

2003

Central European Law - Year 2002 Legislative Report

Daniel F. Visoiu

Kerim Karahdic

Kalina Stoymirova Tchakarova

Recommended Citation

Daniel F. Visoiu et al., *Central European Law - Year 2002 Legislative Report*, 37 INT'L L. 903 (2003)
<https://scholar.smu.edu/til/vol37/iss3/23>

This Article is brought to you for free and open access by the Law Journals at SMU Scholar. It has been accepted for inclusion in International Lawyer by an authorized administrator of SMU Scholar. For more information, please visit <http://digitalrepository.smu.edu>.

Central European Law—Year 2002 Legislative Report

DANIEL F. VISOIU, KERIM KARABDIC, KALINA STOYMIROVA TCHAKAROVA,
STANISLAVA ANTONOVA KOUYOUMDJIEVA, NATALIJA PERIĆ, STAVROS CLERIDES,
GEOFFREY MAGISTRATE, NICOS NEOPHYTOU, PETR KOTÁB, RAINO PARON,
TRIIN FROSCH, DR. GUSZTÁV BACHER, DR. ANDRÁS LÁSZLÓ, JACEK JONAK,
OBIE L. MOORE, VICTOR N. CONSTANTINESCU, RENÁTUS KOLLÁR, AND HUGH OWEN*

This 2002 Year-in-Review report shall cover the following countries: (I) Bosnia and Herzegovina; (II) Bulgaria; (III) Croatia; (IV) Cyprus; (V) the Czech Republic; (VI) Estonia; (VII) Hungary; (VIII) Poland; (IX) Romania; and (X) the Slovak Republic.

I. Bosnia and Herzegovina

The Office of the High Representative (OHR) has the ultimate authority in the civil implementation of the General Agreement for Peace in Bosnia and Herzegovina. In 2002, the OHR created a firm legislative initiative through its decisions concerning important constitutional amendments and a number of systemic laws.

Because of the election year, legislative activities for the state organs of Bosnia and Herzegovina (BiH) and its entities, the Federation of Bosnia and Herzegovina (FBiH), and the Republica Srpska (RS) were less intensive. Several laws stimulating economic development were introduced. The privatisation process in the banking sector is almost finished,

*Daniel F. Visoiu, associate, Moquet Borde & Associés—Szecskay Law Firm, and co-chair of the Central European Law Committee of the American Bar Association Section of International Law and Practice organized and edited this article, with the able assistance of individual country authors. Mr. Visoiu also co-authored the section on Hungary. Mr. Kerim Karabdic, Advokati Karabdic Salih & Kerim, prepared part I on Bosnia and Herzegovina. Kalina Stoymirova Tchakarova, senior associate, and Stanislava Antonova Kouyoumdjieva, associate, Djingov, Gouganski, Kyutchukov & Velichkov prepared part II on Bulgaria. Natalija Perić, Weiss Tessbach, prepared section III on Croatia. Stavros Clerides, Geoffrey Magistrate, and Nicos Neophytou, partners with *Ergoserve Consulting Limited* and *Clerides & Co.* in Limassol prepared section IV on Cyprus. Petr Kotáb, partner in the Prague office of Altheimer & Gray prepared section V on the Czech Republic. Mr. Raino Paron, partner, and Ms. Triin Frosch, associate, Raidla & Partners prepared section VI on Estonia. Dr. Gusztáv Bacher, associate, Dr. András László, junior associate, and Daniel F. Visoiu, Esq., associate, Szecskay Law Firm—Moquet Borde & Associés prepared section VII on Hungary. Jacek Jonak, partner, Allen & Overy (Warsaw), prepared section VIII on Poland. Obie L. Moore, partner, and Victor N. Constantinescu, associate, Altheimer & Gray prepared section IX on Romania. Renátus Kollár (Advocate) and Hugh Owen, Allen & Overy prepared section IX on the Slovak Republic.

advanced with the Small and Medium-sized Enterprises (SMEs), and in preparation for the big systems.

New legislation was published in the Official Gazette for the BiH, FBiH, and RS. The important new acts are summarized below.

A. COMMERCIAL (E.G., INVESTMENTS) LEGISLATION UPDATE

- *Law on Foreign Investments (Official Gazette RS 25/02)*. The law establishes that foreign investors, as well as the legal bodies they create, enjoy the same rights as domestic investors. They have the same rights concerning property ownership and can freely make monetary transfers abroad.
- *Law on Banks (Official Gazette RS 74/02)*. This law determines the conditions and procedures for receiving a banking licence, maintaining minimum bank capital (€ 7,500,000), and creating management bodies and procedures.
- *Law on Free Zones in BiH (Official Gazette BiH 3/02)*. Free Zones can be established by the approval of the government. They are part of the Customs Area and can be used for production, commercial, and service activities.

B. CORPORATE/SECURITIES (INCLUDING COMPETITION/ANTITRUST) LEGISLATION UPDATE

- *Law on Papers of Value (Official Gazette RS 4/02)*. This is the revised version of the law issued in 1998 and updated in 1999 and 2001. All transfers of papers of value should be registered at the Central Registry for Papers of Value where all the owners should have their accounts. Papers of value can be issued only in accordance with the regulations of the Commission for Papers of Value.
- *Law on Stimulation of Development of Small and Medium-sized Enterprises (Official Gazette RS 64/02)*. The law establishes agencies and funds for the entity and local levels of government in order to support the development of SMEs.

C. PUBLIC INTEREST (INCLUDING HUMAN RIGHTS RELATED, ANTI-CORRUPTION, ANTI-MONEY LAUNDERING) LEGISLATION UPDATE

- *Amendments to the Constitution Law of FBiH and RS (Official Gazette FBiH 52/02, RS 21/02)*. Based on decisions in 2000 of the BiH Constitutional Court, these amendments confirm that Serbs, Bosniaks, and Croats, as people protected by the constitution, enjoy equal rights and proportional participation in the entity governments and public institutions.
- *Law on Administration of RS (Official Gazette RS 16/02)*. This law introduces the new Agency for State Administration, which will be responsible for the employment and education of administrative officers. The agency will also ensure that the officers maintain a satisfactory level of work.
- *Law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina (Official Gazette FBiH 29/02, RS 40/02, BiH 15/02)*. The High Judicial and Prosecutorial Councils are independent judicial bodies whose role is to ensure that the judicial and prosecutorial systems function independently, impartially, professionally, and efficiently. The Councils elect judges and prosecutors, ensuring that they possess a professional education and that they uphold their responsibilities. The Councils also adopt and control the budgets of the court and prosecutor's offices and gives its opinion about the relevant laws.

- *Law on State Administration in the Institutions of BiH (Official Gazette BiH 12/02)*. The law regulates the status of state officials in BiH institutions.
- *Family Law (Official Gazette RS 54/02)*. The influence of the previous Bosnian family laws (1979 and 1989) is visible. As before, divorce can be requested if the marriage relations were heavily and permanently disrupted, so that the common life has become unbearable.
- *Law on Statistics of BH (Official Gazette BiH 34/02)*. This state law establishes a further legal framework for the organisation, production, and distribution of state statistical data and further regulates activities of the BiH Agency for Statistics, which was established in 1997.
- *Public Notary Law (Official Gazette FBiH 45/02)*. This law introduces the institution of a public notary to the legal system. The public notaries will be authorised to certify documents related to family, property, land, and corporate law.
- *Law on Agencies for Protection of Persons and Property (Official Gazette FBiH 50/02)*. The agencies can provide physical (destruction, damage, theft, dangerous influence) and technical protection of people and property. They cannot, however, use the operative methods and means designated by specific regulations to be used only by the police, nor do they have the authority of a police force. The agencies cannot protect political parties or candidates.
- *Law on Treasury in the FBiH (Official Gazette FBiH 58/02)*. Introduction of the treasury system for entity government and state budget payments was intended to centralise and rationalise the use of public funds and increase their efficiency.
- *Consumer Protection Law (Official Gazette BiH 17/02)*. This law established rights for customers and customer protection bodies, and obligations for producers and sellers.
- *Law on Citizenship BiH, change (Official Gazette BiH 41/02)*. The change in the law prevents loss of BiH citizenship for people who acquire citizenship from another country, even if there is no regulation through a bilateral agreement.

