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# **Serbia Assessment Report 2013**

OECD



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# **ASSESSMENT**

## **SERBIA**

### **APRIL 2013**

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The European Council granted Serbia European Union (EU) candidate country status on 1 March 2012. This decision was underpinned by the European Commission's (EC) analysis of Serbia's progress against the EC priorities established in its 2011 Opinion on Serbia's application for EU membership.

Presidential and Parliamentary elections took place in May 2012. This had an impact on the Government's priorities as well as the structure of governmental bodies. Almost three months after the elections, the new Serbian Government took office on 26th July 2012.

Following discussions with the EC, it was agreed that SIGMA's 2013 assessment should focus on areas where actual reform is either being implemented or planned. Against this background, the assessment of Serbia has focused on four thematic areas of public governance:

- [Public administration reform co-ordination, implementation and priorities](#)
- [Public expenditure management](#)
- [Public internal financial control](#)
- [Public procurement](#)

Each area is presented in a separate thematic report. These include a brief description of the state of play and recent developments. An overall assessment is followed by a more detailed analysis and conclusions.

The **public administration reform** assessment covers developments on the PAR co-ordination mechanisms, priorities and implementation across central government in Serbia since SIGMA's last assessment in April 2012. It considers the scope of the PAR but not the specific fields within the PAR agenda, nor overall Government policy setting. Instead, the assessment report analyses developments with regard to the coherence of individual PAR documents, PAR objectives and the institutional co-ordination framework. More specific assessment on the progress and the state of play of certain PAR sectors is provided in the other sections of the SIGMA 2013 assessment.

The **public expenditure management** (PEM) assessment analyses the current state of play of the institutional capacity of the budget preparation process, management of public investments, execution and monitoring as well as accounting and reporting to allow for prioritisation of actions and recommendations to enhance managerial accountability in the context of PAR.

The **public internal financial control** assessment analyses the current state of play in relation to the prioritisation of actions and recommendations to enhance implementation of internal controls, to support the development of managerial accountability in the context of PEM and PAR.

The **public procurement** assessment analyses the new legal framework and institutional set-up, including some topics on preventing and fighting corruption in the area of procurement. The new Public Procurement Law came into effect on 1 April 2013. Therefore, an analysis of the impact of its implementation will only be feasible when the institutions have gained some experience of the new requirements.

Where possible, the assessment reports follow the relevant parts of the SIGMA baselines. As the 2013 assessments are tailor-made according to a country's priorities, not all areas are fully covered by the SIGMA baselines. For example, an analytical framework was developed for PAR co-ordination and implementation assessment in consultation with the EC.

**PUBLIC ADMINISTRATION  
REFORM CO-ORDINATION,  
IMPLEMENTATION AND  
PRIORITIES**

**SERBIA**

**APRIL 2013**

## **1. State of play and main developments since the last assessment**

### **1.1. State of play**

The priorities of the Government are set out in the Prime Minister's Exposé and have been translated into more specific activities in the Government's key strategic documents, mainly the Government Annual Work Plan (GAWP). The Prime Minister's Exposé sets rationalisation of the public sector as a key objective for the Government public administration reform (PAR) policy.

The long-term guiding policy document for PAR is the Public Administration Reform Strategy, adoption of which dates back to 2004. However, it does not provide an operational tool for its implementation, as there is no approved action plan in force. A draft of a new Public Administration Reform Strategy for 2013–16 (draft PAR Strategy) is being developed but this has not yet been subject to official interministerial and stakeholder consultation. The draft Strategy covers the Government's overall objectives of PAR, however without a clear whole-of-government perspective.

A co-ordination structure for the development of the draft PAR Strategy and an action plan for its implementation is in place. While administrative interministerial co-ordination mechanisms exist, there is no active platform for political discussions and priority-setting as the Government Public Administration Reform Council has not functioned since the election of the new Government.

### **1.2. Main developments since last assessment**

PAR agenda setting and implementation of existing plans has been influenced by national parliamentary elections, whereby a new coalition Government was installed in July 2012. The new Government adopted a coalition agreement and the Prime Minister subsequently presented his Exposé<sup>1</sup> to the Parliament outlining the Government's priorities, including those of PAR.

The new coalition Government adopted the Law on Ministries, reorganising the various line ministries and creating, among others the Ministry of Justice and Public Administration (MJPA) and Ministry of Regional Development and Local-Self Government, whereby tasks from the former Ministry of Human and Minority Rights and Public Administration were moved respectively.

A co-ordination structure was established in early 2013 for the further development of the PAR Strategy. It is premature to assess the effectiveness of this structure as only one meeting has taken place of the interministerial project group and of the seven sub-working groups.

## **2. Analysis**

### **2.1. Scope, priorities and objectives of the public administration the reform agenda**

#### *Setting of PAR priorities and coherence of reform agenda*

The Prime Minister's Exposé states that the "primary goal is to strengthen the foundations of Serbia" by focusing on the rationalisation of the public sector, in particular to: decrease public expenditures; eliminate unproductive expenditures and abolish unnecessary state authorities; improve efficiency of the administration; provide better state services at all levels through a decrease in red tape; use of e-government; more efficient management of public companies; reforms in the health, pension and education sectors.

In the context of PAR development, the Prime Minister set out the priorities for the Government as being economic recovery, including a more competitive business environment; democratic and judiciary reforms and rule of law; and the fight against corruption, organised crime and terrorism.

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<sup>1</sup> [Prime Minister's Exposé to the Parliament](#), Belgrade, 26<sup>th</sup> July 2012.

These priorities have been formulated into concrete measures and are outlined in key government documents. To assess the coherence of the Government's PAR agenda, the following documents have been analysed (see annex):

- Pre-accession Economic Programme (PEP) for 2013.<sup>2</sup>
- Economic and Fiscal Programme 2012 – 2014 (EFP).<sup>3</sup>
- Government Annual Work Plan 2013 (GAWP).<sup>4</sup>
- Action Plan for Fulfilment of the European Commission recommendations in the Serbia 2012 Progress Report in the European Integration process (AP for Progress Report).<sup>5</sup>

**Table 1. Inclusion of the public administration reform as a government objective in key documents**

Pre-accession Economic Programme (PEP) for 2013	Economic and Fiscal Programme (EFP) 2012–2014	Government Annual Work Plan (GAWP) 2013	Action Plan (AP) for Progress Report 2012
Yes	Yes	Yes	Yes

Source: Support for the Improvement in Governance and Management (SIGMA)

In key strategic documents, the overarching PAR-related objectives are to cut costs in the public sector and to ensure the “right-sizing” of the public sector, increase the efficiency of the provision of public services and reduce the public sector's intrusion in the economy. Fighting corruption by means of improved legislation and procedures for public procurement and e-government for better public services are specific PAR related priorities.

The PEP and the EFP reflect the key PAR priority of the Government, namely rationalisation of public administration and decreasing the role of the public sector through sectorial structural reforms and its improved effectiveness. However, although the documents set the objectives, they do not tackle PAR as a horizontal cross-government reform in either a coherent way or sufficient detail. Their main emphasis is on sectorial structural reforms meeting the overall objective of public sector reorganisation.

The GAWP 2013 includes key legislative activities for PAR and a commitment to approve PAR Strategy by the Government in September 2013. The GAWP is in line with the AP for Progress Report concerning main priorities, namely amendments to the law on Ombudsman, the Law on General Administrative Procedures and the Law on Civil Servants.

#### *Coherence of PAR documents and current status of PAR related sectorial strategies*

The PAR Strategy 2004 has no set end date and is currently still a guiding document for PAR activities, though without any action plan in place for its implementation.<sup>6</sup> There have been two Action Plans covering the period 2004–2008 and the period 2009–12. It was decided by the Ministry responsible for PAR in 2011 that a new strategy was needed; work commenced in May 2011 with the support of an EU-funded project. In order to analyse the development of the PAR agenda, the content of the previous action plan is compared with the draft PAR Strategy.

In order to analyse the development of the PAR agenda, the structure and content of PAR policy documents was compared.

<sup>2</sup> The Republic of Serbia submitted to the European Commission (EC) its first PEP as an EU candidate country on 24 January 2013.

<sup>3</sup> The document was signed by the Prime Minister on 28 November 2012.

<sup>4</sup> Internal document of the Government, not published.

<sup>5</sup> Government [Announcement](#) on “Action Plan for Implementation of EC recommendations adopted, 10 December 2012.

<sup>6</sup> PAR activities are planned for and proposed in the GAWP.

**Table 2. Development of Public Administration Reform agenda – structure of Public Administration Reform strategic documents**

<b>PAR Strategy and Action Plan 2004-2008</b>	<b>PAR Action Plan 2009-12</b>	<b>Draft PAR Strategy 2013-16</b>
Decentralisation	Decentralisation	Public administration
Depolitisation	Depolitisation	Regional development and local-self government
Professionalisation	Professionalisation	Other forms of achieving public interest and exercising public authority
Rationalisation	Rationalisation EU fund management	Public finances and public procurement
Modernisation	E-government	E-government
Regulatory reform	Public policy co-ordination	Anti-corruption
	Control mechanism	Control of work of public administration

Source: Public Administration Reform Strategy (2004) and Public Administration Reform Action Plan 2004-2008, Public Administration Reform action plan 2009-12; draft Public Administration Reform Strategy 2013-16

A clear horizontal structure is evident in the PAR Strategy (2004) and subsequent action plans addressing issues of decentralisation, professionalisation, depolitisation and rationalisation of the public administration. The Action Plan 2004-2008 included modernisation, EU funds management and regulatory reform issues, but it is narrower compared with the Action Plan 2009-2012, in which e-government, EU funds managements, public policy co-ordination and control mechanisms of the public administration were included.

