International Comparative Legal Guides

Competition Litigation 2026

A practical cross-border resource to inform legal minds

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Serbia


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1 General

1.1 Please identify the scope of claims that may be brought in your jurisdiction for breach of competition law.

The Serbian Competition Act ("**Competition Act**") establishes a "follow-on" regime, where litigation for breaches of competition rules may be initiated before a civil court only after the Serbian Competition Authority ("**SCA**") has determined an infringement. However, it is important to note that the SCA's finding of an infringement decision does not assume the existence of damages, which must be proven in a judicial proceeding.

Two distinct claims can be pursued for breach of competition rules in litigation: **(i)** seeking damages to recover financial losses resulting from anti-competitive conduct; and **(ii)** seeking injunctive relief to compel the infringing party to undertake corrective actions to address the breach.

Furthermore, it is possible to file a complaint requesting that the SCA initiate *ex officio* proceedings. In this scenario, the applicant will not be a party to the procedure.

1.2 What is the legal basis for bringing an action for breach of competition law?

The foundation for bringing an action for a breach of competition rules is grounded in several pieces of legislation: **(i)** the Competition Act; **(ii)** the Civil Procedure Code, which governs the procedural aspects of litigation; **(iii)** the Contracts and Torts Act, which provides general rules applicable to contractual and tortious claims; and **(iv)** the Act on Resolving Conflicts of Laws with Foreign Regulations, which applies in cases involving disputes with foreign entities or cross-border issues.

Additionally, the General Administrative Procedure Act and the Administrative Disputes Act are applicable in administrative disputes challenging the SCA's decision before the Administrative Court.

1.3 Is the legal basis for competition law claims derived from international, national or regional law?

The legal grounds for competition claims in Serbia are predominantly derived from national law. However, it is important to note that the Competition Act is closely aligned with European Union ("**EU**") competition legislation. Consequently, European Commission case law is applicable under Article 73 of the Stabilisation and Association Agreement between the European Communities and their Member States and the Republic of Serbia.

1.4 Are there specialist courts in your jurisdiction to which competition law cases are assigned?

Serbia does not have specialist courts for competition law. Typically, the Commercial Court serves as the court of first instance for competition litigation, while the Commercial Court of Appeals functions as the appellate court. This applies to cases where the claimant is a company (legal entity). On the other hand, if the claimant is a natural person, which is rare but legally possible, the courts of general jurisdiction are authorised to handle such cases. Finally, the Supreme Court acts as the court of final instance, irrespective of whether the claimant is a natural person or a legal entity.

In contrast, the Administrative Court handles claims for the annulment of and appeals against decisions made by the SCA.

1.5 Who has standing to bring an action for breach of competition law and what are the available mechanisms for multiple claimants? For instance, is there a possibility of collective claims, class actions, actions by representative bodies or any other form of public interest litigation? If collective claims or class actions are permitted, are these permitted on an "opt-in" or "opt-out" basis?

To have standing, a claimant must have suffered harm or loss due to a breach of competition rules as determined by the SCA. This means that any individual or entity affected by the breach, including undertakings within downstream distribution chains, may file a lawsuit for the damages incurred. Class action lawsuits are not available in Serbia, as the Constitutional Court declared them illegal in 2013.

Collective claims, which are a *sui generis* type of claim, can only be brought by consumer associations if more than 10 consumers are harmed by a single action. These claims are administered by the Ministry of Internal and Foreign Trade. However, collective claims are neither opt-in nor opt-out, as trade associations can bring claims regardless of consumer preferences.

1.6 What jurisdictional factors will determine whether a court is entitled to take on a competition law claim?

The Act on Organisations of Courts clearly defines the

competencies of all courts in Serbia, including the Commercial Court and the Administrative Court, as mentioned in question 1.4.

1.7 Does your jurisdiction have a reputation for attracting claimants or, on the contrary, defendant applications to seize jurisdiction, and if so, why?