D. MISCELLANEOUS LEGISLATION UPDATE

- *Statute and Regulations of the Banja Luka Stock Exchange (Official Gazette RS 20/02)*. The Banja Luka Stock Exchange was established in May 2001, and now works on transactions of papers of value, making it the same as the Stock Exchange in Sarajevo.
- *Electronic Commerce and Electronic Signature Law (Official Gazette RS 36/02)*. Apart from electronic banking, which is already functioning in several BiH banks, this law regulates electronic forms of communications, including communications found in judicial and administrative procedures.
- *Environmental Protection Law, Air Pollution Law, Water Pollution Law, Waste Management Law (Official Gazette RS 53/02)*. The set of broad, new environmental laws will be an important reference for all foreign investors.
- *Electrical Energy Law (Official Gazette FBiH 41/02, RS 66/02)*. These laws establish rules for the production and distribution of electrical energy based on international standards and for the promotion of market liberalisation. The laws created the FBiH and RS Regulatory Commissions for Energy.
- *BiH Communications Law (Official Gazette BiH 33/02)*. The law sets the primary rules for the communication system in BiH including telecommunications, radio, TV services, and related infrastructure. The law establishes the BiH Regulatory Agency for Communication, which will issue the licences and technical regulations.

- *Law on Land Registries (Official Gazette FBiH 58/02, RS 74/02)*. Land registries are public books and registries documenting the rights for immovable assets, as well as the facts determined by law, and are important for legal transactions.
- *Law on Industrial Property (Official Gazette BiH 3/02)*. This law regulates the protection of patents, trademarks, industrial design, and signs of geographical origin.
- *Law on Copyright and Related Rights in BiH (Official Gazette BiH 7/02)*. This is the initial effort to regulate the protection of copyright and related rights.
- *Law on Radio-Television of BiH (Official Gazette BiH 13/02)*. This law enacted by the OHR regulates basic relations in public broadcasting.

E. WEB SITES OR LINKS TO BOSNIAN LEGISLATION

- JP NIO Službeni list Bosne i Hercegovine, *available at* <http://www.sllist.ba> (last visited Aug. 14, 2003) (the Official Gazette of Bosnia and Herzegovina Web site).

II. Bulgaria

Since the 2001 Year-in-Review Legislative Report, Bulgaria has continued its progress in terms of transposition of the EC *acquis communautaire*. This report takes into consideration the legislative changes in Bulgaria since the end of 2001 and covers the period until December 31, 2002. It focuses on the basic commercial and financial legislative acts that were adopted or amended by the National Assembly of the Republic of Bulgaria and promulgated in the official bulletin of the state authorities, the State Gazette.¹

A. PRIVATIZATION

In March 2002, the Law on Transformation and Privatization of State and Municipally-owned Enterprises was replaced by a new Law on Privatization and Post-Privatization Control (*promulgated in State Gazette Issue No. 28 of Mar. 19, 2002, last amended in Issue No. 78 of Aug. 13, 2002*). The law regulates the terms and conditions for the privatization of state and municipally-owned enterprises and the supervision activities of the state in the post-privatization phase of the privatization procedure. The new law was adopted with a view to ensuring quick, transparent, and efficient completion of the privatization process in Bulgaria under rules clear to all participants. The new law provides that all state-owned enterprises shall be put up for privatization as of its effective date, March 23, 2002. Before the new law was implemented, separate procedures were required to be opened by separate, specific decisions of the Bulgarian Privatization Agency.

B. FINANCE, BANKING LAW

In 2002, the National Assembly adopted the Law on State Debt (*promulgated in State Gazette Issue No. 93 of Oct. 1, 2002*) to regulate the terms and conditions for the undertaking of state debt obligations, issuance of state guarantees, and state debt representation. In

1. The State Gazette is the official bulletin for promulgation of legislative acts, court resolutions, subject to promulgation, notifications to individuals and legal entities, etc.

regard to fiscal risk management in 2002, Bulgaria launched two foreign debt swap deals in which old Brady bonds were exchanged for (U.S. dollar or Euro) global bonds.

With regard to the banking sector, the National Assembly adopted amendments to the Law on Banks Deposits Guarantee (*promulgated in State Gazette Issue No. 118 of Dec. 20, 2002*). Bank deposits of up to BGN 15,000 (approximately €7,500) will be guaranteed by the state in case of bank insolvency. A Law on Bank Insolvency (*promulgated in State Gazette Issue No. 92 of Sept. 27, 2002, effective as of Dec. 28, 2002*) was adopted in September 2002. It differentiates the insolvency procedure of a banking institution from that of all other commercial entities.

C. COMPETITION LAW

In the area of competition policy and state aid, important progress has been made with the entry into force of the Law on State Aid (*promulgated in State Gazette Issue No. 28 of Mar. 19, 2002, in effect as of June 20, 2002*) in June 2002. The new law regulates the terms and conditions for monitoring and controlling extended state aid, as well as compliance of the extension with free competition principles.

D. PUBLIC OFFERING OF SECURITIES

In 2002, significant amendments were made to the Law on the Public Offering of Securities (*promulgated in State Gazette Issue No. 61 of June 21, 2002, Issue No. 101 of Oct. 29, 2002, effective as of Jan. 1, 2003*) with a view to further development of the Bulgarian capital market. These amendments concern the protection of minority shareholders, the rules for the disclosure of information, the tender offering regime, and the like. In addition, the scope of the Law on the Public Offering of Securities has been expanded to cover compensatory instruments.

E. PUBLIC PROCUREMENT

By virtue of the newly adopted amendments to the Law on Public Procurement (*promulgated in State Gazette Issue No. 43 of Apr. 26, 2002, amended Issue No. 45 of Apr. 30, 2002*), the scope of the activities subject to public procurement assignment and the assignors and persons eligible to take part in public procurement procedures have been extended. Amendments have also been adopted with regard to the warranties required for participation in a public procurement procedure and to the procedure for the conclusion of public procurement contracts, including the terms upon which the public procurement procedure may be terminated.

F. ENERGY LAW

Since last year further progress has been made in energy sector liberalization and market opening. In relation to competitiveness and the internal energy market, amendments to the Law on Energy and Energy Efficiency (*promulgated in State Gazette Issue No. 63 of June 28, 2002*) were adopted in June 2002. In addition, in April 2002, two regulations were adopted governing the conditions and procedure for access by privileged consumers and electric energy independent producers to the electric transmission and electric distribution networks, and respectively for access of privileged consumers and natural gas extraction en-

terprises to the gas transmission and/or gas distribution networks. The regulations introduce the opportunity for "privileged" consumers to enter directly into contracts for the purchase of electric energy and natural gas with independent producers. The new regulations are a step in the process of restructuring and liberalizing the power sector in Bulgaria.

G. LITIGATION

In 2002, the Civil Procedure Code (*promulgated in State Gazette Issue No. 105 of Nov. 8, 2002, Issue No. 113 of Dec. 3, 2002*) was amended to provide for more detailed regulation of the procedure for summoning parties to court proceedings. The so-called "expedient procedure" has been expanded to cover claims concerning the assertion of infringements of registered marks, geographical indications, industrial design, copyright, and related rights. Important amendments have been introduced with regard to the cassation appeal and foreclosure procedure.