The new draft PAR Strategy introduces two additional policy fields - public procurement and public financing. However, it neglects the area of policy co-ordination although its relevance is highlighted in the AP for Progress Report and in the implementation reports of previous PAR action plans. The main structural difference of the draft Strategy is its systematisation. The structure of the existing Strategy is based on horizontal objectives, such as rationalisation, which can be followed in concrete areas (like civil service) and applied in the whole administration. Structure of new draft strategy reflects different areas, such as public procurement or anti-corruption, but does not provide horizontal priorities or objectives derived from the Government's overall priorities.

In addition to the PAR Strategy, specific strategies are in place for Public Internal Financial Control (PIFC) and e-government. The Strategy for the Development of PIFC 2009-13 is reaching its end. A new PIFC Strategy for the period 2014-2019 is being drafted by the Ministry of Finance and Economy with the support of an EU technical assistance project. The current e-government Strategy also ends in 2013, and a new strategy will be developed during 2013, according to the MJPA. The draft anti-corruption strategy 2013-18 is currently being elaborated. Comparison of the draft PAR Strategy with existing specific sectorial strategies demonstrates weak linkages between them.

Whilst the e-government section of the draft PAR Strategy includes 17 specific measures for the further development of e-services, such as the one-stop-shop, there is no clarity on how this section will inter-link with a new e-government strategy. The draft also lacks a clear vision on coherent redesigning of public services and reviewing information systems.

Anti-corruption policy is one of the highest priorities of the Government yet the consideration given to it in the draft PAR Strategy is disproportionately low, in particular addressing anti-corruption issues horizontally in different areas covered by the strategy (public procurement and public administration, for example). Reference is made to the new draft Anti-Corruption Strategy, though it is not clear how the PAR and Anti-Corruption strategies will be harmonised.

Incoherence between the draft PAR Strategy and other specific sectorial strategies is symptomatic of the status of the overall strategic planning system. At the moment, the general legal framework for planning is partially developed. No methodology has been approved for medium-term policy planning and for the incorporation of a top-down horizontal approach in support of bottom-up processes.

The Law on Government, the Law on State Administration, the Law on Ministries and the Government's Rules of Procedure provide general references to some aspects of strategic and operational planning, but a coherent planning system is not in place.<sup>7</sup> References to various types of planning documents are included<sup>8</sup>, but do not explicitly describe the inter-linkages between these documents, their preparation, monitoring and reporting requirements.<sup>9</sup> One of the risks of the current planning framework is that its incoherence enables line-ministries to work independently without strategic level co-ordination of the numerous PAR strategies. The proposed methodology recently drafted by the Government for an integrated planning system would improve the situation.

*Coherence of the draft PAR Strategy with the Government's objectives and its European Integration agenda*

The draft PAR Strategy includes measures related to the Government's PAR priorities, except improved management of public companies, where no concrete measures are set. In addition to PAR strategy, separate strategies are being developed for the priorities of e-government and anti-corruption.

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<sup>7</sup> E.g. the Rules of Procedure of Government Articles 37, 46, 76, 77. Law of Government Article 38.

<sup>8</sup> E.g. Development strategies, medium term plans, Government Annual Work Program, declarations, conclusions.

<sup>9</sup> Law on Government Articles 12, 45.

Table 3. **Government priorities and coherence with the draft Public Administration Reform Strategy**

<b>Government priorities (Prime Minister's Exposé)</b>	<b>Included in the draft PAR Strategy (2013-2016)</b>	<b>Concrete section and indicative measures proposed in the draft PAR Strategy</b>
Rationalisation and improving efficiency of public administration	Yes	PAR Strategy Section III "Areas of Public Administration reform" - examples: reform current administrative procedure; ensure administrative efficiency; amendments to the Law on Civil Servants <sup>10</sup> .
Abolition of unnecessary state authorities and agencies	Yes	PAR Strategy Section III "Areas of Public Administration reform" - examples: reduction of the total number of PA bodies at the central level; adoption of amendments to Law on Ministries; draft "typology" of legal and status organisational forms <sup>11</sup> .
Improved management of public companies	No	PAR Strategy Section III <sup>12</sup>
Introduction of e-management at all levels	Yes	PAR Strategy Section III "Areas of Public Administration reform" (C). A separate e-government Strategy is being developed.
Anti-corruption measures	Yes	PAR Strategy Section III "Areas of Public Administration reform" (D). A separate Anti-Corruption Strategy is being developed.

Sources: Prime Minister's Exposé to Parliament, July 2012; draft Public Administration Reform Strategy

The draft PAR Strategy is partly coherent with the Government PAR agenda in the European integration context, except for the strengthening of the policy planning and co-ordination system and enhancing the independence of the Ombudsman, are not covered with concrete measures in the draft PAR Strategy.

<sup>10</sup> Draft PAR strategy. Section III 1.4., measures pages 21-23.

<sup>11</sup> Ibid. Section III 1.4 and III- 3.2.1.4., pages 21, 27.

<sup>12</sup> Ibid. Comment: the draft PAR Strategy touches on this issue, but no active measures for improving the management of public companies are mentioned.

Table 4. **Coherence of the Government European integration agenda with the draft Public Administration Reform Strategy**

Priorities highlighted in the AP for Progress Report	Included in draft PAR strategy 2013-2016	Concrete section and indicative measures proposed in draft PAR strategy
Overall co-ordination and implementation of PAR reforms, including creation of PAR Council	Yes	Operational levels mentioned. Key actors mentioned. The PAR Council is mentioned, although it is not functioning at the moment.
Completing legislative framework, including for administrative procedures and disputes and for merit based civil service	Yes	<b>PAR Strategy Section III “Areas of Public Administration Reform”</b> examples: amend the Law on Civil Servants providing equal status to civil servants and local-level officers; adopt new Law on Administrative Procedures (disputes not mentioned) <sup>13</sup> .
Independent regulatory bodies	Yes	<b>PAR Strategy Section IV Control of work of Public Administration</b> <sup>14</sup> , examples: define general framework for unique independent control bodies and for procedures and processes of independent control bodies.
Improved policy planning and co-ordination system	No	Highlighted under general objectives, but not covered at the level of priority areas and measures.
Enhanced independence of Ombudsman	No	<b>PAR Strategy Section IV Control of work of Public Administration</b> . No independence measures mentioned.
Strengthened public sector financial management and control	Yes	<b>PAR Strategy Section III “Areas of Public Administration Reform” - Public Finances and Public Procurement</b> <sup>15</sup> – examples: all beneficiaries of public services to appoint manager in charge of financial management and control; develop FMC system; adopt internal by-laws and procedures related to FMC.

Source: Action Plan for Progress Report 2012; draft Public Administration Reform Strategy 2013-2016

**The Government PAR priorities are generally coherent in the key strategic documents and reflected in the draft PAR Strategy. Greater alignment of the draft Strategy with the Government’s European integration agenda remains a challenge. Unclear linkages between the draft PAR Strategy and specific sectorial strategies risk fragmented policy implementation. However, as the draft PAR Strategy is still under development, it is premature to draw final conclusions in terms of final objectives, consistency and complementarity of the PAR agenda.**

## **2.2. Institutional and co-ordination framework for public administration reform**

*Key institutions involved in the co-ordination and implementation of PAR*

Several central government actors are responsible for PAR-related issues: three ministries and the Secretariat for Legislation, the General Secretariat of the Government and the Serbian European Integration Office.

<sup>13</sup> Ibid Section III 1.4, measures pages 22 and 23.

<sup>14</sup> Ibid Section IV, measures pages 67-68.

<sup>15</sup> Draft PAR Strategy, Section A. 4.3, III 4.3.3, measures pages 49-50.

Table 5. **Overview of the responsibilities for Public Administration Reform related activities**

<b>Main PAR Actors</b> <sup>16</sup>	<b>Main PAR Tasks</b>
<b>Ministry of Justice and Public Administration (MJPA)</b> – leading ministry for PAR	Co-ordination of PAR work across ministries and administrative bodies related to public administration reforms, such as state administration system and organisation, administrative procedures, disputes and inspections
<b>Ministry of Finance and Economy (MFE)</b>	Administrative affairs concerning state budget, public expenditure policies, co-ordination of salaries in state bodies and organs of self-government units and wages in public services, public procurement, harmonisation and co-ordination of financial management
<b>Ministry of Regional Development and Local Self-Government (MRDLSG)</b>	Support to regional and local self-governments; co-ordination activities for co-operation of local self-governments with state authorities; support to local self-governments by providing professional training; labour relations; access and management of funds, grants, international projects; strategic planning
<b>General Secretariat of the Government (GSG)</b>	Supervision and co-ordination of the work of ministries and special organisations; preparation of the proceedings of government sessions; planning, monitoring and policy co-ordination in relation to the Government Annual Work Plan; preparation of operational plans and strategies
<b>Secretariat for Legislation (LS)</b>	Establishment, strengthening, monitoring and promotion of the legal system; harmonisation of regulations and acts
<b>Serbian European Integration Office (SEIO) – Government Service</b> led by the Deputy Prime Minister	Planning, co-ordination and monitoring of work related to all aspects of European integration; co-ordination of sub-working groups for the 35 chapters of the EU <i>acquis</i> ; incorporation of the <i>acquis</i> into the legislation of Serbia

Source: The Law on Government & the Law on Public Administration, and the Government's Rules of Procedure

Experiences of OECD Member States, as well as the Western Balkan countries, show that the authority responsible for co-ordinating a horizontal PAR agenda can be situated either at the centre of government, e.g. in the GSG or SEIO, or in a specific ministry, e.g. the MFE or MJPA, but most important is to ensure that there is a “clear focus on the co-ordination of PAR activities throughout the administration and that the co-ordinating body is recognised and its authority is not challenged, bureaucratically or administratively”. A central government political platform that enables discussion, setting of priorities, settling of disputes and steering of whole-of-government reforms is also required.<sup>17</sup>

The MJPA has undertaken a leading role in PAR, with many of key issues influencing performance of the Government and administration under its responsibility. However, as the mandate of the Ministry covers many other fields, including justice, development of the public administration is not a key priority. Analysis of the Ministry's draft laws included in the GAWP 2013 demonstrates that only 17%

<sup>16</sup> See the Law on Government and the Law on Public Administration, as well as the Government's Rules of Procedure.

