

During a suspension or dormancy of rights and duties of individual members of the joint law office, no power of attorney containing the names of such members shall be given to a client for signature.

Article 147

Members of a joint law office shall notify the Bar Association of termination of work and status and personnel changes within 8 days of the date of the change.

1. **Registration in the Directory of Law Partnerships** 
   1. *Establishment*

Article 148

Two or more attorneys-at-law may establish a law partnership.

The law partnership shall have the status of legal entity.

The law partnership shall be established by a contract, which shall contain the following provisions in addition to the requirements prescribed in Article 47 of the Legal Profession Act:

1. the name and the seat of the law partnership;
2. the names of all members of the law partnership;
3. the provision on legal representation of the law partnership;
4. specification of type and value of contributions of the members of the law partnership;

The name of the law partnership shall be in accordance with the Legal Profession Act, this Statute and the Code of Professional Ethics of Attorneys-at-Law.

The law partnership shall be liable for its obligations with all its assets.

The members of the law partnership shall also be liable for the obligations of the law partnership with all their assets.

*3.2. The Conditions and Procedure for Registration in the Directory of Law Partnerships*

Article 149

Based on the request submitted to the Bar Association of Serbia, the law partnership shall be entered in the Directory of Law Partnerships kept by the Bar Association of Serbia for the entire territory of the Republic of Serbia under the following conditions:

1. that the memorandum of association of the law partnership is in accordance with the provisions of Article 47 of the Legal Profession Act;
2. that all members of the law partnership are attorneys-at-law registered in the directory of the same bar association within the Bar Association of Serbia, and that all of them have the same seat of office;

See above about the application of EU law to a single seat requirement.

1. that the law partnership has business premises suitable for the legal profession in such a form of work;

Services directive: Article 16 of the Services Directive (2006/36/EC) forbids No. 3) above to be used against EU lawyers coming into Serbia when it is a member of the EU, because among the prohibitions is:

‘*a ban on the provider setting up a certain form or type of infrastructure in their territory, including an office or chambers, which the provider needs in order to supply the services in question*;’

Competition law: Consideration should also be given to the question of EU competition law for the application of the above to Serbian lawyers themselves. Access to the profession cannot contain unjustifiable obstacles which prevent the number of lawyers increasing, so reducing the competition to existing lawyers. No. 3) makes it a pre-condition to have a convenient workspace – this may be seen as an unjustifiable obstacle for young, poorly resourced candidates. It is already banned – see above – for incoming lawyers from other Member States, and so may be struck down as anti-competitive even among Serbian lawyers. This is particularly the case now when a lawyer can practise fully from a lap-top anywhere in the world.

1. that the partnership has paid the specified registration fees to the Bar Association of Serbia;

1. that the members of the law partnership have entered into a professional liability insurance contract in accordance with the provisions of Article 37 of the Legal Profession Act and this Statute;
2. that each member of the law partnership has paid his/her dues to the bar association within the Bar Association of Serbia at which he/she has hitherto been registered in the directory of attorneys-at-law;
3. that no disciplinary proceedings for a major violation of duty and honour of the legal profession have been instituted against any of the members of the law partnership;
4. that no member of the law partnership has been temporarily prohibited from engaging in the practice of law, or granted a temporary leave of absence from the practice of law;
5. that the members of the law partnership have provided the founding contributions.

The law partnership shall obtain the right to engage in the practice of law by entry in the directory of law partnerships of the Bar Association of Serbia.

Article 150

Before making the relevant decision, the Managing Board of the Bar Association of Serbia shall obtain the data from the official records of the bar association within the Bar Association of Serbia concerning the professional status of the members of the law partnership.

Article 151

In case a party to the memorandum of association of the law partnership has the seat of his/her office outside the seat of the law partnership, he/she shall submit a request to have the seat of the office moved to the seat of the law partnership along with the request for entry into the Directory of Law Partnerships.

See above about the application of EU law to a single seat requirement.

Article 152

A law partnership shall have its seal containing the name of the law partnership and the address of the seat of the law partnership, in accordance with the memorandum of association and this Statute.

Any attorney-at-law being a member of a law partnership shall use his/her own seal along with the seal referred to in Paragraph 1 of this Article.

Article 153

The power of attorney may be given to individual members or all the members of the law partnership.

Article 154

Prior to deciding whether the conditions for registering a law partnership in the Directory of Law Partnerships have been met, the Bar Association of Serbia shall obtain a certificate

containing the data kept by the bar associations within its composition, and proof that the business premises designated as the seat of the law partnership meet the necessary technical requirements.

See above about the application of EU law to the requirement to have adequate office premises.

Article 155

The Managing Board of the Bar Association of Serbia shall decide whether the conditions for entry in the Directory of Law Partnerships of the Bar Association of Serbia have been met after it has received evidence that a professional liability insurance contract has been concluded and that the prescribed fees have been paid, whereupon it shall make a decision on registering the law partnership in the Directory of Law Partnership and issue official identifications cards to the attorneys-at-law being the founders of the law partnership, containing the following data: the business name and seat of the law partnership; date and place of establishing the law partnership; the file number of the law partnership in the Bar Association of Serbia, the registration number of the law partnership in the unique statistical registry; the name and surname of the attorney-at-law, and the indication whether the member of the law partnership is a founder or an employee thereof in accordance with Article 21 of the Legal Profession Act.

Article 156

A decision on the registration in the Directory of Law Partnerships made by the Managing Board of the Bar Association of Serbia in the administrative procedure shall be final.

An administrative lawsuit may be initiated against the decision rejecting the request for registration in the Directory of Law Partnerships made by the Managing Board.

*3.3. Reporting and Registering Changes in Law Partnerships*

Article 157

A law partnership shall notify the Bar Association of Serbia of any status-related and other change, within 8 days of the change.

Any change referred to in Paragraph 1 of this Article shall be registered by the Bar Association of Serbia in the Directory of Law Partnerships, including the following:

1. the fact that a contract on joining the law partnership has been executed, containing all the provisions referred to in Article 47, Paragraph 2, of the Legal Profession Act, in case the law partnership is being joined by a new member;
2. the fact that an agreement on withdrawal of a member of the law partnership has been signed, in case a member is withdrawing from the law partnership;
3. the fact that the law partnership has changed its seat.

Along with the request for registering the change in law partnership, the law partnership shall submit to the Bar Association of Serbia proof of payment of the fees prescribed for registering the change.

*3.4. Law Partnership Office*

Article 158

A law partnership may have only one seat in the Republic of Serbia, and it may not have branch offices in the country.

See above about the application of EU law to a single seat requirement (both in Serbia and abroad).

A law partnership shall have a plaque displayed, containing the title “*Advokatsko ortačko* *društvo*” and the name of the law partnership in accordance with the memorandum ofassociation, the Statute of the Bar Association of Serbia and the Code of Professional Ethics of Attorneys-at-Law.

*3.5. Law Partnership Dissolution*

Article 159

The Bar Association of Serbia shall cancel the registration if it is subsequently established that the conditions for registration did not exist under Article 48, Paragraph 1, of the Legal Profession Act.

A law partnership shall be deleted from the Directory of Law Partnerships in the following cases:

1. if a bankruptcy or liquidation procedure has instituted, the law partnership shall be deleted from the Directory on the day the decision on the completion of such procedure has become final;
2. in case the law partnership has not practiced law for a continuous period exceeding six months;
3. if the law partnership has engaged in another activity besides the legal practice;
4. if the number of members of the law partnership no longer meets the requirements for establishing a law partnership referred to in Article 47, Paragraph 1, of the Legal Profession Act, counting the members granted provisional leave of absence, and the members against whom the measure of temporary prohibition from engaging in the practice of law has been imposed;
5. if it has been established that the law partnership has a branch office in the Republic of Serbia;

See above about the application of EU law to a single seat requirement.

The right of a law partnership to exercise the legal profession shall cease upon deletion from the Directory of Law Partnerships.

Following the deletion of a law partnership from the Directory of Law Partnerships, the members of the law partnership shall regain the status they had prior to establishing the law partnership.

*3.6. Application of the Relevant Regulations*

Article 160

The work of law partnership shall be governed by the provisions contained in the memorandum of association of the law partnership, the relevant laws, and this Statute, unless otherwise provided in the Legal Profession Act.

The rights and duties of attorneys-at-law envisaged by the law shall also apply to the attorneys-at-law being members of law partnerships.

*3.7. The Directory of Law Partnerships*

Article 161

The Directory of Law Partnerships of the Bar Association of Serbia shall contain the following data about law partnerships:

1. business name and seat, telephone and fax numbers, e-mail, and website address;
2. date, time and place of establishment;
3. the file number of the law partnership in the Bar Association of Serbia;
4. registration number in the unique statistical registry;
5. tax identification number (PIB)
6. account numbers with commercial banks;
7. names of the members, their respective personal numbers, identity card numbers, and residence addresses;
8. names and number of representatives, their respective personal numbers, and scope of authority;
9. personal liability insurance policy;
10. annual financial reports, prepared in accordance with the law governing accounting operations;
11. data on liquidation and bankruptcy;
12. annotations of relevance for legal transactions;
13. temporary prohibition from engaging in the practice of law concerning members of the law partnership;

Should a law partnership fail to submit to the Bar Association of Serbia the data stipulated by this Statute as necessary for accurate maintenance of the Directory of Law Partnerships, the procedure for deletion of the law partnership from the Directory of Law Partnerships shall be initiated.

**4. Registration of Attorneys-At-Law Foreign \_ationals**

Article 162

An attorney-at-law who is a foreign national can be registered in Register A and Register B of attorneys-at-law, provided that he/she practices law in his/her home country in accordance

with the regulations of that country and, depending on the type of registration, that he/she meets the requirements prescribed the Legal Profession Act.

The Bar Association of Serbia shall inform the competent bar association in the attorney-at-law’s home country of his/her registration.

The provisions of the law governing the work of local attorneys-at-law, the statute of the bar association, and the Code of Professional Ethics of Attorneys-at-Law shall also apply to the work of attorneys-at-law who are foreign nationals, unless otherwise provided by the law.

Registration - See previous comments. There will need to be a separate registration system for established EU lawyers; they are not foreign lawyers as defined here, and the conditions for their registration are much looser than outlined here. Each registering bar will need to follow the same system. Presumably the great majority of EU lawyers will be based in Belgrade.

Code of Professional Ethics - Regarding the ethical obligations of established EU lawyers, they will be governed by the principle of double deontology – obeying both the home and host bars’ rules – applies to EU lawyers coming to Serbia, whether for temporary (Article 4 of 77/249/EC) or permanent practice (Article 6 of 98/5/EC). That means that lawyers working under the directives are subject simultaneously to two professional codes of conduct, that of their home state and that of the host state, in respect of all activities pursued in the host state.

The CCBE has adopted an interpretation of the ‘double deontology’ provision of the directives: (<http://www.ccbe.eu/fileadmin/user_upload/NTCdocument/EN_12092014_EN_CCBE_1_1412929215.pdf>). The CCBE’s code of conduct for European lawyers (<http://www.ccbe.eu/fileadmin/user_upload/NTCdocument/EN_CCBE_CoCpdf1_1382973057.pdf>) also has as one of its stated purposes the following:

“to minimise, and if possible eliminate altogether, the problems which may arise from “double deontology”, that is the application of more than one set of potentially conflicting national rules to a particular situation (see Article 1.3.1)”.

There is no problem if the content of the particular rule in question from each Code of Conduct is identical or nearly identical. If both rules go in the same direction, then it is usually stated that the application of the wider rule will also incorporate application of the narrower. It is only if there is a conflict between the two rules that a problem might arise; however, this is a rare occurrence.

Article 163

An attorney-at-law registered in Register A and Register B of attorneys-at-law who are foreign nationals shall not have the right:

1. to elect and be elected as a member of a body or an official in the Bar Association of Serbia or any bar association within its composition;
2. to employ law trainees for the purpose of internship, in accordance with the law;
3. to be appointed temporary representative, tax representative, or court-appointed attorney, to provide free legal aid in accordance with effective regulations, to act in the capacity as a proxy of a client who has been relieved of the obligation to pay court expenses, or to act in the capacity as a mediator.

Established EU lawyers must have the right to vote in their local bar association (and so

presumably be members of it first), and the wording here should reflect that – see Article

6.2 of the 98/5/EC directive:

*‘Lawyers practising under their home-country professional titles shall be granted appropriate representation in the professional associations of the host Member State. Such representation shall involve at least the right to vote in elections to those associations' governing bodies.’*

**5. Registration of Attorneys-At-Law Foreign \_ationals – Register A**

Article 164

The provision of legal services by an attorney-at-law who is a foreign national registered in Register A of attorneys-at-law who are foreign nationals shall be restricted to the provision of oral and written legal advice and opinion related to the application of the laws of his/her home country and international law.

The work that can be undertaken by an established EU lawyer is covered in general by

Article 5 para 1 on the 98/5/EC directive:

‘*a lawyer practising under his homecountry professional title carries on the same*

*professional activities as a lawyer practising under the relevant professional title used in*

*the host Member State and may, inter alia, give advice on the law of his home Member*

*State, on Community law, on international law and on the law of the host Member State.*

*He shall in any event comply with the rules of procedure applicable in the national*

*courts.*’

A lawyer providing temporary services is also entitled to carry out a wide range of

services, including court representation.