H. ACCESS TO INFORMATION AND PERSONAL DATA PROTECTION

The main piece of legislation regulating the transparency of public information is the Law on Access to Public Information, in force since July 2000, followed by the Law on Personal Data Protection (*promulgated in State Gazette Issue No. 1 of Jan. 4, 2002, effective as of Jan. 1, 2002*) and the Law on Protection of Classified Information (*promulgated in State Gazette Issue No. 45 of Apr. 30, 2002*), both adopted in 2002. This legislation brings the Bulgarian regulations closer to EU regulations for protection of individuals with regard to the processing of personal data and free movement of such data. In June 2002, the National Assembly also adopted a Law on Ratification of Council of Europe Convention No. 108 of January 28, 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data (*promulgated in State Gazette Issue No. 56 of June 7, 2002*).

I. INTELLECTUAL PROPERTY

In the field of intellectual property rights, in January 2002, the Parliament adopted the Law on ratification of the European Patent Convention, as amended by the Act revising the European Patent Convention (*promulgated in State Gazette Issue No. 15 of Feb. 8, 2002*). The European Patent Convention (EPC) became effective in Bulgaria on July 1, 2002 (*promulgated in State Gazette Issue No. 71 of July 23, 2002*). The Law on Patents was also amended (*promulgated in State Gazette Issue No. 66 of July 9, 2002*) to reflect the possibility for filing patent applications through the procedure provided for in the EPC. In April 2002, the Law on Patents (*promulgated in State Gazette Issue No. 45 of Apr. 30, 2002*) was further amended, with regard to patents for secret inventions, to reflect the introduction of the Law on Protection of Classified Information, which provides for a definition of the term "state secret."

J. E-COMMERCE

The Bulgarian National Assembly adopted three ordinances under the Law on Electronic Documents and Digital Signatures (*promulgated in State Gazette Issue No. 15 of Feb. 8, 2002, effective as of Feb. 8, 2002*), thus creating the conditions required for development of electronic commerce in the country.

K. TAXATION

Effective July 1, 2002, the Value Added Tax Law requires the opening of special bank accounts, called VAT-accounts, for value added tax (VAT) purposes. Any VAT registered person is under an obligation to open a VAT account, with the permission, and under the control of, the tax administration, for the purpose of receiving or making payments of the VAT accrued. The VAT-account shall be used insofar as the recipient is a VAT-registered person and the VAT accrued exceeds BGN 1,000.

If the import regards specific goods approved by the Minister of Finance, and the importer meets the requirement to realize an approved investment project in Bulgaria, then upon import, VAT-registered persons, and not the customs authorities, accrue the VAT. The special VAT accrual method applies to an investment project having a duration of up to two years, an investment exceeding BGN 10 million, and creating at least fifty employment positions. If all statutory requirements are met, the importer obtains the right to clear the imported goods without effective payment of VAT to the state budget and is entitled to VAT-credit.

Effective January 1, 2003, entities with a taxable turnover exceeding BGN 50,000 for a period of not longer than the last twelve months are obliged to register for VAT purposes. Prior to the amendments, the threshold for obligatory registration was BGN 75,000.

Amendments have also been made to the Personal Income Taxation Law (*promulgated in State Gazette Issue No. 118 of Dec. 11, 1997, last amended with Issue No. 118 of Dec. 20, 2002*). Non-taxable income was broadened to include proceeds from investments of assets by voluntary pension funds.

Pursuant to the amendments to the Corporate Income Taxation Law (*promulgated in State Gazette Issue No. 115 of Dec. 5, 1997, last amended with Issue No. 119 of Dec. 27, 2002, effective as at Jan. 1, 2003*), advance installments of corporate income tax were increased from 15 percent to 23.5 percent. Representation expenses and donations, recorded as expenses, receive a final tax of 20 percent, as opposed to 25 percent before the amendments. However, donations to religious entities and non-profit organizations pursuing activities for the public benefit are taxed at a lower rate of 15 percent.

Effective January 1, 2003, income from remuneration for activity under management and control agreements, paid by a local person or a permanent establishment of a foreigner, is subject to corporate income tax. Additionally, remuneration paid to foreigners for management and control activities, including participation in managing and controlling bodies of Bulgarian legal entities, is included in the range of income and taxed with a final withholding tax of 15 percent. Changes were also adopted with regards to the arms-length regulations. It is no longer necessary for related parties' transaction prices to differ more than 20 percent from market prices—any difference shall be regarded as breach of the arms-length principles. The provisions related to amortization quotas have also been amended. Effective January 1, 2003, the amortization quota increased for automobiles from 20 percent to 25 percent; for computers, software, and utilization rights in software from 20 percent to 50 percent; for transport vehicles from 8 percent to 10 percent; and for equipment from 20 percent to 30 percent. The amendments suspend the possibility for taxable persons to apply the accelerated amortization method for equipment, vehicles, computers, and software, leaving only the linear method applicable.

Effective January 1, 2003, narrow capitalization rules apply to bank loans, whereas they were specifically excluded prior to the amendments. With regard to financial lease agree-

ments, the narrow capitalization rules apply only between related parties. With regard to loss-carry forward regulations, a significant amendment provides that, upon transformation of the entity and transfer of a going concern, the right to carry losses forward for a five-year period is suspended. Prior to the amendments, loss-carry forward upon transformation was suspended upon a change in the property of the entity exceeding 50 percent.

L. IMMIGRATION LAW

A new Regulation on the Conditions and the Procedure for Issuance, Refusal and Revocation of Work Permits to Foreigners in the Republic of Bulgaria (*promulgated in State Gazette Issue No. 39 of Apr. 16, 2002, effective as of June 17, 2002*) has been adopted. The new regulation provides for more detailed and broadly formulated grounds for issuance of work permits to foreigners in the Republic of Bulgaria, as well as for the possibility of extending the terms of already issued work permits. With regard to visa policy regulation, amendments to the Law on Foreign Nationals (*promulgated in State Gazette Issue No. 45 of Apr. 30, 2002, effective as of Apr. 30, 2002, Issue No. 54 of May 31, 2002, effective as of Dec. 1, 2002*) and a new Regulation on the Terms and Conditions for Issuing Visas (*promulgated in State Gazette Issue No. 49 of May 17, 2002, effective as of May 17, 2002*) have been adopted.

M. ENVIRONMENTAL LAW

In September 2002, a new Law on Environmental Protection (*promulgated in State Gazette Issue No. 91 of Sept. 25, 2002, amended Issue No. 98 of Oct. 18, 2002*) was adopted to provide the necessary legislative framework for further progress in environmental impact assessment, ecological assessment of the effect on the environment by certain plans and programs, access to information and industrial pollution prevention, environmental protection and control, and antecedent environmental liability of the state for past environmental damages concerning privatization and other investments.

In the area of nature protection, the Law on Biological Diversity (*promulgated in State Gazette Issue No. 77 of Aug. 9, 2002*) was adopted in August 2002 and an Agreement for Gratuitous Funding (Wetlands Restoration and Pollution Reduction Project) Between the Republic of Bulgaria and the International Bank for Reconstruction and Development as an Executive Agency of the Global Environment Facility (*promulgated in State Gazette Issue No. 93 of Oct. 1, 2002*) was ratified in September 2002.

