

THE KOLAREVIC ADVANTAGE

Leading commercial and civil lawyer Ana Kolarevic says her success is driven by her clients' interests. *Graham Jarvis* and *Adrian Holliday* speak to her about her career, her clients and investment opportunities in Montenegro



Ana Kolarevic is well connected. Her brother Milo Đukanovi is the country's prime minister and its former president. He pushed Montenegro towards its independence from Serbia, and this was finally achieved in 2006. The country has also benefited from a number of political, economic, commercial and financial reforms that his government has driven forward, making Montenegro an attractive destination for foreign direct investment opportunities. Its membership of the European Union is now a very viable prospect.

She has also been very successful in her own right. After years of experience of being a judge in Montenegro's Local Court, Superior Court and Supreme Court she decided to set up her own law firm in 2003. Since its establishment it has focused on civil, administrative and corporate law. She says the foundations of her company lie in her knowledge, professionalism and a desire for justice. So at the core of her practice's ethos is 'client security' which is defined broadly as being about diligence, honesty, the provision of objective advice and accurate information. She appears to be a perfectionist in a good way.

"We are in daily contact with our permanent clients, individuals or corporate entities, providing them with legal advice related to the application of legislation in corporate management, as well as forms of internal management", she explains. Her firm represents its clients before the courts, helps with the production of constitutional documents, assists with the drafting of internal corporate contracts, organises shareholder meetings, and provides advice about the application of the Montenegro's Companies Act, 2006. Her team is quite often involved with legal proceedings for liquidated damages and contract terminations.

They counsel clients about corporate restructuring schemes, labour relations (including work permit applications for foreign contractors and employees), the preparation of contracts and assistance with all agreements relating to all forms of privatisation. In addition to these her practice assists with urban planning and development transactions and related activities. Additional support is available through a network of financial, tax, land surveying, architectural experts and through collaborations with foreign law firms who've set up offices in Montenegro.

A TYPICAL CLIENT

A typical domestic or foreign client, she says, is an organisation that's involved in a launching a greenfield project and which is going through all of the steps prior to becoming fully operational. The elements of this process would normally involve privatisation, tendering, negotiations, contracting and forming the company. Her team works to follow and resolve any of her clients' legal issues that might obstruct their plans. Many of her clients work, for example, within the fields of real estate development, tourism and industry.

"I take pride in everything I do, regardless of the size and weight, or value of a case", she exclaims. However, she has some cases that remain dear to her heart. They tend to involve cases where the results were totally unexpected, but the outcome turned in favour of the client involved. "There are cases that have been important to me because they have resolved certain difficult life or family-related

situations", she explains. A case that she's particularly proud of involved a father who, after three years and a number of unsuccessful litigations before the Local and Supreme courts, managed to see his children and spend part of his winter holiday with them. To her it's the result gained for her clients that counts.

AN INTERNATIONAL CAREER

Most of her cases are commercial though, but she claims to pursue all of them with the same "selfless devotion". This commitment is now being more concentrated on developing an international career, explaining that she "would like to focus on the consistent application of international corporate law in Montenegro."

One of the catalysts behind this decision is likely to be Montenegro's efforts to improve its regulatory environment, and the harmonisation and the passing of around 100 new laws to comply with European Union legislation and standards. They are required to move the country towards accession of the EU. "The harmonisation of domestic legislation with *acquis communautaire* is one of the prerequisites for becoming a full member of the European family", she explains while suggesting that the implementation stage is going to be the key challenge.

"The overall picture for EU-Montenegro relations is positive", says an article published by *Emportal*, a financial news website. Progress is being made all the time. Montenegro applied for EU membership in December 2008, and the Commission's decision will be declared in the autumn of 2010. Even so, in 2007, a Stabilisation and Association Agreement (SAA) was signed with the EU, and as of October this year it has been ratified by at least 22 member states of the European Union. An interim agreement on trade also entered into force at the beginning of 2008, and this is being smoothly implemented. Montenegro continues to build on its track-record of implementing its obligations as provided by the association agreement. It is also expected to join the World Trade Organisation; that is once obstacles created by the Ukraine are removed.

Steps have been taken to develop a fully functioning market economy, but Montenegro has more to do to reduce or eliminate any structural weaknesses that still exist. Before the financial crisis,

Montenegro had a well performing economy with 8 percent GDP growth in 2008, but the crisis hit it hard. The banking sector particularly suffered. So on 22nd October 2008 the country's parliament enacted the Law on Measures for the Protection of the Banking System, providing some structural reforms to guarantee consumer and company deposits to preserve the industry. It was hoped that trust in the banking sector would be therefore restored, but a reduction in the banks' credit activity was still expected. Ac-

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tion was therefore taken to limit the public deficit and debt.

