



VISION, DETERMINATION AND SUSTAINED EFFORT: WORKING WITH SERBIA'S BANKRUPTCY SUPERVISION AGENCY



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The vision, determination and sustained effort by the Serbian authorities to invest in their insolvency framework has brought demonstrable results.”



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It has been 20 years since the EBRD's Legal Transition Programme began working with the newly created insolvency regulator in Serbia, the Bankruptcy Supervision Agency (BSA) and its supervising authority, the Ministry of Economy. The Bank's aim from the outset has been to help the BSA regulate and develop a specialist professional body of insolvency practitioners.



INTRODUCTION

Insolvency practitioners, variously called trustees, administrators, receivers or liquidators, are at the heart of insolvency systems around the world. A court typically appoints them to oversee an insolvency proceeding. As a result, insolvency practitioners frequently control or monitor the debtor's operations and have considerable influence on the continuation of the debtor's business, as well as on how any assets belonging to the debtor are sold and how any proceeds are distributed to creditors.

As a regulator, the BSA performs an essential function in maintaining a strong insolvency framework. Using continuous supervision, regular inspections and developing risk-based supervision, the BSA and its supervisors ensure that insolvency practitioners (known as bankruptcy administrators in Serbia) act honestly and professionally. The BSA also collaborates with donors to deliver an official training programme on topics of interest for the profession every year. Now a leading regulator for the Western Balkans region, the BSA has a close and successful partnership with the EBRD. Key achievements include the development of national standards and a code of ethics for insolvency practitioners which underpin the BSA's supervisory function.



In 2004, Serbia enacted the Law on the Bankruptcy Supervision Agency.¹ This law established a new single regulatory body for insolvency practitioners, responsible for issuing licences and supervising licensed insolvency practitioners. The EBRD, acting through its Legal Transition Programme (LTP), began working with the Agency from its inception a year later, in 2005. The Bank's engagement was aimed at strengthening the BSA's regulatory capacity and contributing to a better investment climate in Serbia, by increasing both the confidence of the investment community in insolvency procedures and the insolvency practitioner profession. The BSA collaborated with other donors in parallel, especially the United States Agency for International Development (USAID), which provided critical support to the BSA by establishing an electronic system for reporting and supervision of insolvency practitioners.

ESTABLISHING NATIONAL STANDARDS AND A CODE OF ETHICS

In the early days, the EBRD's working relationship with the BSA proceeded in stages. First, the Bank helped the ministry to develop a set of official national standards and a code of ethics for the profession, with the assistance of Professor Ron Harmer and British insolvency practitioner Neil Cooper. These were initially adopted in 2004 and slightly revised with input from the BSA in 2009. The standards established, for the first time, rules and guidelines for insolvency practitioners in the day-to-day conduct of insolvency cases, in line with international best practice.

Second, the EBRD contributed to the substantive reform of the Law on Bankruptcy, completed in 2009.² This was an important reform and has been the basis of Serbian insolvency legislation ever since, with amendments from time to time. Thereafter, the Bank worked with the BSA and its partners to develop a manual, published in 2010, to guide

¹ See Law on Bankruptcy Supervision Agency (Official Gazette of the Republic of Serbia Nos. 84/2004, 104/2009, 18/2005 and 89/2015), effective as of 1 August 2004.

stakeholders on the application of the national standards and the related code of ethics. This helped the Agency to carry out its disciplinary functions, which were launched in April 2011 by legislative changes that empowered a newly created disciplinary board of the BSA to examine cases of professional misconduct involving a breach of national standards and/or the code of ethics.

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Often considered by stakeholders in the EBRD regions to be the weakest area of performance of the insolvency practitioner profession, national standards and codes of ethics help to define common rules with respect to professional behaviour. In so doing, they also support the performance of regulatory functions, in particular the investigation of allegations of misconduct by practitioners and, if necessary, the initiation of disciplinary procedures. Professional standards and ethics are, therefore, among the most important issues to be addressed for the proper implementation of any country's insolvency framework.³

In Serbia, the national standards cover the practical administration of the insolvency practitioners' duties. These include matters such as the administration of the insolvent debtor's bank accounts and monetary assets (National Standard 1) and the practitioner's report on the economic and financial position of the bankrupt debtor (National Standard 3). The code of ethics provides complementary rules on ethical conduct and an overarching framework regarding the behaviour of insolvency practitioners in the performance of their duties and responsibilities. A critical rule is that insolvency practitioners must be objective, impartial and independent when performing their professional duties.

