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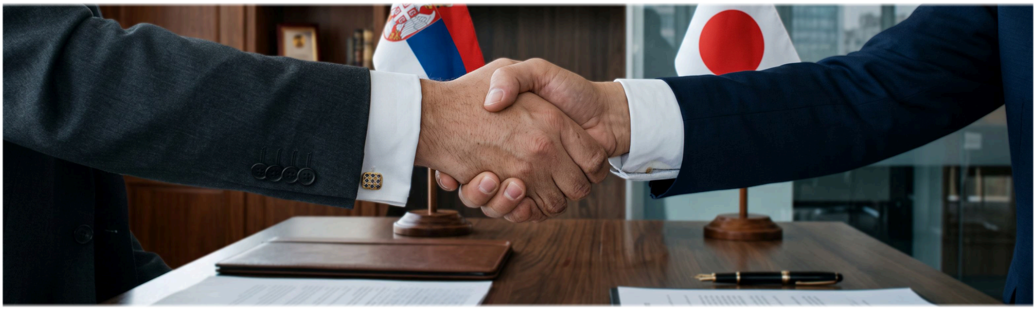


Serbia-Japan Bilateral Investment Treaty: A New Framework for Long-Term Cooperation

The bilateral investment treaty between the Republic of Serbia and Japan (the "BIT"), officially titled the Agreement between the Republic of Serbia and Japan for the Promotion and Protection of Investment, was signed in Belgrade on 24 December 2025 and is expected to enter into force by the end of July 2026, following completion of the respective domestic procedures in both countries.

This agreement forms part of a broader trend towards the institutional strengthening of economic relations between Serbia and Japan. That process also includes the Agreement for the Elimination of Double Taxation, signed in 2020, which further facilitated cross-border flows of capital, profits and investment income between the two countries.

Japanese investors in Serbia, as well as Serbian companies considering entry into the Japanese market, now have a firm legal foundation that did not previously exist. Japanese companies already operate in Serbia in the automotive components, manufacturing, construction, electronics, IT, tobacco and industrial production sectors, with total investment exceeding EUR 800 million and more than 4,000 employees, according to the Development Agency of Serbia. Until now, these investments have been protected primarily by the general rules of domestic law and the goodwill of both sides.

Once the BIT enters into force, that protection will become treaty-based and binding under international law. If either state, Serbia or Japan, expropriates or nationalises an investment, discriminates against an investor in comparison with domestic or third-country companies, or breaches the agreed legal framework, the investor will no longer have to rely exclusively on domestic courts. It may invoke diplomatic mechanisms and commence international arbitration directly against the state, with a genuine prospect of recovering damages.

Fair Treatment and Legal Certainty

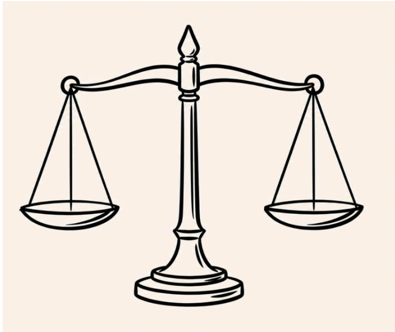
At the heart of the BIT is a simple but powerful commitment: neither party will treat investors of the other party less favourably than its own investors. Serbia must accord Japanese investors treatment at least as favourable as that accorded to domestic investors in like circumstances, and Japan has the same obligation towards Serbian investors.

This is complemented by most-favoured-nation treatment, which prevents investors from Serbia or Japan from being placed in a less favourable position than investors from any third country, subject to customary exceptions such as regional economic integration arrangements.

For investors, this is not merely a declaratory formula; it provides the predictability on which major business decisions depend. A company investing tens or hundreds of millions of euros must know in advance that decisions will not be arbitrary, that it will have access to courts and administrative authorities when its rights are threatened, and that it will not be discriminated against in comparison with its competitors. The BIT provides these safeguards through the standards of fair and equitable treatment and full protection and security, in accordance with customary international law.

Protection against expropriation, that is, the taking or nationalisation of an investment, is also of particular importance.

