TRANSNATIONAL LITIGATION:

A Practitioner's Guide

Volume 2

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Chapter 22B

Serbia

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I. OVERVIEW OF KEY DISTINGUISHING ISSUES

§ 22B:1 Generally

The main statutes regulating civil and commercial litigation in Serbia are the Civil Procedure Code[1] and the Enforcement and Security Act,[2] while the Conflict of Laws Act[3] regulates jurisdiction and governing law in matters with international elements.

As to litigation, Serbian legal system follows the European civil law tradition. Courts with jurisdiction over litigation issues are divided into courts of general jurisdiction, which hear civil cases and commercial courts in charge of commercial matters, with the Supreme Court of Cassation being the highest court authority in the system (the Constitutional Court could be said to be the highest judicial authority, but formally it is not a part of the judiciary system and has very specific jurisdiction).

Issues of significance for transnational litigation have been regulated to a significant extent in the body of law mentioned above. However, certain issues remain. First, due to lack of transparency and the fact that *stare decisis* is not part of the legal system,[4] there is a lack of consistent approach to certain issues of significance to the topic at hand.

Second, the Conflict of Laws Act, regulating jurisdiction of courts in cases with international elements, has to a certain extent become outdated and regulates the issue in way so complicated that even the more eminent scholars in the field often agree that a number of provi-

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[Section 22B:1]

[1]*Official Gazette of Serbia*, Numbers 72/2011, 49/2013—Decision of the Constitutional Court, Number 74/2013; Decision of the Constitutional Court, Number 55/2014.

[2]*Official Gazette of Serbia*, Numbers 106/2015 and 106/2016.

[3]*Official Gazette of SFRY*, Numbers 43/82 and 72/82; *Official Gazette of SRY*, Number 46/96; *Official Gazette of Serbia*, Number 46/2006.

[4]The recently adopted new Administrative Code has taken some steps in introducing a version of the doctrine, but only in administrative issues.

3. The claim regarding the same request has already been filed;
4. The subject matter has already been adjudicated (or a court settlement has been concluded in the same matter); or
5. The claim is incomprehensible or incomplete or there is no legal interest for the plaintiff in filing the subject claim (only if the plaintiff claims for determination of the existence or non-existence of some right or legal relation, violation of the personal rights, or the truthfulness or an untrue nature of a particular document).

Otherwise, if no reasons for rejection are found, the court will deliver the claim to defendant for the response.

VII. SUMMARY JUDGEMENTS AND EQUIVALENT PROCEEDINGS

§ 22B:23 Procedural requirements

Serbian procedural laws regulate several forms of expedited proceedings in situations where the general interest or the pure economy of the proceedings requires faster decision-making. These include labor disputes, low value disputes, interference of possession proceedings, and collective agreement disputes.

The procedural rules vary but, in general, include deviations from the general rules in terms of setting stricter deadlines, exclusion of certain types of evidence and exclusion of certain procedural steps (e.g., preparatory hearing).

§ 22B:24 Labor disputes

The Civil Procedure Code provides that disputes on labor relations have an urgent nature, which means that, when determining deadlines and hearings, the competent court will take particular care for the urgent resolution of such disputes. In addition, during the course of the proceedings, the court may (*ex officio*) determine provisional measures (in accordance with the law governing enforcement and security) in order to prevent violent treatment or to avoid irreparable damage.

§ 22B:25 Collective agreements

Disputes arising from collective agreements also are subject to specific rules and are considered urgent in nature. The court is allowed to suspend the proceedings for a maximum of 30 days, with the aim of providing parties with an opportunity for settlement of the dispute. Additionally, the court establishes the wording and meaning of the provision of the collective agreement that regulates the disputed issue so the clause becomes an integral part of the collective agreement.

§ 22B:26 Interference with possession

In disputes with regards to interference with possession, the court must care of the need for the urgent resolution of such disputes. In the proceedings, discussion is limited exclusively to the facts concerning the last state of the possession and its disturbance.