Serbia is not widely recognised for attracting claimants or defendants in competition litigation, primarily due to its very limited case law and lengthy procedural timelines. The scarcity of established precedents in competition litigation and the generally lengthy nature of proceedings can deter parties from initiating private litigation in Serbia.

1.8 Is the judicial process adversarial or inquisitorial?

The judicial process before courts in civil litigation is adversarial. The courts assess the facts and evidence presented by parties and do not have an active investigative role in the proceedings. However, in exceptional cases, such as when a party attempts to dispose of rights to which they are not entitled, the courts may adopt a more inquisitive stance towards the proceedings.

1.9 Please describe the approach of the courts in your jurisdictions to hearing stand-alone infringement cases, including in respect of secret cartels, competition restrictions contained in contractual arrangements or allegations of abuse of market power.

From the courts' perspective, whether the claim is standalone or follow-on is irrelevant when determining their approach. However, standalone claims present specific challenges due to the absence of a prior ruling on the infringement. Without a formal decision from the SCA, proving the breach can be difficult, practically unfeasible, and may require extensive evidence, such as documentation and expert analyses. Therefore, the courts will first examine whether the claimant can show that a breach occurred by proving the basic elements of tort liability, such as wrongful conduct, damage, and a link between such conduct and the damage. Additionally, it is unlikely that the courts will award damages without a prior decision of the SCA.

2 Interim Remedies

2.1 Are interim remedies available in competition law cases?

Yes (for further details, please see question 2.2).

2.2 What interim remedies are available and under what conditions will a court grant them?

The courts can order interim measures before, during, or after proceedings to secure claims until enforcement is completed. These measures may include actions such as giving, doing, refraining from doing, or enduring, and can involve determining the existence of rights, personal rights violations, verifying document authenticity, or transforming legal relationships.

The SCA can also grant interim measures in administrative proceedings if there is a risk of irreparable harm. The SCA may order the cessation of certain actions, suspend the application of an act, or impose measures to prevent harm.

3 Final Remedies

3.1 Please identify the final remedies that may be available and describe in each case the tests that a court will apply in deciding whether to grant such a remedy.

In its claim, the claimant may request:

- **Compensation for Damages**: granted if the claimant proves financial loss directly caused by the defendant's actions. The courts assess the causal link and quantification of the damages.
- **Non-Pecuniary Loss**: awarded for harm such as moral damages, loss of reputation, etc. The courts evaluate the severity of the harm and its connection to the defendant's conduct.
- **Injunction**: issued to prevent further harm if the claimant shows imminent risk and no adequate remedy for damages. The courts consider the legal right at risk and the balance of convenience.
- **Declaration of Nullity of the Contract**: granted if the contract is found legally void. The courts examine whether the contract contravenes mandatory legal provisions, public policy, or good customs.
- **Publication of the Judgment**: ordered to ensure public awareness of the judgment. The courts examine if publication serves justice and the extent needed.

3.2 If damages are an available remedy, on what bases can a court determine the amount of the award? Are exemplary damages available? Are there any examples of damages being awarded by the courts in competition cases that are in the public domain? If so, please identify any notable examples and provide details of the amounts awarded.

The Competition Act allows for damages as a legal remedy for harm caused by acts or actions that violate competition rules, as determined by the SCA. Such damages are pursued through civil proceedings, as mentioned in question 1.4.

In civil proceedings, the court's award may not exceed the amount specified by the claimant, whose request may encompass both pecuniary and non-pecuniary damages. Exemplary damages are not available under Serbian law. As there are no prominent examples available, information on specific cases and damages awarded in competition matters can be accessed through public court records and legal databases.

3.3 Are fines imposed by competition authorities and/or any redress scheme already offered to those harmed by the infringement taken into account by the court when calculating the award?

No; fines imposed by the SCA are paid into the State Treasury and represent state revenue.

4 Evidence

4.1 What is the standard of proof?

The Civil Procedure Code does not define a specific standard of proof. Instead, Serbian law employs the principle of free evaluation of evidence, which allows the judge to assess the evidence based on their discretion, considering the particularities and circumstances of each case.

