



**European Bank**  
for Reconstruction and Development

## Survey of Charges Registries in the Balkans

### Introduction

The European Bank for Reconstruction and Development (EBRD) has been involved in secured transactions law reform for over a decade. Its contributions to reform efforts in the region include the Model Law for Secured Transactions, published in 1994, the Ten Core Principles for Secured Transactions Law, published in 1998, and the EBRD Regional Survey of Secured Transactions Laws, published for the first time in 1999 and since regularly up-dated. EBRD has also provided technical assistance to many countries in the region for the reform and implementation of secured transactions law (for more details, see [www.ebrd.com/st](http://www.ebrd.com/st)).

The implementation of a secured transactions law almost inevitably involves the introduction of a registration system (whether called notice filing, public recording, or whatever) for recording security rights created over movable assets. When in 2003 it was decided that EBRD should initiate a project to develop standards for the publicity of security rights and guidelines for implementing those standards, it was proposed that the project should be supported by an assessment of the charges registries operating in the Balkans region. This work carried out in parallel made it possible to learn from the practical experience of countries where any EBRD involvement in the registry had been peripheral and to relate the debate on standards and guidelines to practical realities.

At that time six registries were operating, in Albania, Bulgaria, Kosovo, FYR Macedonia, Montenegro and Romania, whilst others were planned in Bosnia-Herzegovina, Croatia and Serbia. Little information was readily available on how these registries functioned or how they responded to the economic and practical needs of players in the secured credit market (for example, the growing micro-finance and SME lending activity). As a result there was limited scope for one country to learn from the experience of another.

Initially information was collected from a variety of sources including the government department responsible for registration, the registration office, users of the system (particularly banks and lawyers) and, where feasible, those involved in setting up the system. The information and opinions gathered made it possible to build up a detailed picture of how the registration system works and how it is perceived by those who use it. A series of comparative tables was then compiled and these are set out below to present a summary survey of the different systems that were reviewed. A brief description of each system is also included.

The survey comprises four tables each with answers (ranging from 'yes' to a categorical 'no') to a number of questions. The first table looks at the basic functions accomplished by the register, the second at the process of registration, the third at the facility for searching the register and the last at the robustness of the system. Where the answer was not a straight 'yes' or 'no' a short explanatory note is added. The tables seek to give an overview of the six systems reviewed and to indicate the relative strengths and weaknesses of each.

As can be seen from the tables the general picture is positive. All of the registries are operating and the views expressed by users were generally favourable<sup>1</sup>. The dedication of those responsible for operating the registries was impressive. In all jurisdictions there was enthusiasm to make the registry work efficiently and to explore ways of responding to the requirements of the secured credit market.

The results of the project for developing standards for the publicity of security rights are published separately (see Publicity of Security Rights - Guiding Principles for the Development of a Charges Registry, 2004, available at [www.ebrd.com/st](http://www.ebrd.com/st)). As can be seen from the footnotes to that publication the practical experience gained from surveying the registries in the Balkans countries provided invaluable input.

A large vote of thanks is called for in favour of all those who devoted time and energy in assisting in the work on the survey.

*The EBRD also wishes to acknowledge the generous support to this project by the government of Canada and the government of the United Kingdom.*

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<sup>1</sup> In Montenegro the registry has only been operative since summer 2003 and so it was very early to form a clear view.

## Charges Registry Survey

<b>KEY</b>	
✓✓✓	Yes.
✓✓	Yes, but with some reservations.
xx	Indicates that response is negative, but there are some mitigating factors in law or practice.
xxx	Categorical no.
?	Uncertain.

<i>1. Functions of the Register</i>	<i>Albania</i>	<i>Bulgaria</i>	<i>FYR Macedonia</i>	<i>Kosovo</i>	<i>Montenegro</i>	<i>Romania</i>
1.1 Does registration make it possible for the public to find out which assets of the chargor are subject to a charge?	✓✓✓	✓✓✓	✓✓✓	✓✓✓	✓✓	✓✓✓
1.2 Does registration make it possible to find out the chronological order of ranking of charges?	✓✓✓	✓✓✓	✓✓✓	✓✓✓	✓✓✓	✓✓✓
1.3 Does registration ensure priority over unregistered charges and other claims?	✓✓✓	✓✓✓	✓✓✓	✓✓✓	✓✓✓	✓✓✓
1.4 Can a third party rely on the absence of registration as indicating that no opposable charge exists?	✓✓✓	✓✓✓	✓✓✓	xx	xx	✓✓✓

1.2 **Montenegro:** Inventory is sometimes described by reference to a list kept by the chargeholder or the registrar, without further information.