In September 2012 the EBRD surveyed insolvency practitioners and BSA staff on the impact of the Bank's project with the BSA on the national standards and the code of ethics. There was a clear perception that the standards, while new at the time, had had a major, positive effect on the working practices of insolvency practitioners. The code of ethics, which prescribes an expected standard of professional behaviour and conduct, was considered more difficult to assess than the national standards, but the two documents – national standards and the code of ethics – were considered to be closely interlinked. Today, these are an established part of the Serbian regulatory framework for insolvency and a major achievement that has consolidated Serbia's leadership in the insolvency field.

There was a pause in the EBRD's active partnership with the BSA after 2012, although it continued to engage in the field of insolvency in Serbia through the LTP and remained in regular contact with the BSA. From 2013 to 2015 the EBRD worked closely with the Chamber of Commerce and Industry of Serbia to develop the framework for consensual restructuring cases administered by the Chamber pursuant to the Law on Consensual Financial Restructuring of Companies.⁴ This was followed, from 2017 to 2018, with a project that analysed impediments to the resolution of high levels of non-performing loans in Serbia, including some issues in the insolvency framework.

DIGITAL INITIATIVES – RISK-BASED SUPERVISION AND DATA GOVERNANCE

In 2021 there was an opportunity for the EBRD to reengage at another critical stage in the development of the BSA as a regulator. EBRD staff began working with a team led by Dragisa Petrovic, Director of the BSA, and including Jelena Todoc, Director of the Supervision and Profession Development Unit, Dejan Milovanovic, Head of Department for coordination and control of internal organisational units, Milan Opacic, Assistant Director for information technology (IT) and communications, and Sladjana Guzijan, Profession Development Adviser.

² See Bankruptcy Law, Official Gazette of the Republic of Serbia Nos. 104/2009, 99/2011, 71/2012, 83/2014, 113/2017, 44/2018 and 95/2018.

³ In 2014, the EBRD completed a detailed assessment of the insolvency office holder profession that evaluates the profession's state of development and performance in 27 EBRD economies including Serbia. See EBRD (n.d.).

⁴ See Official Gazette of the Republic of Serbia, No. 36/ 2011 (as amended in 2015, 2018 and 2021).

The occasion for reengagement with the BSA was an initiative by the Serbian Ministry of Economy to create more efficient insolvency procedures, with shorter deadlines and lower costs. The ministry had prepared a set of amendments to the Bankruptcy Law (drafted in 2018) that envisaged greater responsibilities for the BSA in collecting insolvency-related data from relevant court decisions, notices and other legal acts and in preparing official insolvency statistics. With support from Luxembourg, the Bank agreed to work with the BSA to assess its existing IT and regulatory infrastructure, and prepare a methodology, IT concept and roadmap for the development of the BSA's new responsibilities concerning data collection, analysis and the production of statistics.

As a regulator, the BSA uses two digital systems for statistical monitoring and data processing: the Electronic Reporting System (ERS) and the Risk Based Management System (RBMS). The ERS is an electronic reporting system administered by the BSA and officially used since 21 September 2009 by insolvency practitioners for reporting on activities performed in insolvency (bankruptcy) proceedings. The RBMS is a platform used by BSA supervisors to monitor insolvency practitioners. The RBMS uses data from the ERS to review the data of the reports submitted by practitioners in the ERS and identify areas of risk, facilitating the BSA's supervisory functions. Part of the project that the EBRD

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launched in 2022 therefore analysed the need for a new system to replace the ERS as well as a new software system to replace the RBMS. Furthermore, the EBRD considered the need for new statistical software to extract data from the new ERS, RBMS, E-Sales platform and the BSA's information system, ensuring the interoperability of the platforms.

Due to the specific multidisciplinary nature of the project, the Bank retained a team of data governance, policy, IT and legal experts. The team worked with the BSA to develop a methodology for the collection, processing and publication of statistical data and a roadmap for implementation, including the training of BSA employees on using the new software and the production of statistics and reports. One of the innovative features of the project was the development of an IT concept based on low-code/no-code technology that would enable the BSA to tailor its new system in-house to its processes, and so avoid the unnecessary expense and inflexibility of an off-the-shelf IT solution. EBRD staff further recognised, through consultations with the BSA and other stakeholders, the need to develop data-governance skills in parallel with any IT system, so they engaged experts from the National Statistical Office to guide the BSA on how it could produce insolvency statistics.