4.2 Who bears the evidential burden of proof?

As a general rule under Serbian law, the burden of proof lies with the party asserting a fact. This is expressly provided in the Civil Procedure Code, which requires each party to prove the facts on which their claim or defence is based.

Therefore, the claimant has the burden of proving the facts supporting the claim, while the respondent must prove the facts underlying any defences or objections. If a claimant does not prove the relevant facts to the required degree, the claim will be dismissed as unsubstantiated. The burden of proof, however, may shift in certain circumstances, such as where certain legal presumptions apply.

4.3 Do evidential presumptions play an important role in damages claims, including any presumptions of loss in cartel cases that have been applied in your jurisdiction?

Under the Competition Act, cartels are considered *per se* harmful, as they constitute an infringement by object. Thus, the existence of a cartel is inherently presumed to cause harm, simplifying the claimant's burden in proving loss. (For further details, please see question 4.7.)

4.4 Are there limitations on the forms of evidence that may be put forward by either side? Is expert evidence accepted by the courts?

The law permits the use of the following forms of evidence: **(i)** on-site investigations; **(ii)** documents; **(iii)** witnesses; **(iv)** expert witnesses; and **(v)** the examination of parties. As far as expert evidence is concerned, it is not only accepted but is also frequently relied upon by the courts in cases requiring specialised professional knowledge.

4.5 What are the rules on disclosure? What, if any, documents can be obtained: (i) before proceedings have begun; (ii) during proceedings from the other party; and (iii) from third parties (including competition authorities)?

(i) **Before the proceedings have begun**: the courts may not mandate any disclosure prior to the commencement of proceedings. Generally, the claimant must deliver the claim to the courts, the opposing party, and, in certain cases, to third parties.

(ii) **During proceedings**: during the proceedings, the courts have the authority to order the disclosure of relevant evidence held by either party.

(iii) **From third parties**: the courts may also order a third party to submit a document, but only if the third party is legally obligated to disclose or submit it, or if the document is considered jointly relevant to both the third party and the requesting party. Should the third party dispute its obligation to provide the document, the court will issue a ruling to determine whether the third party must comply with the disclosure request.

4.6 Can witnesses be forced to appear? To what extent, if any, is cross-examination of witnesses possible?

Witnesses may be forced to appear based on a court order issued in accordance with the provisions of the Civil Procedure Code. Witnesses may also be cross-examined during the hearing.

4.7 Does an infringement decision by a national or international competition authority, or an authority from another country, have probative value as to liability and enable claimants to pursue follow-on claims for damages in the courts?

A final decision by the SCA establishing that certain acts and practices constitute a breach of competition within the meaning of the Competition Act does not inherently presume the occurrence of damage, as mentioned in question 1.1. Instead, the claimant must substantiate and prove the actual damages in the civil proceedings.

4.8 How would courts deal with issues of commercial confidentiality that may arise in competition proceedings?

This issue is highly debatable. The rules governing civil litigation are silent on issue of commercial confidentiality. On the other hand, they explicitly provide that hearings may be held in private in order to protect the interests of national security, public order, and morals in a democratic society, as well as safeguard the interests of minors or the privacy of the parties involved in the proceedings. In other words, in a potential follow-on civil action for damages, it would be highly challenging to claim that commercially sensitive information would be eligible as confidential.

4.9 Is there provision for the national competition authority in your jurisdiction (and/or the European Commission, in EU Member States) to express its views or analysis in relation to the case? If so, how common is it for the competition authority (or European Commission) to do so?

There is no such provision.

4.10 Please describe whether the courts in your jurisdiction have a track record of taking findings produced by EU or domestic *ex-ante* sectoral regulators into account when determining competition law allegations and whether evidential weight (non-binding or otherwise) is likely to be given to such findings.

The SCA has a well-established practice of referencing European Commission decisions and EU court rulings. The courts do consider findings produced by the SCA, but the claimant has the evidential burden of proof.

