

## EDITOR'S MESSAGE

At a time of continuing political and economic uncertainty in many parts of the EBRD region, the importance of legal reform cannot be overstated. This issue of the *Law in Transition* journal provides an array of lessons and ideas from the Legal Transition Programme (LTP's) work. Let us take a closer look at the contents of the issue and how its articles build on each other.

In his interview with LTP Director **Michel Nussbaumer**, **EBRD President Sir Suma Chakrabarti** discusses his long-lasting interest in the law and the legal reform trends he has observed in the Bank's countries of operations.

Turning to the substance of LTP work during the last year, we helped to address one of the major challenges of our time – that of climate change – by supporting **Georgia with the development of a National Energy Efficiency Action Plan**. As described in our article, this vast legal reform effort, including the drafting of a new Energy Efficiency Law, signals Georgia's intent to make a concrete contribution to the fight against global warming.

Another area that is high on the agenda of many of the EBRD's countries of operations is the provision of **high-speed, quality broadband**. **Paul Moffatt** gives an account of our work with Serbia on the adoption of strategies to boost the uptake of the

latest information and communications technology (ICT) and facilitate the country's transition to a knowledge-based economy.

Given the huge investment needs of EBRD economies, in ICT and other forms of infrastructure, many governments have used partnerships with the private sector to help fund these projects and make use of private expertise. Yet, many countries struggle to implement **public-private partnerships (PPPs)**. Last year, the LTP undertook an **assessment of PPP laws** in its countries of operations, as described in **Alexei Zverev's article**.

The EBRD's involvement in financing PPPs cannot be divorced from the **procurement process**. A good procurement regime should address both high- and low-level procurement, the latter being particularly relevant to small and medium-sized enterprises (SMEs). Our article describes the LTP's work with the Tunisian government on **improving the process for online small value procurement in Tunisia**.

Staying with the theme of SMEs, the article that I authored describes the emergence of **financial technology** and its potential to facilitate alternative funding sources for SMEs. The LTP is working on defining best practices for the **regulation of crowdfunding platforms** and on addressing legal obstacles to the enforceability of innovative



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**blockchain-based smart contracts**, with a focus on the protection of **creditors' rights**. Factoring is another useful instrument for improving SME access to finance. In his article, **Ammar Al-Saleh** discusses possible solutions for **Sharia-compliant factoring**, which is of particular relevance to countries in the southern and eastern Mediterranean (**SEMED**) region.

Returning to the theme of creditors' rights protection, the article co-authored by **Howard Rosen** and myself describes an innovative global treaty – the **Luxembourg Protocol** to the Cape Town Convention on International Interests in **Mobile Equipment** – which provides a new system of rights for creditors with security interest over **rolling stock**. As such, the protocol could be particularly relevant in the context of the **Belt and Road Initiative**, which aims to develop new rail links across more than 60 countries with different movable pledge regimes.

Also related to the protection of creditors' rights is the unfortunate practice of **account blocking**, a system of corporate debt recovery that is widespread in the **Western Balkans**. Our piece describes how we are helping regulators explore alternatives to this system, which denies defaulting businesses access to their bank accounts and working capital and ultimately reduces the likelihood of creditors recovering their assets.

As an international financial institution (IFI) with a mandate to promote good governance, the EBRD is concerned with the **corporate governance** regimes of its countries of operations. In their interview, **Gian Piero Cigna** and **Pavle Djuric** describe the findings of the LTP's latest **Corporate Governance Sector Assessment** and explain why boards of directors need to embrace **gender diversity** as well as providing better disclosure and displaying more independence.

Lastly, legal reforms can be successful only if they are complemented by improvements in the quality of state institutions. **Franklin Steves**'s article, written with **Milica Delevic** and other colleagues, describes the Bank's extensive work in support of the **capacity-building of state institutions** responsible for economic governance, which has already led to concrete and visible results.

Thank you for taking the time to explore this edition of the *Law in Transition* journal. I hope that the articles that follow will promote a greater understanding of the EBRD's legal reform work and spark ideas for new projects. I look forward to hearing any comments you may have.

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