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CDR – The Belt and Road Initiative

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I Connection to Belt and Road projects

1.1 Anticipated role of Serbia within the Belt and Road scheme

The One Belt, One Road Initiative ("BRI") tends to develop political and economic cooperation with European countries, especially those situated in the Balkans, and Serbia is no exception. In fact, as its potential has attracted many Chinese investors, Serbia may be deemed a leading country in terms of prominent BRI investments that have occurred (and, consequently, one of China's key partners), most of which are in the infrastructure and energy sectors.

The main project within the BRI is the Budapest-Belgrade railway, which is worth USD 1.8 billion; the Serbian section (from Novi Sad to the Hungarian border) alone is worth USD 1.1 billion. The Serbian Government has signed several agreements with China to solidify cooperation in the fields of innovation and infrastructure.

Although the projects are beneficial to both countries – Serbia and China – Chinese investments warmly welcomed by Serbia raise concerns in relation to environmental protection and several other issues (such as unsustainable debt). Moreover, the European Parliament has also expressed concerns about Chinese economic projects in Serbia.

In 2021, China invested EUR 569.4 million in Serbia, a EUR 90.5 million increase compared to 2020 (when it invested EUR 478.9 million). According to data from the National Bank of Serbia for the first quarter of 2022, the largest inflow of foreign investments of EUR 219 million came from China (thereby surpassing the first quarter of 2021, when Chinese investments amounted to EUR 201 million).

Although BRI financing and investment decreased in the first half of 2022 (with no new engagements with Russia, Sri Lanka, and Egypt), China's financing and investment in Serbia remain at a high level. Namely, Serbia was the second (following Philippines) country with the highest construction volume of about USD 1.9 billion in the first half of 2022.

Notable projects include the Belgrade-Montenegro Bar Port Motorway (expected in the future) as well as the purchase of a steel mill that used to be owned by U.S. Steel by China's state-owned HBIS Group. In 2018, China's Zijin Mining took a 63% share in the Bor mine, the country's only copper mining complex. Also, an upgrade to the Belgrade-Preševu railway with an estimated length of 930m is expected in the future. Recently, Chinese tyre manufacturer Shandong Linglong commenced construction of a production plant in Zrenjanin – the plant is expected to produce 13 million tyres a year and employ 1,200 people.

Furthermore, on 18 February 2022, the first Think Thank meeting of experts from the BRI member countries, called "Sustainability of the Joint Future", was held in Belgrade. Experts from Kenya, Italy, Bulgaria, Hungary, Malaysia, Morocco, Uzbekistan, Russia, Slovenia, China, and Serbia attended the conference, whose main organiser was the Belt and Road Institute comprises the Government of the Republic of Serbia, the Serbian Chamber of Commerce, and the University of Novi Sad, and brings together companies, universities, and businessmen

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People & Firms Expert Views Conferences Directory in to, it is likely that it will grant benefits to exporters and increase the ties. Consequently, such an agreement is expected to strengthen ties between China and Serbia. Being an EU Member State candidate, Serbia will, however, have the obligation to withdraw from all bilateral free trade agreements on the day of joining the European Union ("EU").

II Country overview

2.1 Economy

According to the World Bank data, GDP *per capita* of Serbia in 2021 was USD 9,215. So far, the effects of COVID-19 and the conflict in Ukraine on Serbia have been less severe compared to most European countries due to the achieved macroeconomic and financial stability, previous growth dynamics, created fiscal space, and timely and comprehensive package of measures, as well as the structure of the economy.

Adopted economic policy measures (EUR 5.8 billion, about 13% of GDP in 2020) minimised the fall in GDP in 2020, while the additional package of EUR 2.2 billion (4.2% of GDP) in 2021 contributed to further GDP growth and a return to the path of sustainable growth in the medium term.

The return of GDP to the pre-crisis level was achieved in Q1 2021, while according to the data of the Statistical Office of the Republic of Serbia, the real growth of GDP in 2021 amounted to 7.4%.

On the last published World Bank Ease of Doing Business Index, Serbia ranked 44th (overall) out of 190 countries, while taking 8th position in Europe. Serbia's main industries include energy, the automotive industry, machinery, mining, and agriculture. Primary industrial exports are automobiles, base metals, furniture, food processing, machinery, chemicals, sugar, tyres, clothes, and pharmaceuticals – trade plays a major role in Serbia's economic output.