In other words, arguing against or objecting the right to possession, its legal basis, *bona fide* objections, or claims for damages are not allowed. Similar to labor disputes, the court is allowed to determine some provisional measures, even without previously hearing the opposing party, in order to eliminate an urgent danger of unlawful damage, prevent violence, or prevent irreparable damage. A plaintiff will lose the right to seek the enforcement of a decision rendered in the proceedings if it did not request enforcement within 30 days from the expiration of the deadline determined for voluntary fulfillment of obligations imposed by the subject court decision.

§ 22B:27 Issuance of payment orders

Issuance of a payment order also involves special litigation proceedings. Pursuant to the Civil Procedure Code, conducting of the proceedings is possible if the claim refers to overdue pecuniary receivables, proven by a credible document attached to the claim (in original or certified copy), along with serviced payment alert provided therein. If the claim refers to overdue pecuniary receivables that do not exceed the RSD equivalent of €2,000 (calculated at the middle exchange rate of the National Bank of Serbia on the day the claim is filed), the court will issue a payment order even if the appropriate credible document is not provided therein, under condition that the claim contains clear designation of basis and amount of the subject debt, along with the evidence due to which the truthfulness of the claim's allegations can be determined.

A payment order will be issued without previous hearing. In the payment order, the court declares that defendant is liable to comply with the subject claims within eight days from the date of delivery of the payment order (in disputes which arise from promissory notes or checks the subject deadline is three days), along with certain costs assessed by the court. The defendant also is allowed to file a complaint against the issued payment order, within the aforementioned deadlines.

If the defendant alleges that there was no legal basis for issuance of the payment order, or that there are particular obstacles for the further course of the proceedings, the court will first decide on such objections. If the court finds that the aforementioned complaints are founded, it will abolish a decision on issuance of payment order, and commence examination of the main subject matter through the regular litigation proceedings. In addition, if the court does not accept the plaintiff's proposal for issuance of the payment order, it will continue

with the procedure pursuant to the general rules on litigation proceedings.

§ 22B:28 Low-value disputes

In the case of low-value disputes, i.e., proceedings with regard to pecuniary receivables that do not exceed the RSD equivalent of €3,000 (calculated at the middle exchange rate of the National Bank of Serbia on the day the claim is filed), the claim may not be delivered to defendant for the response or may the preparatory hearing be scheduled or held while the main hearing is mandatory.

Furthermore, judgment is to be announced immediately after the main hearing is concluded, and it cannot be disputed on the account of all appeal grounds prescribed by law and relevant for regular litigation. Disputes regarding real estate, interference with property, and labor disputes are never subject to the rules on low-value disputes.

§ 22B:29 Commercial disputes

The Civil Procedure Code provides special rules with regards to disputes in commercial matters. In commercial disputes, as a rule, the relevant facts are proven by written evidence rather than by oral evidence (such as testimony for example). In addition, the subject Code prescribes specific deadlines, and provisions on courts' territorial jurisdiction that differ from the general rules of litigation proceedings.

In commercial disputes, low-value disputes are considered to be those relating to the pecuniary receivables that do not exceed the RSD equivalent of €30,000 (calculated at the middle exchange rate of the National Bank of Serbia on the day the claim is filed). In such disputes, the claim may not be subject to delivery to defendant for response. The judgment cannot be disputed for the all appeal grounds prescribed by the law.

VIII. INTERIM AND CONSERVATORY RELIEF, INJUNCTIONS, AND SIMILAR EMERGENCY MEASURES

§ 22B:30 Generally

The Enforcement and Security Act regulates two emergency measures in civil litigation that may be used in connection to a foreign proceeding, these being a mortgage on real estate and movable property[1] and interim measures.

The Act also regulates preliminary measures, used to secure claims based on domestic court decisions or settlements that have not become

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[Section 22B:30]

[1]This text will only analyze the ones that are imposed by court either *ex officio* or on request of one of the parties.

final. However, the Conflict of Laws Act prevents foreign court decisions or settlements from being recognized (and awarded the same status as domestic judgments) if they have not become final. Only certain foreign documents certified by a foreign notary public, if recognized as domestic by a Serbian court, may be used for triggering preliminary measures.