The BIT does not prohibit a state from expropriating an investment; that remains a sovereign right. It does, however, establish clear limits: the measure must be adopted in the public interest, applied in a non-discriminatory manner, carried out in accordance with due process, and accompanied by prompt, adequate and effective compensation based on market value. This provides investors with substantial legal certainty while preserving the state's ability to act in the public interest when genuinely necessary.



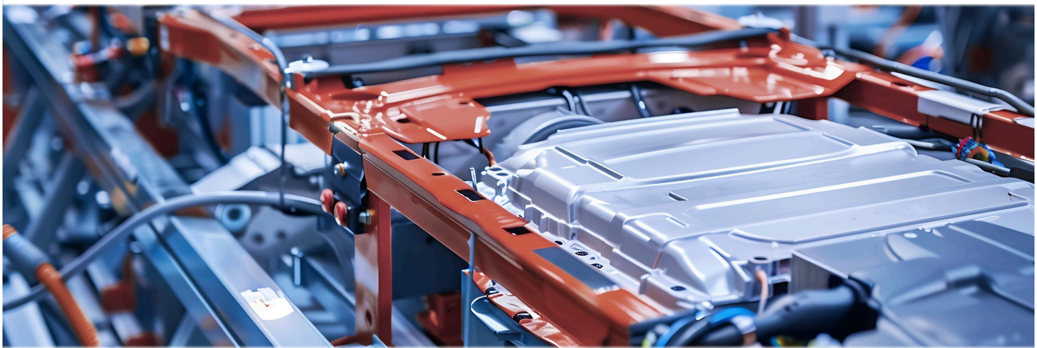
Dispute Resolution and Enforcement of Awards

The BIT also contains a detailed dispute resolution mechanism operating at two levels.

The first level concerns disputes between the two states themselves, Serbia and Japan, regarding the interpretation or application of the Agreement. If such a dispute cannot be resolved through diplomatic channels, it is referred to an ad hoc arbitral tribunal composed of one arbitrator appointed by each party and a presiding arbitrator appointed by agreement. If the required appointments are not made, they are made by the Secretary-General of the Permanent Court of Arbitration in The Hague.

The second level, which is of greater practical importance to investors, concerns disputes between an investor and the host state. If negotiations and consultations do not produce a resolution, the investor may, after at least six months have elapsed from the date the dispute arose and upon giving at least ninety days' prior notice, commence arbitration before ICSID, under the ICSID Additional Facility Rules, under the UNCITRAL Arbitration Rules, or before another institution agreed by the parties. A claim must be submitted within three years from the date on which the investor became aware of both the breach and the resulting loss or damage.

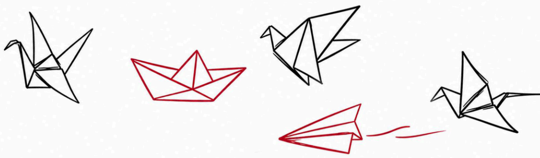
The BIT also provides for a “fork-in-the-road” mechanism: by waiving the right to pursue parallel proceedings before domestic courts, the investor elects international arbitration, except in relation to interim measures that do not involve monetary compensation. The arbitral award is final and binding and is enforced in accordance with the ICSID Convention and the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. The respondent must make the award publicly available, subject to the protection of confidential information.



Employment, Technology and Business Mobility

For Serbia, the BIT is particularly relevant to sectors such as green technologies, automotive and electrical components, agribusiness, IT services, artificial intelligence, biotechnology and research for sustainable development. These sectors can create higher-value-added jobs and help Serbian companies become part of more advanced supply chains.

The BIT also addresses the movement of persons connected with investments. Serbia and Japan undertake to give favourable consideration to applications for the entry, stay and residence of investors, managers, executives, members of boards of directors and other relevant personnel. This does not create an automatic entitlement to a residence or work permit. It does, however, send a clear message that business mobility associated with investment should be supported.



Responsible Investment

Importantly, the BIT does not promote investment at any cost. Serbia and Japan recognise that it is inappropriate to attract investment by lowering standards relating to health, safety, environmental protection or labour. This is important for workers, consumers and local communities.

