



ARBITRATION POWERLIST 2021
CENTRAL AND EASTERN EUROPE

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INTRODUCTION |

For 33 years, The Legal 500 has been analysing the capabilities of law firms and sets across the world. In the research team, we constantly track which sections are used most by clients, and this often matches up with an increase in that section from submissions, client referees, requests for interviews and feedback – all of which make up the research process. The international arbitration rankings are consistently one of our most used and read editorial sections and one of the most competitive areas for law firms, sets, lawyers and barristers. This chimes with what we constantly hear anecdotally in the market, with international arbitration frequently cited as the preferred form of dispute resolution.

The Arbitration Powerlist: Central and Eastern Europe showcases the leading practitioners working in a broad sweep of countries, stretching from Austria and Poland to the Baltic nations and down to Serbia and North

Macedonia. As with any publication of this nature, we were faced with the dilemma of including as many worthy candidates as possible without diluting the significance of their listing. After lengthy discussions across the editorial team, we decided that a larger selection was necessary to provide sufficient nuance and balance across so many different markets. We hope that by expanding the selection we have managed to include some surprises.

To collate the list of leading practitioners we have of course drawn on our research team's expertise. We have also approached leading arbitrators, arbitral institutions and general counsel active in the market to help create a definitive list of the leading arbitration counsel in the Central and Eastern Europe region today. As such, we think the listing reflect those practitioners that are deemed the gold standard by business. ■

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Dorđe Novčić

JPM

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Geographical areas of focus: Serbia

Languages: English

Dorđe Novčić is a partner in the dispute resolution practice of JPM, representing clients in all types of national and cross-border disputes before state and arbitration courts. He regularly acts for national and international companies operating in the financial services, insurance, IT, retail and professional services sectors.

In terms of arbitration, Novčić has experience in conducting cases subject to many different systems of law and under many of the major institutional rules, including ICC, UNCITRAL and VIAC Rules, as well as before local arbitral tribunals. Novčić works through all stages of the arbitration process, from providing the initial advice to clients and settlement negotiations up to advocacy during hearings and enforcement (or opposing enforcement) of an award. He regularly speaks at arbitration conferences and authors articles in legal journals across Serbia and the Central and Eastern Europe region.

He is recognised as a leading expert for dispute resolution in legal directories, and comes recommended in *The Legal 500 EMEA* for all kinds of dispute resolution.

In conversation with...

‘Serbia is an arbitration-friendly country, with local arbitration based on some of the best practices from Europe and worldwide as well as local cases. Rules are in-line with decisions and procedures enacted around the world, so any international counsel can easily conduct proceedings here. The arbitration community of Serbia is not large, but

is made up of highly-skilled law professors and lawyers. There are regular arbitration association meetings on a monthly basis to try and attract more parties to enter into arbitration proceedings in Serbia.

One key issue regarding arbitration in Serbia is the relatively low volume of cases administered. This is if we were to compare it to the volume of cases in Austria, which is a regional centre for arbitration here in Central and Eastern Europe. Users opting to settle disputes before the Serbian courts is indicative of the mentality of Serbian businesspeople, but this is slowly changing.

There are already results emerging thanks to efforts made to promote arbitration in Serbia, especially during the pandemic year. In March 2020, we had a state of emergency lasting around two months where no one could approach the courts without an interim relief or an injunction for urgent proceedings. This meant very long waiting times to see a judge, but arbitrations continued to work.

The pandemic has also sped up the trend of paperless proceedings which is the ultimate goal for this region, and clients have been pleased with the results of proceedings conducted in this method. Since the start of the pandemic all international arbitration instructions have issued orders on how to conduct proceedings in these new circumstances, which has led to virtual hearings and paperless proceedings being conducted with positive feedback.

I have been practicing arbitration for around 15 years as a counsel, there is no particular sector I am focused on and there is a real mixture in terms of cases; construction is always present [and] privatisations still take up a lot of my time. M&A deals also feature, and an energy project concerning a gas pipeline through Serbia has once again been activated.

One career highlight came in a case about the unilateral termination of an IT contract, held under UNICTRAL Rules, where I faced serious obstructions

from the very start of proceedings. We had to work with a client [with] no experience in these kinds of proceedings. Finally we were granted with the relief and our client received recognition for their work on the project.

Another career highlight came during important privatisations that took place in Serbia, after the Serbian political landscape changed in 2000. In accordance with the Serbian privatisation acts and agreements, the seller (the state or public agency) issued no reps and warranted about offered companies, and deficiencies or problems often went undisclosed. These types of deals are considered public transactions and there is special care for the state in these kind of proceedings, so contracts were drafted by the state and the buying party had no other option but to “accept” or “reject” them without recourse to make suggestions or apply for changes.

The appetite amongst buyers to undertake legal proceedings in these cases was very low, so it was an important task to convince clients to actually proceed with their claims. Due to this reason it can be very difficult to win cases like this. I however, helped clients win these cases, and these victories became a starting precedent in Serbia.

[In Serbia] we need to educate legal entities, owners of companies, managing directors and their in-house counsel about the benefits of dispute resolution by arbitration. commercial courts are very busy in Serbia, and parties are waiting to receive final binding judgments in two to three years. The timeline of arbitration however, is between six and nine months here, which provides a great benefit to clients, the legal system as well as investors who want to put money into Serbia. The local arbitration scene must work on promoting this.

Another trend in the Serbian arbitration scene concerns paperless and virtual proceedings as mentioned earlier. This has had evident results in the pandemic period, and as Serbia prepares for one more wave of COVID-19, these types of hearings will allow parties to continue proceedings come what may.

Thirdly, Serbia is a member candidate for the EU, so at the moment internal regulations are being adjusted with this in mind. Serbian counsel and legal entities will have to take additional time and effort to understand and implement these.

There is a lot of work to be done in Serbia regarding promoting arbitration, in order for Serbia to be the next arbitration hotspot in the next five to ten years. First of all we must make arbitration rules familiar to all end users which apply to all kinds of disputes (local and international). New regulations and virtual proceedings could therefore be a future model for Serbia.

Since 2010 there has been an interesting change where Chinese capital and capital from Arab countries entered Serbia; Chinese companies have invested large sums in infrastructure and energy projects in the country and Arab countries have invested in agriculture and real estate. At first it was hard to adjust to a different way of thinking. Not that there were any bad aspects to this new mentality, but the ways of doing business were something we needed time to wrap our heads around.

To give an amusing example, I worked on an arbitration case with a company from one of these regions, who would communicate with us through Viber or WhatsApp messages. We are of course adjusted to all sorts of tech, but the timing of the messages was interesting; we would receive replies at 7 or 8pm without anything from them during the day. In one particular arbitration, we were agreeing on a time for the hearing, and a general manager wanted 6, 7 or 8pm which is very unusual as cases are usually heard in the morning or early afternoon. We finally agreed on a time of 3pm, but I wanted to investigate reasons as to why this was proving so difficult. I went to their headquarters one day at 2pm, completely unannounced, and received information that the staff were all sleeping! Apparently after their lunch break, they all take a nap at 2pm. I suppose the prevailing point of this story is – you have to know your client! ■



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