Since this text is focused on litigation issues, it will consider only mechanisms related to court and arbitration proceedings.

§ 22B:31 Mortgage

Plaintiffs who have obtained an enforceable document (a document based on which one can request court-enforced enforcement of a claim, e.g., a court verdict) for a pecuniary claim can request that the competent court order the Real Estate Cadaster to register a mortgage on a specific real estate of the debtor.

The plaintiff must produce proof that the debtor owns the real estate in question or, if the property rights are not registered with the Cadaster, other proof that the debtor has a legitimate legal basis for acquiring ownership over the real estate (e.g., a valid purchase agreement). The mortgage is constituted once it is registered in the Cadaster.

A similar process is available for constituting pledge on movable property that is registered in the Pledge Registry held with the Business Registers Agency. Under Serbian law, a pledge can be constituted on movable property that can be individualized (this, therefore, includes generic things that are individualized by appropriate measure, e.g., a certain amount of precious metals properly packaged and marked), claims (except claims which cannot be transferred or *intuitu personae* claims), or any other transferable rights (e.g., copyright). The pledge is constituted once it is registered with the Pledge Registry. The purpose of mortgages and pledges is to secure the plaintiff's claim, which will be paid from the proceedings of sale of the mortgaged or pledged assets, preventing the debtor from transferring the assets in an effort to avoid enforcement efforts.

§ 22B:32 Interim measures

Under the Enforcement and Security Act, there are two sets of interim measures, these being that for securing pecuniary claims and that for securing non-pecuniary claims. While the content of the measures can be somewhat different, depending whether the claim is pecuniary or not, the conditions for the court approving them are the same.

A claim secured by an interim measure does not need to be confirmed by a final court decision (there is an additional set of measures available during the enforcement proceedings for claims

established by a final court decision). An interim measure will be granted if the creditor proves a probability that a pecuniary or non-pecuniary claim exists (i.e., certainty of existence thereof does not need to be proved). In order to secure an interim measure for securing pecuniary claims, the creditor, in addition to the probability of the existence of claims, must prove the probability that, without the interim measure(s), the debtor would prevent or make it difficult to enforce the claim, by disposing of their property or assets or concealing them.

As to non-pecuniary claims, the creditor, in addition to the probability of the existence of claims, must prove the probability that without the interim measure(s) the enforcement of the claim would be thwarted or significantly hampered, or that illegal force would be used or irreparable damage caused. Interim measures also may be granted for claims that are still not due for payment, as well as for conditional or future claims. The creditor will not be required to prove a danger to the enforcement of the claim if it is likely that the debtor may suffer only minor harm, or that claim must be fulfilled abroad. Under the Enforcement and Security Act, it is especially considered that a pecuniary claim is in jeopardy if:

1. An enforcement proceedings has already been conducted for the purpose of collecting past due statutory support from the debtor;
2. The claim must be fulfilled abroad, even when the domestic court is competent for execution;
3. The regular income of the debtor is lower than his legal obligations combined with those determined by a final decision of a court and other authority; and
4. The debtor refused to provide information on their property in previous attempts to enforce the claim.

The creditor may, in the proposal for the determination of an interim measure or at a later date, request that the court allow the debtor to avoid interim measures by depositing a guarantee for a pecuniary amount to be determined by the court. As mentioned, depending on whether the claim in pecuniary or not, the content of the measure may vary but the catalogue of measures at the court's disposal is the following:

1. A ban on the debtor to dispose of, or burden, their movable assets and, if necessary, seizure of debtor's assets and putting them in custody of the creditor, a trustee or court deposit;
2. A ban on the debtor to dispose of, or encumber immovable property or other property rights in the Real Estate Cadaster;
3. A prohibition on the debtor to pay other claims or receive the payment of their claims towards third persons or to receive and dispose with certain assets;
4. An order to banks to transfer a certain amount of debtor's assets to special account with the enforcement officer;
5. An order to the Central Securities Depository to register a ban

on exercise of property and voting rights of the debtor's securities;
6. The seizure of cash or securities from the debtor;
7. An order to the debtor to take actions necessary to preserve the immovable or movable property and prevent their physical change, damage or destruction; and
8. The temporary settlement of disputed relationship, if it is necessary to eliminate the risk of violence or significant irreparable harm (the final court decision may settle the dispute in another way).