The BIT preserves each state’s right to protect health, public order, public morals, privacy, safety, the environment and national security. It also contains anti-corruption rules and provisions on intellectual property. These are particularly relevant to technology, software, industrial design, brands, know-how and innovation-based projects.

Japan Compared with Serbia's Other BIT Partners

Serbia currently applies approximately fifty bilateral investment treaties, including those with the Netherlands, Canada, Switzerland, China, the United Arab Emirates, Qatar, Austria and other countries. The treaties with Japan and South Korea have been signed but have not yet entered into force.

When the BIT with Japan is compared with this treaty network, it is apparent that it is a modern and detailed instrument that departs from the older, shorter model used by Serbia during the 2000s, such as the treaties with the Netherlands from 2002 and the United Arab Emirates from 2013.

In terms of substantive standards of protection, national treatment, most-favoured-nation treatment, fair and equitable treatment, and protection against expropriation, the BIT with Japan essentially follows the standards that Serbia generally offers to its major partners.

In relation to dispute resolution, the BIT with Japan contains a considerably more detailed and modern mechanism than most earlier Serbian BITs. Treaties such as those with the Netherlands or the United Arab Emirates generally included only brief provisions on ICSID or UNCITRAL arbitration, without detailed procedural rules.

This BIT introduces a three-year limitation period, a mandatory six-month cooling-off period, a requirement to waive parallel domestic proceedings, rules on procedural transparency, and the possibility for third parties to submit their interpretations. These solutions are closer to more recent BIT models, such as Canadian models or EU model clauses, than to Serbia's older treaty network. Objectively, this enhances legal certainty for both sides by reducing the scope for abuse of arbitration and excessively prolonged disputes. At the same time, however, it imposes stricter formal requirements on investors seeking to commence proceedings than those found in older BITs.

It is also noteworthy that the BIT with Japan expressly permits the respondent to make an arbitral award publicly available, subject to the protection of confidential information. Older Serbian BITs generally do not regulate this issue, and the provision therefore supports greater procedural transparency. On the other hand, the BIT excludes certain Japanese decisions under the Foreign Exchange and Foreign Trade Act from the scope of the dispute settlement provisions under Article 26. This is a specific carve-out for Japan that does not appear in the same form in Serbia's other BITs, although it is common in Japanese treaty practice. Overall, Japan cannot be said to receive either more or less favourable treatment than Serbia's other partners. Rather, the treaty is a modernised version of the same basic standards, with more precise and stringent procedural rules for both sides.

Looking Ahead

Experience shows that, for investors committing substantial capital, the existence of a BIT is often not merely an additional benefit but a precondition for the investment decision itself. Unlike smaller or short-term placements, major investments in production facilities, infrastructure or long-term business ventures require protection that extends beyond the domestic legal regime of the host country, since that regime may change independently of the investor's wishes. The BIT provides precisely that: systematic protection guaranteed under international law, which remains stable regardless of changes in domestic legislation, policy or administrative practice. It is therefore reasonable to expect that the entry into force of this BIT will attract larger-scale and longer-term investment by providing investors with a form of economic security that domestic regulation alone, however stable at a given time, cannot offer.

The BIT between Serbia and Japan should be viewed as a platform for long-term cooperation. Its success will depend not only on legal protection, but also on concrete projects, reliable institutions, transparent administration and responsible investors. The BIT can support greater investment, higher-quality jobs, stronger technological ties and deeper cooperation between the citizens and business communities of Serbia and Japan.

In this respect, the BIT further supports the continuation of strong investment relations between Serbia and Japan and logically builds on the 2020 Agreement for the Elimination of Double Taxation, which, among other matters, regulates withholding taxes on dividends, interest and royalties, as well as the taxation of capital gains arising from the disposal of immovable property and shares.

For more information, please contact:

Živko Simijonović
Senior Associate, Gecić Law

zivko.simijonović@geciclaw.com
+381 64 6387 083

Marko Jović
Associate, Gecić Law

marko.jovic@geciclaw.com
+381 60 4425 075