Article 165

In order to be registered in Register A of attorneys-at-law who are foreign nationals, a candidate must meet the following requirements prescribed by Articles 6 and 14 of the Legal Profession Act:

1. that he/she is registered in a directory of attorneys-at-law in his/her home country;
2. that he/she is in good general health and possesses full legal capacity to act;
3. that he/she is not in any other employment relation except for the practice of law;
4. that he/she has not been found guilty of a criminal offence rendering him/her unfit for the practice of law;
5. that the he/she has not been registered for performing any other independent business activity; or that he/she does not act in the capacity as a statutory representative, a director or chairperson of the board of directors of a legal entity, a member or chairperson of the executive board of a bank, a representative of the state funds, an administrative receiver, a procurator or a person whose employment contract prevents competition;
6. that he/she is worthy of the practice of law;

1. that the business premises appropriate for practicing law have been ensured and that the technical requirements have been met in accordance with the relevant by-law of the Bar Association of Serbia;
2. that at least three years have passed since the final decision on rejecting the request for registration in a directory of attorneys-at-law made by any of the bar associations within the Bar Association of Serbia, if the candidate had previously submitted a request that was rejected;
3. that he/she has entered into a professional liability insurance contract in the Republic of Serbia.

See above. These conditions cannot apply to registered EU lawyers (or indeed EU lawyers providing temporary services, who are not subject to registration).

Article 166

In addition to the request for entry in Register A of attorneys-at-law, the attorney-at-law who is a foreign national shall also submit the following evidence and data confirming that the requirements prescribed by the Legal Profession Act have been met:

1. the original and the certified translation into Serbian of the certificate issued by the bar association he/she is a member of that he/she has the status of attorney-at-law in his/her home country, which cannot be older than three months;
2. the original and the certified translation into Serbian of the certificate of citizenship of the country he/she is a national of;
3. a certificate that no criminal proceedings have been instituted against the candidate in his/her home country and in the Republic of Serbia;
4. a certificate confirming that the candidate has not been declared legally incompetent in his/her home country;
5. a doctor’s certificate on the candidate’s general health issued in the Republic of Serbia;
6. a copy of his/her travel document and the original thereof for verification purposes;
7. a statement that he/she is not in any other employment relation except for the practice of law;
8. a statement that he/she has not been registered for performing any other independent business activity; or that he/she does not act in the capacity as a statutory representative, a director or chairperson of the board of directors of a legal entity, a member or chairperson of the executive board of a bank, a representative of the state funds, an administrative receiver, a procurator or a person whose employment contract prevents competition;
9. that the business premises appropriate for practicing law have been ensured and that the technical requirements have been met in accordance with the relevant by-law of the Bar Association of Serbia;
10. that he/she has entered into a professional liability insurance contract in the Republic of Serbia;
11. two photographs.

The original documents submitted in a foreign language shall be accompanied by the certified translation in accordance with the regulations of the Republic of Serbia.

See above. These conditions cannot apply to registered EU lawyers (or indeed EU lawyers providing temporary services, who are not subject to registration).

Article 167

The bar association shall obtain *ex officio* the following evidence confirming that the requirements stipulated by this Statute have been met:

1. that the candidate has not been found guilty of a criminal offence rendering him/her unfit for the practice of law;
2. that the candidate is worthy of the practice of law, provided by the bar association he/she is a member of;
3. that at least three years have passed since the final decision on rejecting the request for registration in a directory of attorneys-at-law who are foreign nationals made by any of the bar associations within the Bar Association of Serbia, if the candidate had previously submitted a request that was rejected.

Article 168

It is within the discretion of the competent body of the bar association to assess whether the requirements have been met for entry in the directory of attorneys-at-law who are foreign nationals – Register A, with regard to the fact that the candidate has not been found guilty of a criminal offence rendering him/her unfit for and unworthy of the practice of law.

See above. These conditions cannot apply to registered EU lawyers.

Article 169

Before a decision is made on the registration in the directory of attorneys-at-law who are foreign nationals – Register A, the candidate shall pay the necessary costs of registration and submit proof that he/she has entered into a professional liability insurance contract in the Republic of Serbia.

Article 6 of the 98/5/EC directive deals with the treatment of professional indemnity insurance for registered EU lawyers. The insurance contract does not have to be entered into in Serbia, but can be a contract brought from abroad which covers the activities in Serbia.

Article 170

The bar association shall enable the attorney-at-law who is a foreign national to take the attorney’s oath within 30 days of the date of decision on his/her entry in the directory of attorneys-at-law who are foreign nationals – Register A.

The attorney’s oath can be taken in Serbian or in the candidate’s mother tongue before the president of the bar association or the person authorised by the president.

The attorney’s oath shall read as follows:

“I solemnly swear that I will discharge the duties of an attorney in good faith, that I will abide by the Constitution, laws and other regulations, including the statute of the bar association and the Code of Professional Ethics of Attorneys-at-Law, and that I will protect the reputation of the legal profession through my acts and conduct.”

Following the verbal taking of the oath, the candidate shall sign the solemn statement containing the text of the oath.

If the candidate who is a foreign national takes the oath in his/her mother tongue, he/she shall take it in the presence of a certified court interpreter.

See previous comments about the oath.

Article 171

The bar association shall make the decision on entry in the Directory of Attorneys-at-Law and issue the attorney-at-law identification card to the candidate on the day he/she has taken the oath.

The attorney-at-law identification card shall serve as proof of the status of attorney-at-law.

The attorney-at-law identification card shall contain the name and surname of the attorney-at-law, his/her professional title in the home country, his/her personal number or unique identification number (JMBG), the number of his/her travel document, his/her photograph, the ordinal number and the date, month and year of his/her registration in the directory of attorneys-at-law, the information about the register in which he/she has been entered, as well as other data of importance for establishing the status of attorney-at-law envisaged by the relevant general by-law of the Bar Association of Serbia.

See previous comments about identifying information of EU registered lawyers, to be found in Article 4 of 98/5/EC:

*‘1. A lawyer practising in a host Member State under his homecountryprofessional title shall do so under that title, which must be expressed in the official language or one of the official languages of his home Member State, in an intelligible manner and in such a way as to*

*avoid confusion with the professional title of the host Member State.*

*2. For the purpose of applying paragraph 1, a host Member State may require a lawyer practising under his home-country professional title to indicate the professional body of which he is a member in his home Member State or the judicial authority before which he is entitled to practise pursuant to the laws of his home Member State. A host Member State may also require a lawyer practising under his homecountry professional title to include a reference to his registration with the competent authority in that State.’*

**6. Registration of Attorneys-At-Law Foreign \_ationals – Register B**

Article 172

The provision of legal services aid by an attorney-at-law who is a foreign national registered in Register B of attorneys-at-law who are foreign nationals shall be equated with the provision of legal service by a local attorney-at-law, provided that in the period of three years following the registration of the attorney-at-law who is a foreign national in Register B of the directory of attorneys-at-law who are foreign nationals, he/she can act in the Republic of Serbia only in the presence of a local attorney-at-law.

See previous comments about what EU lawyers can do, whether established or providing temporary services. Articles 172, 173 and 174 cannot apply to EU lawyers (although they can continue to apply to non-EU lawyers).

Article 173

In order to be registered in Register B of attorneys-at-law who are foreign nationals, a candidate must meet the following requirements prescribed by Articles 6 and 14 of the Legal Profession Act:

1. that he/she is registered in a directory of attorneys-at-law in his/her home country;
2. that he/she is in good general health and possesses full legal capacity to act;
3. that he/she is not in any other employment relation except for the practice of law;
4. that he/she has not been found guilty of a criminal offence rendering him/her unfit for the practice of law;
5. that the he/she has not been registered for performing any other independent business activity; or that he/she does not act in the capacity as a statutory representative, a director or chairperson of the board of directors of a legal entity, a member or chairperson of the executive board of a bank, a representative of the state funds, an administrative receiver, a procurator or a person whose employment contract prevents competition;
6. that he/she is worthy of the practice of law;
7. that the business premises appropriate for practicing law have been ensured and that the technical requirements have been met in accordance with the relevant by-law of the Bar Association of Serbia;

1. that at least three years have passed since the final decision on rejecting the request for registration in a directory of attorneys-at-law made by any of the bar associations within the Bar Association of Serbia, if the candidate had previously submitted a request that was rejected;
2. that he/she has entered into a professional liability insurance contract in the Republic of Serbia.

Article 174

In addition to the request for entry in Register B of the directory of attorneys-at-law who are foreign nationals, the attorney-at-law who is a foreign national shall also submit the following evidence and data confirming that the requirements have been met for his/her registration:

1. the original and the certified translation into Serbian of the certificate issued by the bar association he/she is a member of that he/she has the status of attorney-at-law in his/her home country, which cannot be older than three months;
2. the certificates of passed judicial exam and attorney exam in the Republic of Serbia;
3. a certificate that no criminal proceedings have been instituted against the candidate in his/her home country and in the Republic of Serbia;
4. a certificate confirming that the candidate has not been declared legally incompetent in his/her home country;
5. a doctor’s certificate on the candidate’s general health issued in the Republic of Serbia;
6. a copy of his/her travel document and the original thereof for verification purposes;
7. a statement that he/she is not in any other employment relation except for the practice of law;
8. a statement that he/she has not been registered for performing any other independent business activity; or that he/she does not act in the capacity as a statutory representative, a director or chairperson of the board of directors of a legal entity, a member or chairperson of the executive board of a bank, a representative of the state funds, an administrative receiver, a procurator or a person whose employment contract prevents competition;
9. that the business premises appropriate for practicing law have been ensured and that the technical requirements have been met in accordance with the relevant by-law of the Bar Association of Serbia;
10. that he/she has entered into a professional liability insurance contract in the Republic of Serbia;
11. two photographs.

The original documents submitted in a foreign language shall be accompanied by the certified translation in accordance with the regulations of the Republic of Serbia.

Article 175

The bar association shall obtain *ex officio* the following evidence confirming that the requirements stipulated by the Legal Profession Act and this Statute have been met:

1. that the candidate has not been found guilty of a criminal offence rendering him/her unfit for the practice of law;
2. that the candidate is worthy of the practice of law;
3. that at least three years have passed since the final decision on rejecting the request for registration in the directory of attorneys-at-law who are foreign nationals made by any of the bar associations within the Bar Association of Serbia, if the candidate had previously submitted a request that was rejected.

Article 176

It is within the discretion of the competent body of the bar association to assess whether the requirements have been met for entry in the directory of attorneys-at-law who are foreign nationals – Register B, with regard to the fact that the candidate has not been found guilty of a criminal offence rendering him/her unfit for and unworthy of the practice of law.

Article 177

Before a decision is made on the registration in the directory of attorneys-at-law who are foreign nationals – Register B, the candidate shall pay the necessary costs of registration and submit proof that he/she has entered into a professional liability insurance contract in the Republic of Serbia.

Article 178

The bar association shall enable the attorney-at-law who is a foreign national to take the attorney’s oath within 30 days of the date of decision on his/her entry in the directory of attorneys-at-law.

The attorney’s oath can be taken in Serbian or in the candidate’s mother tongue before the president of the bar association or the person authorised by the president.

The attorney’s oath shall read as follows:

“I solemnly swear that I will discharge the duties of an attorney in good faith, that I will abide by the Constitution, laws and other regulations, including the statute of the bar association and the Code of Professional Ethics of Attorneys-at-Law, and that I will protect the reputation of the legal profession through my acts and conduct.”

Following the verbal taking of the oath, the candidate shall sign the solemn statement containing the text of the oath.

Article 179

The bar association shall make the decision on entry in the directory of attorneys-at-law – Register B and issue the attorney-at-law identification card to the candidate on the day he/she has taken the oath.

The attorney-at-law identification card shall serve as proof of the status of attorney-at-law.

The attorney-at-law identification card shall contain the name and surname of the attorney-at-law, his/her professional title in the home country, his/her personal number or unique identification number (JMBG), the number of his/her travel document, his/her photograph,

the ordinal number and the date, month and year of his/her registration in the directory of attorneys-at-law, the information about the register in which he/she has been entered, as well as other data of importance for establishing the status of attorney-at-law envisaged by the relevant general by-law of the Bar Association of Serbia.

Article 180

After three years of continuous legal practice in the Republic of Serbia, an attorney-at-law who is a foreign national registered in Register B of the directory of attorneys-at-law shall acquire the right to submit a request for entry in the Directory of Attorneys-at-Law kept for attorneys-at-law who are nationals of the Republic of Serbia, without examining the entry requirements.

Registered EU lawyers have their own entry points to the profession, through Article 10 of 98/5/EC or through the provisions of 2005/36/EC.

**7. Registration in the Directory of Law Trainees**

Article 181

A law trainee may commence his/her internship if he/she is registered in the Directory of Law Trainees and if he/she has taken the law trainee’s oath.

Article 182

The requirements for making a decision on entry of a candidate in the Directory of Law Trainees shall be the following:

1. a law degree obtained from a law school in the Republic of Serbia, or a law degree obtained abroad and recognised in accordance with the regulations governing university education;
2. the citizenship of the Republic of Serbia;
3. general health and full legal capacity to act;
4. that the candidate is not employed;
5. that the candidate has not been found guilty of a criminal offence rendering him/her unfit for the practice of law;
6. that the candidate has not been registered for performing any other independent business activity; or that he/she does not act in the capacity as a statutory representative, a director or chairperson of the board of directors of a legal entity, a member or chairperson of the executive board of a bank, a representative of the state funds, an administrative receiver, a procurator or a person whose employment contract prevents competition;
7. that the candidate has not passed the judicial exam or that he/she does not have the work experience granting him/her the right to take the judicial exam;
8. that the candidate is worthy of practicing law;
9. that the candidate has entered into an employment contract with an attorney-at-law who has been engaged in the practice of law for at least three years, whose seat of office is in the territory of the same bar association, and who possesses a valid attorney-at-law identification card; or that the candidate has entered into an employment contract with a company in which an attorney-at-law who meets the aforementioned requirements is in charge of the implementation of the law trainee’s training plan and programme and supervises his/her work and professional development.