Interim measures can be requested both before and during a litigation proceeding. If the request is filed before the claim to initiate litigation proceedings has been submitted to the court, the court will, if it decides to adopt interim measures, impose a deadline for the plaintiff to submit the claim and initiate litigation proceedings. Failure of the plaintiff to do so will result in *ex officio* revocation of interim measured by the court.

IX. WITNESS EVIDENCE AND DOCUMENTARY EVIDENCE

A. Taking of Witness Evidence Domestically in Support of Foreign Action

§ 22B:33 Generally

The Civil Procedure Code contains several provisions concerning international legal assistance in civil and commercial matters. The Code provides that Serbian courts (Basic and Commercial) will provide legal assistance to foreign courts in cases determined by law, international agreements, and generally-accepted rules of international law, under the condition that there is reciprocity in the subject matter. In case of doubt as to the existence of reciprocity in providing of legal assistance in a particular case, the Ministry of Justice will advise whether reciprocity exists.

In accordance with the Code, domestic courts provide legal assistance to foreign courts in the manner prescribed by a relevant domestic law. A particular activity, which is the subject of the foreign court's letter rogatory, also may be performed in a manner required by the foreign court, if such procedure is not contrary to the general principles of the Serbian legal system.

Unless otherwise is provided by law, international agreement, or generally accepted rules of international law, the courts will take into consideration the request of the foreign court for providing of legal assistance only if the letter rogatory was delivered by diplomatic channels, and if both subject letter and its attachments are officially translated into Serbian language. Provisions concerning international legal assistance in civil and commercial matters also are provided

within numerous bilateral international agreements between Serbia and foreign countries, which provide for:

1. The authorities competent for providing international legal assistance;
2. The scope of assistance;
3. The mandatory content of the letter rogatory;
4. The language in which the letters and submissions must be made;
5. The authorities through which the delivery of letters and submissions will be performed;
6. The manner of delivering of the subject documents; and
7. The delivery costs and all other relevant issues.

Depending on the agreement, the authorities that are allowed to seek or provide international legal assistance may encompass the courts, administrative authorities, or some other competent authorities. In addition, each agreement differently stipulates which procedures and matters are covered by provisions on the international legal assistance. Serbia also is signatory to relevant multilateral international agreements, such as the Hague Convention on Civil Procedure from 1 March 1954.

§ 22B:34 Governing law for summoning witnesses; examination of witnesses

The taking of witness evidence domestically in support of a foreign action must be undertaken in accordance with the appropriate bilateral agreement (if any) or pursuant to the provisions of Civil Procedure Code. Under the assumption that there is no bilateral agreement, and that the foreign country does not seek for taking of witness evidence in some specific manner, every person appointed as a witness is obliged to respond to the call of the court. Only persons capable of giving information on the facts to be proved in a particular proceedings can be heard as the witnesses.

As a rule, the witnesses are heard personally at the hearing. However, there are certain exception from the aforementioned principle. For example, the court is allowed to determine that a particular witness will be heard over a conference connection, i.e., through audio or optical recording devices. However, despite the fact that this option has been introduced in litigation proceedings as of 2012, it has not been used because of the lack of technical support in the courts. A person whose testimony would violate a duty of keeping classified information a secret cannot be examined as a witness until the competent authority exempts him from the duty. In addition, a witness may refuse to testify in the following cases:

1. The witness is to testify on information the party has entrusted him with as an attorney;
2. The witness is to testify information the party or another person has entrusted him with as a religious confessor; and

3. The witness is liable to keep a professional secret.

A witness also may decline to answer on certain questions, if there are justified reasons, and in particular if to answer would cause serious shame, substantial property damage, or the prosecution of the witness or close relatives. Witnesses are heard individually and without presence of witnesses who have not yet been questioned. Prior to giving a statement, the witness will be reminded that he is obliged to tell the truth and that he may not fail to disclose anything of relevance to the case, after which he will be warned about the consequences of giving of false testimony (a felony).