1.4 **Kosovo:** The effect of unregistered charges is uncertain.

**Montenegro:** The effect of unregistered charges is uncertain.

<b>2. Registration</b>	<b>Albania</b>	<b>Bulgaria</b>	<b>FYR Macedonia</b>	<b>Kosovo</b>	<b>Montenegro</b>	<b>Romania</b>
2.1 Does the system facilitate charging all kinds of assets?	✓✓✓	✓✓✓	✓✓✓	✓✓✓	✓✓✓	✓✓✓
2.2 Is the procedure for registration clearly defined?	✓✓✓	✓✓✓	✓✓	✓✓✓	✓✓✓	✓✓✓
2.3 Is it simple?	✓✓✓	✓✓	xx	✓✓✓	✓✓✓	✓✓✓
2.4 Is it fast?	✓✓	✓✓	✓✓	✓✓✓	✓✓✓	✓✓
2.5 Is it inexpensive?	✓✓✓	✓✓	xx	✓✓✓	✓✓✓	✓✓✓
2.6 Is the procedure for registering changes to existing entries in the register clearly defined?	✓✓✓	✓✓✓	✓✓✓	✓✓✓	✓✓✓	✓✓✓

- 2.2 **FYR Macedonia:** The requirements in practice go beyond what is stated in the law (e.g. as to production of invoices and notarisation).
- 2.3 **Bulgaria:** Information to be provided can be lengthy and various certificates have to be produced in support.  
**FYR Macedonia:** Extensive documents have to be produced (e.g. pledge contract, loan agreement, inventory of pledged assets, proof of ownership (i.e. invoices), etc.). The information to be registered is closely checked.
- 2.4 **Albania:** It takes one to three days, depending on work load.  
**Bulgaria:** It depends on the work load. Obtaining supporting certificates can cause delay.  
**FYR Macedonia:** Although the full registration process can take several days an immediate early warning registration is made which protects priority.  
**Romania:** Transcription of the information can take time.
- 2.5 **Bulgaria:** The basic fee is low but can be increased where there are additional pages and by the cost of the supporting certificates.  
**FYR Macedonia:** Costs are increased by notarisation requirements.

<i>3. Searches</i>	<i>Albania</i>	<i>Bulgaria</i>	<i>FYR Macedonia</i>	<i>Kosovo</i>	<i>Montenegro</i>	<i>Romania</i>
3.1 Is all registered information publicly available?	✓✓✓	✓✓	✓✓	✓✓✓	✓✓✓	✓✓✓
3.2 Is the procedure for searching clearly defined?	✓✓✓	✓✓✓	✓✓	✓✓✓	✓✓✓	✓✓✓
3.3 Is it simple?	✓✓✓	✓✓	✓✓	✓✓✓	✓✓✓	✓✓
3.4 Is it fast?	xx	✓✓	✓✓	✓✓✓	✓✓✓	✓✓✓
3.5 Is it inexpensive?	✓✓✓	xx	✓✓	✓✓✓	✓✓✓	✓✓✓
3.6 Does a search give a readily understandable overview of the charges registered (including changes)?	✓✓✓	✓✓	✓✓	✓✓	✓✓	✓✓✓

- 3.1 **Bulgaria:** Many people were unclear what information they could obtain and, for example, thought the secured debt was private information.  
**FYR Macedonia:** The scope of the information available depends on the search criteria used and different views were expressed by users as to what information they could obtain.
- 3.2 **FYR Macedonia:** The method of identifying the pledgor in the search request is unclear.
- 3.3 **Bulgaria:** Different types of search reveal differing levels of information.  
**FYR Macedonia:** Requirements for identification of the pledgor and the differing scope of information available can cause problems.  
**Romania:** Users reported problems in searching via the internet.
- 3.4 **Albania:** Search requests are put in the same processing order as registration applications and normally take one to three days, depending on work load. An informal system for limited telephone searches also exists.  
**Bulgaria:** It could take some time, especially when not done in Sofia.  
**FYR Macedonia:** The quantity of information to be printed out and certified may cause delay.
- 3.5 **Bulgaria:** A fee is charged per page which can make a full search expensive.  
**FYR Macedonia:** The fee for searching is of Denar 500, approximately EUR 8.
- 3.6 **Bulgaria:** The quantity of information can make a search less easy to understand.  
**FYR Macedonia:** The quantity of information can make a search less easy to understand.  
**Kosovo:** Changes appear as a new registration statement, with a link to the original entry.  
**Montenegro:** Changes appear as a new registration statement, with a link to the original entry.