EBRD legal consultants Moravčević Vojnović i Partneri, in cooperation with Schoenherr, have prepared a draft regulation governing the BSA's role relating to insolvency statistics and reporting to be adopted following amendments to the Bankruptcy Law. Both the BSA and the EBRD are now looking for funding to implement the roadmap and the next

phases of the project once those amendments are enacted. The amendments will also support the BSA's new responsibility as operator of a soon-to-be-introduced centralised platform for electronic sales in insolvency proceedings, a concept on which it partnered with the International Finance Corporation. Implementation of the roadmap and the improvements to the BSA's IT and data governance toolkit are expected to strengthen the BSA's regulatory function and will help the Serbian authorities align with their counterparts in the European Union. Undoubtedly, the publication of more data and statistics on the management and outcome of insolvency cases will bring greater transparency to creditors and other insolvency stakeholders.

The Bank recently worked closely with the BSA again by including Serbia in a regional insolvency training pilot. This means the EBRD has been able to support the BSA's training for insolvency practitioners and the roll-out of the official 2024 BSA training curriculum, working with a national team composed of lawyers Luka Andric and Branka Vesovic from Andric Law Office, insolvency practitioner Djordje Jokic and Judge Ninoslav Volarevic, as well as international experts Dr Paul Omar and former UK insolvency practitioner Kerry Trigg (see Table 1). Professional training, as well as "on the job" experience, are essential for the proper implementation of any insolvency law. However,

often what is missing – especially for insolvency practitioners – is training infrastructure and a responsible counterpart with the capacity to deliver training for the profession on a regular, continuing basis. This regional project is aimed at developing and delivering more scalable and comprehensive official training programmes for insolvency officeholders and judges, grounded in domestic law and practice. The objective of the project is to develop a full curriculum, training methodology and set of materials (workbooks and training slides) that can be used as a starting point and reference for any country project involving the training of insolvency practitioners.

The pilot in Serbia has adopted a mix of in-person training and remote (webinar-based) training, which became common during the Covid-19 pandemic. EBRD staff have worked with the BSA to deliver a proper needs assessment and identify key areas of training. One challenge under the project has been the fact that the insolvency practitioner profession is not homogeneous. Unlike in some countries, such as Greece, where insolvency practitioners are lawyers, in Serbia the profession today is made up of mostly sole practitioners from a range of backgrounds including law, business, accounting and engineering. Most practitioners, however, come from an accountancy background. This has been relevant when designing materials and agreeing on the focus of the training.

Table 1. Official training programme for bankruptcy administrators

	Topic	Date	Format (seminar/webinar)
1.	Comparative presentation of the position, qualifications and training, supervision and regulation of bankruptcy administrators in different jurisdictions (Workbook 1)	February 2024	Webinar
2.	Ethics and professional standards in bankruptcy proceedings Case management and reporting (Workbooks 2 and 3)	March 2024	Two half-day seminars
3.	Financial mismanagement, asset tracing and recovery (Workbook 4)	April 2024	Webinar
4.	Types and plans of reorganisation in bankruptcy (Workbook 5)	May 2024	Full-day seminar
5.	Forensic accounting	June 2024	Webinar
6.	International bankruptcy and practice (Workbook 6)	September 2024	Webinar
7.	Asset realisation proceedings (Workbook 7)	October 2024	Full-day seminar
8.	Financial skills in the context of bankruptcy proceedings (Workbook 8)	December 2024	Recording

Another challenge has been the need to deliver any in-person training simultaneously in the three locations of Belgrade, Niš and Novi Sad. However, participants in these locations have welcomed the opportunity to connect in person. The BSA has been involved in all the training, including securing the facilities of its partner the Chamber of Commerce on a voluntary basis and organising internally the translation of international presentations and materials for the in-person training. Key topics of training conducted to date include the role of the insolvency practitioner internationally (a webinar) and case management, professional standards and ethics, and restructuring plans (all in-person events).

EBRD staff have learned a great deal from their activities with the BSA since the Bank began working with it in 2004. The vision, determination and sustained effort by the Serbian authorities to invest in their insolvency framework has brought demonstrable results. Serbia has performed highly in EBRD insolvency assessments and the features of its insolvency framework – an active regulator, a developed regulatory framework and disciplinary function, and a developed profession of insolvency practitioners – have laid a solid foundation for future development and growth, in line with its European Union peers.



The Bankruptcy Supervision Agency's role will soon expand to cover the regulation of entrepreneur insolvency and/or consumer insolvency.

A highlight for the BSA and a measure of how far it has come since its creation was its presidency in 2023 of the International Association of Insolvency Regulators. EBRD colleagues were able to attend the association's annual conference, held in Belgrade in September 2023, and to present on their fruitful collaboration with the BSA to a wide audience of regulators from more than 20 economies including Australia, Canada, Hong Kong, India, Singapore, the United Kingdom and the United States of America, as well as other EBRD economies, including Albania, Estonia and Latvia, and fellow international financial institutions, such as the World Bank and the International Monetary Fund.