Here the *Morgenbesser* decision will need to be applied. The free movement provisions found in primary law such as the Treaty on the Functioning of the European Union and as interpreted by case law of the Court of Justice of the European Union apply not just to fully qualified lawyers, but also to those who are partly qualified. (The directives apply only to the fully qualified.) The principle of application of primary law to such circumstances was decided in the case of *Morgenbesser v Consiglio dell’Ordine degli avvocati di Genova* (C-313/01). Ms Morgenbesser had completed law studies in France, and had undergone some professional experience in both France and Italy. She was not a lawyer in France, and applied to the Bar of Genoa to be put on the list of trainee lawyers, which was refused. The Court of Justice held that Italy was wrong to obstruct Ms Morgenbesser’s entry to the Italian register of trainee lawyers because her legal education took place in France. The governing authorities must take an overall look at the experience and skills obtained by the candidate. If there was a gap in the legal education Ms Morgenbesser had gained in France when compared with the requirements stipulated by Italy, it may then require any gaps to be compensated for.

The CCBE has issued guidance on how bars, as the competent authorities, can deal with applicant trainee lawyers under the *Morgenbesser* judgement:

(<http://www.ccbe.eu/fileadmin/user_upload/NTCdocument/morgenbesser_guidanc1_1183976940.pdf>.)

Article 183

A request for entry in the Directory of Law Trainees shall be submitted in writing to the managing board of the bar association in whose territory is the seat of the principal’s law office.

In addition to the request for entry in the Directory of Law Trainees, the candidate shall also submit originals or certified copies of the following documents:

1. the certificate of citizenship of the Republic of Serbia;
2. the diploma obtained from a law school or the graduation certificate;
3. the court certificate confirming that no criminal proceedings have been instituted against the candidate;
4. the certificate of the social welfare centre confirming that the candidate has not been declared legally incompetent;
5. a doctor’s certificate on the candidate’s general health;
6. a copy of ID card;
7. the employment contract;
8. two photographs;
9. the candidate’s birth certificate.

In addition to the request, the candidate shall provide information on any previous working experience by submitting a copy of his/her work booklet and by filling in the questionnaire provided to him/her by the relevant service of the bar association.

The provisions of this Statute governing the procedure of registration in the Directory of Attorneys-at-Law shall also apply to the registration in the Directory of Law Trainees by analogy.

Article 184

The bar association shall obtain *ex officio* the following evidence confirming that the requirements prescribed by the Legal Profession Act and this Statute have been met:

1. that the candidate has not been found guilty of a criminal offence rendering him/her unfit for the practice of law;
2. that the candidate is worthy of the practice of law;
3. that at least three years have passed since the final decision on rejecting the request for registration in a directory of law trainees made by any of the bar associations within the Bar Association of Serbia, if the candidate had previously submitted a request that was rejected.

Article 185

The competent bar association shall enable the law trainee to take the law trainee’s oath within 30 days of the date of decision on his/her entry in the Directory of Law Trainees.

The law trainee’s oath shall be taken before the president of the bar association or the person authorised by the president.

The law trainee’s oath shall read as follows:

“I solemnly swear that I will discharge the duties of a law trainee in good faith, that I will abide by the Constitution, laws and other regulations, including the statute of the bar association and the Code of Professional Ethics of Attorneys-at-Law, and that I will protect the reputation of the legal profession through my acts and conduct.”

Article 186

The bar association shall make the decision on entry in the Directory of Law Trainees and issue the official law trainee identification card to the candidate on the day he/she has taken the law trainee’s oath.

The provisions of the Legal Profession Act and this Statute governing the design and content of the attorney-at-law identification card shall apply *mutatis mutandis* to the law trainee identification card.

Article 187

The provisions of this Statute governing the registration in the Directory of Law Trainees shall apply *mutatis mutandis* to the registration in a sub-register of volunteers kept within the Directory of Law Trainees.

1. **Temporary Leave of Absence and Prohibition from Engaging in the Practice of Law** 
   1. *Temporary Leave of Absence from the Practice of Law*

Article 188

An attorney-at-law shall have the right to a temporary leave of absence from the practice of law for the following reasons:

1. for professional development, or for another valid reason, as long as the reason exists;
2. during a temporary inability due to illness, maternity leave, child care leave, and other health-related reasons;
3. due to being elected Member of Parliament, representative or councillor, for the duration of the term of office;

An attorney-at-law shall, no later than 30 days prior to the exercise of the right referred to in Paragraph 1, Item 1) hereof, or within 30 days of the start of the temporary inability referred to in Paragraph 1, Items 2) and 3), of this Article, submit to the relevant bar association a reasoned request corroborated by pertinent evidence and data about the start and duration of the temporary leave of absence.

Article 189

The right of an attorney-at-law to engage in the practice of law shall cease temporarily in the case of his/her election or appointment to a public office requiring an employment contract in an authority of the Republic of Serbia, autonomous province or a local self-government unit.

Within 30 days of the day of the start of service in the public office referred to in Paragraph 1 of this Article, the attorney-at-law shall submit to the relevant bar association a request for temporary leave of absence from the practice of law.

Should the attorney-at-law fail to act in accordance with his/her obligation referred to in Paragraph 2 of this Article, the relevant bar association shall *ex officio* pass a decision on his/her deletion from the Directory of Attorneys-at-Law.

If the attorney at law fails to submit a request for continuation of the practice of law within 60 days of termination of his/her term in the public office, the relevant bar association shall pass a decision on his/her deletion from the Directory of Attorneys-at-Law to be effective as of the day of termination of the term in the public office.

Article 190

In the case of temporary leave of absence from the practice of law referred to in Article 39 of the Legal Profession Act, the relevant bar association shall make a decision on the use of the right to a temporary leave of absence from the practice of law specifying the grounds and duration of the temporary leave of absence from the practice of law, and the temporary substitution.

The temporary substitution referred to in Paragraph 1 of this Article may only be an attorney-at-law registered in the Directory of Attorneys-at-Law of the same bar association.

The person designated as temporary substation shall be the attorney-at-law proposed by the attorney-at-law who is being temporarily substituted, provided that the latter has submitted written consent by the proposed attorney-at-law; if there is no such proposal and/or consent, the temporary substitution shall be the attorney-at-law designated by the relevant bar association taking into account the mutual relationship between the attorney-at-law being temporarily substituted and his/her potential substitution and minding the closeness of the areas of law practiced by the individuals in question.

The temporary leave of absence from the practice of law shall start at the earliest on the day of receipt of the request.

Article 191

During the period of temporary leave of absence from the practice of law, the attorney-at-law exercising that right shall retain his/her status of attorney-at-law, pay the membership fee to the relevant bar association, while his/her rights and duties or an attorney-at-law shall be dormant.

The attorney-at-law exercising the right to temporary leave of absence from the practice of law shall deposit the attorney-at-law identification card with the service of the relevant bar association.

The relevant bar association is obliged to notify the courts and competent state authorities of an attorney-at-law exercising his/her right to temporary leave of absence from the practice of law.

*8.2. Temporary Prohibition from Engaging in the Practice of Law*

Article 192

A temporary prohibition from engaging in the practice of law may be imposed only under the conditions stipulated in the Legal Profession Act and this Statute.

An attorney-at-law shall be temporarily prohibited from engaging in the practice of law in the following cases:

1. if a detention measure has been imposed against him/her;
2. if the procedure has been initiated to have his/her registration in the Directory of Attorneys-at-Law cancelled.

An attorney-at-law may be temporarily prohibited from engaging in the practice of law in the following cases:

1. if criminal or disciplinary proceedings have been instituted against him/her for an offence rendering him/her unfit for the practice of law;
2. if his/her conduct hinders or prevents the conduct of disciplinary proceedings against him/her;
3. if, following an indictment brought against an attorney-at-law, one or several additional indictments have been brought against the same attorney-at-law for a more serious violation of duty of an attorney-at-law;

In its decision on temporary prohibition from engaging in the practice of law, the competent bar association shall:

1. decide on the duration of the prohibition;
2. designate a temporary substitution, having regard to the considerations referred to in Article 41, Paragraph 3, of the Legal Profession Act.

Article 193

If the temporary prohibition is being imposed because of disciplinary proceedings conducted against the attorney-at-law concerned, the disciplinary body in charge of the disciplinary proceedings shall furnish the managing board with the record of the proceedings and provide explanations where necessary.

If the temporary prohibition is being imposed because of criminal proceedings conducted against the attorney-at-law concerned, the authorities in charge of the proceedings may be requested to grant permission to access the record of the case, and asked to provide written or oral explanations where necessary.

At the request of the attorney-at-law concerned, the body that made the final decision on the temporary prohibition from engaging in the practice of law may repeal it even before the disciplinary or criminal proceedings have been completed, if it finds that the reasons for which the temporary prohibition was imposed no longer exist.

Article 194

An attorney-at-law against whom a temporary prohibition from engaging in the practice of law (suspension) has been imposed may not practice law or engage in any activities in the law office (as a law clerk, etc.).

Article 195

A proposal for temporary prohibition from engaging in the practice of law shall be decided upon by the managing board of the competent bar association, as proposed by the disciplinary prosecutor, or by the chamber of the disciplinary court hearing the case, or of its own initiative following the disciplinary indictment.

An appeal against the decision on temporary prohibition from engaging in the practice of law made by the competent bar association of the Bar Association of Serbia may be filed with the Bar Association of Serbia within 15 days of receipt of the decision.

If the Managing Board of the Bar Association of Serbia decides in the first instance on the measure of temporary prohibition from engaging in the practice of law, its decision shall be final.

Article 196

An appeal lodged against the decision on temporary prohibition from engaging in the practice of law shall not stay the enforcement of the decision.

The competent bar association shall notify all the courts in the Republic of Serbia, the Bar Association of Serbia and all bar associations within its composition of the temporary prohibition from engaging in the practice of law.

**9. Disciplinary Responsibility and Disciplinary Proceedings**

The disciplinary provisions below will have to include the provisions of Article 7 of 98/5/EC on discipline of established EU lawyers:

*‘1. In the event of failure by a lawyer practising under his homecountry professional title to fulfil the obligations in force in the host Member State, the rules of procedure, penalties and remedies provided for in the host Member State shall apply.*

*2. Before initiating disciplinary proceedings against a lawyer practicing under his home-country professional title, the competent authority in the host Member State shall inform the competent authority in the home Member State as soon as possible, furnishing it with all the*

*relevant details.*

*The first subparagraph shall apply mutatis mutandis where disciplinary proceedings are initiated by the competent authority of the home Member State, which shall inform the competent authority of the host Member State(s) accordingly.*

*3. Without prejudice to the decision-making power of the competent authority in the host Member State, that authority shall cooperate throughout the disciplinary proceedings with the competent authority in the home Member State. In particular, the host Member State shall*

*take the measures necessary to ensure that the competent authority in the home Member State can make submissions to the bodies responsible for hearing any appeal.*

*4. The competent authority in the home Member State shall decide what action to take, under its own procedural and substantive rules, in the light of a decision of the competent authority in the host Member State concerning a lawyer practising under his home-country professional*

*title.*

*5. Although it is not a prerequisite for the decision of the competent authority in the host Member State, the temporary or permanent withdrawal by the competent authority in the home Member State of the authorisation to practise the profession shall automatically lead to the lawyer concerned being temporarily or permanently prohibited from practising under his home-country professional title in the host Member State.’*

Article 197

Attorneys-at-law and law trainees shall practice law in a responsible and professional manner and in good faith, and shall protect the reputation of the legal profession.

Attorneys-at-law and law trainees shall be disciplinary responsible for any violation of duty and damage caused to the legal profession in accordance with the provisions of the Legal Profession Act, this Statute and the Code of Professional Ethics of Attorneys-at-Law.

*9.1. The Disciplinary Bodies*

Article 198

The disciplinary bodies of the bar association shall be: the Office of Disciplinary Prosecutor and the Disciplinary Court, elected by the assembly the bar association exclusively by secret ballot.

The disciplinary bodies shall be independent in their work.

The disciplinary bodies shall act expeditiously, especially in the cases of disciplinary proceedings in which a decision has been made on a temporary prohibition from engaging in the practice of law.

The disciplinary bodies shall submit written reports on their work to the assembly of the bar association.

Article 199

The Office of Disciplinary Prosecutor is a body in charge of disciplinary prosecution.

The Disciplinary Prosecutor shall have six deputies, all of whom shall have the same rights and duties in the disciplinary proceedings as the Disciplinary Prosecutor, and shall act on the Disciplinary Prosecutor’s instructions.

Article 200

The Disciplinary Court of the Bar Association of Serbia shall comprise the President of the Court, the Deputy President and 16 judges.

The work of the Disciplinary Court shall be managed by the President of the Court; in the absence of the President of the Court, the work of the Disciplinary Court shall be managed by the Deputy President.

The Disciplinary Court shall hear cases in chambers consisting of three judges of the Court.

A chamber of the Disciplinary Court of the Bar Association of Serbia shall decide on legal remedies available against first-instance decisions made by a disciplinary court of a bar association within the Bar Association of Serbia.

*9.2. Disciplinary Proceedings*

Article 201

Disciplinary proceedings against an attorney-at-law or a law trainee shall be initiated by the Disciplinary Prosecutor of a bar association in whose directory the attorney-at-law or the law trainee is registered.

In case a law office or has moved its seat or in case a law trainee has moved to another location, disciplinary proceedings shall be continued and completed before the disciplinary bodies of the bar association that initiated the proceedings.