<sup>17</sup> SIGMA (2004) [Co-ordination at the centre of Government: The Functions and Organisation of the Government Office](#) (SIGMA Paper No. 35).

of planned legislative output (5 draft laws)<sup>18</sup> is dealing with the areas falling under the draft PAR Strategy. Responsibilities of the MFE are even wider, inevitably leaving little capacity for PAR issues. Thus, looking at the overall priorities of both key ministries, there is a lack of focus on PAR.

#### *Interministerial co-ordination*

Under the previous Government, the Public Administration Reform Council (the Council), led by the Prime Minister, was responsible for the political co-ordination of PAR. However, the Council has yet to meet under the current Government. Re-establishment of the Council requires a Government Decision, as outlined in the AP for Progress Report.

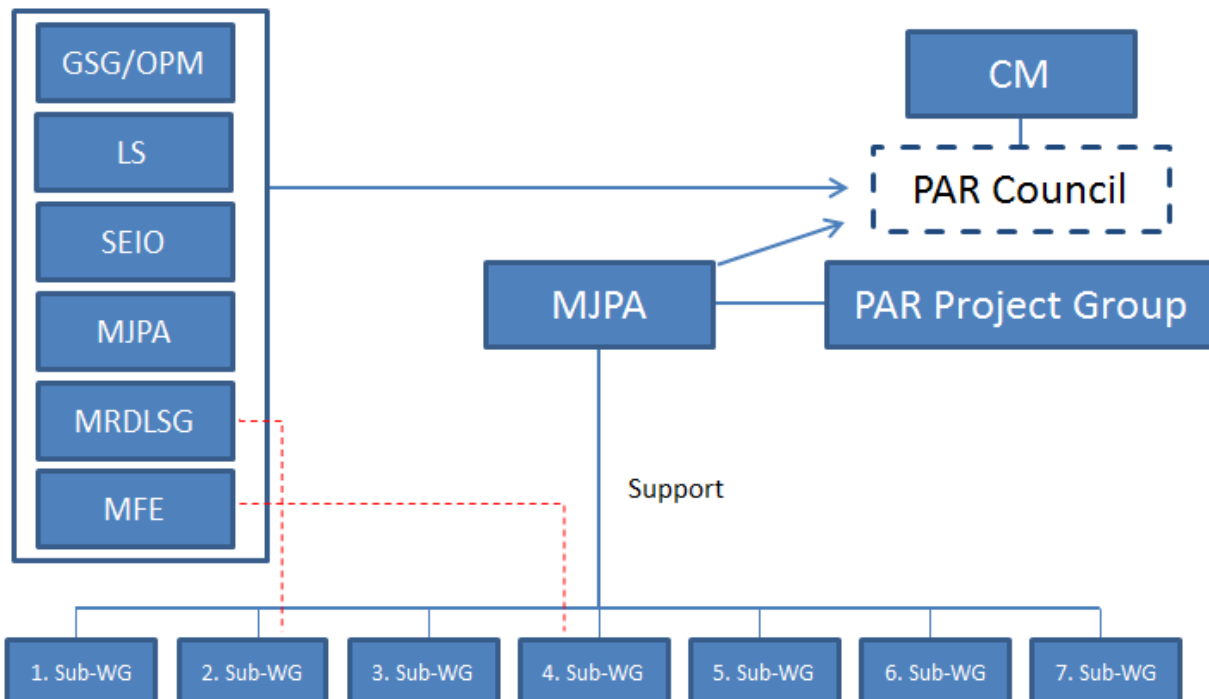
As of January 2013, there is a co-ordination structure in place at the administrative level, currently tasked with the elaboration of the draft PAR Strategy and Action Plan. Co-ordination is handled through an interministerial project group consisting of 30 officials and led by the Deputy Minister of the MJPA. The group comprises one assistant minister from each of 17 ministries, and representatives of other relevant governmental agencies and bodies. The Deputy Minister of MJPA is supported by assistant ministers and senior staff of the MJPA.

The MJPA has also established seven sub-working groups, consisting of senior officials at the administrative level from the relevant line-ministries to cover the fields included in the draft PAR Strategy.

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<sup>18</sup> Draft laws targeted to improving national legislation were taken into account. Draft laws dealing with approving and validating international agreements were excluded from the statistics. See Government Annual Work Plan 2013.

Figure 1. **Current Public Administration Reform strategy development co-ordination structure in Serbia**



\*Seven sub-working group policy areas (chair):

1. Public administration (MJPA);
2. Regional development and local self-government (MRDLSG);
3. Other forms of achieving public interest and exercising public authority (MJPA);
4. Public finance and public procurement (MFE);
5. E-government (MJPA);
6. Fight against corruption (MJPA);
7. Control of work of the public administration (MJPA)<sup>19</sup>.

Source: Support for Improvement in Governance and Management (SIGMA)

The interministerial Project Group met for the first time in January 2013 and the sub-working groups during the week of 11-15 February 2013. A second Project Group meeting is scheduled for April. The sub-working groups were requested to submit their comments on the draft PAR Strategy. Two consecutive sub-working group meetings are planned for March and April 2013. The interministerial Project Group is to deliberate and approve the draft PAR Strategy and the draft Action Plan, before it will be submitted to the Government by the MJPA.

Taking stock from the experiences of current co-ordination structures, a decision on the design of the future whole-of-government PAR co-ordination mechanisms is required once the Strategy and Action Plan have been approved. Without the re-establishment of the Public Administration Reform Council to actively steer PAR, it will be very challenging to ensure the strategic implementation of PAR agenda. It would be a major task solely for an operational-level co-ordination structure to tackle politically sensitive issues and to direct the reform by itself. The structure of 30 representatives may also prove to be too cumbersome for effective decision-making.

#### *Monitoring and reporting*

The draft PAR Strategy concludes that there is no appropriate system to measure the implementation of the process and outcomes of the current PAR strategy in Serbia. For reporting on the PAR Action

<sup>19</sup> Abbreviations: CM (Council of Ministers); GSG/OPM (Government Secretary General/Office of the Prime Minister); LS (Legislative Secretariat); SEIO (Serbian European Integration Office); MFE (Ministry of Finance and Economy); MRDLSG (Ministry of Regional Development and Local Self-Government); MJPA (Ministry of Justice and Public Administration); PAR Council (Public Administration Reform Council).

Plan 2009-2012, an annual PAR report was compiled by the Ministry of Human and Minority Rights, Public Administration and Local Self-Government<sup>20</sup> including information on activities and results. Reporting enabled tracking the implementation of activities but did not provide the tools for analysing actual impacts of reforms<sup>21</sup>.

The draft PAR Strategy briefly explains envisaged monitoring and reporting requirements. It proposes an obligatory performance self-assessment of institutions and the involvement of non-governmental stakeholders. A quarterly report is envisaged along with sanctions for all entities not complying with the reporting requirements. It is planned to discuss reporting periodically at the PAR Council and at thematic sessions of the Government. The reporting and monitoring system proposed for the draft PAR Strategy seems to be adequate, but its effectiveness depends on the implementation; as yet there is no description of how the proposed monitoring process and reporting system should be introduced.

**The co-ordination structure for the development of the PAR Strategy and Action Plan is in place. However, there is no active platform for political discussions and priority setting. It is premature to assess the efficiency and effectiveness of the interministerial project group and its seven sub-working groups, as the work has only recently commenced.**

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<sup>20</sup> With the new Government responsibility over PAR was transferred to the Ministry of Justice and Public Administration.

<sup>21</sup> The World Bank Group (February 2013). "Monitoring and Evaluation Capacity Development for the Western Balkans and Turkey - Draft Inception Report".

**Annex. Public administration reform objectives in key governmental strategic documents**

	<b>PM Exposé to Parliament (July 2012)</b>	<b>Pre-accession Economic Programme for 2013</b>	<b>Economic and Fiscal Programme 2012- 2014</b>	<b>Government Annual Work Plan 2013</b>	<b>Action Plan for Progress Report</b>
	Yes	Yes	Yes	Yes	Yes
<b>Key objectives of PAR</b>	<p>1. Rationalisation of public administration, with overall objective to decrease state expenditures and improve efficiency of the administration to deliver public services</p> <p>2. Abolition of unnecessary state authorities and agencies</p> <p>3. Introduction of e-management at all levels to obtain efficient state services to citizens</p> <p>4. Improved management and increased efficiency of public companies</p> <p>5. Improved co-operation of all public authorities to fight corruption</p>	<p>1. Strengthening of fiscal sustainability through structural reforms in the public sector, including public administration</p> <p>2. Public sector reform to reduce in medium term the role of public sector in the economy and to increase efficiency in pursuing the overarching interests of society</p>	<p>1. Reduced role of state administration in the economy and improved effectiveness in pursuing general interests of society and reducing expenditures of public administration</p>	<p>1. Adoption of National Anti-Corruption Strategy</p> <p>2. Amendments to Law on Ombudsman</p> <p>3. Adoption of the PAR Strategy</p> <p>4. Proposed Law on General Administrative Procedures</p> <p>5. Proposed Law on Amendment to Law on Civil Servants</p> <p>6. Proposed Law on Salaries of Employees in Local Self-Government Units</p> <p>7. Decree on Budget Accounting</p>	<p>1. Central government co-ordination and monitoring (GSG) being addressed through amendments to Rules of Procedure; Methodology for strategic planning and strengthening of capacities</p> <p>2. PAR Council and new PAR Strategy and Action Plan 2013-2016 will be decided upon in 2013 through a Government decision</p> <p>3. Strengthening of Ombudsperson's independence</p> <p>4. Incomplete legislative framework addressed</p> <p>5. Creation of merit-based recruitment and promotion system</p>
<b>Other PAR related objectives</b>	<p>6. Judiciary reform to increase efficiency</p> <p>7. Increased administrative efficiency to ensure a better business environment</p>	<p>3. Improved business environment through PAR, among other reforms</p> <p>4. Structural reforms of public spending on e.g. public financial management (PFM), pension system, education, health care, social security, state-owned and public enterprises, and reforms of local PFM</p>	<p>2. Improved regulatory functions, simplified administrative procedures, reduced corruption, improved competition policy, strengthened financial discipline and modernised telecommunication and public utility infrastructure</p> <p>3. Structural reforms of public sector addressed – such as pension system, health care, welfare system, pension system – to ensure overall fiscal stability and increase efficiency of the state administration</p>		



