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## Serbia: New amendments of the Law on Public Notaries

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Regulatory

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With the latest amendments of the Law on public notaries (*Zakon o javnom beležništvu*, „Official Gazette of RS“ no. 31/2011, 85/2012 and 19/2013 – the „Law“), the implementation of the law has been postponed for another year and a half. The Law will therefore enter into force on 01.09.2014.

New amendments of the Law provide that a public notary must be resident in the town or in the city in which he/she has his/her registered seat, as specified in the decision of appointment of the notary. Also, if the notary's registered seat is in a specific city municipality, than he/she must be a resident on the territory of the city to which such municipality belongs.

Further, it has been clarified under the amendments that contracts for the disposal of real estate by people who do not possess business capacity are no longer specially mentioned in the Law, as the Law now provides that every contract for the disposal of real estate must be notarized, including contracts for disposal of real estate by people who do not possess business capacity.

The final change consists of procedural steps in the process of examining public notary candidates. Under the amendments the minister of Justice appoints the members of the commission appointed and he/she may constitute multiple test commissions.

### **Background on public notaries in Serbia and the region**

The institute of public notaries has its roots in the Roman law and is an unavoidable part of modern legislation. Notaries generally have a duty to protect the public interest and are, in most jurisdictions, positioned somewhere between the judges and lawyers. They are private professionals vested with numerous public authorities.

In the Serbian legislature, this legal concept has been neglected for a long time until the adoption of the Law in 2011. Despite it being adopted two years ago, it has not yet become applicable for a number of organizational, technical, legal, regulatory, and financial reasons. As a reminder, under the Law, notaries are independent and autonomous legal professionals vested with public authority to receive from clients their statements and to provide them with the requisite written form and to issue documents on the basis thereof which have the character of public documents, as well as to keep the originals of such documents and other documents entrusted to them, to publically confirm facts, advise clients on matters which are the subject of the notaries' activities, and to undertake other acts and perform other activities specified under the law.

Finally, with regards to the experience of other jurisdictions in the region, it should be noted that the Montenegrin Law on Public notaries (*Zakon o notarima*, „Official Gazette of republic of Montenegro no. 68/2005 and 49/2008) came into effect five years after its enactment. In Croatia *Zakon o javnom bilježništvu*, „Official Gazette of republic of Croatia no. 78/93, 29/94, 16/07 and 75/09) as well as in Slovenia (*Zakon o notariatu*, „Official Gazette of republic of Slovenia no. 48/1994, 82/1994, 41/1995, 1/1999, 83/2001, 73/2004, 23/2005, 98/2005, 4/2006, 17/2006, 115/2006, 2/2007, 33/2007 and 45/2008) the law has been in effect for 15 years.