5 Justification / Defences

5.1 Is a defence of justification/public interest available?

Strictly speaking, there is no public interest defence for breaching competition rules. The courts will focus solely on whether damages were incurred due to the defendant's actions. While public interest or justification may influence the damages awarded, this is difficult to assess due to the lack of case law.

Public interest is indirectly protected by the SCA's enforcement. The SCA investigates *ex officio* all activities that significantly restrict, distort or prevent free competition in Serbia.

However, the Competition Act provides a general exemption for anti-competitive agreements when they contribute to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit. Such provision of the Competition Act fully implements Article 101 (3) of the Treaty on the Functioning of the European Union into Serbian legislation.

5.2 Is the "passing on defence" available and do indirect purchasers have legal standing to sue?

To date, there have been no cases involving the "passing on defence" in Serbian law. However, the courts and regulatory bodies could potentially refer to EU standards, where the passing on defence is recognised. Consequently, while it is possible to invoke such a defence in Serbian cases, its practical application would depend on future judicial and regulatory developments.

Indirect purchasers generally have legal standing to sue in Serbia. However, they often opt to sue the direct seller rather than the indirect seller, as proving the direct relationship and quantifying the damage between indirect purchasers and the original seller can be more challenging.

5.3 Are defendants able to join other cartel participants to the claim as co-defendants? If so, on what basis may they be joined?

Yes, defendants can join other cartel participants as co-defendants in a claim. Under Serbian law, cartel participants would be considered "necessary co-defendants". This concept, as prescribed by the Civil Procedure Code, applies when the nature of the legal relationship or statutory provisions necessitates that all parties involved in the substantive legal relationship are included in the proceedings.

6 Timing

6.1 Is there a limitation period for bringing a claim for breach of competition law, and if so how long is it and when does it start to run?

A claim for breach of competition rules has different limitation periods depending on the type of matter:

- **Proceedings before the SCA**: any interested party must file a complaint with the SCA within five years of the infringement; otherwise, the complaint will be dismissed.
- **Administrative Dispute**: a challenge to a final decision of the SCA must be filed with the Administrative Court within 30 days from the delivery of the decision to the party.
- **Civil Proceedings**: a claim for compensation due to damage must be filed within three years from the date the injured party became aware of both the damage and the person responsible for it. However, regardless of when the injured party became aware, the claim expires five years from the date the damage occurred.

6.2 Broadly speaking, how long does a typical breach of competition law claim take to bring to trial and final judgment? Is it possible to expedite proceedings?

Following from the previous answer:

- **Proceedings before the SCA**: the SCA has no statutory deadline for reaching a final decision.
- **Administrative Dispute**: the Administrative Court is required to render a decision on a claim within three months from the receipt of the response to the claim or from the expiration of the deadline for submitting the response.
- **Civil Proceedings**: Civil courts, including the Commercial Court, do not have a statutory deadline for reaching a final judgment. The duration of such proceedings can vary significantly based on factors such as the complexity of the case, the availability of evidence, and the court's schedule. Proving damages in competition litigation may be challenging due to the complex economic analyses involved, which may result in proceedings extending over several years. In addition, it is worth noting that private damages claims in Serbia have been infrequent, which makes it difficult to assess a duration of the proceedings.

7 Settlement

7.1 Do parties require the permission of the court to discontinue breach of competition law claims (for example, if a settlement is reached)?

Although the parties may settle at any stage of the proceedings, the settlement agreement must be entered into the official court record. The settlement is deemed concluded once the parties sign the record after it has been read aloud. A certified copy of the record containing the settlement is then issued to the parties, which carries the same legal effect as a court judgment. While settlements are based on the will of the parties, courts will not permit agreements that conflict with mandatory legal provisions, public policy, moral standards, or accepted customs.

It should also be pointed out that the claimant can withdraw the claim before the main hearing. After the main hearing, the claimant cannot withdraw the claim without the defendant's consent.