N. TRANSPORT

In January 2002, the Law on Railway Transport (*promulgated in State Gazette Issue No. 97 of Nov. 28, 2000, in effect as of Jan. 1, 2002, amended Issue No. 96 of Oct. 11, 2002*) went into effect and abolished the state monopoly on railway transportation. The law introduces the functional separation of infrastructure management from rail transport operations. The state-owned railway company BDZ was split into two companies: one for infrastructure (the National "Railway Infrastructure" company) and one as the operator (BDZ). The law also creates rules on access to railway infrastructure, as well as on the introduction of user charges on railway infrastructure, and a licensing regime for railway operators. Regarding maritime transport, amendments of the Merchant Shipping Code (*promulgated in State Gazette Issue No. 113 of Dec. 3, 2002*) were adopted in December 2002 covering improved maritime safety, protection of the marine and river environment, and the carriage of passengers and cargo.

O. TOURISM

In June 2002, a new Law on Tourism (*promulgated in State Gazette Issue No. 56 of June 7, 2002, effective as of Oct. 1, 2002*) was adopted. It regulates the organizational and management principles of tourism in Bulgaria, the terms and conditions for issuing licenses for tour operation and tourist agencies, and the categorizing of tourist sites and package travel.

P. INTERNATIONAL TREATIES

In 2002, Bulgaria became a party to two treaties for avoidance of double taxation entered into with the Arab Republic of Syria and the Republic of Greece. In 2002, Bulgaria also signed a number of commercial treaties with Uruguay, Iran, Jordan, and South Africa, and free-trade agreements with Israel, Estonia, Croatia, Lithuania, and the Republic of South Africa. Concerning the rules of origin and methods of administrative co-operation, as of January 1, 2002, the consolidated text of Protocol No. 4 to the Europe Agreement Establishing an Association Between the European Communities and their Member States, on the One Part, and the Republic of Bulgaria, on the Other Part, Protocol B to the Free Trade Agreement EFTA-Bulgaria, and Protocol B to the Free Trade Agreement Turkey-Bulgaria (*promulgated in State Gazette Issue No. 29 of Mar. 20, 2002*) became effective. With regard to CEFTA, Bulgaria ratified the Additional Protocol No. 10 Relating to the Liberalization of Agricultural and Food Trade (*promulgated in State Gazette Issue No. 55 of June 4, 2002*), and Additional Protocol No. 11 Relating to the Rules of Origin of Goods (*promulgated in State Gazette Issue No. 25 of Mar. 8, 2002*).

Q. WEB SITES OR LINKS TO BULGARIAN LEGISLATION

- The Constitutional Court of the Republic of Bulgaria Web site. The Constitution of the Republic of Bulgaria and Summaries of Decisions of the Constitutional Court, <http://www.constcourt.bg>.
- The Parliament of the Republic of Bulgaria Web site. Register of Bills, <http://www.parliament.bg>.
- Privatization Agency of the Republic of Bulgaria: Legal Frame, <http://www.priv.government.bg>.
- Bulgarian National Securities Commission: Rules and Regulations, <http://www.ssec.bg>.
- National Customs Agency: Customs Legislation, Customs Tariff, <http://www.customs.government.bg>.
- Insurance Supervision Agency: Legislative Framework, <http://www.isa.minfin.government.bg>.
- Agency for Small and Medium-sized Enterprises: Legal Information, <http://www.asme.bg>.
- Bulgarian Foreign Investment Agency: Business Legislation, <http://www.bfia.org>.
- Bulgarian National Bank: Legal Framework, <http://www.bnb.bg>.
- Ministry of Foreign Affairs, <http://www.mfia.government.bg>.
- Ministry of Environment and Water: Environmental Legislation, <http://www.moew.government.bg>.
- Bulgarian Chamber of Commerce and Industry (BCCI): Legislative Framework <http://www.bcci.bg>.
- SOFITA Sofia Interpreting and Translation Agency: [Products Catalogue]; Note: For pay, <http://www.sofita.com>.

- CIELA Publishing House: [Laws in English: Database], <http://www.cielanet.net>.
- The Bulgarian Industrial Association (BIA) and DAGA Publishing House: Laws & Regulations; Note: Requires login name and password, <http://www.bia-bg.com>.

III. Croatia

Set forth below is a list and a short description of the most important commercial and civil legislation passed by the Croatian Parliament during the year 2002.

A. AMENDMENTS OF INSURANCE LAW (OFFICIAL GAZETTE 11/2002)

According to the amendments, the major changes to the insurance law deal with investment restrictions. Namely, domestic insurance companies are obligated to invest their funds within the Republic of Croatia (RoC), provided that the security, profitability, and diversity of the investment are guaranteed. Furthermore, the law prescribes restrictions concerning different types of investments and the percentage of funds that can be invested in specific types of assets.

B. LAW ON PRIVATIZATION OF THE CROATIAN ELECTRICITY COMPANY (OFFICIAL GAZETTE 32/2002)

In March 2002, the Croatian Parliament passed two important laws on privatization regulating the privatization procedure of the Croatian Gas Company (INA) and the Croatian Electricity Company (HEP). However, the law demands that the RoC retain ownership of 51 percent of HEP shares and one share of HEP d.d., whose shares shall be privatized according to a special law when the RoC becomes a member of the European Union.

According to the law, the privatization of the remaining shares of HEP (49 percent) shall be conducted by: (i) transfer of 7 percent of the shares without a fee to Croatian war veterans and their family members; (ii) sale of up to 7 percent of the shares to the employees and former employees at a special discount prescribed by the RoC government; (iii) sale of a minimum of 15 percent of the shares in a public offering, according to the regulations regarding the issuance of securities and securities transactions, as follows: (a) to Croatian citizens with priority rights, at a discount, and according to conditions to be specified by the RoC government while including shares of HEP d.d. into the official share quotation; (b) to domestic legal persons and foreign investors, without priority rights, and special discounts by a sale conducted through a public offering; and (c) by sale or replacement of the remaining shares in accordance with the market conditions based on a decision by the RoC government.

C. LAW ON PRIVATIZATION OF INA D.D. (OFFICIAL GAZETTE 32/2002)

According to the law on privatization of INA, the RoC will retain the ownership of 25 percent of the shares plus one share, which shall be privatized according to a special law when the RoC becomes a member of the European Union (EU). The privatization of the remaining shares of INA shall be conducted by: (i) transfer of 7 percent of the shares without a fee to Croatian war veterans and their family members; (ii) sale of up to 7 percent of the shares to the employees and former employees of the companies constituting the INA

Group at a special discount prescribed by the RoC Government; (iii) sale of up to 25 percent of the shares plus one share to the strategic investor; (iv) sale of at least 15 percent of the shares in a public offering, according to the regulations governing the issuance of securities and securities transactions, as follows: (a) to Croatian citizens with priority rights, with discounts, and conditions to be specified by the RoC government while including shares of INA d.d. into the official share quotation; (b) to domestic legal persons and foreign investors without priority rights, and special discounts through a public offering; and (c) by sale or replacement of the remaining shares to the strategic investor in accordance with the market conditions.

D. AMENDMENTS TO THE LAW ON COMPENSATION FOR PROPERTY EXPROPRIATED DURING YUGOSLAV COMMUNIST GOVERNMENT (OFFICIAL GAZETTE 80/2002, 81/2002)

Based on the Constitutional Court Decision that abolished the provision depriving foreign citizens of the right of compensation, the amended law gives foreign citizens the same rights as domestic citizens. Based on the mentioned amendments, foreign citizens have been allowed to file restitution claims within six months following the day the law went into effect. However, the law prescribes a possibility of a different regulation on the right of compensation by a bilateral or multilateral treaty.