# **PUBLIC EXPENDITURE MANAGEMENT**

**SERBIA**

**APRIL 2013**

## 1. State of play and main developments since last assessment

### 1.1. State of play

Despite some positive steps in public expenditure management over the past year, Serbia's fiscal position is challenging. The actual budget deficit was 6.7%<sup>22</sup> in 2012 compared to a planned budget deficit of 4.25%. The country's debt to GDP ratio stands at 65%, which is far in excess of the fiscal rule<sup>23</sup> that permits a maximum debt to GDP ratio of 45%. Furthermore, budget deficits of 4.7% in 2010, 4.6% in 2011, 6.7% in 2012 and a planned deficit limit of 3.6% for 2013 suggest that the fiscal rule of a deficit of not more than 1% over the medium term will not be met.

These poor budgetary aggregates are due partly to the global economic crisis but also due to poor fiscal discipline within the administration. For example, despite efforts by the MoF to enforce the Budget System Law (BSL) requirement<sup>24</sup> that budget beneficiaries (BBs) estimate the costs of new policy proposals going to the Government for approval, unrealistically low estimates have often been provided and despite the concerns of the MoF, there was no follow up action to enforce savings when it subsequently emerged that the costs were far greater than indicated. However, in response to the fiscal crisis, the Government has adopted a fiscal consolidation programme, which plans a deficit of 3.6% of GDP in 2013, 1.9% of GDP in 2014 and 1% of GDP in 2015<sup>25</sup>.

### 1.2. Main developments since last assessment

Changes to the BSL in November 2012 resulted in two major developments.

First, the own-source revenues of all the first-level users or the direct budget beneficiaries (DBBs), with the exception of the Courts, have been incorporated into the revenues of the state budget<sup>26</sup>. The own-source revenues of the second-level or indirect budget beneficiaries (IBBs) are not included in the revenues of the budget but it is planned that they will be fully incorporated as budget revenues from 2014.

Secondly, no budget beneficiary (BB) can change the rates for the charges and fees they receive for their services without the prior consent of the MoF<sup>27</sup>.

The Fiscal Council, an independent advisory state body accountable to Parliament, which was established in 2011, has started to have an impact on government fiscal policy. For instance, some of the Council's views are reflected in the Government's fiscal strategy, such as its views on the changes to the VAT system.

The adoption of the fiscal consolidation targets has been acknowledged by the Fiscal Council as an important policy development on the part of the Government, even though the Council is concerned that the targets will be difficult to achieve.

As of March 2013, a new Law on Payment Deadlines does not allow government payment arrears to external service providers to exceed 45-day, 60-day deadlines or in the case of the Health Insurance Fund, 150-days. The objective is to improve payment discipline but it is difficult to see how such deadlines can be honoured unless the fundamental problem of inadequate revenue is also tackled. For example, the Health Insurance Fund does not receive adequate funding from the State Budget to cover expenditures incurred in relation to uninsured people and unless this is addressed, it is inevitable that payment arrears will build up again.

<sup>22</sup> See Fiscal Council "Opinion on Fiscal Strategy for 2013 with projections for 2014 and 2015" at [http://fiskalniasavet.rs/images/izvestaji/fiscal\\_strategy\\_complete.pdf](http://fiskalniasavet.rs/images/izvestaji/fiscal_strategy_complete.pdf).

<sup>23</sup> See Article 27g of the Budget System Law (BSL).

<sup>24</sup> See Article 48 of the BSL.

<sup>25</sup> See page 49 of the Fiscal Strategy 2013-2015 at <http://mfp.gov.rs/pages/article.php?id=10216>.

<sup>26</sup> See Article 49 of the BSL.

<sup>27</sup> See Article 5 of the BSL.

Another development is that the DBBs now have to inform the Treasury in advance of a contract being signed that would incur a commitment to spend. Also, payment dates have to be consulted with the MoF at least 5 days in advance. The objective is improved fiscal discipline at the budget user level, as well as at a macro fiscal level. However, it is too early to assess the impact of this new policy. Furthermore, there is still no clear figure for the size of arrears, nor a systematically calculated and regularly updated database on their development.

An improvement with regard to the relationship between Parliament and the Government is that the 1 November deadline for the submission of the draft Budget to Parliament was met in 2012. In the previous three years the deadline had not been respected.

## 2. Analysis

### 2.1. Budget legislation

The BSL provides for the essential components of a budget system that complies with SIGMA baseline standards. However, the BSL is under constant revision as it has been amended each year since 2009. Nevertheless, the amendments of the last two years have demanded stronger overall fiscal discipline from the Government, as well as better supervision of individual budget users.

The BSL requires that the Government annually adopts the fiscal strategy for the upcoming and the two following fiscal years. This draft is commented on by the Fiscal Council an independent advisory state body accountable to the Parliament and, together with such comments, the Government submits the fiscal strategy document to the Parliament for scrutiny. The Government has to decide if it wants to reconsider the fiscal strategy after having received recommendations from the Parliament.

The BSL requires the Treasury to produce periodic reports on budget execution<sup>28</sup>. In accordance with this requirement, the MoF publishes the *Public Finance Bulletin* on its website<sup>29</sup>. This bulletin, which can be reviewed both by the Fiscal Council and the Parliamentary Committee on Finance, State Budget and Control of Public Spending, contains a lot of budget and economic details. However, it does not show expenditures at the individual DBB level. This is not in accordance with the OECD Best Practices for Budget Transparency<sup>30</sup>. Neither is the failure to produce a mid-year report that includes an updated forecast of the budget outturn for the current fiscal year and the following two fiscal years, along with a review of the economic assumptions underlying the budget.

The BSL<sup>31</sup> states that contracts must be concluded in compliance with public procurement legislation but the same article also stipulates that the value of a contract must be referenced to the annual Budget Law. The result of this requirement is that all contracts, including routine service contracts, have to be re-tendered on an annual basis. This creates periods when no contractual relationship exists between the state and essential service providers, such as for road maintenance or for hospital cleaning. It is therefore an unnecessary administrative burden for the public sector and for the companies, as well as making it more difficult for the budget users to plan commitments. Furthermore, it limits both the flexibility of procuring entities and market access for economic operators, and therefore undermines the principle of value-for-money.

**The legislative basis for a well functioning public expenditure management system is in place, particularly with the amendments of the past two years. The effectiveness of the legal basis is dependent on the extent to which the formal rules are effectively applied in the daily practices.**

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<sup>28</sup> See Article 93 of BSL.

<sup>29</sup> <http://mfp.gov.rs/pages/issue.php?id=8528>.

<sup>30</sup> <http://www.oecd.org/gov/budgeting/Best%20Practices%20Budget%20Transparency%20%20complete%20with%20cover%20page.pdf>

<sup>31</sup> See Article 57 of the BSL.

## 2.2. Parliament/executive relationship

The BSL states clearly the relationship between the Parliament and the Government regarding the procedure for drafting, consulting and adopting the fiscal strategy and the actual budget. In relation to fiscal rules set in the BSL, the Government has to declare both its intent to adhere to the rules and in the case that it deviates from them, submit to the Parliament the programme of rectifying such deviations. Although parliamentary approval can only be passed in plenary session, most of the preparatory work is done through the parliamentary Committee on Finance, State Budget and Control of Public Spending (Finance Committee). This Committee does not have the technical staffing to carry out its own detailed fiscal analysis and Parliament has to rely on the explanations of the Executive, as well as advice from the Fiscal Council on overall fiscal issues.

The BSL provides that the Parliament receives the draft budget by 1 November and must adopt it by 15 December. The 1 November deadline was met in 2012, which was not the case in the previous three years, so this is an improvement. Nevertheless, the time available to the Parliament for reviewing the Budget is only about half the three-month time period recommended by the OECD<sup>32</sup> in order to make parliamentary budget scrutiny more effective.

The Finance Committee has given no indication that it sees an urgent need to support existing budget proposals with more analytical performance information. The lack of focus on performance diminishes the quality of parliamentary scrutiny since it has no means of assessing the underlying reasons for the budget estimates.

Currently, the Parliament receives both the Final Accounts of the Government and the Annual Audit Report of the State Audit Institution (SAI) in November of the following year at the earliest. This is after the 1 November deadline for submission of the upcoming year's budget. This means that Parliament has insufficient time to use that information in its deliberations for the upcoming year's budget.

The Law on the State Audit Institution clearly and precisely defines its accountability to, and co-operation with, the Parliament. The Finance Committee considers that Parliament benefits from the expertise of the SAI through SAI co-operation with the Committee. The Finance Committee interacts with the SAI in three key areas: staff - by reviewing eligibility of Auditor General and board members; finance - by reviewing and approving the SAI budget request; transparency of SAI work - by reviewing annual report, financial audit reports and special reports submitted by the SAI.