Disciplinary proceedings may be initiated based on a report filed by an interested party or a state authority, at the proposal of a body of the bar association, or *ex officio*.

A disciplinary report or proposal shall be submitted in writing and in two copies to the Disciplinary Prosecutor of the competent bar association, accompanied by the relevant evidence.

The Disciplinary Prosecutor of the Bar Association of Serbia may initiate disciplinary proceedings under the jurisdiction of the Disciplinary Prosecutor of a bar association within the Bar Association of Serbia, or take over the prosecution on his/her behalf.

Article 202

The Disciplinary Prosecutor shall notify the reported attorney-at-law about the report filed against him/her by delivering him/her the report and the accompanying evidence and calling him/her to state his/her position on the report within eight days of its receipt.

Should the reported attorney-at-law fail to state his/her position on the allegations contained in the disciplinary report within the stipulated deadline, the Disciplinary Prosecutor shall make a decision on the report without the attorney’s-at-law position, based on the available evidence.

Disciplinary proceedings shall be considered initiated upon delivery of the disciplinary report to the reported attorney-at-law for the purpose of obtaining his/her position on the report.

Article 203

In the disciplinary proceedings, the reported attorney-at-law may represent himself/herself or engage another defence counsel.

The reported attorney-at-law may have only one defence counsel.

Only an attorney-at-law registered in the Directory of Attorneys-at-Law of the Bar Association of Serbia may act in the capacity as a defence counsel.

Article 204

In the course of disciplinary proceedings, the Disciplinary Prosecutor may request additional clarifications and evidence from the person who filed the report or from other state authorities, individuals or legal persons.

Should the person who filed the report fail to state his/her position or submit the requested information within the deadline provided, the Disciplinary Prosecutor shall make a decision on the disciplinary report based on the available evidence.

Article 205

Upon receipt of the position of the reported attorney-at-law, or submission of additional clarifications and evidence by the person who filed the report, the Disciplinary Prosecutor shall decide whether an indictment shall be brought or the report shall be rejected.

Article 206

If the Disciplinary Prosecutor rejects the report, the person who filed the report cannot take over the prosecution before the Disciplinary Court of the bar association, but he/she may, within eight days of the receipt of decision rejecting the report, file a complaint to the Disciplinary Prosecutor of the Bar Association of Serbia.

Article 207

Any indictment brought against an attorney-at-law shall be submitted to the Disciplinary Court by the Disciplinary Prosecutor, along all the relevant evidence.

The indictment shall become legally effective at the moment of its delivery to the Disciplinary Court.

Article 208

The President of the Disciplinary Court shall, within eight days of the receipt of disciplinary indictment, establish a three-member chamber that will decide on the indictment.

Article 209

The disciplinary chamber shall, as a rule, serve the indictment on the accused within eight days along with a writ requesting his/her attendance at the disciplinary hearing.

The indicated attorney-at-law shall not have the right to file a complaint against the indictment brought against him/her.

Article 210

All writs of the first- and second-instance Disciplinary Prosecutors and the Disciplinary Court shall be served on the reported or accused attorney-at-law to the address of the seat of his/her law office, by registered mail with the return receipt requested.

In the case of an unsuccessful delivery, the writs shall be resent, and if the second delivery also fails, the writs shall be posted on the bulletin board of the bar association before which the disciplinary proceedings is being conducted.

It shall be considered that the writs have been served properly upon expiry of the eighth day of the day the writs were posted on the bulletin board.

If the reported or accused attorney-at-law engages a defence counsel, all writs in the disciplinary proceedings shall be submitted to the defence counsel in accordance with the rules governing the service of writs referred to in Paragraph 1 of this Article.

Deadlines for filing a complaint shall be counted from the day the accused attorney-at-law has been served a writ or, in case he/she has engaged a defence counsel, from the day of the earliest writ service.

Article 211

A disciplinary hearing may be held in the absence of a duly summoned accused attorney-at-law and his/her defence counsel if they have not justified their absence.

Article 212

Disciplinary hearings shall be held at the seat of the relevant bar association.

Article 213

Upon completion of the disciplinary hearing, the chamber of the Disciplinary Court shall enter a judgement by which:

1. the accused attorney is found guilty;
2. the accused attorney is cleared of charges brought against him/her, if it has been established that the violation he/she has been charged with is neither a minor nor a major violation of duty of an attorney-at-law or honour of the legal profession, or if circumstances exist that preclude disciplinary responsibility, or if there is no evidence that the accused attorney-at-law made the violation, or if it has been established that the indicated attorney-at-law did not make the violation;
3. the indictment is dismissed if the disciplinary prosecutor withdraws the indictment or it has been established that disciplinary prosecution is subject to the statute of limitations.

Article 214

The following shall be specified by the chamber of the Disciplinary Court in the judgement by which the accused attorney-at-law is found guilty:

1. the violation of which the attorney-at-law has been found guilty, as well as the facts and circumstances constituting the minor or major violation of duty of an attorney-at-law and honour of the legal profession;
2. a disciplinary measure imposed on the accused attorney-at-law;
3. a decision on the cost of the proceedings.

In determining and imposing a disciplinary measure, the Disciplinary Court shall take into account the level of established responsibility, the significance of consequences of the violation of duty of an attorney-at-law and honour of the legal profession, the subjective and objective circumstances under which the violation was made, the damage caused, the motives, the record of any earlier disciplinary measures imposed on the accused, and the financial circumstances of the perpetrator.

Article 215

The Disciplinary Court shall also decide on the costs of the proceedings which the accused attorney-at-law shall pay within 15 days of the day the judgement became final.

The costs of disciplinary proceedings shall be determined in accordance with the criteria contained in the decision of the Managing Board of the Bar Association of Serbia.

Article 216

Claims for damage incurred as a result of the disciplinary violation may not be subject of disciplinary proceedings.

Article 217

The judgement shall be delivered in writing to the accused attorney-at-law, his/her defence counsel and the Disciplinary Prosecutor within 30 days of the day of completion of the disciplinary proceedings.

*9.3. Appeal against the First-Instance Judgement*

Article 218

An appeal against the first-instance judgement rendered by the disciplinary court of the bar association within the Bar Association of Serbia may be lodged by the accused attorney-at-law, his/her defence counsel and the disciplinary prosecutor within 8 days of receipt of the judgement concerning minor violations of duty and honour of the legal profession, and within 15 days of receipt of the judgement concerning major violations of duty and honour of the legal profession.

The deadline for lodging the appeal shall be counted from the day of delivery of the judgement to the accused, and if the accused has engaged a defence counsel, from the day of the earliest delivery.

A copy of the appeal shall be delivered to the opposing party to the proceedings, which may respond thereto within three days of delivery if the proceedings concern minor violations of duty and honour of the legal profession, and within 8 days if the proceedings concern major violations of duty and honour of the legal profession.

*9.4. The Second-Instance Proceedings*

Article 219

The Disciplinary Court of the Bar Association of Serbia shall render a decision in a chamber comprising three members, as a rule within 60 days of receipt of the record of the proceedings before the disciplinary court of the bar association within the Bar Association of Serbia.

Article 220

The disciplinary hearing before the Disciplinary Court of the Bar Association of Serbia shall be held at the seat of the Bar Association of Serbia.

Article 221

Failure of the accused attorney-at-law, his/her defence counsel, or the disciplinary prosecutor to appear before the Disciplinary Court shall not prevent the Chamber of the Disciplinary Court of the Bar Association of Serbia to hold a session and render a decision on the appeal(s) filed.

Article 222

The Disciplinary Court of the Bar Association of Serbia may affirm, modify or reverse the judgement of the disciplinary court of the bar association within the Bar Association of Serbia.

Article 223

The Disciplinary Chamber of the Disciplinary Court of the Bar Association of Serbia shall prepare a written judgement within 30 days of the session of the Disciplinary Chamber.

Article 224

The decision rendered by the Disciplinary Court of the Bar Association of Serbia shall be delivered to the parties through the disciplinary court of the bar association within the Bar Association of Serbia before which the case was heard in the first instance, as well as to the person who filed the disciplinary report.

Article 225

Disciplinary measures imposed in the final decision shall be entered in the records of disciplinary measures, and a copy of the decision shall be included in the file of the sentenced attorney-at-law.

*9.5. Joinder and Severance of Proceedings*

Article 226

Having brought an indictment, the Disciplinary Prosecutor may submit a proposal for joining or severing the proceedings.

The proposal referred to in Paragraph 1 of this Article may be filed with the disciplinary court of the bar association before which the disciplinary proceedings have been instituted, no later than 8 days before the date of the hearing.

The proposal shall be decided upon by the president of the first-instance disciplinary court.

The party who submitted the proposal shall have no right to appeal against the decision made by the president of the first-instance disciplinary court.

Article 227

In the course of the disciplinary hearing, any decision on joinder or severance of disciplinary proceedings shall be made by the chamber of the first-instance disciplinary court hearing the case.

*9.6. Recusal*

Article 228

Requests for recusal may be filed during the disciplinary proceedings.

All requests for recusal must be reasoned.

A request for recusal of the deputy president and/or judges of the first-instance disciplinary court shall be decided upon by the president of the relevant disciplinary court of the bar association within the Bar Association of Serbia.

A request for recusal of the president of the first-instance disciplinary court shall be decided upon by the President of the Disciplinary Court of the Bar Association of Serbia.

Requests for recusal of the President, Vice-President and/or judges of the Disciplinary Court of the Bar Association of Serbia my be filed following the delivery of the appeal to the second-instance Disciplinary Court, no later than three days before the date of the session of the second-instance Disciplinary Court.

No requests for recusal of disciplinary prosecutors and/or their deputies shall be allowed.

*9.7. The Course of the Proceedings*

Article 229

Disciplinary proceedings shall be urgent.

Article 230

In the case of postponement of the trial, and in the event of change of one or more members of the chamber, the evidence presented shall not be presented again, but the record of the evidence presented shall be read, unless decided otherwise.

Article 231

The president of the chamber shall maintain order during the trial, and shall be authorised to remove from the courtroom any person disrupting order of the proceedings.

Article 232

The provisions of the Criminal Procedure Code shall apply *mutatis mutandis* to the disciplinary proceedings in all the matters not regulated by the Legal Profession Act and this Statute.

*9.8. Enforcement of Disciplinary Decisions*

Article 233

The President of the Disciplinary Court shall submit the disciplinary judgement to the managing board of the bar association in charge of the Directory in which the attorney-at-law concerned has been registered, within eight days of the date the judgement of the disciplinary court of the bar association has become final, so that the judgement may be enforced.

Article 234

The final decision of the Disciplinary Court whereby a disciplinary measure of deletion from the Directory of Attorneys-at-Law has been imposed shall be enforced urgently and *ex officio*

by the managing board of the bar association in charge of the Directory in which the sentenced attorney-at-law has been registered.

Article 235

At the first meeting following the receipt of the final judgement of the disciplinary court, the managing board of the competent bar association shall enforce the disciplinary judgement imposing the measure of deletion from the Directory of Attorneys-at-law, by way of a decision terminating the right to engage in the legal profession within the meaning of Article 83, Paragraph 1, Item 4, of the Legal Profession Act.

Article 236

A final judgement of the disciplinary court imposing a fine to be paid within a set deadline along with the costs of the proceedings shall be enforced by the managing board of the competent bar association in case the deadline for payment has not been observed, by way of submitting a motion to the competent court of law to have the final judgement enforced through collecting the sentenced amount of fine and the costs of the proceedings.

Article 237

The sentenced attorney-at-law against whom the managing board of the competent bar association has passed a decision terminating his/her right to engage in the practice of law based on the final judgement of the disciplinary court shall have the right to appeal the decision before the Managing Board of the Bar Association of Serbia within three days, in the following cases:

* if the judgement of the disciplinary court has not become final;
* if the absolute statute of limitations for enforcement of the sentence has expired.

The Managing Board of the Bar Association of Serbia shall render a decision on the appeal in an urgent procedure at the next scheduled meeting.

Article 238

After the decision on deleting an attorney-at-law from the Directory of Attorneys-at-Law, or the decision on a fine to be paid has become final, the disciplinary measure imposed shall be entered in the file of the sentenced attorney-at-law.

*9.9. Violations of Duty and Honour of the Legal Profession*

Article 239

Violations of duty and honour of the legal profession may be minor or major.

Article 240

Minor violations of duty and honour of the legal profession shall comprise less significant breaches of duty and honour on the part of an attorney-at-law.

Minor violations shall include:

1. minor breaches of legal obligations towards a law trainee;
2. minor breaches of the Code of Professional Ethics of Attorneys-at-Law.

Article 241

Major violations of duty and honour of the legal profession shall comprise the breaches of duty and honour of the legal profession envisaged by the law, the Statute of the Bar Association of Serbia and the Code of Professional Ethics of Attorneys-at-Law.

Major violations of duty of an attorney-at-law shall include:

1. acts or omissions in the legal practice shown to have been in bad faith;
2. provision of legal services in cases where the attorney-at-law is obliged to refuse to provide legal services;
3. engaging in business activities incompatible with the honour and independence of the legal profession;
4. requesting compensation exceeding the fees prescribed by the Tariff;

This will have to go, if the tariff disappears.