The BSA's role will soon expand to cover the regulation of entrepreneur insolvency and/or consumer insolvency. These are not yet part of the Serbian insolvency framework, but are part of many national insolvency systems. The EBRD looks forward to continuing its work with the BSA and to implementing similar projects with other national regulators in the EBRD regions, using lessons learned from its partnership in Serbia. 🌐



Interview with **Dragisa Petrovic,** **Director of the BSA**

Dragisa Petrovic joined the Bankruptcy Supervision Agency as a Director in December 2017. Through cooperation with international organisations and looking ahead to the future needs of bankruptcy administrators, he has contributed significantly to the BSA's recognition as a leading regulator in the region and a model for neighbouring countries. Previously, Mr Petrovic spent four years as General Manager of PKB Corporation, the largest agribusiness firm in the former Yugoslavia. Prior to entering the agribusiness sector, he was in banking for more than a decade and gained deep insight into the insolvency field by managing the bankruptcy of AGROBANKA.

The BSA is a leading regulator for insolvency in the Western Balkans. What elements do regulators like the BSA need to be effective in achieving their mandate?

First and foremost, experience, a good team and continuous improvement are must-haves. Since its establishment in 2005, the BSA has gained substantial experience in bankruptcy. It has further strengthened this expertise through direct management of bankruptcy proceedings as the bankruptcy administrator for social and state-owned enterprises. The team is high performing and we strive to maintain this quality by educating and motivating younger colleagues to benefit from the experience of their senior peers. We also encourage creativity, keeping abreast of developments in the sector and incorporating innovations in the bankruptcy field. Lastly, it is essential to leverage the positive effects of digitalisation in daily work, as the BSA recognised 15 years ago.

The BSA assumed the prestigious presidency of the International Association of Insolvency Regulators from September 2022 to September 2023. What did you and your colleagues learn from this experience and from fellow regulators?

We have learned that collaboration can definitely contribute to achieving more. This probably holds true for many spheres of life but, for our profession, it is absolutely true. We have realised that governments and regulators face similar challenges, but there is also a range of good solutions to certain problems that have been implemented in some

countries. These solutions, with minor modifications, can be successfully applied in another system. We are glad that the BSA has been recognised as an example of good practice, so we have been very active lately in presenting that practice to our international friends.

How is digitalisation affecting you as a regulator?

As I mentioned earlier, the BSA recognised even 15 years ago that digitalisation was a significant factor for both regulatory tasks and for the implementation of procedures. The use of digitalisation ranges from enabling a significantly larger amount of data analysis and facilitating supervision processes to administering bankruptcy proceedings. We immediately embraced some digital solutions and, in my opinion, it was a good decision. Aware of the speed at which digitalisation is advancing, we initiated a project with the EBRD that demonstrates our intention to progress further and modernise digital systems while devising new solutions. I am pleased that the EBRD shares the same vision and that we are partners in achieving this goal.

What are the priorities for the BSA in the insolvency sphere in the coming years?

The BSA's priorities are to modernise its digital solutions and successfully accomplish the new tasks ahead. These tasks include compiling official bankruptcy statistics for Serbia and implementing electronic sales in bankruptcy proceedings. In addition, we expect to be the main partner to the relevant Ministry of Economy, with which we have excellent cooperation, in designing a personal bankruptcy system and aligning it with EU regulations.

What achievement are you most proud of since you became BSA director?

When I think along those lines, as an economist, I always think in numbers. So I cannot help but feel satisfied that, since 2018, 1,251 sales have been conducted in bankruptcies for which the BSA has been a bankruptcy administrator, generating revenue of RSD 44.7 billion (€382 million). In addition, there have been 746 supervisions of the work of bankruptcy administrators. These are significant figures. But beyond these quantifiable achievements, I am most proud of the fact that the BSA is a relevant and respected institution in Serbia, and I see that its quality is being recognised beyond the borders of our country.



References

Bankruptcy Law, Official Gazette of the Republic of Serbia Nos. 104/2009, 99/2011, 71/2012, 83/2014, 113/2017, 44/2018 and 95/2018. Available at: <https://pravno-informacioni-sistem.rs/eli/rep/sgrs/skupstina/zakon/2009/104/25/reg>.

EBRD (n.d.), "Insolvency Sector Assessment", London. Available at: <https://www.ebrd.com/sites/Satellite?c=Page&cid=1395277175709&d=Touch&pagename=EBRD%2FPage%2FArchive>.

Official Gazette of the Republic of Serbia, No. 36/ 2011 (as amended in 2015, 2018 and 2021). Available at: <https://pravno-informacioni-sistem.rs/eli/rep/sgrs/skupstina/zakon/2011/36/1/reg>.