**The role of the Parliament in analysing the draft budget would be strengthened both by increasing its analytical resources and allowing it more time to scrutinize the budget documentation. Members of the Parliament are not aware of the usefulness of performance information in assessing the underlying reasons for the budget estimates for spending.**

## 2.3. Scope of the state budget

The BSL regulates the budgets/financial plans of the state, local government and the three social protection funds<sup>33</sup>. The BSL requires that the financial plans of the social protection funds be presented to the Parliament along with the State Budget and Fiscal Strategy.<sup>34</sup> Furthermore, the BSL provides that both direct and indirect budget beneficiaries, such as public enterprises established by local self-governments, are subject to the expenditure management and control provisions of the law.<sup>35</sup>

An increased number of public sector transactions have been incorporated into the state budget in the past year. For the first time, a significant proportion of own-source revenues of the DBBs (with the exception of the Courts) were incorporated into the 2013 budget and now have become part of the expenditure ceiling established for budget users in the Fiscal Strategy 2013-2015. This is clearly shown in the annual Budget

<sup>32</sup> See Article 1.1 of the *OECD Best Practices for Budget Transparency*.

<sup>33</sup> See Article 1 of the BSL.

<sup>34</sup> See Article 32 of the BSL.

<sup>35</sup> See Article 2.5 of the BSL.

publication, where there is just one expenditure figure in each line of the budget compared to three separate figures previously<sup>36</sup>. This means that own source revenues are part of the overall resource figure and they can help free up resources in other areas instead of fulfilling the immediate needs of the BB who received them. There is also a legal requirement<sup>37</sup> that prior to introducing new fees or charges, the MoF needs to consent to any such proposal prior to their approval. The own-resources included in the Budget amount to about RSD40bn, a figure equivalent to 1.3% of GDP. This is significant but, apart from the Courts, there are also a number of IBBs (such as schools, faculties, cultural and health institutions, and social protection service) which have own-source revenues that are not included in the revenues of the budget<sup>38</sup>. These IBB own-source revenues are taken into account when planning the budget and their execution is shown in the final budget statement. It is also planned that they will be fully incorporated as budget revenues from 2014.

The BSL<sup>39</sup> stipulates that IBBs include public enterprises established by local self-governments and these agencies are therefore subject to the expenditure management and control provisions of the law. The law<sup>40</sup> also requires the MoF to carry out budget inspections of the public enterprises. For further information on the MoF Budget Inspection, please see the SIGMA 2013 assessment on *Public Internal Financial Control*. The BSL further stipulates that the State Treasury and local government treasuries should monitor wage bill trends in public enterprises and submit reports to the MoF. As there are about 600 local self-government public enterprises, 20 provincial public enterprises and 25 state public enterprises, it is important that these enterprises be monitored and controlled. However, within the MoF, there is little emphasis on exerting controls over these agencies as they are commercial and do not spend public money.

**The scope of the budget is broadly in line with the SIGMA baseline standard especially as the scope of the transactions covered by the budget has been increased by incorporating a large amount of own-source revenues. There are still however certain IBBs with own-source revenues outside that scope. There is little monitoring and control to ensure that IBBs and commercial enterprises are operating efficiently and effectively. Although commercial enterprises are not included in the consolidated budget, monitoring is important as transfers to these bodies constitute public expenditure.**

## 2.4. Monitoring of public balance and public debt

The Government is clearly aware of the need to reduce the budget deficit and public debt ratio. It has set itself ambitious budgetary targets and taken some concrete steps (such as better accounting for own-source revenues and management of arrears) to bring the public finances onto a sustainable path. Its fiscal consolidation programme plans a deficit of 3.6% of GDP in 2013, 1.9% of GDP in 2014, and 1% of GDP in 2015. Meeting these targets will be an improvement compared to recent years when the deficit targets were exceeded.

However, the Fiscal Council has expressed concerns that the fiscal consolidation programme is dependent on expenditure reductions that are not sufficiently detailed and are unlikely to be achieved. The Council believes that on the basis of existing fiscal policies, the state deficit in 2013 may exceed the planned deficit by around 0.7% of GDP and hit 4.3%, with a risk that it could even reach 5% of GDP.

In Serbia, there are three definitions of public debt. One is in the BSL, which is used to calculate the maximum debt to GDP ratio level of general government, which cannot exceed 45%. The second is in the Budget Debt Law, which includes central government debt and only the guaranteed part of local government debt. The

<sup>36</sup> The expenditure figure is a gross figure comprising all sources of revenue whereas previously there was a gross figure, a figure for own-sourced expenditure figure and an expenditure figure net of own-sourced revenue.

<sup>37</sup> Law on Fees for Using Public Goods.

<sup>38</sup> This particular problem is addressed in the OECD report on Strengthening Integrity and Fighting Corruption in Education, Serbia 2012; specifically the section on Staff Policies and Management of Resources pays attention to education financing and financial accountability.

<sup>39</sup> See Article 2.8 of the BSL.

<sup>40</sup> See Article 84.3 of the BSL.

third is the definition that measures debt according to the ESA95. In EU Member States, there is one definition of debt only and it conforms to the ESA95 definition.

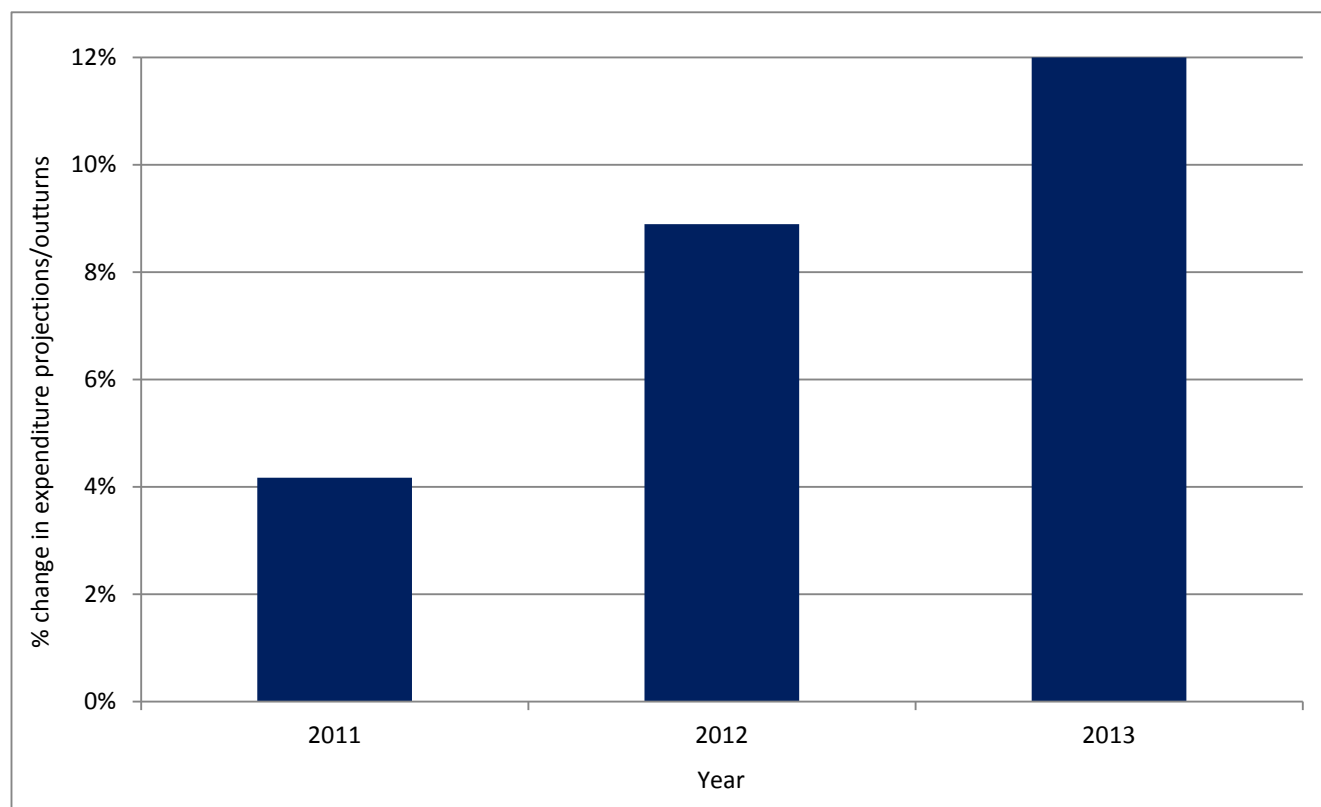
**The fiscal consolidation targets that the Government has set represent an important development. However, the Fiscal Council points out that it will not be easy to reach these targets. Accordingly, expenditure reduction targets must be underpinned by clearly articulated policy measures that will show transparently how the reduction can be achieved. Having three measures of the public debt figure makes this more difficult and is not in line with the practice in EU Member States.**

## 2.5. Medium-term expenditure framework

The BSL stipulates that “the medium-term expenditure framework (MTEF) shall be an integral part of the Fiscal Strategy, by which the Government determines the total scope of the Republican budget expenditure in line with the defined priority financing areas”. The aim of an MTEF is to compose a mid-term budget of three years on a rolling basis. The reality is that budgeting is planned and executed on an entirely annual basis. Little attention is paid to the “targets” for the two following years. This is evidenced by the fact that even at the level of individual contracts entered into by BBs, they are prevented from engaging in contracts that last more than one year.

Figure 2 below, which compares initial expenditure targets for 2011 to 2013 with final outturn and updated targets, shows how little importance is attached to the latter two years in particular. The final outturn for 2011 was 4.2% higher than the initial target in the 2011 Budget Memorandum (issued in 2010), while the 2013 target in the 2013-1015 Fiscal Strategy (issued in 2012) is 12% higher than the initial figure in the 2011 Budget Memorandum.