2.2 Currency

The currency in use is Serbian dinars ("RSD"), with an average exchange rate for 2021 of RSD 117.57 = EUR 1. Regarding the stability of the RSD, it is important to note that in the first half of 2021 it had been claimed as "among the most stable currencies since the beginning of the 2021", according to analysts from Austrian Erste Group. Stability of the exchange rate of the RSD against the EUR was maintained in 2021 and the first half of 2022, with changes registered on the second decimal place. According to recent statements issued by the National Bank of Serbia, there is no reason for concern since Serbia has a high level of foreign exchange reserves of over EUR 16 billion, and, hence, has enough resources and skills to preserve the stability. The stability trend from recent years is a positive factor for the Serbian economy, as uncontrolled RSD exchange rate fluctuations would provide uncertainty, especially for those conducting business (who particularly should be aware in advance of what can be expected).

2.3 Government and stability/security

The incumbent Government of Serbia, the second one led by Prime Minister Ana Brnabić, was elected on 28 October 2020. The Government's top priorities include: caring for the health of citizens and strengthening the health system; digitisation of healthcare; preservation of vital interests of the Serbian people in Kosovo and Metohija; combatting organised crime; preservation of independence and independent decision-making of Serbia; security and defence of the country; the rule of law and the acceleration of reforms on the Serbian European path; further economic strengthening of Serbia; digital innovations aimed at creating added value; incentives to entrepreneurship and the development of science and the economy; environmental protection and green transformation; energy transformation and sustainability; mining; smart, resilient and sustainable agriculture; artificial intelligence ("AI"); tourism, sport; and public administration efficiency, etc.

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held in 2024, were held in Serbia on 3 April 2022, along with the confirmed political power of the ruling party led by the President of the Republic of Serbia. Although formation of the new Government has yet to take place, the political situation is stable, and no major political change is likely to happen soon. As for potential repercussions in an unlikely scenario that Serbia faces a change of its political leaders, these may include the slowing down of procedures before the relevant state bodies or the authorities taking a more ineffective approach, due to the overall political uncertainty. What can be stated for sure, however, is that no political change is likely to jeopardise strategically important projects for Serbia, as their completion is of public interest for Serbia and would be beneficial for its citizens on multiple levels.

2.5 Natural resources

The natural resources available in Serbia include coal, iron ore, oil, gas, gold, silver, copper, zinc, antimony, chromite, magnesium, pyrite, limestone, and marble.

2.6 Infrastructure

Located in Southeast Europe, Serbia offers an extremely favourable geographical and strategic position – at the crossroads between Western and Eastern Europe, thanks to which many important roads pass through Serbia. Roads and railways from Northern, Western, and Central Europe pass through Serbia on their way to Southeastern Europe and South-Western Asia. Also, the Danube, a river passing through Serbia, connects as many as 10 European countries. Therefore, a developed transport infrastructure is important for business development, market presence and necessary as a way of connecting with business associates and suppliers from all parts of Europe and the world. Its strategic position is particularly recognised by the BRI, which is why many transport infrastructure projects are taking place in Serbia.

2.7 Investment limitations

As part of its process to join the EU, while also aiming at becoming concurrent in the field of investments, Serbia has worked hard on improving the investment possibilities, including making relevant amendments to its regulations (both laws and bylaws). Foreign investors in Serbia enjoy the freedom to invest while being treated in relation to their investments in the same way as Serbian citizens, implying that they have the same rights and obligations as Serbian investors, unless otherwise provided by the law. The favourable tax regime (e.g., the 15% corporate income tax rate and tax relief intended for innovative start-ups) motivates investors from around the world to start their businesses in Serbia. By providing tax benefits such as exempting VAT on income generated through business activities, free zones are suitable for doing business for both domestic and foreign legal entities. Also, the profit made in the free zone can be transferred to any country in the world, at no cost, with no taxes imposed, or permits being required.

The procedure for setting up a business in Serbia is simple and particularly attractive to foreign investors, as many company incorporation formalities can be performed without the physical presence of the shareholders (e.g., the certification of the Memorandum of Association).

In addition to incentives to which all legal entities in Serbia are entitled, there are special incentives for foreign investors. Serbia provides special non-refundable funds for Greenfield and Brownfield investments, as two types of foreign direct investment in Serbia. To support investments of national importance as well as the investments that improve domestic economic development, Serbia may sell construction land to an investor at a lower price than the market price. Additionally, there is a tax credit for 10 years on corporate income tax for investors who employ more than 100 employees and invest more than EUR 8.5 million.

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and her side in accordance with the Negotiations on the Stabilization and
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of reciprocity from the Ministry of Justice. In practice, it would suffice if the legislation of that state allows foreign
persons to acquire real estate properties under conditions not significantly stricter than the conditions prescribed by
Serbian law, and the authorities of that state in practice allow Serbian citizens to acquire real estate.