1. refusal to issue, upon request of the client, an invoice of awards and expenses for the services provided;
2. legal representation before the courts, state authorities and other organisations in contravention of the law, this Statute and the Code of Professional Ethics of Attorneys-at-Law;
3. legal representation done in bad faith;
4. failure to return to the client the records and documents pertaining to the case, at the request of the client;
5. failure to abide by or implement the decisions of the bodies of the bar association;
6. failure to act as requested by the bodies of the bar association;
7. responsibility of the bodies and officials of the bar associations for legality of the work of the bodies, and/or acts and conduct of officials of the bar associations within the Bar Association of Serbia, whereby inaccurate information are presented to the public, or if such acts and conduct amount to breaches of the Code of Professional Ethics of Attorneys-at-Law, or damage the reputation and status of the legal profession;
8. absence without a valid reason from two consecutive meetings of the body of the bar association to which the attorney-at-law has been elected, or of the body of the Bar Association of Serbia;
9. acts of an attorney-at-law being a member of a political party to the detriment of the legal profession, or causing damage to the independence of the legal profession;
10. misconduct towards another attorney-at-law, law trainee, a client or an opposing party, court of law, witness, expert witness, court interpreter or an authorised officer in the legal proceedings;
11. misconduct in public activities or private life of an attorney-at-law, if exposed to the public judgement and detrimental to the honour of the legal profession;

1. provision of incorrect data misleading the bodies of the bar association when making decisions;
2. acting in bad faith as a temporary substitute or an attorney-at-law taking over the law office;
3. acting in bad faith on behalf of the client and loss of the documents entrusted by the client;
4. misappropriation of funds collected on behalf of a client;
5. purchase in his/her own name of an object being sold at a public auction at which the attorney-at-law is representing a client;
6. infringement on the rights of a law trainee engaged in the law office for the purpose of trainee practice;
7. enabling a law trainee to act without supervision;
8. placing the seal of his/her office on legal motions prepared by another person;
9. failure to fulfil financial obligations towards the bar association;
10. giving public statements and speaking in public in breach of Article 24 of the Legal Profession Act on advertising;

Personal publicity is allowed, and so this article will have to change.

A total ban on advertising is not permitted by Article 24 of the Services Directive (2006/36/EC) and Article 8 of the E-commerce Directive (2000/31/EC). Advertising by lawyers must be permitted, subject to certain conditions (as laid out in the extract from the CCBE Code of Conduct below).

**Article 24 of the Services Directive (2006/36/EC):**

‘*1. Member States shall remove all total prohibitions on commercial communications by the regulated professions.*

*2. Member States shall ensure that commercial communications by the regulated professions comply with professional rules, in conformity with Community law, which relate, in particular, to the independence, dignity and integrity of the profession, as well as to professional secrecy, in a manner consistent with the specific nature of each profession. Professional rules on commercial communications shall be non-discriminatory, justified by an overriding reason relating to the public interest and proportionate.’*

**Article 8 of the E-commerce Directive (2000/31/EC):**

*Regulated professions*

*1. Member States shall ensure that the use of commercial communications which are part of, or constitute, an information society service provided by a member of a regulated profession is permitted subject to compliance with the professional rules regarding, in particular, the independence, dignity and honour of the profession, professional secrecy and fairness towards clients and other members of the profession.*

*2. Without prejudice to the autonomy of professional bodies and associations, Member States and the Commission shall encourage professional associations and bodies to establish codes of conduct at Community level in order to determine the types of information that can be given for the purposes of commercial communication in conformity with the rules referred to in paragraph 1*

*3. When drawing up proposals for Community initiatives which may become necessary to ensure the proper functioning of the Internal Market with regard to the information referred to in paragraph 2, the Commission shall take due account of codes of conduct applicable at Community level and shall act in close cooperation with the relevant professional associations and bodies.*

*4. This Directive shall apply in addition to Community Directives concerning access to, and the exercise of, activities of the regulated professions.*

**The CCBE Code of Conduct**, which has been amended in the light of the requirements of these directives says:

*Personal Publicity*

*2.6.1. A lawyer is entitled to inform the public about his or her services provided that the information is accurate and not misleading, and respectful of the obligation of confidentiality and other core values of the profession.*

*2.6.2. Personal publicity by a lawyer in any form of media such as by press, radio, television, by electronic commercial communications or otherwise is permitted to the extent it complies with the requirements of 2.6.1.*

1. concurrently representing the interests of two clients in the proceedings where their interests are conflicting;
2. abuse of confidence of the client;
3. unfair solicitation of clients from other attorneys-at-law;
4. engaging in business activities outside the scope of the legal profession, save for the activities permitted by the Legal Profession Act;
5. refusing to provide legal services without a valid reason;
6. acting without a valid attorney-at-law identification card before judicial and other authorities;

This is likely to be in breach of 77/249/EC, which allows an EU lawyer to provide temporary services in another Member State, including representation before a court, without having to register with the host bar.

1. acting before a competent judicial or state authority under the influence of alcohol or illegal drugs;
2. requesting excessive financial awards and expenses to be paid by a client, in contravention of the Tariff of Awards and Expenses for his/her services, or requesting fees from a client he/she is obliged to represent *pro bono*;
3. This will have to change, if the tariff disappears.
4. disclosing client-counsel confidential information or other professional secrets;
5. falsifying records or other documents;
6. engaging in the legal profession, directly or indirectly, during a temporary leave of absence or temporary prohibition from engaging in the practice of law;
7. obtaining clients through an intermediary;
8. maintaining a branch law office in the Republic of Serbia;

Please see previous comments about the one seat requirement. It is not allowed for EU lawyers, and has to be reviewed by the government for Serbian lawyers.

1. failure to notify the bar association of termination or suspension of the legal practice within 30 days of the change;
2. obstruction on the part of the president, vice president or any member of the managing board resulting in a failure to convene a meeting of the assembly;

1. obstruction on the part of members of one body of the work of another body of the bar association;
2. a major violation of the Code of Professional Ethics of Attorneys-at-Law;
3. failure to report the change of seat of the law office;
4. engagement in the legal practice by an attorney-at-law or a member of a law partnership during a temporary prohibition from engaging in the practice of law or temporary leave of absence from the practice of law.

Article 242

For minor violations of duty and honour of the legal profession a warning or a fine may be imposed, while major violations thereof may entail a fine or the measure of deletion from the Directory of Attorneys-at-Law.

**10. Incompatible Activities**

Article 243

An attorney-at-law shall not engage in business activities incompatible with the honour and independence of the legal profession.

An attorney-at-law shall not engage in another registered independent business activity.

An attorney-at-law shall have no right to get employed except in a law partnership, nor shall he/she be allowed to be a statutory agent, a director or chairperson of the board of directors of a legal entity except in sports, cultural and non-for-profit organisations, provided that such engagement does not constitute a conflict of interest, a member or chairperson of the executive board of a bank, a representative of the state funds, a procurator or a person whose engagement precludes competition.

Activities incompatible with the honour and independence of the legal profession are also those of an intermediary in transactions involving goods and services, an administrative receiver, public attorney, notary public, private enforcement officer, or activities which may result in conflict of interest.

**11. Termination of the Right to Engage in the Practice of Law**

Article 244

The right of an attorney-at-law to engage in the practice of law shall terminate in the following cases:

1. upon his/her request - as of the date specified in the request; where such date is not specified in the request for deletion from the Directory of Attorneys-at-Law, or if the date requested precedes the date of filing the request, the right shall terminate on the date of the decision on deletion from the Directory of Attorneys-at-law;
2. in case of death or declaration of death in absentia - as of the date of death or the date of declaration of death in absentia;
3. in case he/she has been declared legally incompetent, be it fully or partially - as of the date of the final decision rendered by the competent court;

1. in case a disciplinary measure of deletion from the Directory of Attorneys-at-Law has been imposed - as of the date the decision on deletion from the Directory of Attorneys-at-Law has become final;
2. in case a measure of prohibition from engaging in the practice of law has been imposed in criminal proceedings - as of the date the judgement of the competent court has become final;
3. in case he/she has been convicted of a criminal offence rendering him/her unfit for the practice of law - as of the date the judgement of the competent court has become final;
4. in case he/she has been convicted of a criminal offence and sentenced to a term in prison exceeding six months, if the enforcement thereof has not been suspended - as of the date of commencement of serving the sentence;
5. in case he/she has not practiced law for a continuous period exceeding six months, apart from interruptions arising out of the events of everyday life, such as pregnancy and temporary absence after the birth of a child - as of the date of the final decision on deletion from the Directory of Attorneys-at-Law;

This may be contrary EU law on sex discrimination, if a woman is pregnant and then looking after her baby for a fixed period.

In any case, the definition of ‘establishment’ for the purposes of EU lawyers seeking to practise in Serbia is rather flexible. Article 2 of 98/5 defines establishment as the lawyer pursuing an activity on a permanent basis in another Member State, without giving further details. But Article 10, which provides certain rights after 3 years of such permanent practice, does provide more detail by saying that the lawyer must have ‘*effectively and regularly pursued*’ the activity, and: ‘‘‘*Effective and regular pursuit’ means actual exercise of the activity without any interruption other than that resulting from the events of everyday life*’.

There are no cases yet on the meaning of these words from the directive itself when translated into the actual circumstances of lawyers’ lives. However, there was a seminal case decided by the Court of Justice of the European Union at a time before the passage of the Establishment directive – the Gebhard case (Case C-55/94) – which gave some indication of the difference between establishment and the temporary provision of services by lawyers. The words are rather general, but the Court said that the temporary nature of the provision of services is to be determined ‘*in the light of its duration, regularity, periodicity and continuity*’; and that establishment implies ‘a stable and continuous basis’ of professional activity in another Member State. In particular, the Court said the following:

‘*the temporary nature of the activities in question has to be determined in the light, not only of the duration of the provision of the service, but also of its regularity, periodicity or continuity. The fact that the provision of services is temporary does not mean that the provider of services within the meaning of the Treaty may not equip himself with some form of infrastructure in the host Member State (including an office, chambers or consulting rooms) in so far as such infrastructure is necessary for the purposes of performing the services in question*.’

In due course, the Court will be asked to decide on a further case which may give more exact clarification – but none has yet arisen over the 18 years since the directive was passed. If there is any doubt, the CCBE could always be asked to give its opinion before a bar decision. However, my main point here is that a fixed period of 6 months as here might be contrary to EU law because it does not take account of interruptions arising out of the events of everyday life, such as pregnancy and birth.

1. in case he/she has entered into an employment contract outside the legal profession, or has been entered in the register of entrepreneurs, or has gained the status of a statutory representative, or has been appointed a director or chairperson of the board of a legal entity except in sports, cultural and non-for-profit organisations, provided that such engagement does not constitute a conflict of interest, elected or appointed a member or chairperson of the executive board of a bank, appointed a representative of the state funds, or a procurator - as of the date of the employment contract, or the entry in the registry, appointment or election.
2. in case he/she has not entered into a professional liability insurance contract - as of the date of the final decision on deletion from the Directory of Attorneys-at-Law;
3. in case an attorney-at-law who is a foreign national entered in Register A and Register B of attorneys-at-law no longer has the status of attorney-at-law in his/her home country - as of the date of the decision made by the competent authority of the home country.

An attorney-at-law shall be deemed to have not practiced law for a period exceeding six months if it was not possible to deliver any writs to him/her at the address of his/her law office within that period, or if he/she has failed to fulfil financial obligations towards the bar for that period, which shall be established by a decision of the relevant bar association.

In case of termination of the right to engage in the practice of law referred to in Article 83 of the Legal Profession Act, the competent body of the bar association within the Bar Association of Serbia shall, before initiating the procedure for establishing whether there exist the conditions stipulated in Article 83 of the Legal Profession Act, deliver a warning to the attorney-at-law concerned indicating any reasons for deletion from the Directory of Attorneys-at-Law and the consequences thereof.

After a decision establishing the existence of conditions warranting deletion from the Directory of Attorneys-at-Law has become final, and within 15 days of the date of notification of the reasons for termination of the right to engage in the practice of law referred to in Paragraph 1 of this Article, the relevant bar association shall pass a decision on the deletion from the Directory of Attorneys-at-Law, carry out the deletion from the Directory of Attorneys-at-Law, and designate the attorney-at-law to take over the cases from the law office.

If the attorney-at-law has stopped practicing law at his/her own request, he/she shall have the right to propose an attorney-at-law to take over the cases from his/her law office.

All writs shall be served in accordance with the provisions of this Statute governing the delivery of writs.

The provisions of this Article shall apply *mutatis mutandis* to law trainees.

Article 245

The decision on deletion from the Directory of Attorney-at-Law for the reasons referred to in Paragraph, Items 1, 2, and 3, of the previous Article, shall be made by the president of the bar association in whose territory the attorney-at-law being deleted from the Directory has had the seat of the law office.

The decision on deletion from the Directory of Attorneys-at-Law for the reasons referred to in Article 83, Paragraph 1, Items 4-11, of the Legal Profession Act shall be made by the president of the bar association in whose territory the seat of the law office has been established, following the final decision of the managing board of the relevant bar association establishing that the conditions have been met for the deletion from the Directory of Attorneys-at-Law.

The decision of the managing board of the relevant bar association establishing that the conditions referred to in Paragraph 2 of this Article have been met for the deletion from the Directory of Attorneys-at-Law may be appealed before the Managing Board of the Bar Association of Serbia within 15 days of receipt thereof.

A special appeal against the decision on deletion from the Directory of Attorneys-at-Law may be lodged with the Managing Board of the Bar Association of Serbia.

It is not clear to me whether there is an appeal from the bar’s decision to the courts. I think there should be for reasons of EU law. Case 506/04 *Graham J. Wilson v. Ordre des avocats du barreau de Luxembourg* (19 September 2006) stated, in relation to refusals of registration, that having both first and second instance bodies composed of lawyers was not in compliance with the directive.

Article 246

A decision on deleting a law trainee or a law trainee-volunteer from the respective directories of law trainees shall be made by the president of the bar association in whose territory is the seat of his/her principal’s law office.