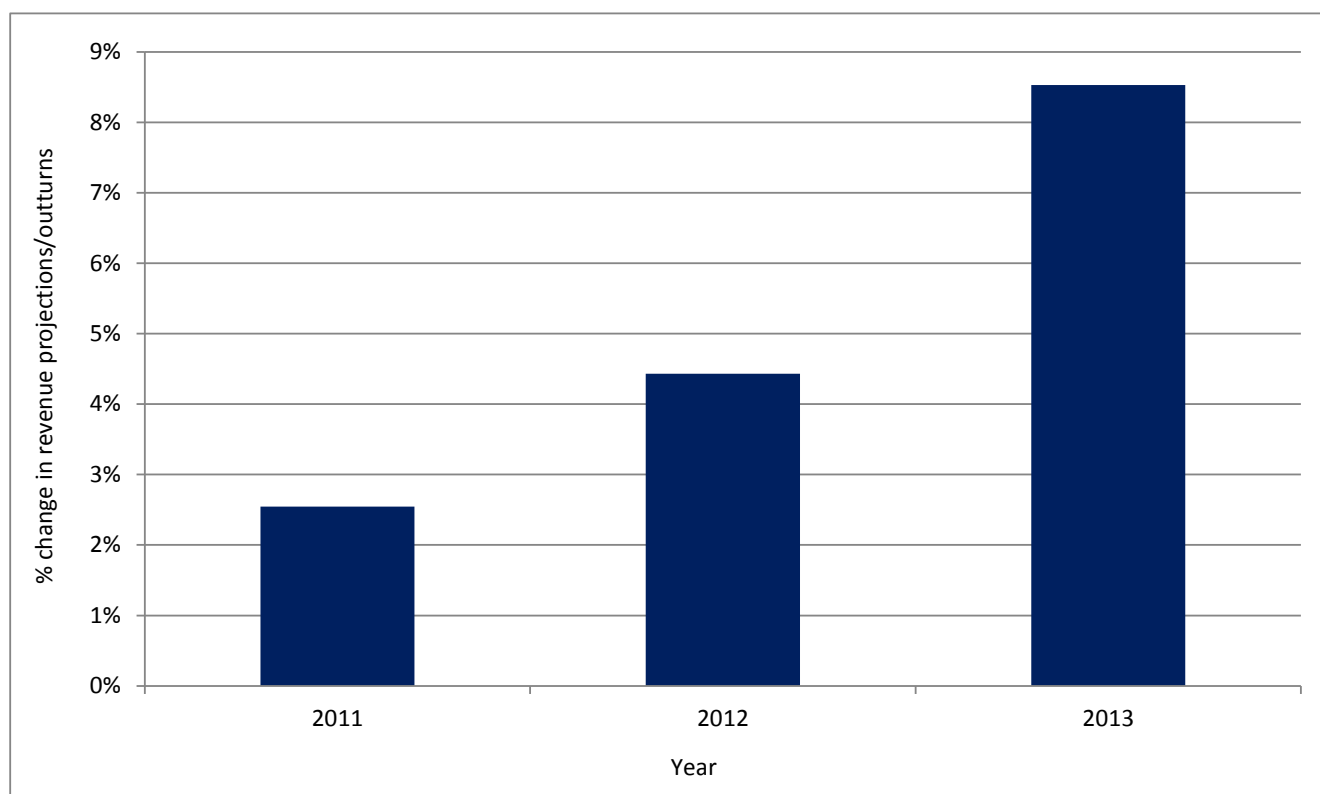
**Figure 2. Expenditure projections/outturns  
% change between 2010 and 2012**



Sources: Memorandum on the Budget with Economic and Fiscal Policy for the Year 2011 (Year 2010); Fiscal Strategy for 2013 with Projections for 2014 and 2015 (Year 2012)

From Figure 3 below, which compares initial revenue projections for 2011 to 2013 against outturns and later projections, it can be seen that the MoF fiscal forecasting capability is of good quality with regard to revenue projections for the upcoming fiscal year (only 2.5% difference for 2011), but not so good for the two following years (differences of 4.4% for 2012 and 8.5% for 2013). This is partly due to the high level of uncertainty in the Serbian economy but also due to the lack of importance that is attached to the medium-term.

**Figure 3. Revenue projections/ outturns  
% change between 2010 and 2012**



Sources: Memorandum on the Budget with Economic and Fiscal Policy for the Year 2011 (Year 2010); Fiscal Strategy for 2013 with Projections for 2014 and 2015 (Year 2012)

The MoF Macroeconomic Department has expressed concern that its ability to produce reasonably accurate forecasts even for the upcoming year could be reduced as the forecasting model it uses has become outdated and needs to be revised substantially, or replaced for 2014 with a model that more accurately reflects the current economy.

Currently, there is one person working on macroeconomic forecasting and three people working on fiscal projections. The absence of at least one more person working on macroeconomic forecasting means that succession planning, in case a key person decides to leave, is weak.

**The Fiscal Strategy, which contains the MTEF, is a transparent document by which the Government can be held accountable for its fiscal policy targets. However, there has been little emphasis on developing a MTEF that is taken seriously. Furthermore, the macroeconomic forecasting area, which underpins medium term fiscal projections, is exposed to management risk in the case that its key staff member leaves.**

## 2.6. Budget process

Despite the weaknesses in the budget calendar with regard to Parliament's role (see section 2.2 above), the calendar is well defined in the BSL. As stated above, the deadline for submission of the budget to Parliament was respected in 2012. It is also notable that the calendar makes provision for the involvement of the Fiscal Council at an early stage in the process, with the draft Fiscal Strategy, which is the centrepiece of the annual

budget preparation process, provided to the Council by 15 May. The Council’s role in the process is taken seriously by the Government and some of its recommendations are included in the adopted Strategy. The main deadlines in the process are as follows:

30 April	Minister of Finance delivers the draft Fiscal Strategy to the Fiscal Council for its opinion
15 May	Fiscal Council delivers its opinion on draft Fiscal Strategy
15 June	Government adopts the Fiscal Strategy and delivers it to the Assembly
30 June	National Assembly delivers recommendations on the Fiscal Strategy to the Government
5 July	Minister of Finance issues instructions for the preparation of budget proposals based on the Fiscal Strategy Report
1 September	Direct budget beneficiaries and extra-budgetary funds submit their budget proposals to the Ministry of Finance
5 October	Government delivers the revised Fiscal Strategy Report, updated with the most recent macroeconomic projection, to the Assembly
1 November	Government adopts the budget and submits it to the Assembly
15 December	Assembly adopts the budget

The budget in Serbia is formulated by applying incremental adjustments to the previous year’s allocations. The Fiscal Strategy contains no analysis undertaken to establish expenditure ceilings, to decide on priority allocations between budget users (or sectors) or on budgetary needs of individual budget users. The Fiscal Council has commented on the lack of detail regarding how fiscal targets will be achieved. Although the BSL<sup>41</sup> obliges BBs to prepare their financial plans on a strategic basis for the budget negotiation process, there is no evidence to suggest that this is the case. The Fiscal Council’s assessment of the 2013 Budget states that with regard to planned expenditure savings, “there is a noticeable lack of a clear plan with an explanation as to exactly which government functions and programmes are abolished or significantly reduced and why”<sup>42</sup>.

The Budget Preparation Department is not in a position to conduct detailed analysis of (or exert close scrutiny over) the Budget line item figures. It consists of a staffing of 20. With 154 DBBs, this means that there is just one budget officer for every seven or eight direct budget beneficiaries. The budget is very detailed with an estimated over 5,000 line items in the budget document that is voted on by the Parliament. Considering the high level of detail entailed in the budget process, it is highly unlikely that this Department has the capacity to do a thorough analysis of the annual budget submissions of DBBs. Furthermore, it is also unlikely that it can thoroughly analyse the likely budgetary impacts of new legislation/policy initiatives or to check if the costs have been properly calculated by the sponsoring DBB.

It is a positive development that the 2013 Budget was the first to contain expenditure ceilings for 53 budget groups that incorporate 154 DBBs. The fiscal strategy document could be substantially improved if it contained more comprehensive data linked to the Government policy priorities, and the policy objectives of the 53 budget groups. For example, while there is coherence in the Government’s key documents on its priorities related to PAR, most of the objectives are to cut costs within the public sector to help stabilize the economy, rationalisation and “right-sizing” the public sector to make the administration of public services more efficient as well as making the public sector less intrusive in the economy. There is hardly any information as to how this is going to be achieved. For further information on the PAR, please see the SIGMA 2013 assessment on *Public Administration Reform Co-ordination and Implementation*.

Furthermore with regard to expenditure ceilings, it should be noted that the Government has ensured that the fiscal rule, which sets out ceilings for salaries and pensions over the period 2010 to end-2014, is respected. So in the formulation of the budget calculations the BBs have a clearly established basis for calculating salary and pension costs, which comprise a significant proportion of current expenditure.

<sup>41</sup> See Article 27 of the BSL.

<sup>42</sup> See page 3 of *Assessment of the 2013 Draft Budget Law* at <http://fiskalnisanavet.rs/images/izvestaji/budget2013complete.pdf>.

There has been an improvement in the formulation process, not just in terms of deadlines being met but also in terms of the role and influence of the Fiscal Council, as well as the establishment of salary ceilings that must be used by DBBs in formulating their proposals. However, detailed analysis by the MoF of the proposals submitted by DBBs at the beginning of the process, and also analysis by the MoF of the fiscal impact of new pieces of legislation is extremely difficult given the ratio of staff to DBBs and the very high number of budget lines.

## 2.7. Budget management and management of public investments

With regard to fiscal impact assessment of new policy initiatives, the MoF position is that new proposals can be approved by the Government in spite of the MoF having provided an opinion that the estimated cost provided by the line ministry is too low. Even though the full-year operational cost of a new proposal could be significantly higher than its initial year cost, line ministries tend to underestimate the full year cost involved. This helps to explain some of the difference between expenditure final outturns and initial estimates shown in section 2.5 above.

Another issue that arises is that the budget allocation for many line items is not sufficient to ensure that contractual obligations to service providers are honoured. The MoF position is that in some cases this is deliberate on the part of BBs (e.g. allowing public utilities bills to go unpaid since they know funding will have to be provided to pay for them eventually). Therefore, it may be too early to relax the tight and detailed level of budget control in order to allow more flexibility in budget management at the BB level. This may have an impact on the pace for further introducing managerial accountability. See SIGMA 2013 assessment of *Public Internal Financial Control*.