III International dispute settlement

3.1 Local courts and legal tradition

As part of the Roman legal tradition, Serbia identifies as a Civil Law country applying European Continental Law. Most of the principles incorporated in its legal system align with the rules and legal institutions originating from Austria and Germany, whereas the influence of Anglo-Saxon law is minor (except for the recent novelties in company, criminal and bankruptcy law). The rule of law is a priority, declared so by the Serbian Constitution, as well as by numerous Government programmes and documents. In exercising their competencies, while acting as a state authority, judges are independent and impartial. Judicial power is divided between the courts of general and special jurisdiction, the latter being the Commercial Courts, Commercial Court of Appeals, Misdemeanour Courts, Misdemeanour Court of Appeals, and Administrative Court. Proceedings conducted before courts of special jurisdiction are often more efficient as the main pieces of evidence proposed therein are usually documents (and only as an exception witnesses and other evidence).

In Serbia, anti-corruption and bribery have been acknowledged as important topics, especially given the importance of the rule of law in the EU negotiation and integration process and the public perception of these issues. Consequently, numerous activities have been undertaken by the state authorities to fight corruption and bribery more efficiently.

On 21 May 2019, the Serbian Parliament adopted a set of criminal regulations as well as the Anti-Corruption Law. As lack of results in fighting corruption is one of the most serious obstacles to the economic, social, and political development of the country and joining the EU, the Government is constantly putting emphasis on this issue. Apart from enacting new regulations, the Government has also tried to solidify existing and establish new institutions for fighting corruption, such as the establishment of a special Department for the Fight against Corruption within the Public Prosecutor's Office. Additionally, the competence of the Prosecutor's Office for Organized Crime is extended to crimes of so-called "high corruption", where the defendant is an official or a responsible person performing a public function based on an election or appointment, as well as to so-called "serious corruption" – for corrupt criminal offences where the value of the obtained property gained exceeds RSD 200 million.

Regarding corruption in daily life, a negative experience is unlikely when working on important projects and foreign direct investments, which are, due to their nature, always coordinated with the Government and various competent authorities. In general, foreign persons are less likely to encounter corruption, due to the fact that, as a rule, the projects they are engaged in are strategically important for Serbia, leaving little to no room for personal aspirations.

Whether the proceedings would be administered and ruled in a satisfactory manner depends on each judge, some of whom are very efficient in adjudicating, while others tend to avoid dealing with the issues in a duly manner, especially in complex matters. The practice has shown that the judges of the second and third instance courts are more reliable in terms of expertise and impartiality.

The length of proceedings depends on various factors, such as the complexity of the matter, evidentiary procedure, the need for possible counterclaims, number of legal remedies filed against the rendered judgment, etc. Despite the regulations providing for numerous mechanisms to increase the efficiency of proceedings, in practice, such proceedings still take too long, endangering thereby the widely accepted principle of the right to a trial in a



Arbitration has recently been recognised as a modern and faster mechanism of dispute resolution, primarily considering the usual timeframe for obtaining a final and binding court judgment, with an average duration of six months up to a year. It is particularly popular in international disputes, where impartiality and neutrality must be preserved to a greater extent. That being said, in the cases where the courts have exclusive jurisdiction under Serbian law (such as disputes on real estate located in Serbia), arbitration is not admissible.

As a rule, under Serbian Arbitration Law, arbitration may be agreed upon as a proper dispute resolution mechanism in disputes over the rights that the parties can freely dispose of, and which do not fall under the exclusive jurisdiction of the Serbian courts. Matters relating to real estate situated in Serbia are not permitted to be adjudicated in a foreign forum/arbitration, but are within the exclusive competence of the Serbian courts.

Additionally, the Law on Consumer Protection provides that an exclusion or restriction of a consumer's right to initiate a specific procedure or to use a specific legal remedy for the protection of his or her rights under the said law, especially the imposition of an obligation to resolve the dispute in arbitration, in a manner that is contrary to the provisions of the said law, would be deemed an unfair contractual provision and as such considered null and void. Therefore, even if the parties agree on arbitration, if the Serbian Law on Consumer Protection is applied, there is a risk that certain dispute resolution mechanisms could not be excluded by the parties.

When it comes to local arbitral institutions, Permanent Arbitration at the Serbian Chamber of Commerce is a modern arbitration institution created by reorganising two institutions that previously existed: Foreign Trade Arbitration (competent for disputes with an international element); and the Permanent Court of Arbitration (competent for domestic disputes). The said institution is competent to settle all types of disputes arising out of business relationships, supposing the parties agree on its jurisdiction. In 2013, another arbitration institution called the Belgrade Arbitration Center ("BAC") was established in Serbia, as a permanent arbitration institution that administers domestic and international disputes, assists in technical and administrative aspects of *ad hoc* arbitral proceedings, organises and conducts mediation, etc.