E. LAW ON TAKEOVER OF JOINT-STOCK COMPANIES (OFFICIAL GAZETTE 84/2002)

Unlike the previous version, the new Law on Takeover of Joint-Stock Companies applies only to public joint-stock companies defined under article 114 of the Law on Securities Market (see *infra* item G). Furthermore, the new law prescribes that a person acquiring more than 25 percent of the voting shares in a public joint-stock company is obliged to immediately inform the joint-stock company as well as the public.

F. LAW ON BANKS (OFFICIAL GAZETTE 84/2002)

The old Law on Banks made a distinction between so-called small, middle, and large banks according to their original capital. This distinction resulted in differences with regard to the authorization and the kind of services those banks could provide. The new law abolishes the mentioned distinction, and the minimal share capital of a bank is now HRK 40 million.

Furthermore, the new law allows banks having their corporate seats in EU Member States to directly exercise their activity in RoC territory apart from their subsidiaries with prior notification, containing the legally prescribed data, to the Croatian National Bank (CNB). However, the law mentioned will enter into force after the RoC becomes a member of the EU. In contrast, banks who have their corporate seats abroad in non-EU Member States may exercise their activity only through their subsidiaries. Each foreign bank may establish representative offices which are not allowed to render banking and other financial services but are only allowed to exercise the activities of representation research.

G. LAW ON SECURITIES MARKET (OFFICIAL GAZETTE 84/2002)

Since the new law, as opposed to the old one, does not list by name the essential securities components, the definition of security has been abolished. The new law states that a security

denotes stock shares, bonds, certificates of deposits, bills (treasury bills issued by the Ministry of Finance, treasury bills issued by the CNB, and commercial paper), and other securities issued in series.

Moreover, the new law extends and regulates in detail the authority of the Croatian Securities Commission as a legal entity with public authorities monitoring the issuance and sale of securities and supervising the securities market. According to the law, the joint-stock company shall be considered a public joint-stock company if it: (i) issues shares by means of a public tender, or (ii) has more than 100 shareholders and a share capital amounting to at least HRK 30 million. Pursuant to the law, public joint-stock companies are obligated to include their shares in the quotation on the stock exchange within the legally prescribed term. In addition, public companies are required to provide to the Securities Commission quarterly financial and business reports.

H. LAW ON SAVINGS AND LOAN ASSOCIATIONS (OFFICIAL GAZETTE 84/2002)

The law defines a savings and loan association as a financial institution founded by at least thirty business-capable natural persons conducting an independent activity. A notary public, who certifies the articles of incorporation and other decisions passed by the assembly, must be present at the constituent assembly. The total amount of joint funds at the time of establishment may not amount to less than HRK 100,000 and must be paid in cash. The amount deposited by a member of the savings and loan association may not exceed 10 percent of total deposits.

I. CROATIA LINKS

- Pritchard Law Webs, <http://www.priweb.com/internetlawlib/58.htm> (English).
- Croatian Government, <http://www.vlada.hr/default.asp?ru=2> (English/Croat).
- Gonzaga University, <http://law.gonzaga.edu/library/ceeurope.htm> and "Croatia" link (English).

IV. Cyprus

In July 2002, new legislation was passed reforming the Cyprus tax system. The tax reform fully complies with Cyprus's commitment to the Organisation for Economic Co-operation and Development (OECD) to eliminate harmful tax practices and is consistent with harmonizing its laws to the EU's legal order and, in particular, with the EU's Code of Conduct and State Aid Rules. The many advantageous features of the new tax system combined with Cyprus's network of double tax treaties, coupled with the full acceptance of the tax reform by the OECD and the EU will undoubtedly enhance Cyprus's reputation as an international business center. Of particular importance is the fact that, once the features of the tax reform are communicated to the tax administrations of OECD and non-OECD countries, Cyprus will in due course no longer be subject to the defensive measures proposed by the OECD on harmful tax practices, such as inclusion in black lists, non-deductibility of expenses, and other discriminatory measures.

A. GENERAL FEATURES

The Cyprus tax reform introduced several aspects of international tax law and several principles reflected in the OECD Model Tax Treaty into its domestic tax law.

1. *Change of Basis for Claiming Tax Jurisdiction*

The previous tax system based on domicile and registration has been abolished. The tax reform redefined tax jurisdiction to a territorial basis. Under the new system, Cyprus tax residents are taxed on their worldwide profits while non-residents are only taxed on their Cyprus income. An individual is considered a tax resident if he resides in Cyprus for more than 183 days in any tax year. In contrast, a corporation is a tax resident if it has its management and control in Cyprus. For corporations this change is significant. No longer will registration in Cyprus qualify the company for tax residency because it must first assert that management and control is exercised from within Cyprus.

This provision is consistent with the tie-breaker rules of article 4 of the OECD Model Tax Convention. As a result of this change, a new category of non-resident companies will emerge in Cyprus similar to the ones existing in the United Kingdom (UK) and Ireland. Companies registered in Cyprus, but managed and controlled from abroad and not having any Cyprus income, will not be subject to any Cyprus taxation. A non-Cypriot resident will not be entitled to any double taxation benefits. The tax reform abolishes the two-tier system of business taxation—one tier for domestic companies and a preferential tier for international business companies (IBCs), thus extending the beneficial treatment of international businesses to domestic business as well.

2. *Reorganisation Rules*

The EU Merger directive is incorporated in the tax law providing for tax exemption on transfer of assets, mergers, divisions and exchange of shares, stamp duty, VAT, carry forward of losses, and the like. The merger law applies to all cross-border reorganisations including reorganisations involving non-EU countries. Although no specific provisions for reorganizations exist in the Cyprus Company Law (expected soon), all types are considered viable. The broad spectrum of these rules is especially important for international tax planning, including reorganizations involving other non-EU members and tax havens. These havens have recently been subjected to discriminatorily defensive, anti-avoidance legislation in high tax countries.

3. *Exchange of Information*

The new Assessment and Collection of Taxes Law enables tax authorities to disclose information to other EU Member States under EU Directive 70/799 (Mutual Assistance) once Cyprus enters the EU and to OECD treaty partners once the OECD draft for an agreement on the exchange of information is introduced into international treaty practice. This amendment is important because Cyprus will no longer be considered supportive of international tax avoidance, as evidenced by a lack of effective exchange of information provisions, and will not be caught by defensive, anti-avoidance measures introduced recently in some high tax countries such as Greece and Italy.

4. *Existing IBCs*

IBCs existing and having income in 2001 from sources outside of Cyprus may elect to enjoy the existing offshore tax regime until 2005 and pay tax at 4.25 percent. Subsequently, the new rules will apply to them. These IBCs, if they so elect, will not enjoy any of the beneficial features of the new tax regime, such as the new reorganisation rules, full exemption from tax on dividends, and profit on disposal of shares. The election to continue under the old tax regime is irrevocable and applies for all years through 2005.