In the case of deletion from the Directory of Attorneys-at-Law due to the fact that an attorney-at-law has not practiced law for a period exceeding six months, a decision on deletion of law trainees and law trainees-volunteers employed by the attorney-at-law concerned shall also be passed.

An appeal against the decision on deletion of a law trainee or a law trainee-volunteer from the directory may be lodged with the Managing Board of the Bar Association of Serbia within 15 days of receipt of the decision.

Article 247

Upon expiry of the two-year period within which a law trainee is obliged to pass the judicial exam, the bar association shall *ex officio* make a decision on deleting the law trainee/law trainee-volunteer from the relevant directory of law trainees.

**12. The Authority of the Managing Board of the Bar Association of Serbia with Regard to the Responsibility for Lawful and Proper Exercise of Public Powers and the Work of the Bodies of the Bar Associations within the Bar Association of Serbia (*deleted*)**

Article 248

(*deleted*)

Article 249

(*deleted*)

Article 250

(*deleted*)

VI. THE RIGHTS AND DUTIES OF ATTORNEYS-AT-LAW

Article 251

An attorney at law shall:

1. practice law genuinely and regularly;
2. provide legal services in a professional manner and in good faith, in accordance with the Law, Statute of the Bar Association of Serbia, the statute of the bar association of the Bar Association of Serbia he/she is a member of, and the Code of Professional Ethics of Attorneys-at-Law;
3. be bound by professional confidentiality;
4. protect the reputation of the legal profession in both his/her professional work and private life that is available to the public.

Article 252

An attorney-at-law shall be entitled to practice law in the entire territory of the Republic of Serbia.

An attorney-at-law shall also be entitled to practice law in the territory of a foreign country, in accordance with the ratified international agreements and regulations of the relevant country governing the right of foreign attorneys-at-law to practice law.

Article 253

An attorney-at-law shall continuously acquire and improve his/her knowledge and skills required for professional, independent, effective and ethical practice of law, in accordance with a professional development programme adopted by the Bar Association of Serbia.

An attorney-at-law having a law trainee shall ensure that he/she has proper conditions for work and training in accordance with the purpose of internship, implement the training plan and programme, and supervise the law trainee’s work and professional development.

Article 254

An attorney-at-law shall exercise his/her discretion in deciding whether or not he/she will accept to provide legal services, except in the cases stipulated by the Legal Provision Act, this Statute, and the Code of Professional Ethics of Attorneys-at-Law.

An attorney-at-law may not refuse to provide legal services if he/she is appointed as legal representative or defence counsel by the court, other state authority or the bar association, except in the circumstances envisaged by the Legal Profession Act, this Statute, and the Code

of Professional Ethics of Attorneys-at-Law, whereby he/she is bound to refuse such representation.

Article 255

An attorney-at-law shall refuse to provide legal services in the following circumstances:

1. if he/she has represented the opposing party in the same legal matter;
2. if he/she was a law trainee in the office of the attorney-at-law who is representing or has represented the opposing party in the same legal matter;
3. if he/she is a member or was a member of the joint law office or the law partnership that is representing or has represented the opposing party in the same legal matter;
4. if he/she has acted in the same legal matter in the capacity as a judicial office holder or an authorised officer in a state authority, a territorial autonomy body, or an authority of a self-government unit;
5. if the interests of the party seeking legal services are contrary to his/her interests or the interests of his/her close relatives or other parties, which shall be regulated by the statute of the bar association and the Code;
6. in the case of justified reasons envisaged by the Code of Professional Ethics of Attorneys-at-Law;
7. in other cases envisaged by the law, statute of the relevant bar association, and the Code.

Article 256

An attorney-at-law shall, in accordance with the Legal Profession Act, the Statute of the Bar Association of Serbia, and the Code of Professional Ethics of Attorneys-at-Law, keep confidential, and ensure that all persons employed in his/her office keep confidential, all the information entrusted to him/her by a client or his/her authorised representative, or the information he/she obtained concerning the case in which he/she provides legal services, including the information he/she otherwise learned or obtained, in the course of preparation of the representation, during representation, as well as upon completion of the legal representation.

The confidentiality obligation shall not be time-limited.

The attorney-client privilege is a guaranteed human right of every party.

Professional confidentiality and the manner of treating confidential information shall be regulated in more detail by the Code of Professional Ethics of Attorneys-at-Law.

Article 257

An attorney-at-law can be substituted by a law trainee employed in his/her law office or by another attorney-at-law, directly or indirectly through his/her law trainee, in accordance with the law.

The attorney-at-law shall be responsible for any omissions by the law trainee employed in his/her office.

Article 258

An attorney-at-law shall be entitled to a reward and remuneration of expenses for his/her work, in accordance with the Tariff adopted by the Managing Board of the Bar Association of Serbia.

See previous comments about the tariff.

The invoice of reward and expenses of an attorney-at-law shall serve as a credible document in the enforcement procedure.

Article 259

An attorney-at-law is entitled to inform the public about his or her services provided that the information is accurate and not misleading, and respectful of the obligation of confidentiality and other core values of the profession. By way of example only, the presentation of basic data about birth, education, scientific and expert development, published works, specialisation in certain areas of law, knowledge of foreign languages, social and professional functions of an attorney-at-law, and the data on education and knowledge of foreign languages of the associates in a law office, is permitted, provided that such data is presented in a temperate and truthful manner, without the aim of self-promotion.

Personal publicity by a lawyer in any form of media such as by press, radio, television, by electronic commercial communications or otherwise is permitted to the extent it complies with the requirements of the paragraph above.

See previous comments about advertising.

The advertising prohibition and the permitted manners of presentation shall be regulated by the Code of Professional Ethics of Attorneys-at-Law.

Article 260

An attorney-at-law shall have the right to elect and be elected in the bodies of the Bar Association of Serbia and the bodies of the bar association within the Bar Association of Serbia he/she is a member of, in accordance with their respective statutes.

An attorney-at-law shall have the right to participate in the work of a body of the Bar Association of Serbia in accordance with this Statute, and in the work of bodies of the bar association within the Bar Association of Serbia he/she is a member of, in accordance with the statute and other by-laws of the bar association.

Article 261

An attorney-at-law shall regularly pay the membership fee and fulfil other financial obligations prescribed by decisions of the bodies of the relevant bar association.

Article 262

An attorney-at-law shall sign and stamp each document, writ or a letter he/she prepared.

Article 263

An attorney-at-law shall have a plaque displayed on the building in which his/her law office is located, containing the title “*Advokat*”/Attorney-at-Law, and the attorney-at-law’s name and surname.

An attorney-at-law who is a foreign national shall have a plaque also displaying his/her title in the language of his/her home country.

See previous comments about identification requirements of EU lawyers.

Article 264

An attorney-at-law shall have a seal containing the title “*Advokat”*, name and surname of the attorney-at-law, and the address of the seat of his/her law office.

Article 265

An attorney-at-law can have only one seat of his/her law office in the Republic of Serbia.

See previous comments about the one-seat requirement.

An attorney-at-law may provide legal services only in his/her law office, except in the cases when he/she is representing clients in hearings, during on-site investigations, in

reconstructions of events, negotiations or legal transactions, or in other places if it is required by the nature of case.

Exceptionally, an attorney-at-law may provide legal services in his/her apartment or in his/her client’s business premises due to specific circumstances of the case and the nature of the legal services.

An attorney-at-law shall report any change of seat of his/her law office in the territory of the same bar association, to the competent bar association, within 15 days of the change of seat.

No other additional activity shall be performed in a law office except for the activity of certified translators.

Article 266

The design and arrangement of a law office must correspond to the importance and reputation of the legal profession and provide conditions necessary for keeping professional secrets.

See previous comments about the need for office space for EU lawyers.

Any conversation with a client shall be confidential and it can be held only in the presence of the attorney-at-law, the client, a law trainee, or a person employed in the law office, and the person with whose presence the client agrees.

The design of an attorney-at-law’s plaque and the design of a law office, as well as technical conditions that must be met in order to practice law, shall be regulated by separate rules.

Article 267

At the request of the client, an attorney-at-law shall, upon termination of the legal representation, hand over all the records and documents concerning the client’s case.

Article 268

An attorney-at-law shall keep all the records and documents in accordance with the Rules on Maintaining Archives in Law Offices and Law Partnerships and the List of Categories of Registration Materials in Law Offices and Law Partnerships.

VII. THE RIGHTS AND DUTIES OF LAW TRAINEES

Article 269

A law trainee shall have the right to appropriate conditions for work and training in accordance with the purpose of internship and the internship plan and programme adopted by the Bar Association of Serbia.

During his/her internship, a law trainee shall have the right to remuneration as well as other employment rights, in accordance with the law and his/her employment contract.

Article 270

A law trainee shall act on the instructions of and within the authority granted to him/her by the attorney-at-law with whom he/she is taking the internship, except in the case when such instructions are contrary to the Constitution, the law, the statute of the bar association, and/or the Code of Professional Ethics of Attorneys-at-Law.

A law trainee may substitute, before a state authority or another person, only the attorney-at-law with whom he/she is taking the internship, either when the attorney-at-law is representing a party or substituting for another attorney-at-law, in accordance with the law.

If an attorney-at-law is substituting for another attorney-at-law through his/her law trainee, the law trainee shall, under the conditions referred to in Paragraph 1 of this Article, act on the instructions of the substituted attorney-at-law.

A law trainee may not practice law independently.

The provisions of the Legal Profession Act, this Statute and the Code of Professional Ethics of Attorneys at Law, governing duties and disciplinary responsibility of attorneys at law, shall apply *mutatis mutandis* to law trainees.

Article 271

The status of law trainee shall terminate if the law trainee does not pass the judicial exam within two years of the moment of acquiring the right to take the judicial exam.

After a law trainee has passed the judicial exam, his/her internship may continue for up to one year, but in any case it shall not exceed the deadline referred to in Paragraph 1 of this Article.

Upon expiration of the deadlines referred to in Paragraphs 1 and 2 of this Article, the competent bar association shall issue an *ex officio* decision on deleting the law trainee from the Directory of Law Trainees.

Article 272

The provisions of the Legal Profession Act, this Statute and the Code of Professional Ethics of Attorneys-at-Law, governing the work of law trainees shall apply *mutatis mutandis* to law trainees-volunteers; the work of law trainees-volunteers shall also be governed by regulations on volunteer work.

During his/her internship, a law trainee-volunteer shall not have the rights referred to in Article 59, Paragraph 2 of the Legal Profession Act.

VIII. PROFESSIONAL LIABILITY INSURANCE

Article 273

Each year, no later than 30 October, the Managing Board of the Bar Association of Serbia shall establish a minimum amount of insurance coverage to be stipulated in the obligatory professional liability insurance contract concluded for the next year with an organisation registered for providing such type of insurance.

Article 274

The Bar Association of Serbia and the bar association within its composition may enter into a collective professional liability insurance contract for attorneys-at-law who choose to be insured in that manner.

Attorneys-at-law who choose to enter into a contract of collective professional liability insurance for the following year are obliged to provide written statements to the Bar

Association of Serbia indicating their consent and authorising the Bar Association to enter into the contract of collective insurance on their behalf and for their account, no later than 31 December of the current year.

If an attorney-at-law fails to submit the written statement referred to in the previous Paragraph of this Article within the deadline prescribed therein, it shall be deemed that he/she opted to enter into an individual professional liability insurance contract, and he/she shall provide evidence of entering into such a contract of professional liability insurance satisfying the minimum requirements prescribed in the decision of the Managing Board of the Bar Association of Serbia, no later than 17 May of the next year.

The contract of collective professional liability insurance shall be entered into for a period of one year and the policy period shall start on every 17 May, starting from 17 May 2012 as the day of entry into force of Article 37 of the Legal Profession Act stipulating the obligatory professional liability insurance of attorneys-at-law.

If an attorney-at-law opts for entering into a contract of collective professional liability insurance, he/she shall be obliged to pay a one-off amount of annual premium to the bank account of the Bar Association of Serbia each year before the Bar Association has entered into the contract of collective professional liability insurance with the insurer.

Should an attorney-at-law who opted to enter into an individual professional liability insurance contract fail to provide evidence thereof until 17 May 2012, i.e. until 17 May of each next year, his/her right to engage in the practice of law shall terminate.

Article 275

If all members of a law partnership conclude an individual contract of professional liability insurance, it shall be deemed that the law partnership has met the conditions referred to in Article 48, Paragraph 1, of the Legal Profession Act.

As regards collective professional liability insurance of members of a law partnership, the law partnership is obliged to submit, no later than 31 December of the current year, a written statement to the Bar Association of Serbia indicating consent of all the members of the law partnership and authorising the Bar Association of Serbia to enter into a contract of collective professional liability insurance on their behalf and for their account for the next year.

Should a law partnership fail to submit the written statement and authorisation referred to in the previous Paragraph of this Article within the deadline stipulated therein, it shall be deemed that the law partnership opted to enter into an individual contract of obligatory professional liability insurance; the law partnership shall, no later than 17 May 2012 and no later than 17 May of each year thereafter, provide evidence of entering into a contract of obligatory professional liability insurance satisfying the minimum requirements prescribed in the decision of the Managing Board of the Bar Association of Serbia.

Article 276

Attorneys-at-law and law partnerships may have additional professional liability insurance.

Article 277

If an attorney-at-law has unsettled financial obligations towards the bar association, he/she may not be insured through the collective professional liability insurance policy.

Article 278

An attorney-at-law foreign national who has been entered or has submitted a request for entry in the directory of attorneys-at-law foreign nationals – Register A and Register B – must conclude a contract of professional liability insurance in the Republic of Serbia, unless the insurance policy obtained in his/her home country covers potential damages arising from the practice of law in the territory of the Republic of Serbia.