Concerning mediation, it is important to note that Serbia was among the first 46 countries to accede to the United Nations Convention on International Settlement Agreements Resulting from Mediation ("Singapore Convention") in August 2019. Despite the advantages of mediation as a voluntary, informal, faster, and cheaper procedure (compared to the regular costs of court proceedings, mediation is approximately 35% to 60% cheaper), in 2019, there were 460,970 litigation cases in Serbia, while only 569 mediations were conducted in the same year.

3.3 International treaties

Serbia has signed bilateral investment treaties ("BIT") with the following BRI countries: China; Romania; the Slovak Republic; Bulgaria; Belarus; Poland; North Macedonia; Zimbabwe; Guinea; Greece; the Czech Republic; Croatia; Ghana; Cuba; Ukraine; Italy; Turkey; Hungary; Bosnia and Herzegovina; Slovenia; Albania; Iran; Kuwait; Libya; Lithuania; Egypt; Cyprus; Portugal; Montenegro; Malta; Kazakhstan; Azerbaijan; Indonesia; Algeria; the United Arab Emirates; Morocco; and Qatar. For some countries listed as having signed a BIT with Serbia, available information on being a BRI signatory is unclear. Such countries include Austria, Niger, and the Russian Federation. Other notable cross-border commercial agreements ratified by Serbia include, e.g., the United Nations Convention on Contracts for the International Sale of Goods ("CISG").

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The SAA between the EU and Serbia commenced in November 2005. The SAA, by virtue of which Serbia undertook the obligation to i) establish a free trade zone, as well as to ii) harmonise its legislation with EU law, was signed in April



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foreign judgments, it is important to note that a foreign court judgment produces the same legal effects as a judgment of a Serbian court only if recognised by a court of the Republic of Serbia. The procedure and conditions for the recognition of foreign court judgments are prescribed by the Law on Resolving Conflicts of Laws with the Regulations of Other Countries, as well as by the relevant bilateral agreements. BRI countries with whom Serbia has arrangements for the recognition and enforcement of judgments are Algeria, Bulgaria, Greece, Hungary, Romania, Austria (only for decisions of selected courts, no reciprocity in recognition of Commercial Court judgments), the Czech Republic, Iraq, North Macedonia, the Russian Federation, Italy (arbitral awards), the Slovak Republic, Mongolia, Ukraine, Bosnia and Herzegovina, Cyprus, Poland, and Montenegro. Although reciprocity is necessary for recognition of a foreign court judgment, no bilateral arrangement to that effect is required – factual reciprocity would be sufficient. Moreover, there is a presumption that such reciprocity exists, so the party claiming differently must prove so.

3.4 Is Serbia a signatory to the New York Convention? In practice, are foreign awards enforced?

For a foreign arbitral award (deemed an award made by an arbitral tribunal seated outside of Serbia, as well as an award of a tribunal seated in Serbia, but a foreign law was applied to the arbitral proceedings) to be enforceable, i.e., to have an effect of a final judgment of the domestic court, it first needs to be recognised before a Serbian court. The legal framework for recognition and enforcement consists of the Arbitration Law and the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, to which Serbia acceded in 2001. Serbia is also a signatory of the European Convention of International Commercial Arbitration of 1961.

The recognition and enforcement procedures may be conducted separately, one after another, or the competent court may decide on the recognition of a foreign arbitral award as a preliminary matter in the enforcement proceedings. The second option, from our experience, gives quicker results. In both cases, however, the court is not allowed to review the merits of the foreign arbitral award. This means that Serbian courts are generally obliged to recognise foreign arbitral awards, except where one of the following grounds for refusal applies:

- (i) invalid arbitration agreement;
- (ii) the party against whom the award had been rendered was not given proper notice of the appointment of an arbitrator or of the arbitration proceedings, or was otherwise unable to present their case;
- (iii) the award decides on matters not contemplated by or exceeding the scope of the arbitration agreement (partial refusal of the recognition and enforcement of that award is possible here);
- (iv) defective composition of the arbitration tribunal;
- (v) the award has not yet become binding on the parties or has been set aside; or
- (vi) the subject matter of the dispute is not eligible for settlement by arbitration under Serbian law, or the award is incompatible with the Serbian public order.

The timeframe for the court to grant enforcement depends on the procedural path chosen by the applicant (recognition procedure as a separate proceeding or as a preliminary matter in enforcement proceedings) and the use of available legal remedies (ordinary legal remedies, constitutional complaint). In practice, it can take from a few months to several years. It should be noted that no specific time limit for the recognition and enforcement of foreign arbitral awards is provided under Serbian law. In that respect, a default provision of the Law on Obligations is applied, according to which a claim confirmed in an award is subject to a limitation period of 10 years from the date the award



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