5. *New Tax Resident Companies*

There is no distinction in Cyprus's income tax laws between local or foreign businesses. In fact, the term IBC or offshore company is no longer of significance and hence irrelevant. Foreign owned entities will no longer be "ring-fenced" and are allowed to conduct activities in Cyprus as well. "Ring-fencing" involves denial of a preferential tax regime to a domestic market. The main features of the new tax laws, which become effective as of January 1, 2003, as applied to companies, are as follows:

- Net profits are taxed at a flat rate of 10 percent. For 2003 and 2004 there will be an additional 5 percent tax for profits in excess of C£1 million.
- Tax is applied on the corporation's worldwide income.
- No income tax will be withheld on the payment of dividends to shareholders. This applies regardless of whether shareholders are resident or non-resident Cypriots. Dividends distributed to resident shareholders are subject to a 15 percent special (defence) withholding tax. In the case of Cypriot companies that do not distribute their profits for two years following the end of a tax year, they will be considered to have distributed 70 percent of such profits. Such deemed distribution will be subject to the above 15 percent special defence contribution tax. The above special withholding tax of 15 percent does not apply when dividends are paid or payable to non-Cypriot residents.
- Dividends received are exempted from income tax.
- Fifty percent of the interest received by corporations, excluding interest received in the context of the ordinary trading activity of the corporation (e.g., from banks or the interest on debtors) is exempt from income tax.
- Trading profits from disposal of shares, and rights thereon, in any recognized stock exchange are exempted from Cyprus income tax.
- The carry forward provisions for tax losses are extended indefinitely.
- Provisions are implemented to allow group relief (between parent and subsidiaries) for transferring tax losses between group companies under certain conditions.
- Tax exemptions are granted in the case of reorganisations (see above) covering VAT stamp duty, income tax, capital gains tax, and so forth. Capital gains tax will be imposed only on disposal of property situated in Cyprus. There is a specific provision to exempt from capital gains tax any gain from the disposal of shares in any recognized stock exchange.
- IBCs registered in 2002 will continue to be taxed at 4.25 percent for 2002. Beginning in 2003 IBCs will be taxed under the new tax regime unless they are non-resident corporations in Cyprus. Eligible IBCs registered before January 1, 2002 and not opting for the old transitory tax regime (i.e., taxed at 4.25 percent through 2005) will be taxed at the old rate of 4.25 percent for 2002 and will be subject to the new tax rules from 2003 onwards.
- Interest received by non-residents (companies or individuals) will not be subject to any withholding tax. In the case of payments to residents, a 10 percent special "defence" withholding tax is applicable.
- The income of a permanent establishment abroad will be exempted from Cyprus income tax. Also, losses from permanent establishments can be offset against Cyprus income. The above are subject to anti-abuse controlled foreign company (CFC) legislation as is the exemption on dividend income. However, the criteria for triggering CFC legislation are very strict.
- No withholding tax will be applied to interest paid to non-residents or on payments for intellectual property (royalties) to non-residents for use abroad. These exemptions pro-

vide significant scope for international tax planning and tax minimisation, as these exemptions are available regardless of any double tax treaty.

- Unilateral tax relief is available regardless of the existence of any double taxation agreement with a given country. Any available double taxation relief or foreign taxes paid abroad can be credited against any Cyprus taxes on the same income.

6. *Non-resident Cyprus companies*

As discussed earlier, tax residency for corporations is based on management and control. If a Cyprus registered company is controlled and managed from abroad it will not be considered a tax resident in Cyprus and hence will not be subject to any Cyprus taxes except on Cyprus income. Thus, a new type of entity will emerge similar to the UK non-resident company or the old Irish non-resident company. These entities will not be, of course, entitled to any double taxation treaty benefits nor be subject to exchange of information under the present legal system.

7. *Companies with Parallel Registrations*

The new definition of residence of companies will reinforce the usefulness and application of certain structures where companies were first registered in one country, for example, the UK, and subsequently were also registered in Cyprus. Based on the legislation of the first country, or the tie-breaker rules of a double tax treaty, the companies were taxed in the second country, such as Cyprus, on their international business income, for example, UK non-resident company.

V. Czech Republic

A. COMMERCIAL LEGISLATION UPDATE

Set forth below is a list of the most important commercial and commerce-related legislation and regulations enacted or issued in the Czech Republic during 2002 (or taking effect on January 1, 2002), in the order published in the Collection of Laws (Coll.). All acts of Parliament, decrees of the Government and Ministries, and certain holdings of the Constitutional Court are numbered from the beginning of each year, and are published in general chronological order in the Coll. The citations refer to the assigned number and the year.

1. *Commercial Code*

- *Act No. 15/2002 Coll., amend. to Act No. 238/1992 Coll., on Conflict of Interests and to Act No. 513/1991 Coll., Commercial Code.* The amendment regulates, *inter alia*, the responsibility of members of Parliament, and members or employees of the National Property Fund and the Land Fund in cases when their appointment to a corporate body is due to a decision by the state. In such cases it is the state that compensates losses for which these bodies or members of bodies are liable.
- *Act No. 125/2002 Coll., amend. to Act No. 513/1991 Coll., Commercial Code, to Act No. 97/1963 Coll., Law of Conflicts, and to other acts.* A need for this amendment originated in the Payment System Act. The most important changes relating to the Commercial Code amend the provisions concerning contracts on current accounts and deposit accounts. This new regulation includes terms for performance of payments and demonstrative enumeration of current and deposit account essentials.

2. Trade Law

- *Act No. 274/2001 Coll., on Water Supply and Drainage.* The act regulates the rights and duties of owners and operators of water supplies and drainage, and the relations between them. Furthermore, the act innovates the authorization system through the Ministry of Agriculture.

B. SECURITIES

- *Act No. 211/2002, amend. to Act No. 530/1990 Coll., the Bond Act.* This amendment regulates the issuance of state bonds. It also provides that the Bond Act relates to bonds issued in the Czech Republic regardless of the issuer, unless otherwise provided by the act.

C. CIVIL LAW

- *Act No. 135/2002 Coll., amend. to Act No. 40/1964 Coll., Civil Code.* This amendment represents complete implementation of the EC directive relating to consumer contracts in Czech law. It provides better protection of consumer rights and more information about conditions and their associated costs.
- *Act No. 136/2002 Coll., amend. to Act No. 40/1964 Coll., Civil Code.* This amendment also adapts Czech regulation of civil law to European standards. It is related to the regulation of (1) damages (prolonging the statute of limitations for damages originating from breach of duty in consequence of an offered, promised, or given bribe), and (2) purchase agreements (regulating conditions of guarantee and prolonging the duration of a statutory term of guarantee).
- *Act No. 452/2001 Coll., on Protection of Designation of Origin and Geographical Indication.* The main aim of this new act is to react to changes in the area of protection of rights associated with designations of origin and geographical indications. A further purpose is to implement guarantees from EC Directive No. 535/97, which relates to designations of origins. This harmonization provision provides protection of Czech designation of origin within the European Union.

D. MISCELLANEOUS

1. Public Contracts

- *Act No. 278/2002 Coll., amend. to Act No. 199/1994 Coll., Public Procurement Act.* This act changes the Public Procurement Act. It allows the government to decide on the conclusion of a public contract without a selection procedure.
- *Act No. 130/2002 Coll., on Research and Development Support from Public Resources.* The aim of this new act is to (1) adapt Czech regulations for research and development support to European standards, and (2) create a new legal framework for Czech national policy on research and development. The act regulates the system of research and development support from public resources; public contracts and the process of evaluating research intentions; the manner of providing information; rights and duties relating to assisting research and development; and the activity of public bodies in this area. This act also affects Act No. 199/1994 Coll., the Public Procurement Act.

2. Taxation

- *Act No. 483/2001 Coll., amend. to Act No. 338/1992 Coll., on Real Estate Tax.* The aim of this amendment is to intensify the municipalities' motivation for supporting business and

entrepreneurial activities and to distribute some tax revenues from the central government to the regions. This amendment impacts the Income Tax Act (586/1992) and the Real Estate Taxes Act (338/1992). The main changes in the tax law are as follows: (1) the value of gifts provided to regions is possibly deductible from the tax base, and (2) buildings and land possessed by a region are exempted from tax, provided that they are not used for entrepreneurial activity.

- *Act No. 320/2001 Coll., on Financial Control.* The aim of this new act is to implement a financial control system into public administration according to EU standards and recommendation of the European Commission. The act specifies the organization and extent of financial control undertaken between the public authorities, between public authorities and applicants or receivers of public financial support, and within the public bodies.