Attorneys-at-law who are foreign nationals shall submit proof of professional liability insurance each fiscal year.

An attorney-at-law foreign national may not be insured through a contract of collective professional liability insurance concluded on behalf of attorneys-at-law who are citizens of the Republic of Serbia.

This may change for EU lawyers (even though it stays for non-EU lawyers). Established EU lawyers may be allowed to participate in the collective insurance: it is for the host Member State to decide – Article 6 para 3 of 98/5/EC:

*‘The host Member State may require a lawyer practising under his home-country professional title either to take out professional indemnity insurance or to become a member of a professional guarantee fund in accordance with the rules which that State lays down for professional activities pursued in its territory. Nevertheless, a lawyer practising under his home-country professional title shall be exempted from that requirement if he can prove that he is covered by insurance taken out or a guarantee provided in accordance with the rules of his home Member State, insofar as such insurance or guarantee is equivalent in terms of the conditions and extent of cover. Where the equivalence is only partial, the competent authority in the host Member State may require that additional insurance or an additional guarantee be contracted to cover the elements which are not already covered by the insurance or guarantee contracted in accordance with the rules of the home Member State.’*

If an attorney-at-law foreign national does not fulfil his/her obligations concerning professional liability insurance for attorneys-at-law, the provisions of the Legal Profession Act and this Statute regulating the termination of right to engage in the practice of law shall apply.

IX. CODE OF PROFESSIONAL ETHICS OF ATTORNEYS-AT-LAW

Article 279

The Code of Professional Ethics of Attorneys-at-Law is a set of rules governing duties and rights of attorneys-at-law, based on the special kind and high level of their professional and moral responsibility in providing legal counsel to individuals and legal entities.

The Code of Professional Ethics of Attorneys-at-Law shall apply to all attorneys-at-law and, in a suitable manner, to all law trainees entered in the directories of attorneys-at-law and directories of law trainees of the bar associations within the Bar Association of Serbia, and/or in the Directory of Law Partnerships of the Bar Association of Serbia.

Attorneys-at-law and/or law trainees shall not be excused for ignorance of the Statute of the Bar Association of Serbia, the statute of the bar association within the Bar Association of Serbia in whose directory the attorney-at-law and/or the law trainee has been entered, and the Code of Professional Ethics of Attorneys-at-Law.

If the practice of law is exercised abroad, the attorney-at-law should abide by international principles of ethics and the ethical principles and laws of the legal profession of the country he/she practices in.

The Bar Association of Serbia shall stipulate whether a violation of the Code of Professional Ethics of Attorneys-at-Law entails disciplinary responsibility, set out the procedure for establishing such disciplinary responsibility, and supervise the observance of the Code of Professional Ethics of Attorneys-at-Law. The bar associations within the Bar Association of

Serbia shall be responsible for the observance of the Law of Professional Ethics of Attorneys-at-Law and shall conduct the disciplinary proceedings.

If there is no specific rule for a certain case, the Code of Professional Ethics of Attorneys-at-Law shall be interpreted by way of analogy, or taking into account the objectives and purpose of the general rules contained therein.

The Code of Professional Ethics of Attorneys-at-law shall be adopted by the Assembly of the Bar Association of Serbia.

X. THE TARIFF OF AWARDS AND EXPENSES PAYABLE FOR THE

WORK OF ATTORNEYS-AT-LAW

See previous comments about the tariff.

Article 280

The Tariff of Awards and Expenses Payable for the Work of Attorneys-at-Law shall determine the amount of awards payable for legal services provided by attorneys-at-law, and remuneration payable for the expenses incurred by attorneys-at-law in the course of providing legal services (per diem allowance, travel expenses, remuneration for absence from the law office, etc.).

The Tariff of Awards and Expenses Payable for the Work of Attorneys-at-Law shall be adopted by the Managing Board of the Bar Association of Serbia.

The amount of award payable for the work of attorneys-at-law shall be determined depending on the type of procedure, actions taken, the value of the dispute, or the severity of prescribed sanctions.

The amount of award payable for defence *ex officio* is determined by the enactment passed by the Minister of Justice, in accordance with the law.

An attorney-at-law shall be obliged to issue an invoice of awards and expenses for the services provided.

The invoice of awards, fees and expenses issued by an attorney-at-law shall serve as a credible document in the enforcement procedure.

XI. THE ATTORNEY ACADEMY

**1. Establishment and Objectives**

Article 281

The Managing Board of the Bar Association of Serbia shall pass a decision on establishing the Attorney Academy of the Bar Association of Serbia in accordance with the Legal Profession Act and this Statute.

This Statute shall regulate the status, tasks, objectives, activity, bodies, organisation, manner of financing, assets and the conditions for the work of the Attorney Academy of the Bar Association of Serbia.

The objectives and tasks underlying the establishment of the Attorney Academy of the Bar Association of Serbia shall be the organisation and administration of the attorney exam, the

continuous professional training of attorneys-at-law, law trainees, graduate lawyers and employees in law offices, specialised training of attorneys-at-law and improvement of their theoretical and practical knowledge and skills necessary for a competent, independent, effective and ethical practice of law.

**2. The Tasks of the Attorney Academy of the Bar Association of Serbia**

Article 282

The Attorney Academy shall:

1. propose the curricula of continuous general, special and specialised training of attorneys-at-law;
2. propose the curricula of general and special training of law trainees, graduate lawyers and persons employed in law offices and law partnerships;
3. establish strategic planning and adopt the overall plan and uniform work standards for the implementation of the curricula referred to in Item 1 of this Paragraph;
4. adopt separate plans for the implementation of the curricula referred to in Item 1 of this Paragraph;
5. organise and implement the continuous general, special and specialised training referred to in Item 1 of this Paragraph;
6. co-ordinate the work of the academies of the bar associations within the Bar Association of Serbia;
7. establish the criteria for acquiring the status of mentor and/or lecturer;
8. provide opinion on appointment and dismissal of lecturers and mentors;
9. propose decisions to be made regarding the remuneration for the work at the Academy;
10. establish and maintain co-operation with local and international institutions, organisations and associations engaged in the same or similar activities;
11. publish expert literature, manuals and other publications;
12. perform publishing and analytical activities and co-operate with scientific institutions;
13. systematically collect information of relevance to its work, particularly about the implementation and outcome of the training, and maintain a documentation and information centre;
14. collect and analyse case law
15. perform other tasks in accordance with the objectives underlying the establishment thereof, this Statute and general by-laws of the Bar Association and the Attorney Academy.

The Attorney Academy shall directly engage in the activities referred to in Paragraph 1, Items 1 – 3, 6 and 7, of this Article.

The activities referred to in Paragraph 1, Items 4, 5, and 8 – 15, of this Article shall be performed directly by the Attorney Academy or through the academies of the bar associations within the Bar Association of Serbia in the territories for which they have been established.

A mentor and/or lecturer appointed at the Attorney Academy or an academy established in accordance with Paragraphs 2 and 3 of this Article, shall have that status at each academy within the Bar Association of Serbia without additional or special appointment.

**3. The Organisation**

Article 283

The objectives referred to in Article 281, and the tasks referred to in Article 282, of this Statute shall be implemented directly by the Attorney Academy, and through the academies established by the bar associations within the Bar Association of Serbia.

Each bar association within the Bar Association of Serbia may establish an academy.

An academy may be established jointly by two or more bar associations within the Bar Association of Serbia.

**4. The Bodies**

Article 284

The bodies of the Attorney Academy of the Bar Association of Serbia shall be the Curriculum Council and the Office of the Dean.

Any attorney-at-law who meets one of the following requirements may be elected to the bodies of the Bar Association of Serbia:

* minimum 15 years of experience in the practice of law, or
* an academic title of Doctor (PhD).
  1. **The Curriculum Council**

Article 285

The Curriculum Council shall be the expert body of the Attorney Academy of the Bar Association of Serbia.

The members of the Curriculum Council shall be the Dean, by virtue of office, and one representative from each bar association within the Bar Association of Serbia.

The term of office of the members of the Curriculum Council shall be for four years, and it may be repeated once.

The Curriculum Council shall:

1. draft the curricula of continuous, special and specialised training;
2. draft the programmes of the specialist exam;
3. issue a general or individual invitation for the registration of candidates for the position of lecturers and mentors;
4. provide opinion on appointment and dismissal of lecturers and mentors;
5. appoint and dismiss members of the commission for professional specialisation of attorneys-at-law;
6. appoint and dismiss heads of departments and their deputies;
7. in cooperation with the Dean, ensure the implementation of the curriculum and work plan of the Academy;
8. authorise its member to act on behalf of the Dean, should the Dean be unable to personally designate his/her deputy;
9. elect, from among its members, the Chairperson of the Curriculum Council;
10. adopt its Rules of Procedure;
11. perform other tasks in accordance with the Statute and general by-laws of the Bar Association of Serbia and the Attorney Academy of the Bar Association of Serbia.

**6. The Office of the Dean**

Article 286

The Office of the Dean shall be the executive body of the Attorney Academy of the Bar Association of Serbia.

The term of office of the Dean shall be for four years, and it may be repeated once.

The Dean shall:

1. represent the Attorney Academy;
2. implement the decisions made by the Managing Board of the Bar Association of Serbia;
3. co-ordinate and organise the work of the Attorney Academy;
4. participate in the work of the Curriculum Council;
5. submit regular monthly and annual reports on his/her work and the work of the Attorney Academy and the departments of the Academy to the Managing Board of the Bar Association of Serbia;
6. perform other tasks in accordance with the Statute and general by-laws of the Bar Association of Serbia and the Attorney Academy.

In the absence of the Dean, he/she shall be substituted by the member of the Curriculum Council designated by him/her.

**7. Resources and Conditions for Work**

Article 287

Resources for the work of the Attorney Academy of the Bar Association of Serbia shall be provided from the resources of the Bar Association of Serbia.

Conditions for the work of the Attorney Academy of the Bar Association of Serbia shall be ensured by the Bar Association of Serbia.

XII. THE ATTORNEY EXAM

Article 288

The attorney exam shall be passed by all the candidates before they apply for the registration in the Directory of Attorneys-at-Law.

The attorney exam shall include assessment of knowledge of the Legal Profession Act, the Code of Professional Ethics of Attorneys-at-Law, the Statute of the Bar Association of Serbia, the Tariff, as well as the candidate’s familiarity with international regulations concerning the legal profession.

The candidate who fails the attorney exam shall have the right to resit the exam after 60 days of the day of attempting the exam.

The programme of the attorney exam shall be established by the Managing Board of the Bar Association of Serbia.

Article 289

The Managing Board of the Bar Association of Serbia and the managing boards of the bar associations within the Bar Association of Serbia shall establish the Attorney Exam Committee and appoint the Chairperson and members thereof.

The Attorney Exam Committee shall consist of the Chairpersons and two members from each bar association.

The Chairperson and members of the Committee shall have their deputies.

Any attorney-at-law who meets the following requirements may be elected Chairperson or member of the Attorney Exam Committee:

1. has minimum 15 years of continuous experience in the practice of law before the nomination;
2. has served at least one term in the bodies of the Bar Association of Serbia or a bar association within the Bar Association of Serbia prior to the nomination;
3. has not been found responsible for any disciplinary violations in the period of 10 years preceding the nomination;
4. has not been found criminally responsible for an offence rendering him/her unfit for the practice of law;
5. is not a member of any body of a political party.

Article 290

The manner of work and decision-making process of the Attorney Exam Committee shall be regulated by separate Rules.

Article 291

The manner of taking the attorney exam, assessment of candidates, and the design of the certificate of passed attorneys’ exam shall be regulated by separate Rules.

Candidates shall take the attorney exam before the exam commission comprising three members.

The certificate of passed attorney exam shall be issued by the relevant bar association within the Bar Association of Serbia based on the report of its exam commission.

The certificate of passed attorney exam shall be signed by the Chairperson of the Attorney Exam Committee and the president of the bar association whose exam commission administered the exam passed by the candidate.

Article 292

The cost of taking the attorney exam shall be borne by the candidates.

The amount of fee payable for taking the attorney exam shall be determined by the Managing Board of the Bar Association of Serbia.

The fees thus collected shall be used to fund the technical preparation and organisation of the exam, the work of examiners and the issuance of certificates.

XIII. OFFICIAL IDENTIFICATION CARDS OF ATTORNEYS-AT-LAW

AND LAW TRAINEES

**1. The Attorney-at-Law Identification Card**

Article 293

On the day of taking the attorney’s oath, the bar association shall pass a decision on registering the attorney-at-law in the Directory of Attorneys-at-Law and issue him/her the attorney at law identification card.

The attorney-at-law identification card, validated for the current year, shall serve as evidence of the status of attorney-at-law.

The attorney-at-law identification card shall contain the name and surname of the attorney-at-law, his/her photograph, the ordinal number and the day, month and year of registration in the Directory of Attorneys-at-Law, the validity period of the identification card, as well as other data of significance for establishing the status of attorney-at-law, as prescribed by the relevant general by-law of the Bar Association of Serbia.

**2. The Law Trainee Identification Card**

Article 294

On the day of taking the law trainee’s oath, the bar Association shall pass a decision on registering the law trainee in the Directory of Law Trainees and issue him/her the law trainee identification card.

The law trainee identification card shall contain the name and surname of the law trainee, his/her photograph, ordinal number, day, month and year of registration in the Directory of Law Trainees, validity period of the identification card, as well as other data of significance for establishing the status of law trainee as prescribed by the relevant general by-law of the Bar Association of Serbia.