The witness will be enabled to present everything he knows about facts he is testifying on and then will be asked questions beneficial to checking, supplementing, or clarifying the testimony. The witness will always be asked how he knows the information. If a witness who is duly summoned does not come to the hearing and does not justify his absence, the court is allowed to order his apprehension and impose an appropriate monetary fine. A witness will be liable to bear the costs arising from his apprehension.

B. Taking of Witness Evidence Abroad in Support of Domestic Action

§ 22B:35 Generally

Under the Civil Procedure Code, the rule is that witnesses are examined at a hearing before the court. However, a court may decide either to accept a written statement from a witness or to examine them on a hearing through video conference connection.

The only explicit limitation to this rule with regard to the hearing of the parties, whereas the parties can be examined by way of video conference only if a party cannot appear before the court because of insurmountable difficulties or if their appearance would cause disproportionally high costs. In the case of witnesses, regardless of the fact that the court accepted a written statement or examined a witness by way of video conference, it may still decide to call the witness to appear in person later in the proceedings.

§ 22B:36 Written statements

If the court allows the witness to submit a written statement, such statement must be certified by a court or other public authority authorized to verify personal statements (in Serbia, only a notary public would be authorized). The officer taking the statement from the witness is obliged to notify the witness of the rights and obligations a witness has under Serbian law.

A witness can give a statement before a court or other appropriate public officer of a foreign jurisdiction. However, a foreign authority would not easily meet the requirement of the witness being informed

of his rights and obligations under Serbian law unless a Serbian-trained lawyer provides counsel. Moreover, certification of any such statement would must be reviewed under rules for reviewing foreign public documents.

Since there are different rules for certifying foreign public documents that are and that are not issued by a notary public, and the Civil Procedure Code does not specify which form the certification of witness statement must be in, until further case law develops, it is to be concluded that any properly recognized public certification would suffice.

§ 22B:37 Examination by video conference

Under the Civil Procedure Code, a witness examined by video conference does not need to be physically accompanied by a court representative or another public officer. Since the video link allows interaction in real time, the (presiding) judge will inform the witness of their rights and obligations under Serbian law and proceed with questioning.

At all times, the testimony is being recorded and is subsequently entered into case files. Although there are no major legal obstacles for conducting this kind of witness examination, Serbian courts usually lack appropriate video conferencing equipment, and the process is consequently rarely used in practice.

§ 22B:38 Taking of documentary evidence domestically in support of foreign action

As explained above, international legal assistance in civil and commercial matters will be performed on the basis of a foreign authority's letter rogatory and in accordance with a relevant international agreement (if any) or pursuant to the provisions of Civil Procedure Code. Required action will be taken in accordance with domestic rules regarding the subject matter unless the foreign authority seeks for performing of particular action in a different manner, and under condition that such behavior is not contrary to the public order of the general principles of the Serbian legal system.

Under the assumption that there is no appropriate bilateral agreement and that the foreign authority does not seek for taking of documentary evidence in a manner that differs from relevant provisions of Civil Procedure Code, the subject procedure will be conducted as follows. A document issued by a competent authority, as well as by an organization or person entrusted with public authority, in both cases within the limits of its powers, represents a proof as to the authenticity of what is determined or confirmed within the subject document. However, it is permitted to prove that the facts within the particular document are incorrectly determined or that the subject document is incorrectly compiled.

A party is obliged to submit the document proving its allegations. If the document is compiled in a foreign language, the party also is obliged to enclose its official translation into Serbian language. If it is not possible for the party to obtain the necessary document, due to the fact that it is in possession of a state or other authority, organization, or person that issued the subject document in performing of its public authorizations, the court will obtain it *ex officio*. Likewise, if the document is placed with the other party, the court will order that party to submit the document within the provided deadline.