3. *Banking*

- *Act No. 126/2002 Coll., amend. to Act No. 21/1992, the Act on Banks.* This amendment ensures full compatibility of Czech law with the law of the EU existing as of January 1, 2001.

4. *Public Interests*

- *Act No. 395/2001 Coll., amend. to Act No. 1/1993 Coll., The Constitution.* As of June 1, 2002, this amendment to the Constitution gave every international treaty ratified and promulgated in the Czech Republic preference over any national act. Until this amendment, this result was possible only in cases of international treaties concerning human rights and some other specific cases.

E. CZECH REPUBLIC LINKS

- Gonzaga University, <http://law.gonzaga.edu/library/ceeurope.htm> and “Czech Republic” link (English).

VI. Estonia

A. CIVIL LAW

On July 1, 2002, the Law of Obligations Act (RT I 2001/81/487) became effective and replaced the provisions of the Civil Code that had originated in Soviet times. The act sets forth the basis for civil law relationships, and provides Estonia with the most modern act in Europe regarding contracts. The act is a major step forward in providing a clear and coherent set of principles to guide parties in forming contractual relationships and performing their obligations.

Concurrently with the Law of Obligations Act, the new General Part of the Civil Code Act and the Private International Law Act were prepared and adopted. These legal acts were instrumental in completing the civil law reform in Estonia.

The most extensive amendments of the new General Part of the Civil Code Act concern transactions, including the procedure for contesting transactions. The Private International Law Act was adopted in order to satisfy the need for more detailed provisions regarding private international law, as international communication is becoming more and more frequent and intensive.

The new General Part of the Civil Code Act and the Private International Law Act became effective together with the Law of Obligations Act. All of the above-referred legal acts significantly changed the previous system.

B. CRIMINAL LAW

On September 1, 2002, the Penal Code (RT I 2001/61/364) became effective and replaced the Criminal Code of the Estonian Soviet Socialist Republic (SSR). The new Penal Code offers several advantages over the former Criminal Code: the definition of a crime has been brought into compliance with European rules of law, the possibility for implementation of daily rates of fines has been created, and community service is used as a penalty. Under the Code, legal entities such as corporations may also be convicted for criminal offences. For example, the Code prescribes the compulsory dissolution of a company as one type of punishment.

Concurrently with the above-described Penal Code, the Code of Misdemeanour Procedure was also prepared and adopted. The Code provides the rules for extra-judicial, court, and enforcement procedures for misdemeanours. The Code became effective with the Penal Code.

In addition to the referred acts, the new Code of Criminal Procedure was also prepared during the year 2002 in order to complete the criminal law reform in Estonia. The new Code of Criminal Procedure will become effective on July 1, 2004.

C. MISCELLANEOUS

In addition to the extensive changes to the core of civil and criminal law documents, many new legal acts and/or amendments having extensive and profound effect were also adopted in the following areas of law: commercial law (amendments to the Commercial Code and the Accounting Act), tax law (the Taxation Act, the Alcohol, Tobacco and Fuel Excise Duty Act, amendments to the Income Tax Act, and the Value Added Tax Act), securities law (the Securities Market Act), and so forth.

D. WEB SITES TO ESTONIAN LEGAL ACTS

- Electronic Database, <http://www.riigiteataja.ee> (Estonian).
- Estonian Legal Translation Centre, <http://www.legaltext.ee/indexen.htm> (English/Estonian).

VII. Hungary

A. NEW COMPETITION RULES REGARDING EU-HUNGARY COMMERCE

Starting in April 2002, new regulations govern restrictive agreements and abuses of dominant position that may have an effect on trade between the EU and Hungary. The new act incorporates the resolution of the Hungary-EU Association Council setting forth criteria based on European competition law to qualify such acts/practices. The act also sets forth certain procedural rules and provides for the interpretation and application of the relevant Community legislation. In the case of restrictive agreements and abuses of dominant position that may affect trade between the EU and Hungary, the Office of Economic Competition shall apply the new legislation as material law instead of the Competition Act (Act

LVII of 1996). The new act and the related decree of execution will remain in force until Hungary's accession to the EU in May 2004, when they will be replaced by the rules of competition set forth by the European Union.

B. NEW TAKEOVER RULES

The takeover rules enacted in Act CXX of 2001 on the Capital Market officially came into effect on January 1, 2002. These takeover rules were based on the EU's failed 13th Directive regarding takeovers.

C. CHANGES IN INTELLECTUAL PROPERTY LAW

Hungary has become a member of the European Patent Organization. It is thus possible to file European patent applications and have them granted by the European Patent Office for the territory of the Republic of Hungary.

In addition to the rules relating to European patent protection, the recent amendment to the Act on the Patent Protection of Inventions incorporates rules related to the Geneva Convention for the Protection of New Varieties of Plants to which Hungary has also become a contracting party.

D. CHANGES IN FINANCIAL AND CAPITAL MARKET REGULATIONS

As of January 1, 2003, regulations relating to financial and capital markets have been amended. Among other changes, the previous restriction prohibiting any shareholder from owning directly or indirectly over 10 percent in the subscribed capital of a stock exchange was abrogated.

The amendments to the Act on Credit Institutions and Financial Enterprises also cancelled the previous limitation, which provided that no person may control, directly or indirectly, an ownership share or voting rights in excess of 15 percent of the subscribed capital of a financial institution.

G. LEGISLATION WEB SITES

- Hungarian Parliament, http://www.mkogy.hu/parl_en.htm (English/Hungarian).
- Ministry of Foreign Affairs, <http://www.mfa.gov.hu> (English/Hungarian).
- Hungarian Government Portal, <http://www.ekormanyzat.hu/english> (English/Hungarian/German).
- Patent Office, <http://www.hpo.hu> (English/Hungarian).
- Ministry of Justice, <http://www.im.hu> (Hungarian).
- Hungarian Competition Authority, <http://www.gvh.hu> (English/Hungarian).
- Hungarian Financial Supervisory Authority, <http://www.pszaf.hu> (English/Hungarian).
- Communications Authority, <http://www.hif.hu> (English/Hungarian).

VIII. Poland

A. INTRODUCTION

The year 2002 was busy for Polish legislators. The legislature adopted the budget, modified the tax regime, ratified civil and criminal law conventions on corruption, and set the

scene for municipal elections. The Parliament continued to harmonise the Polish legal framework with *acquis communautaire* in all respective areas, from food processing standards through road transportation to regulation of financial markets.

It is impossible to provide a full list of all laws that have been amended or introduced. In summary, new regulations aim to facilitate free transfer of capital, goods, and services between the Polish market and the markets of the EU or, in some cases, OECD or WTO Member States. Depending on the case, the new regulations will be effective as of the date of their publication, or shortly thereafter, or as of the date of the accession of the Republic Poland to the European Union.

B. FOREIGN EXCHANGE, SECURITIES ACT, AND BANKING LAW

For example, the new foreign exchange regulations (Foreign Exchange Law of July 27, 2002) waive almost all restrictions on short- and long-term equity or debt financing, derivative trading, and the majority of other previously restricted activities between Polish residents and residents of the EU and OECD Member States. On the other hand, under the amended Securities Act and Banking Law, stockbrokers or banks from the EU (or in some cases, from OECD or WTO Member States) will be able to provide services to Polish customers without opening a branch or subsidiary in Poland only after Poland becomes a member of the European Union. After that date, securities listed on a recognised official market in the EU could be offered to the Polish investing public following a simplified procedure before the Polish Securities and Exchange Commission.