<i>4. Robustness of system</i>	<i>Albania</i>	<i>Bulgaria</i>	<i>FYR Macedonia</i>	<i>Kosovo</i>	<i>Montenegro</i>	<i>Romania</i>
4.1 Are the duties of the registrar clearly defined?	✓✓✓	✓✓✓	✓✓✓	xxx	✓✓✓	✓✓✓
4.2 Is there an open system of supervision of the registrar?	?	✓✓	✓✓✓	xxx	✓✓	✓✓✓
4.3 Is the method of recording information in the register designed to protect against error, abuse and fraud?	✓✓✓	✓✓✓	✓✓✓	✓✓	✓✓✓	✓✓
4.4 Is the method of storing and accessing information in the register designed to protect against error, abuse and fraud?	✓✓	✓✓✓	✓✓✓	✓✓	✓✓✓	✓✓
4.5 Is there a defined procedure for frequent back up of the data in the register and for disaster recovery?	✓✓	✓✓✓	✓✓✓	✓✓	✓✓	✓✓
4.6 Is there evidence that the system is being used and is supporting the secured credit sector?	✓✓✓	✓✓✓	✓✓✓	✓✓	xx	✓✓✓

- 4.2 **Bulgaria:** The registry is supervised by the Ministry of Justice but there is little information on how this works in practice.  
**Montenegro:** The registry is supervised by the President of the Commercial Court but there is little information on how this works in practice.
- 4.3 **Kosovo:** The chargor does not sign the registration statement as provided by law.  
**Romania:** Transcription errors by the registrar can be a problem. The multiplicity of operators makes quality control of entries difficult to implement.
- 4.4 **Albania:** Registrar and deputy have privilege access but there is no specific log file protection.  
**Kosovo:** Registrar has privilege access but there is no specific log file protection.  
**Romania:** Performance during peak times is a major concern due to poor technical design.
- 4.5 **Albania:** The back up procedure is adequate. There is no disaster recovery procedure in place.  
**Kosovo:** The disaster recovery plan is not fully developed and tested.  
**Montenegro:** The recovery plan has been used several times because of the inadequate equipment environment (power and air conditioning).  
**Romania:** There is no disaster recovery plan.
- 4.6 **Kosovo:** The system was created by an organisation set up by micro-finance institutions – traditional banks are reportedly reluctant to use it yet.  
**Montenegro:** Initial use of the registry has been low.

## **Albania**

The securing charges registry is a separate computerised registry located in the Ministry of Finance in Tirana. The pledge registry is a department within the Ministry of Finance and is administered by the chief registrar.

Registration is made by the chargeholder or his representative submitting to the registry office in Tirana an application form which must include details of the applicant, the parties and the charged assets. The registrar checks the identity of the applicant (there is a facility for regular users to have an ID number and password) but not other information on the form. No documents need to be attached to the application.

Application forms are held in order of receipt and entry is made by the registrar, normally within one to three days. Upon entry in the register a registration number and the time of registration is generated and it is this time that is used for determining priority.

The information on the application form is transcribed by the registration office into the register and a certificate of registration showing the full entry is sent to the applicant, the chargeholder and the chargor.

Searches can be made against the chargor (precise name is needed) or the serial number of the charged assets (if such exists). A search request form has to be submitted identifying the applicant and giving the name or number against which the search is to be made. Search results are placed in the same queue as requests for application and are dealt with in order of receipt, normally available within one to three days. Search certificates are issued which show all the information in the register. The registrar keeps paper copies of all applications for registration and search and all registration and search certificates issued.

There were no available statistics but it was reported that in the Registry's first year of operation (2001) 2,800 registrations were performed. Currently, there are on average 30 to 45 entries made a day, that is approximately 7,500 registrations per year.

## **Bulgaria**

The Central Pledge Registry is an independent public agency operating within the Ministry of Justice in Sofia, and administered by a Director. The Head office is located in Sofia and there are six local offices Bulgaria. The system is fully computerised.