However, Civil Procedure Code stipulates that the party is allowed to refuse to submit the document in certain situations, for example if they are obliged to keep a professional secret, etc. As for the situation when the document is in possession of a third person, the court may order the subject person to submit the document only if they have such obligation pursuant to the law, or if the subject document is common to that person and the party (e.g., the third party also is a signatory to an agreement). Taking of documentary evidence will be performed by reading the document. Minutes of the main hearing regarding the subject litigation proceedings will contain a notice that a particular evidence was taken by reading the document, and the subject document will be included in the case file.

C. Taking of Documentary Evidence Abroad in Support of Domestic Action

§ 22B:39 Generally

Under the Civil Procedure Code, a distinction is made between private documents (documents executed between private parties, without intervention by a public body), and public documents—any document that has been compiled or certified by a state or non-state entity with authority under law to do so. This excludes court decisions, which are subject to special review and approval proceedings.

Private documents executed abroad may be submitted as evidence under the same rules as a domestic private document, i.e., they are submitted directly to the court and have evidentiary value depending on their legal nature (e.g., a contract or a will) and governing law for the substance of the case at hand.

In the case of public documents, the general rule under the Civil Procedure Code is that public documents are considered proof of the legal transaction/information contained therein, provided they are executed in accordance with statute and by an authorized body/official. Moreover, reciprocity is required (meaning that Serbian public documents are, under same conditions recognized in the jurisdiction where the foreign public document is issued), but is presumed (while a party to the proceedings may try to prove otherwise).

As to foreign public documents Serbian law differentiates between foreign public documents in general, and certain foreign documents

executed by a notary public. While the regime for legalizing is the same for both types of documents, certain special rules apply with regard to the conditions under which documents certified by a foreign notary public can be directly executed in Serbia, without first having to be approved for execution by a court.

§ 22B:40 Foreign public documents

In General

If a foreign public document is legalized in accordance with Serbian law, it will have the same legal status as a Serbian public document. After a foreign public document is issued in accordance with law of the issuing jurisdiction, it must be certified (i.e., legalized) by a Serbian diplomatic mission in charge of that jurisdiction (an embassy or a consulate). When used in Serbia, the legalized documents will be accompanied by a certified translation into Serbian (executed by a court-certified translator).

Apostille Convention

The Convention of 5 October 1961 Abolishing the Requirement of Legalization for Foreign Public Documents (the "Apostille Convention") provides that, between the signatories, there will be no need for legalization of public documents, provided they have been apostilled.

Apostilization consists of certifying the document in question with a standard seal, the apostille. A certified translation of the apostilled document is needed for the document to be used in Serbia. The following countries are current signatories of the Apostille Convention: Albania, Andorra, Argentina, Armenia, Australia, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Chile, People's Republic of China, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Ecuador, Estonia, Finland, Former Yugoslav Republic of Macedonia, France, Georgia, Germany, Greece, Hungary, Iceland, India, Ireland, Israel, Italy, Japan, Kazakhstan, Republic of Korea, Latvia, Lithuania, Luxembourg, Malta, Mauritius, Mexico, Monaco, Montenegro, Morocco, The Netherlands, New Zealand, Norway, Panama, Paraguay, Peru, Poland, Portugal, Republic of Moldova, Romania, Russian Federation, Serbia, Slovakia, Slovenia, South Africa, Spain, Suriname, Sweden, Switzerland, Turkey, Ukraine, United Kingdom, United States, Uruguay and Venezuela.[1]

§ 22B:41 Bilateral treaties

Serbia has entered into a number of bilateral treaties which go even further than the Apostille Convention, and completely exclude any

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[Section 22B:40]

[1]*See* http://bit.ly/2qf9wER.

need for legalization of documents from signatory countries (a certified translation of the document is nevertheless necessary for use in Serbia). Due to difficulties with implementing legal continuity between Serbia and the former Socialist Federal Republic of Yugoslavia, certain countries, such as Algeria, Iraq, or Libya, do not implement the treaty, while Serbia does.