The opening of the Polish market will be subject to restrictions or transfer periods as agreed upon in negotiations with the European Union.

C. COMPANY LAW AND BANKRUPTCY RULES

The main development in the area of the Companies Law is the adoption by Sejm (the lower chamber of the Parliament) of the new bankruptcy and composition law. The law is expected to be approved by the Senate and signed by the President in the first half of 2003.

D. POLAND LEGISLATION WEB SITE

- Official Web site of the Sejm, <http://www.sejm.gov.pl>.

IX. Romania

A. SECURITIES

- *Law 525/2002 Approving Emergency Ordinance 28/2002 Regarding Securities, Financial Investment Services and Regulated Markets and as Amended by Government Emergency Ordinance 165/2002, published in Official Gazette 576/05.08.2002.* This law provides the framework and rules for securities operations and the various actors on capital markets and repeals the previous Law 52/1994.

B. COMMODITIES & DERIVATIVE FINANCIAL INSTRUMENTS MARKETS

- *Law 512/2002 Approving Emergency Ordinance 27/2002 Regarding Regulated Commodities Markets and Markets for Derivative Financial Instruments, published in Official Gazette 576/*

05.08.2002. This law establishes the organization, functioning, regulation, and surveillance of exchange companies, commodities exchanges, etc.

C. TRANSFERABLE SECURITIES

- *Law 513/2002 Approving Emergency Ordinance 26/2002 Regarding Undertakings for Collective Investment in Transferable Securities, published in Official Gazette 539/24.07.2002.* This law primarily deals with open-end funds and investment companies by providing a framework for their activities.

D. COMMUNICATIONS

- *Law 591/2002 Approving and Amending Government Emergency Ordinance 79/2002 Regarding the General Framework for Regulating Communications is published, Official Gazette 791/30.10.2002.* It repeals Law 74/1996 and provides new licensing rules for the electronic communication networks and services in line with European norms.

E. PRIVATIZATION

- *Law 137/2002 Regarding Some Measures for Accelerating Privatization, published in Official Gazette 904/12.12.2002.* The law, among other things, provides for measures to ensure the transparency of the privatization process and reconsideration of the state-owned companies' debts.

F. POST-PRIVATIZATION

- *Government Emergency Ordinance 25/2002 Regarding Certain Specific Measures for Monitoring the Fulfillment of the Contractual Obligations Assumed Through Privatization Agreements, published in Official Gazette 89/2.02.2002.*

G. CORPORATE TAX

- *Law 414/2002 Regarding Corporate Taxes, published in Official Gazette 456/27.06.2002.* The new corporate tax law aims to integrate certain internationally-accepted corporate taxation practices into the domestic practice.

H. VALUE-ADDED TAX (VAT)

- *Law 345/2002 Regarding VAT, published in Official Gazette 371/01.06.2002.* The law introduced a new VAT regime modeled after the EU's regime.

I. ROMANIA LINKS

- Romanian Government, <http://www.guv.ro> (English/French/Romanian).
- Monitorul Oficial—official legislation, <http://domino2.kappa.ro/mj/superlex.nsf/all/Biblioteca> (Romanian).
- Chamber of Deputies—searchable database, http://www.cdep.ro/pls/legis/legis_pck.frame (Romanian).

- European Commission Information Center for Romania, <http://www.infoeuropa.ro> (English/Romanian).
- The U.S. Commercial Service, <http://www.buyusa.gov/romania/en/> (English).

X. Slovak Republic

The year 2002 was a busy year in the Slovak legislature. This report includes examples of only some of the important laws passed in 2002 by the Slovak Parliament.

A. SECURITIES—NEW STOCK EXCHANGE ACT No. 429/2002

The new Stock Exchange Act came into effect on September 1, 2002. The objective of this legislation was to comply with EU law, mainly with EU Directive No. 34/2001. The changes include:

- Precise rules for accepting securities to the stock exchange markets.
- Rules for the termination of the tradability of securities accepted to the free regulated market.
- Extension of powers granted to the stock exchange.
- New supervision mechanism of stock exchange trades—the stock exchange is obliged to establish the Stock Trades Inspectorate.

B. BANKING—ACT No. 510/2002 COLL. ON THE SYSTEM OF PAYMENTS

The bulk of the act entered into force on January 1, 2003. The act introduced an obligation of banks and subsidiaries of foreign banks to form a special arbitration tribunal by June 31, 2003 to solve disputes arising in connection with payment systems. This act also deals with money transactions, including cross-border and electronic money transactions, and the supervisory role of the National Bank of Slovakia.

C. CIVIL PROCEDURE—ACT No. 244/2002 COLL. ON ARBITRATION

The act became effective on July 1, 2002. It was inspired by the UNCITRAL Model Act on arbitration in international business relations. The act expands the scope of litigation matters for which arbitration is applicable and liberalises the structure of arbitration tribunals.

D. BUSINESS LAW—AMENDMENT No. 426/2002 COLL. TO THE COMMERCIAL CODE

The act is effective as of September 1, 2002. It introduces a new rule governing the liability of new companies created by a de-merger of former companies. Under the new rule, new companies created by the de-merger of a former company are jointly and severally liable for the obligations of the former company, with each new company being liable up to the amount of its own assets. The new companies should settle their mutual claims in the proportion in which they had received the net assets of the former company.

E. SECURITIES REFORM—ACT No. 526/2002 COLL. ON THE AMENDMENT TO THE CIVIL CODE AND ACT No. 527/2002 COLL. ON VOLUNTARY PUBLIC AUCTIONS

These two acts introduce a long-expected and comprehensive reform of the law relating to security. Both became effective as of January 1, 2003. The reform regulates relationships

that are likely to occur in connection with the provision of credit and the creation and implementation of security on a broad range of assets. In order to avoid termination, pledges need to be registered in the newly formed public register of pledges operated by the Slovak Chamber of Notaries no later than June 30, 2003. The Act on Voluntary Public Auctions also sets out the rules to be applied in relation to the enforcement by secured creditors of a pledge by way of the public auction procedure. It also regulates how public auctions may be used by owners who wish to sell their own assets publicly, rather than by way of a conventional private sale.

F. LABOUR LAW—ACT NO. 311/2001—THE NEW LABOUR CODE

Although passed in 2001, this act came into force on April 1, 2002. The act aims to harmonise Slovak labour law with relevant EU legislation.

G. MISCELLANEOUS—ELECTRONIC SIGNATURE ACT NO. 215/2002 COLL.

In addition to the act, the National Security Bureau (NSB) has issued six regulations (Nos. 537–542/2002 Coll.), effective as of October 1, 2002, regulating the specific details and conditions relating to the use of electronic signatures and the operation of businesses that provide services in the area of electronic signatures under the act.

H. MISCELLANEOUS—AMENDMENT NO. 445/2002 COLL. OF THE ACT NO. 367/2000 ON MONEY LAUNDERING

The amendment entered into force on September 1, 2002. It creates in certain situations or transactions a mandatory obligation to identify the natural or legal person acting. The act widens the list of obliged parties who are required to supply certain information to authorities or to take other actions, such as storing documents. It includes exceptions for when no notification is necessary. There are fines for non-compliance with the act.

I. SLOVAK REPUBLIC LINKS²

- Gonzaga University, <http://law.gonzaga.edu/library/ceeurope.htm> and “Slovak Republic” link (English).
- Industrial Property Office, <http://www.indprop.gov.sk/english/ie.htm> (English/Slovak).
- Elektronická zbierka zákonov, <http://www.zbierka.sk> (electronic collection of laws).

2. Please note that Allen & Overy is not responsible for the content of the Web sites listed herein.