Anyone can request registration but the chargor's consent must be provided by either the chargor signing the registration form in person in front of the registrar, or by providing on the form the chargor's signature attested by a notary. The registration request can be submitted to the head office or to one of the local offices, in which case the request is then forwarded to the head office which will perform the registration.

The registration form must contain details of the parties, charged assets and secured debt (including amount). The following documents have to be produced:

- annexes in case the space provided for by the forms is not sufficient (there is often a schedule describing the charged assets);
- a certificate from the Commercial Registry confirming the status and current activity of the chargor as a merchant and including its identification number (or a certificate by the office for national statistics including the identification number if the chargor is an individual); and
- a certificate from the tax authorities that the chargor has no outstanding tax liabilities.

The registry clerk generates a unique registration number for each request – a bar code sticker is pasted onto a special box on the form. The form is then scanned and an image file of the form is created in the system and is automatically associated with the generated filing number. Then a special menu opens which enables the operator to key in the data concerning the identity of the chargeholder and chargor. All annexed documents are also scanned and attached electronically to the file.

Searches can be made against the name and ID number of the chargor. A request for searching can be sent to the registrar by post, fax, or even by phone, or, most commonly, the searcher goes in person to the registry's offices. The searcher can obtain three types of search reports:

- 1) The basic search report provides only a list of charges existing against the given chargor, with very basic information (e.g. the name of chargeholder)
- 2) A more thorough report provides information about the chargor, chargeholder, secured debt, and a full description of the charged assets;
- 3) A comprehensive search result would produce all information, including the scanned initial and subsequent registration forms.

The Central Registry has been operating since 1997, and the number of entries and searches is growing steadily. In 2003, there were about 34,000 entries, bringing the total number of activities (entries and searches) since the registry's inception to approximately 170,000.

## **FYR Macedonia**

The pledge registry is part of the computerised Central Register which also includes other registries, such as the registry of rights to real estate. The registry's central office is located in Skopje and it has 31 other offices across FYR Macedonia.

Registration is made by submitting an application form which must include details of the applicant, the parties, the pledged assets, the legal basis and amount of the secured debt and the list of attached documents and which must be signed by the applicant, the pledgor and the pledgee (or their representative(s)). The documents to be attached to the application include the pledge contract, the loan contract, the detailed and specific description and inventory of the pledged assets and the relevant powers and authorities of the parties.

Upon receipt of the application an immediate entry is made in the register against the name of the pledgor which generates a registration number and the time of registration. As from this moment the register shows an early warning that something is happening, but without information other than the name of the applicant. The registration office then transcribes all information on the application form into the register and scans the application form and all attachments. If any information or document is missing the registrar gives the applicant three days to remedy. When all information is complete (normally within two to three days) the final registration is made and a certificate of registration issued to the applicant. The time of registration is the time shown on the initial early warning. When registration is made through a branch office the early warning is registered immediately but the full registration is transmitted by batch to the central office.

The pledge agreement is usually notarised in order to give executory title to the pledge, and the registrar relies on the notary to check the identity of the parties, the title to the pledged assets, and the legal basis of the secured debt. In many cases the notary also applies for registration.

Searches can be made against the owner/pledgor or the serial number of the pledged assets (if such exists). A search request form has to be submitted identifying the applicant and giving the precise ID number of the owner/pledgor (although differing views are expressed on that point, and it may be that merely name of the pledgor would be sufficient) or the precise serial number of the asset. Search results are normally available within two to three days and give the information on the application form and the full description of the pledged assets and inventory. The attachments are not available on search, except on special application by the parties or through court or administrative order.

The pledge registry is administered by a registrar who reports to the registrar of the Central Registry, which is a department within the Ministry of Finance supervised by a management board with members from different government departments. Statistics are limited but the total number of entries (including new entries, amendments and deletions) on 30 May 2004 is approximately 5,000 and the number of searches is about 4,500 (the registry started operating in October 1998).

## Kosovo

The Pledge Filing Office was created on the basis of the UNMIK Pledge Regulation 2001/5 of February 2001. Both the World Bank and USAID contributed to the set-up costs and provided technical assistance. The Filing Office is operated for the moment by the Kosovo Credit Information System (KCIS), founded by a number of microfinance institutions and organisations to work as a private credit bureau.

In order to register a pledge, a person submits to the registrar a notification statement. This can be done:

- either in person to the Filing Office where the registrar types the entry directly into the system (this is rare);
- or remotely, when the user is a registered user, who has had a specific software installed on its IT system.