Up to now the planning of capital projects has been weak, with many capital projects costing more than originally estimated. Decisions about infrastructural investments need to be preceded by cost-benefit analysis, which provides a sound basis for better prioritisation and presents costs for the full life-cycle, not just costs for the next budget year. The MoF has established very recently within its Budget Department a unit for capital investments with the objective of building the capacity and developing a methodology for evaluating capital projects.

The lack of importance given to capital planning is evidenced by the Fiscal Council comments on the attitude in Serbia that capital expenditure can be cut to find savings to support current expenditures. In its assessment of the 2013 Budget, the Council states that “[p]ossible savings on capital expenditure would not be in accordance with good practice in public finance management. A reduction of the share of capital expenditure in GDP is planned already in next year, which we do not find appropriate for the level of economic development and the economic cycle in which Serbia is. We emphasise, however, that in the previous years, when a need arose for making savings during the year, they were found in reducing capital expenditure.”<sup>43</sup>

In this regard, however, Serbia’s 2013 Pre-Accession Economic Programme (PEP) suggests evidence of some recent improvements. For example, the PEP states that “[w]ith limited space for capital investment, priorities should be set in the public investments area, taking into consideration limited funds and investments in projects with the best social benefits to costs ratio”.<sup>44</sup> It also mentions that “[t]he Law on the 2013 Budget of the Republic of Serbia introduced for the first time three-year capital investment budgeting, which will ensure better development project planning”.<sup>45</sup> In addition, it should be noted that there has been some improvement regarding a criticism expressed previously in the 2011 SIGMA Assessment that no consideration is given to the effect of capital expenditures on the current expenditures side of the budget. The MoF tries to ensure that these costs are taken into account in budgetary projections.

The BSL<sup>46</sup> provides that by 2015 financial plans of the BBs will be presented in programme format in addition to the existing classifications. In this context, five pilot ministries (Ministry of Public Administration and Local

<sup>43</sup> See pages 4 to 5 of *Assessment of the 2013 Draft Budget Law* at <http://fiskalniasavet.rs/images/izvestaji/budget2013complete.pdf>.

<sup>44</sup> See page 28 of the Pre-Accession Economic Programme for 2013.

<sup>45</sup> See page 55 of the Pre-Accession Economic Programme for 2013.

<sup>46</sup> See Article 112 of BSL.

Self-Governments, Ministry of Trade and Services, Ministry of Religion, Ministry of Education, and Ministry of Health) have been working on a programme budget system since 2008. So far, however, there is very little evidence of a strategy to disseminate the concepts of programme budgeting across the wider administration. For example, the only reference to better performance in the PEP is that “[r]ules shall be established and KPIs defined for evaluating business performance of public enterprises”. There is no reference to using the same techniques for DBBs. Neither is there evidence of an awareness of the need to support the introduction of programme budgeting with other public management reforms, such as introduction of strategic planning, accountability for results and techniques on how to introduce more flexible management of resources. To achieve these reforms, managers will need to be given – and accept – the authority and flexibility to prioritise within a programme in order to deliver on programme objectives. Taking this into account and considering the incremental nature of a budget allocation process that is lacking in detailed programme analysis, and the lack of importance attached to performance indicators as a measure of effectiveness, it is clear that some of the basic building blocks for such a system to be rolled out across the wider administration are not yet in place. Other basic requirements for a professional civil service management will also be required.<sup>47</sup>

Although the MoF, in co-operation with USAID, has begun to develop operational concepts of programmes and the methodology to develop a cascade of programmes with objectives, performance indicators, log frames etc., it is too early to assess how effective this will be. Such a process is an important step to avoid the programme classification becoming just another bureaucratic layer rather than shifting the focus from control of budget allocation to a focus on budget management and improved public service delivery.

**Some initial steps have been taken to improve the budget management and management of capital investments. The 2013 budget introduced the concept of three year capital budgeting and the 2013 PEP refers to need for prioritisation for capital investment and also the use of KPIs to improve performance in public enterprises. However, these are initial steps and for the budget to be managed on a programme basis by 2015, greater attention will need to be paid to developing the building blocks and to integrating the new process within the wider PAR programme.**

## 2.8. Budget execution and monitoring

The Treasury controls the state budget, financial plans of extra-budgetary funds and budgets of local self-government units through the Treasury Single Account system. It also registers all transactions in the treasury general ledger. All DBBs submit their cash plans online through a financial planning module in the Treasury’s IT system. The centralised budget execution facilitates stringent transaction control.

Up until this year, however, the Treasury was unable to record details of commitments and it was not informed in advance of commitments by BBs. DBBs now have to inform the Treasury in advance of a contract being signed that would incur a commitment to spend. Also, payment dates have to be consulted on with the MoF at least 5 days in advance. This information is captured in the FMIS, which helps to ensure that together with commitments, budget beneficiaries cannot exceed individual budget lines. It remains to be seen how effective these steps will be.

Since the budget control has essentially been on the basis of available cash, there is a high level of uncertainty concerning the amount of accumulated arrears. With the new emphasis on monitoring commitments and preventing the accumulation of further arrears,<sup>48</sup> monitoring is improving. Furthermore, efforts are being made to calculate the level of general government arrears, with data on local government arrears being collected since January 2013. However, dealing with the accumulated arrears will be a challenge given that they are estimated at about RSD 50bn or 1.4% of GDP. This figure does not include the possible liabilities of public enterprises which could easily become public debt, in the event that these need to be covered by

<sup>47</sup> Those are shown in SIGMA paper 48, Civil Service Professionalisation in the Western Balkans. This paper is based on empirical evidence, and reflects the state of civil service management in the Western Balkans at the end of 2011. The report analyses institution building in three levels (i) formal rules; (ii) rule implementation (compare management practices) and (iii) rule internalisation (compare attitudes of civil servants towards European principles of administration).

<sup>48</sup> The Law on Payment Deadlines.

government. For example, future government obligations, such as a need to re-capitalise state-owned banks, may drive the figure up rather unexpectedly.

Budget execution is monitored on a daily basis and revenue collection and budget execution reports are publicly issued on a monthly, semi-annual and yearly basis for central and local government, social security funds and consolidated general government. This means that the basis is in place for controlling expenditures and ensuring that they remain in line with planned expenditure. However, controlling expenditure is more than reporting. When necessary, corrective action must be taken to remain with budget limits. Up until now, the fact that budget limits were regularly exceeded shows that the reports were not being used to control expenditures in Serbia.

**The necessary reporting mechanisms are in place to adequately monitor expenditure during the year. However, up to now these reports were not used to exert greater controls. It is too early to assess if the Government's fiscal consolidation programme and the recent steps to control commitments and deal with arrears will have an effect. Furthermore, with regard to arrears, there will have to be a carefully structured plan to reduce them on a gradual basis. It is notable that the Fiscal Council has set out the basic rules for such a plan.**<sup>49</sup>

## 2.9. Accounting and reporting

The Treasury is responsible for keeping a record of all transactions executed from the Treasury Single Account. This Treasury ledger maintains a full record of all payments according to an organisational, functional, programme (for the five pilot ministries), three-digit economic, six-digit economic, and source-of-financing classification. In addition to the treasury ledger, direct budget-users are required to keep accounting records of their own operations and of the operations of subordinate, indirect budget-users, although in practice most seem to rely on the Treasury accounting system. The Treasury produces reports on the execution of the budget, which cover all levels of government as well as consolidated general government. These reports are presented to the Government within two weeks of the end of each month. The budget and accounting classification is on the GFS 2001 basis.

The BSL<sup>50</sup> requires that the annual financial report of the Republic of Serbia and the annual financial reports of the extra-budgetary funds are to be subject to external audit by the SAI. According to the BSL, the consolidated financial reports of the Republic of Serbia must be sent to the Parliament by 1 November.

The Parliamentary Committee on Finance, State Budget and Control of Public Spending believes that the quality of the end-year Financial Accounts submitted to the Parliament has improved. However, the Financial Accounts can be strengthened by improving the presentation of the information (e.g. in comparative perspective, time-series etc.) and by incorporating also those IBBs, which are funded from the Health Fund (i.e. hospitals), into the report.

It should also be noted that the SAI has previously expressed an opinion that the end-year accounts of some BBs did not present a true and fair view. The SAI has also identified cases of payments being made without any supporting documentation.

**The Treasury provides the accounting system for budget beneficiaries and enables timely and comprehensive reporting on the budgetary transactions. The Parliamentary Finance Committee believes that the quality of information contained in the end-year Consolidated Accounts is better than in previous years.**

<sup>49</sup> Fiscal Council, Assessment of the 2013 Draft Budget Law, pages 4-5.

<sup>50</sup> See Article 92 of the BSL.

**PUBLIC INTERNAL  
FINANCIAL CONTROL**

**SERBIA**

**APRIL 2013**

## 1. State of play and main developments since last assessment

### 1.1. State of play

The legal framework is in place for governing public internal financial control (PIFC), supported by detailed instructions in the respective by-laws and rulebooks. A functional financial management and control (FMC) system is still in its early stages. While formal rules have been endorsed, rule implementation which refers to the effective application of formal rules in the daily practice (e.g. changes in management practices) is still to come. Internal Audit (IA) units are being established in almost all the central government institutions that require them. The number of IA posts filled and IA reports issued has grown. The 2011<sup>51</sup> PIFC consolidated annual report submitted to the Minister of Finance contains recommendations to improve both FMC and IA performance. However, decisions on specific tasks, institutions responsible for their implementation and deadlines remain to be made.

### 1.2. Main developments since last assessment

The budget system law (BSL) was amended to include clarify a definition of the term “managerial accountability”<sup>52</sup> (article 51a). Managers are now accountable for their decisions, actions and results to those who appointed or transferred responsibility to them. These are significant clarifications, which need to be further explained and defined in related by-laws and the FMC rulebook.