Stabilisation measures like these often lead to reduced consumption. Finance Minister, Igor Luksic, therefore took action to counteract any potential contraction of economic activities by reducing income taxes and social security contributions relating to net earnings. The capital budget was also increased to 6.5 percent of 2009's projected GDP at the time, 50 percent of which is direct investment in infrastructure (but this figure does not include infrastructural contracting loans). With these measures and increased private investment it was hoped that the Montenegrin economy's competitiveness would improve and promote sustainable growth over a long-term period. As a result Montenegro didn't slip into a recession.

TOURISM

In fact Montenegro's tourism industry appears to have fared much better than most industry commentators expected, and apparently it accounts for 25 percent of GDP. Emerging Real Estate, a property investment firm, says that Montenegro has become one of the top ten tourist destinations in the world with a visitor growth rate of 17 percent per annum.

The government plans to turn the country into a first class, luxury tourist destination with forecasted expenditure on this sector reaching €121.2 million by 2014. "As a witness and direct participant in the development of this sectors", says Kolarevic before adding, "I believe that the tourist trade is so vital, vibrant and regionally balanced that it has all of the predispositions to become the mainstay of the country's overall economy."

INTERNATIONAL BACKING

The government's plans are supported by the European Investment Bank (EIB) and the European Bank for Reconstruction and Development (EBRD). The EIB is underwriting infrastructural investment projects to modernise the country's airports, railways, highways and waterways. The EBRD has committed €810 million to over 40 projects with a further €963 million being invested with its partners under a public, private partnership (PPP) arrangement. Emerging Retail Estate also says that the EU, the EIB, and other investors have also co-financed other projects to the value of €290 million.

To support and encourage investment the government introduced legislation, including a Free Trade Zone status. This applies to foreign investments that are deemed suitable, while providing repatriation and residency rights.

NO INVESTMENT LIMITATIONS

Kolarevic highlights other benefits and reasons for investing in Montenegro, and not just in the tourism sector. She says foreign investors are allowed to invest in any industry without any financial limitations, and they have the same rights as a domestic investor. They can freely transfer all of types of financial and other kinds of assets, including profits and dividends. Foreign investors are also able to acquire rights to buy and invest in commercial and domestic real estate or land. These investments are insurable by international insurance companies.

"The investment climate and business environment in Montenegro is much better than in previous years", she explains. The aim is to increase the country's attractiveness to investors, and to encourage them to stay as long as possible. She cites a nine percent profit-based corporation tax, falling inflation, and healthy economic development over the past five years as benefits of investing in her country.

These factors have helped to make Montenegro one of the region's top performers. Between 2006 and 2007 it led the European foreign direct investment per capita stakes. Most of the inward capital investment flows have come from privatisation projects, but there have been some significant investments from some individual and smaller initiatives. Yet she has noticed that foreign investors' interest in investing in the country has been reduced by the current economic climate.

In fact there is more to achieve In spite of the progress that has been made over the last few years. According to her there is still "insufficient development of the institutional infrastructure." That's making it difficult to apply any new laws, including those that affect economic or commercial activities. So the regulatory risk is still quite high in Montenegro, but this risk is partly created because the country is being transformed from a communist to a market economy.

She says that EU experts may require public consultation for all the laws to become mandatory. This would however increase the transparency in the workings of these public institutions. More parliamentary supervision is required too in order to ensure the quality and coherence of the laws. This because there is some inconsistency in the way the law is applied in Montenegro.

An ERBD report on the key developments and challenges facing Montenegro cites a popular concern. Corruption and top-heavy bureaucracy in respect to the application of licences and permits are considered to remain obstacles facing businesses. This was a finding of its Business Environment and Enterprise Performance Survey. Montenegro's Council for the Elimination of Business Barriers, which was established in the middle of 2008, has nevertheless adopted several measures to simplify procedures. It's now possible for companies to register online with the commercial court, and record their taxes and contributions online. The EBRD reports, nevertheless, that company registrations only fell slightly at the beginning of 2009 in spite of the current economic crisis.

From her own perspective, the volume of work that her practice deals with remains undiminished. Beyond her own company she appears to be realistic about her country's economic future. She believes that it is flexible enough to adjust itself to the changing global economic climate, while forecasting "a slowdown or delay of announced investment projects, reduced economic activity and demand in all sectors, and increased interest rates." So she thinks that Montenegro should continue with its efforts to make its economic system comply with EU standards. The government needs to persist to keep the Montenegrin economy open and to strengthen its competitiveness. To achieve this it has to properly utilise its available natural, economic and human resources.