The system is user-friendly, presenting a series of separate windows which the applicant must fill in with relevant information:

- 1) Details of the applicant
- 2) Details of the parties, chargor (and debtor if different), and chargeholder.
- 3) Description of collateral, either by a text box where the assets are described, or for vehicles and certain other assets by reference to make, serial number and year.
- 4) Identification of the secured obligation
- 5) Maximum amount of the secured debt
- 6) Date of the charging agreement
- 7) Signature of the applicant

Once the applicant has filled all fields, it saves the file and attaches it to an email message addressed to the registrar. Upon reception, the registrar downloads the file (and its contents) onto the system, thereby automatically generating a registration number for the entry, and the date and time of registration.

All the information is then printed out. A hard copy is kept by the registrar in the office's premises and another is sent by mail to the applicant (or can be collected in person) with date and stamp of the registrar: this is the registration certificate.

Searches are done in the Filing Office by written request (usually sent by email to the registrar), and the results are shown as an exact copy of the entry.

There are about 15,000 entries in the register, and in 2003, there were about 8,500 registrations.

## Montenegro

The Pledge Registry started operating in May 2003. The Registry is situated at the Commercial Court in Podgorica. The Registry is fully electronic and available on the internet at [www.rzcg.cg.yu](http://www.rzcg.cg.yu).

Registration takes place either directly on-line for registered users (currently limited to lawyers who are members of the Montenegrin Bar Association and commercial banks) or by submitting an application form in person or by fax to the registrar in Podgorica. Only the chargeholder (or its agent) may request registration. The chargor must have consented to the registration of the charge – the law provides that the chargor is deemed to have authorised the chargeholder to register the statement by signing a charge agreement. In practice, registered users register electronically through the Registry's website without any verification but for other applications the registrar will verify the registering party's signature and the chargor's consent.

The details to be registered are:

- identity of the chargor and chargeholder
- description of charged asset, specifically or generally identified. Vehicles, aircraft and certain other assets have to be identified with their serial number. Inventory must include a description of the general characteristics of the inventory in a manner that allows for the sufficient identification of the inventory. In practice, however, the asset description only refers to an inventory list, which is not registered but kept at the registered user's premises (or at the Registry when a non-registered user has requested registration).

Searches are possible through the internet at [www.rzcg.cg.yu](http://www.rzcg.cg.yu) or at the Registry's office in Podgorica (either directly in person, or by telephone or fax), against the name of the chargor or chargeholder, or the serial number of serial numbered equipment.

The total number of entries as of May 2004 was of approximately 110.

## Romania

The Electronic Archive of Security Interests in Personal Property is a register administered by the Ministry of Justice. The Archive is operated by the “Corps of Operators”, which is a legal entity representing all operators. Each operator is licensed by the Ministry of Justice for three years (renewable). In principle, anybody can apply for a licence to operate as long as they fulfil a number of criteria, and they then compete with other operators. All operators (and their agents) can perform registration via the Archive’s website with protected access. Currently, seven operators and about 400 agents offer their services throughout the country. They include the Chamber of Commerce, Banca Comerciala Romana (BCR) (who only act as operator on their own credit operations as lender), the Chamber of Notaries, the Lawyers’ Association, etc.

The chargor or the chargeholder (as well as their respective representatives) can request registration. The notice form has to be signed by the person requesting registration and the operator should in principle only check the identity of the applicant and verify his or her authority. However, due to the multiplicity of operators, practice varies and, for example, some operators require a signed copy of the charge agreement.

The information to be registered is limited to the identification of the chargor (and debtor if different), identification of the chargeholder and a description of charged assets. The operator will type all data and submit the information into the Archive’s database. Typing can take time, especially if the description of assets is extensive. Once the entry has been submitted to the archive and successfully received, the operator will issue two registration certificates, one for the chargor and one for the chargeholder. The registering party has to produce one of the copies to the other party within 24 hours. Pre-registration (intention to register) is possible and the entry will be held for up to two months: if the registrant registers the charge within this time, registration will be deemed to be at the pre-registration date.

The Archive’s central database can be searched by anyone for free via the internet at [www.mj.romarhiva.ro](http://www.mj.romarhiva.ro), against the name of the chargor or the chargeholder, or the identity of the charged assets. Searching can also take place at the operator’s offices, and the operator may charge a fee. Approximately 400,000 registrations are currently stored in the Archive. In 2003, there were approximately 190,000 entries.