Moreover, the treaties differ in scope, so while a majority is applicable to all documents, some are limited to commercial matters, citizenship registers and similar. The following countries have signed a bilateral treaty with Serbia: Algeria, Austria, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Former Yugoslav, Macedonia, France, Greece, Hungary, Iraq, Italy, Libya, Mongolia, Montenegro, Poland, Romania, Russian Federation, Slovakia, Slovenia, and Ukraine.

§ 22B:42 Direct execution of foreign public documents certified by foreign notary public

Under the Public Notaries Act,[1] foreign notary public documents have, subject to reciprocity, the same legal effect as domestic notary public documents. However, foreign notary public documents cannot have legal effects in Serbia that are not in accordance with the law of the jurisdiction in which they were issued (unless otherwise regulated by an international treaty).

Under the conditions of reciprocity outlined above, foreign notary public documents that are directly enforceable under law of the issuing jurisdiction are directly enforceable in Serbia, if they are related to rights that are not contrary to the general principles of the Serbian legal system and if they contain all the elements that are required for execution under Public Notaries Act. Foreign notary public documents, which have been dully certified by a stamp of a domestic notary public, in accordance with rules of the Public Notaries Act, will be deemed to be a domestic public document.

D. Presentation of Evidence

§ 22B:43 Admissibility and presentation at trial of evidence taken domestically and abroad

Under the Civil Procedure Code, there are no special substance rules under which evidence taken abroad can be presented at trial. If the procedures for taking evidence, as noted above, are fulfilled, evidence taken abroad will have the same legal effect as that taken domestically.

[Section 22B:42]

[1]*Official Gazette of Serbia*, Numbers 31/2011, 85/2012, 19/2013, 55/2014, 93/2014, 121/2014, 6/2015, and 106/2015.

Each party is obliged to present evidence, i.e., by submitting the written documents, proposing obtaining the documents by the court (when the document is in possession of a third person or in possession of state or other authority etc.) and proposing hearing of the witnesses, which support its claim, although, in certain forms of litigation, such are marriage or child care proceedings, courts have some authority to obtain certain evidence *ex officio*.

Facts that are widely known do not need to be proved, but the opposing party may still try to repudiate them. If the court is not convinced by evidence presented by parties, it will apply the burden of proof rules, which mandate that a party claiming to have a certain right must prove that factual grounds for it, while the party that contends that the other party does not have a certain right must substantiate its claim by sufficient evidence. Failure of any party to fulfill the burden of proof rules will result in court ruling against them.

Each party is obliged to present evidence for their claims within the first written submission to the court (claim for the plaintiff and response to the claim for the defendant), but no later than at the first hearing before the court. In more complex proceedings, the court will organize a preparatory hearing where the parties will be given a chance to present evidence and convince the court of their value and significance. Presenting evidence after these procedural stages may not be possible expect if the party who is presenting the particular evidence proves that without own responsibility have not been able to present the respective evidence at the appropriate stage of proceedings, i.e., at latest at the preparatory hearing or at first hearing before the court if preparatory hearing in not organized according to the proceedings rules.

After the court has received proposals for evidence, it will decide on admissibility of each proposed evidence. The court has relatively broad discretionary rights when it comes to admissibility of evidence, and is generally governed by the rule, that it must allow all evidence that can meaningfully contribute to establishing the facts necessary for making a decision in the case at hand. On the other hand, certain evidence, especially public documents, is typically used or by law must be used to establish certain facts. For example, an excerpt from the Central Cadaster Registry is almost always the only admissible evidence of property rights over real estate.

X. APPEAL AND REVIEW OF TRANSNATIONAL JUDGMENTS

§ 22B:44 Generally

Pursuant to the Conflict of Laws Act, a foreign court judgment, either civil or commercial, will be equal to the judgment of a domestic court and will produce its legal effects in Serbia only if it has been previously recognized by a Serbian court. A court settlement will be