7.2 If collective claims, class actions and/or representative actions are permitted, is collective settlement/settlement by the representative body on behalf of the claimants also permitted, and if so on what basis?

The only collective actions allowed in Serbia are *sui generis* collective claims, which are administered by the Ministry of Internal and Foreign Trade and, as such, there is no option of settlement, as mentioned in question 1.5.

8 Costs

8.1 Can the claimant/defendant recover its legal costs from the unsuccessful party?

Yes, the unsuccessful party will generally bear the costs of the proceeding. If the party was only partially unsuccessful, the court may order for both parties to bear their costs or may award only legal costs proportionate to the success of the parties.

The court may also grant an exemption from litigation costs to a party who, due to their general financial circumstances, is unable to afford such expenses.

The courts can only permit the recovery of attorney fees prescribed in the Attorney Fee Schedule that are deemed necessary for the proceeding. However, the courts have discretion in determining what constitutes necessary fees and often find that the actual costs incurred are lower than those claimed.

8.2 Are lawyers permitted to act on a contingency fee basis?

Lawyers are permitted to act on a contingency fee basis in accordance with applicable rules.

8.3 Is third-party funding of competition law claims permitted? If so, has this option been used in many cases to date?

Third-party funding of competition law claims is not prohibited; however, it is virtually non-existent in Serbia.

9 Appeal

9.1 Can decisions of the court be appealed?

Court decisions can be appealed. The deadline for submitting appeals generally varies from 15 to 30 days, depending on the procedure and type of remedy. Please see questions 1.4 and 1.6.

10 Leniency

10.1 Is leniency offered by a national competition authority in your jurisdiction? If so, is (a) a successful, and (b) an unsuccessful applicant for leniency given immunity from civil claims?

Leniency is offered by the SCA. However, leniency does not grant immunity from civil claims, regardless of whether or not the applicant is successful.

10.2 Is (a) a successful, and (b) an unsuccessful applicant for leniency permitted to withhold evidence disclosed by it when obtaining leniency in any subsequent court proceedings?

During proceedings before the SCA, the leniency applicant (or another party) may submit a request for the protection of sensitive information. Such information will then be protected from public access. The courts may, at their discretion, accept the protected documents or may request the original versions. While a party may withhold evidence, doing so is generally detrimental, as the courts will consider any refusal to provide evidence when rendering a verdict.

11 Anticipated Reforms

11.1 What approach has been taken for the implementation of the EU Directive on Antitrust Damages Actions in your jurisdiction? How has the Directive been applied by the courts in your jurisdiction?

The EU Directive on Antitrust Damages Actions is not applicable in Serbia and there have been no formal steps to implement it. As Serbia continues its path toward EU membership, it is clear that the issue of damages claims arising from competition law infringements will soon gain importance domestically. In anticipation of this, it is crucial to incorporate a procedural mechanism into the Serbian legal framework that ensures effective protection of collective interests.

11.2 Please identify, with reference to transitional provisions in national implementing legislation, whether the key aspects of the Directive (including limitation reforms) will apply in your jurisdiction only to infringement decisions post-dating the effective date of implementation; or, if some other arrangement applies, please describe it.

Please see question 11.1.

11.3 What approach has been taken to implement the Representative Actions Directive in your jurisdiction and what impact is it having or expected to have on competition litigation before national courts?

The Representative Actions Directive is not applicable in Serbia and there have been no formal steps to implement it.

11.4 Are there any other proposed reforms in your jurisdiction relating to competition litigation?

While not directly related to competition litigation, several important reforms are underway in the broader field of competition law. The SCA has submitted four new draft regulations to the Government, which introduce exemptions from the prohibition of restrictive agreements. These cover vertical agreements, vertical agreements in the motor vehicle sector, technology transfer agreements, and agreements in the rail and road transport sectors. Though primarily regulatory in nature, these reforms reflect ongoing alignment with EU competition standards and may shape the context in which future competition disputes arise.

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