XIV. ASSET MANAGEMENT AND FINANCIAL OPERATIONS OF THE BAR ASSOCIATION OF SERBIA AND THE BAR ASSOCIATION WITHIN THE BAR ASSOCIATION OF SERBIA

**1. Asset Management**

Article 295

The bar associations shall be self-financed.

Assets of the Bar Association of Serbia and of the bar associations within its composition shall include immovable property, inventory and revenues.

Article 296

Asset management of the Bar Association of Serbia shall be based on the annual revenue and expenditure plan to be established by the Managing Board of the Bar Association of Serbia no later than the date of adoption of the annual accounts of the Bar Association of Serbia for the previous business year.

Asset management of the bar associations within the Bar Association of Serbia shall be based on the annual revenue and expenditure plan to be established by the managing board of the relevant bar association within the Bar Association of Serbia no later than on the day of adoption of the annual accounts of the bar association for the previous business year.

Article 297

Financial sources of the Bar Association of Serbia shall include:

1. contribution deducted from the monthly membership fee payable by the bar associations within its composition;
2. fees payable for taking the attorney exam;
3. insurance premiums of attorneys-at-law who entered into a collective professional liability insurance contract;
4. registration costs payable for entry in the Directory of Law Partnerships, and related fees;
5. donated funds, and
6. other receipts.

Contributions from each bar association within the Bar Association of Serbia payable for financing the operations of the Bar Association of Serbia shall be based on the number of attorneys-at-law and the annual revenue and expenditure plan.

Financial sources of the bar associations within the Bar Association of Serbia shall be:

1. registration fee, the amount of which shall be determined by the Managing Board of the Bar Association of Serbia (Article 65, Paragraph 1, Item 14, of the Legal Profession Act);
2. membership fee and other contributions, the amount of which shall be established by the managing boards of the bar associations within the Bar Association of Serbia for their respective territories;

See previous comments about the need for these fees to satisfy EU competition law, and not be obstacles to access.

1. fines collected in the disciplinary proceedings;
2. donations,
3. other receipts.

Article 298

Attorneys-at-law are obliged to pay the membership fee and fulfil other financial obligations towards the bar association.

A decision of the bar association indicating the amount of membership fee, registration costs and other regular financial obligations towards the bar association shall be considered a credible document in the enforcement procedure.

Article 299

(*deleted*)

Article 300

The Bar Association of Serbia and the bar associations within its composition shall dispose of their assets in accordance with the law and the statutes.

The Bar Association of Serbia and the bar associations within its composition may use their assets for the purpose of:

* + their regular activities;
  + professional liability insurance of attorneys-at-law;
  + acquisition of property and property rights;
  + membership in international organisations and the Bar Association of Serbia;
  + salaries of persons employed with the expert service;
  + aid provided to attorneys-at-law and their families without sustenance;
  + humanitarian causes;
  + other purposes in accordance with the law and this Statute.

1. **Funds of the Bar Association and the Bar Associations within the Bar Association of**

**Serbia**

Article 301

The Bar Association of Serbia and the bar associations within its composition may establish funds based on a decision of the Assembly of the Bar Association of Serbia, and/or their respective assemblies.

A fund shall be managed in accordance with the rules to be adopted by the Assembly upon establishing the fund.

Article 302

The fund shall be financed from the resources of the bar association and fees payable by attorneys-at-law, the amount of which shall be established by the managing board, as well as from donations, endowments and other resources.

Acceptance of donations and endowments shall be decided upon by the managing board of the relevant bar association.

XV. GENERAL BY-LAWS

Article 303

The general by-law of the Bar Association of Serbia shall be:

1. Statute,
2. Rules on Directories, Records and Protection of Personal Information,
3. Code of Professional Ethics of Attorneys-at-Law,
4. Tariff of Awards and Expenses Payable for the Work of Attorneys-at-Law,

See previous comments about the tariff.

1. Rules on the Attorney Academy, including its work programme,
2. Rules on the Attorney Exam, including the exam programme, criteria and the procedure of election of the Attorney Exam Committee,

1. Rules on the content and design of the identification card of attorneys-at-law, the seal of attorney-at-law, plaque of attorney-at-law, and the minimum technical requirements and appearance of the law office,
2. Rules on Maintaining Archives in law offices and bar associations;
3. Rules of Procedure of the Assembly;
4. Rules of Procedure of the Managing Board;
5. Rules on the *Branič* magazine, the Information Bulletin, and other publications of the Bar Association of Serbia,
6. Rules on awards and commendations,
7. Rules of accounting,
8. Rules on systematisation of employment posts and the work of the expert service of the Bar Association of Serbia,
9. Rules on occupational health and safety and fire protection,
10. Rules of Procedure of the Council.

Article 304

An initiative for the adoption of or amendments to the Statute or another general by-law may be taken by any body of the Bar Association of Serbia, or by any bar association within the Bar Association of Serbia, or by 20 representatives in the Assembly of the Bar Association of Serbia.

The Managing Board of the Bar Association of Serbia shall decide whether to accept the initiative to amend the Statute or another general by-law of the Bar Association of Serbia.

Article 305

If the Managing Board of the Bar Association of Serbia accepts the initiative to amend the Statute or another general by-law, it shall establish a Commission to draft the amended Statute or another general by law.

The Managing Board of the Bar Association of Serbia shall establish the draft of the Statute or another general by-law and submit it for public consultation to the bar associations within the Bar Association of Serbia.

The public consultation referred to in Paragraph 2 of this Article shall last for 30 days from the day of the Management Board’s decision establishing the draft Statute or another general by-law of the Bar Association of Serbia.

Article 306

Upon the public consultation, the Managing Board of the Bar Association of Serbia shall establish the proposal of the Statute or another general by-law and request the President of the Bar Association of Serbia to convene the Assembly within the deadline prescribed herein with the view to deciding on the proposal to amend the Statute or another general by-law of the Bar Association of Serbia.

In establishing the proposal referred to in Paragraph 1 of this Article, the Managing Board of the Bar Association of Serbia shall take into account the opinions, comments and

recommendations advanced in the public consultation, and provide reasons where such comments and recommendations have not bee accepted.

Discussions on the comments and recommendations concerning the draft of and amendments to the Statute before the Assembly of the Bar Association of Serbia, and discussions on such comments and recommendations concerning the draft of another generally by-law before the Managing Board of the Bar Association of Serbia, shall be conducted in accordance with the procedure envisaged for amendments.

Article 307

The Assembly of the Bar Association of Serbia shall decide on the adoption of or amendments and supplements to the Statute of the Bar Association of Serbia by an absolute majority vote, i.e. the vote of 50% plus 1 representative in the Assembly of the Bar Association of Serbia.

The Statute of the Bar association and amendments and supplements thereto, the Code of Professional Ethics of Attorneys-at-Law, and the Tariff of Awards and Expenses Payable for the Work of Attorneys-at-Law, shall be published in the Official Gazette of the Republic of Serbia and shall enter into force on the eighth day of their publication, unless the application of the general by-law has been postponed as provided in the general by-law itself.

The Managing Board of the Bar Association of Serbia shall pass a decision on adopting other general by-laws by a majority vote of the members attending the meeting.

Other general by-laws of the Bar Association of Serbia shall be published on the bulletin board and in the publications of the Bar Association of Serbia.

XVI. PUBLICITY OF WORK OF THE BAR ASSOCIATION OF SERBIA; THE *BRAJIČ* MAGAZINE AND THE INFORMATION BULLETIN; NOTIFICATION OF MEMBERS ABOUT THE WORK OF THE BAR ASSOCIATION OF SERBIA; THE LIBRARY AND THE WEBSITE OF THE BAR ASSOCIATION OF SERBIA

**1. Publicity of Work and \_otification**

Article 308

Publicity of work shall be ensured by way of public meetings of all the bodies of the Bar Association of Serbia, by displaying the information about scheduled meetings on bulletin boards in the courts and bar associations, by delivery of the information and reports on the work of the bodies of the Bar Association of Serbia, by way of publishing the Statute and other general by-laws of the Bar Association of Serbia in the Official Gazette of the Republic of Serbia, in the *Branič* magazine, the *Information Bulletin*, and in other publications of the Bar Association of Serbia, and by way of advertising the information in the media and on the website.

The matters constituting a state, military, official or professional secret, and/or the matters classified by the authorities as state secret, confidential, strictly confidential or internal, may not be communicated in the manner specified in the previous Paragraph.

Article 309

At least once a year, the bodies of the Bar Association of Serbia shall prepare written reports on their work and submit them to the Assembly of the Bar Association of Serbia.

Article 310

Notification of members about scheduled meetings of the bodies of the Bar Association of Serbia and the bar associations within its composition shall be ensured by way of hand delivery of written documents, by posting the announcements about scheduled meetings on the bulletin board of the Bar Association of Serbia, and by their advertising in the publications of the Bar Association of Serbia and the media.

Notification of members about the work at the meetings of the bodies of the Bar Association of Serbia, except for the work at the meetings of disciplinary bodies, shall be ensured by way of delivery of the information and adopted general by-laws to the bar associations of Serbia, by way of their publication on the bulletin bard or in the publications of the Bar Association of Serbia.

The managing boards of the Bar Association of Serbia and the bar associations within its composition are obliged to suitably and regularly publish the reports (minutes) of their meetings, as well as to inform the public about other activities of relevance to the profession.

**2. The Magazine and Other Publications of the Bar Association of Serbia**

Article 311

The Bar Association of Serbia shall issue a scientific and professional magazine, and other publications of significance to the legal profession and its activities.

The magazine on legal theory and practice shall be issued by the Bar Association of Serbia under the title of *Branič*, in the Serbian language and in Cyrillic print.

The Bar Association of Serbia shall issue the Information Bulletin, in which it shall publish the information and reports about the work of the bodies of the Bar Association, the Statute and general by-laws of the Bar Association, as well as the information of significance to the status and functioning of the legal profession.

The Bar Association shall publish other scientific and professional literature of importance for the education of attorneys-at-law and law trainees at the Attorney Academy.

The Rules on the magazine and other publications, to be adopted by the Managing Board of the Bar Association, shall stipulate the programme orientation of the *Branič* magazine and the election of the editor-in-chief and the Editorial Board.

The Rules shall also regulate the issuance of other publications (books, brochures, bulletins, etc.) which are of significance to the legal profession and its activities.

Article 312

The Bar Association of Serbia shall have its website on the Internet.

**3. The Library**

Article 313

The Bar Association of Serbia shall have a library wherein it shall collect and keep scientific and professional literature.

The operations of the Library shall be stipulated by a general by-law to be adopted by the Managing Board of the Bar Association of Serbia.

XVII. HOLIDAYS AND AWARDS

Article 314

The Legal Profession Day shall be 28 February, being the day of passing the first *Law on* *Public Legal Representatives* in 1862.

The programme of celebration of the Legal Profession Day shall be established by the Managing Board of the Bar Association of Serbia.

Article 315

The Golden Plaque of the Bar Association of Serbia for Lifetime Achievement (“*Zlatna plaketa Advokatske komore Srbije za životno delo*”) and the Plaque of Merit of the Bar Association of Serbia (“*Plaketa Advokatske komore Srbije*”) shall be awarded to attorneys-at-law as a token of appreciation for exceptional results in and improvement of the legal practice, as well as to individuals outside the legal profession who personally contributed to the development and improvement of the legal profession.

Besides the award referred to in Paragraph 1 of this Article, an attorney-at-law may be awarded the Certificate of Honour of the Bar Association of Serbia (“*Povelja Advokatske* *komore srbije*”) for his/her outstanding and long-term work in the legal profession and thebodies of the Bar Association of Serbia, as well as for successful performance of other socially significant activities in the legal profession and professional associations and organisations.

The Rules to be adopted by the Managing Board of the Bar Association of Serbia shall stipulate the conditions for presenting the awards referred to in Paragraphs 1 and 2 of this Article.

XVIII. THE EXPERT SERVICE OF THE BAR ASSOCIATION OF SERBIA

Article 316

The Expert Service of the Bar Association of Serbia shall perform administrative, expert and support activities.

The employees of the Expert Service shall have all the rights stipulated by the effective regulations and the decisions of the bodies of the Bar Association of Serbia.

The work of the Expert Service shall be managed by the Manager of the Service to be appointed in a public competition procedure.

The requirements for employment in the Expert Service of the Bar Association of Serbia shall be established in the Rules on systematisation of employment posts and the Rules of Procedure.

XIX. INTERIM AND FINAL PROVISIONS

Article 317

The Bar Associations within the Bar Association of Serbia shall adopt their respective statutes in the period of three months following the entry into force of this Statute.

Article 318

Attorneys-at-law engaged in the activities incompatible with the legal profession as of the date of entry into force of this Statue, are obliged to state within three months following the entry into force of this Statute whether they will continue to practice law.

Attorneys-at-law elected as officials or members in the bodies of both the Bar Association of Serbia and a bar association within its composition, are obliged to state within six months of entry into force of this Statute which position they will remain in.

Article 319

The Statute of the Bar Association of Serbia adopted at the meetings of the Assembly held on 16 January and 25 September 1999, 17 November 2001, 6 July 2002, 6 December 2003, 13 November 2004, and 12 November 2005 (Official Gazette of the Republic of Serbia Nos. 43/99, 65/01 and 41/02), shall cease to be effective on the day of entry into force of this Statute.

Article 320

This Statute shall enter into force on the eighth day of its publication in the Official Gazette of the Republic of Serbia.

Articles 9a, together with the amendments to Articles 141, 144, 158, 159, 241, 244, 259 and 265 will only come into force on the day that the Republic of Serbia accedes to the European Union.

President of the Bar Association of Serbia

**Dragoljub Đorđević**

(*signature*)