The Ministry of Finance and Economy CHU has taken steps to raise awareness and understanding of PIFC. For example, an article on IA and financial control was published in *Finansije Magazine*<sup>53</sup>. Raising awareness of PIFC in local government has also started, albeit at an embryonic level.

Following the 2012 elections some changes occurred in the structure of governmental bodies, such as the Budget Inspection Division, which is now an independent structural unit subordinated to the finance minister.

## 2. Analysis

### 2.1. Policy and legislative framework for PIFC

*A coherent and comprehensive statutory base defining the systems, principles and functioning of PIFC should be in place.*

The BSL provides a general legal framework for PIFC. This needs to be read in conjunction with the laws on state administration and civil service. The BSL<sup>54</sup> describes the mandate of the Ministry of Finance and Economy CHU to develop the PIFC system. Its role is to prepare PIFC methodology (including vocational training for FMC and IA); conduct IAs; certify internal auditors; and assess and evaluate the implementation and quality of FMC and IA in the public sector. The BSL<sup>55</sup> does not explicitly require the CHU to engage in networking activities which is a core activity for a CHU.

The BSL establishes the FMC system and it requires the head of the institution to establish and provide the necessary conditions for a functional IA process<sup>56</sup>. More detailed requirements are included in secondary legislation, i.e. the “Rulebook on Common Criteria and Standards for Establishing and Functioning the Financial Management and Control System in the Public Sector” and the “Rulebook on Common Criteria for Organising and Standards and Methodological Instructions on Conducting Internal Audit in Public Sector”. According to

<sup>51</sup> The 2012 report will only be available in May 2013.

<sup>52</sup> BSL Article 51 a.

<sup>53</sup> <http://mfp.gov.rs/pages/issue.php?id=8736>.

<sup>54</sup> BSL Article 83.

<sup>55</sup> BSL Article 83.

<sup>56</sup> BSL Articles 81 and 82.

the Rulebook<sup>57</sup> IA units are functionally independent and report to top management. The latter contains criteria on IA and a list of institutions that must create IA units or ensure IA functions. Twenty direct budget beneficiaries are required to establish IA units. Both rulebooks were last updated in 2011. They also heavily emphasise risk management. While risk management is important, it is not the primary aspect of FMC or IA.

The BSL was amended in 2012 to include a managerial accountability requirement. “Managing accountability shall mean accountability of all levels managers with the public assets beneficiaries to carry out all tasks in a legal manner, observing the principles of cost-effectiveness, efficiency, efficacy and transparency, as well as to be accountable for their decisions, actions and results to those who have appointed them or transferred accountability to them”<sup>58</sup>. These are significant clarifications, which need to be further explained in relevant by-laws and the FMC rulebook. While article 51a is important, it should be read in conjunction with article 71 (“Accountability of Executives and/or Managers of Direct and/or Indirect Budget Beneficiaries”) and article 72 (“Accountability Distribution between the Ordering Party and the Accountant”).

**The BSL and rulebooks make up a coherent and comprehensive legal framework defining PIFC systems, principles and functioning. Yet timely updating of rulebooks in keeping with legislative amendments or changes in public administration structures is not occurring.**

#### *Strategy and planning for PIFC development*

While the 2009-14 strategy for PIFC development (together with the action plan) includes activities and deadlines for PIFC development, there is no reference to the context of the wider PAR agenda nor has it been amended to reflect the administrative capacity building needed so that public money is spent more effectively and thus contribute to the creation of a stable economic environment. Yet the PIFC reform is a management reform on how to enhance the control environment of public finances is closely related to the professionalisation of civil service. These issues include amongst others ethics, integrity, conflicts of interest and training of civil servants and managers.

The PIFC strategy is also a standalone document with regard to the public finance management context in which it operates. A new PIFC Strategy 2014-19 will be developed by the EU supported technical assistance project “Support to the development of PIFC – Phase 3” as the working basis for the eventual Ministry of Finance and Economy draft document.

The current action plan – which has been updated in early 2013<sup>59</sup> – does not contain specific goals for the CHU or further development and implementation of FMC and IA. The CHU annual work plan describes CHU tasks. It focuses on reviewing and updating legislation, supporting 20 IA units at the direct budget users, developing their annual work plans and organising training and IA certification activities. Although the CHU prepares an annual work plan approved by the assistant minister, it does not explicitly state its support for the goals outlined in the strategic action. Moreover, it does not indicate specific deadlines, responsible institutions or necessary human resources to efficiently assess CHU performance.

#### *The Ministry of Finance and Economy CHU*

The CHU currently numbers 12 staff members out of 14 available posts systematised in the “Rulebook on the Internal Organisation and Systematisation of jobs in the Ministry of Finance and Economy”. It is formally divided into two divisions (one for FMC and one for internal audit) numbering five staff members each.

The CHU is responsible for the central harmonisation of methodology, co-ordination, monitoring of implementation and assessment summary of financial management and control and internal auditing in public sector<sup>60</sup>. Annual reports are significant information sources for monitoring and evaluating established IA and

<sup>57</sup> Rulebook on Common Criteria for Organising and Standards and Methodological Instructions on Conducting Internal Audit in Public Sector Article 7.

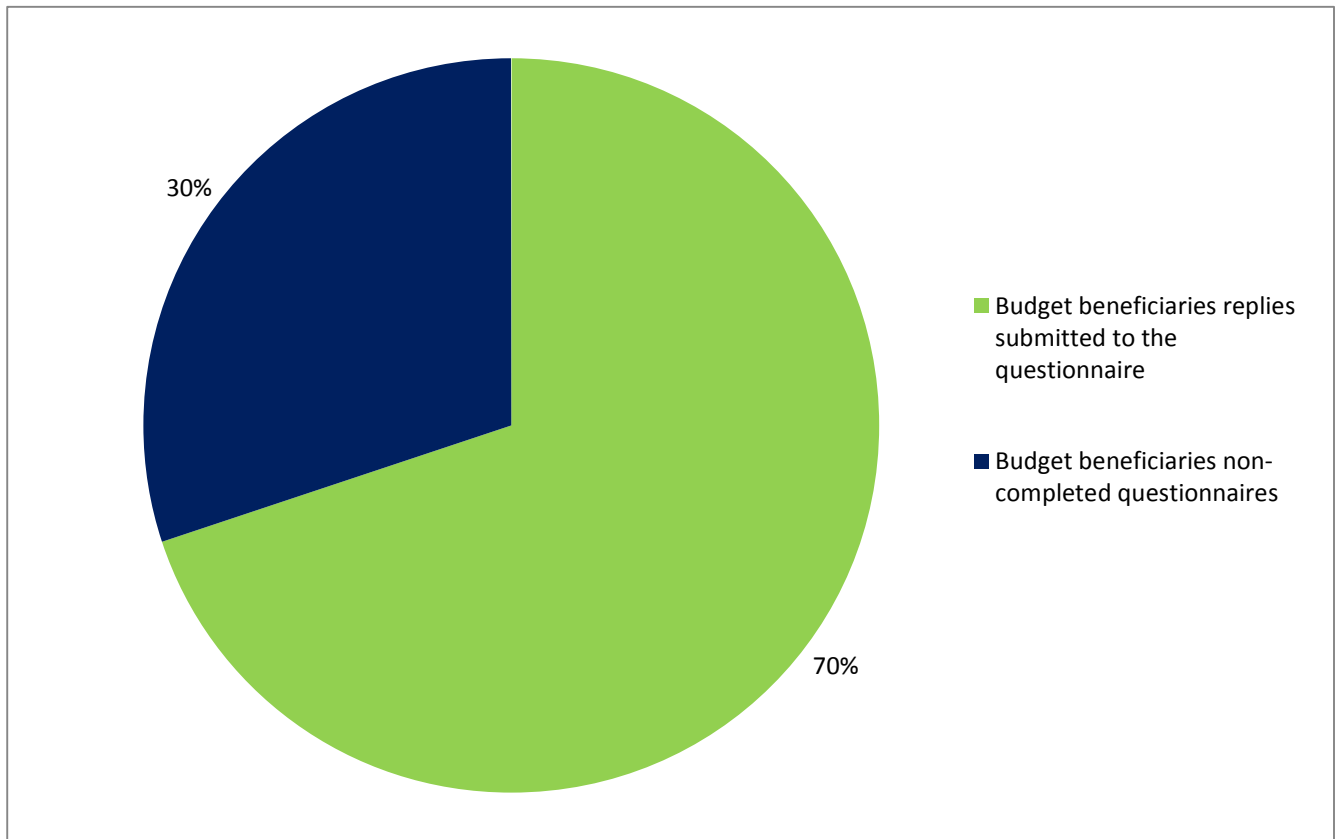
<sup>58</sup> BSL Article 51a.

<sup>59</sup> Official Gazette no.23/2013 of March.

<sup>60</sup> BSL Article 83.

FMC conformity and for reporting on progress in implementing the PIFC Action Plan. The CHU prepares and submits the consolidated annual report on PIFC to the government via the Minister of Finance. It bases the report on self-assessment questionnaires sent to all institutions under the BSL; 102 out of 146 budget beneficiaries submitted the completed questionnaires to the CHU in 2011.

Figure 4. **Budget beneficiaries’ self-assessment questionnaires on public internal financial control implementation**



Source: Ministry of Finance and Economy, Central Harmonisation Unit

There is no evidence to suggest that the report is used to remedy systemic shortcomings – such as main business processes, management awareness and risks detrimental to other key goals (e.g. internalising sound financial management). The PIFC consolidated annual report for 2011 focuses on statistical data. It hardly features any information on results achieved, and few recommendations on strategic decision making.

The CHU has not yet established regular and effective regular networking with responsible FMC officials and IA managers, or co-operation with the budget inspection unit. It does not ensure timely analysis of the State Audit Institution’s (SAI) and budget inspection reports to identify systemic shortcomings.

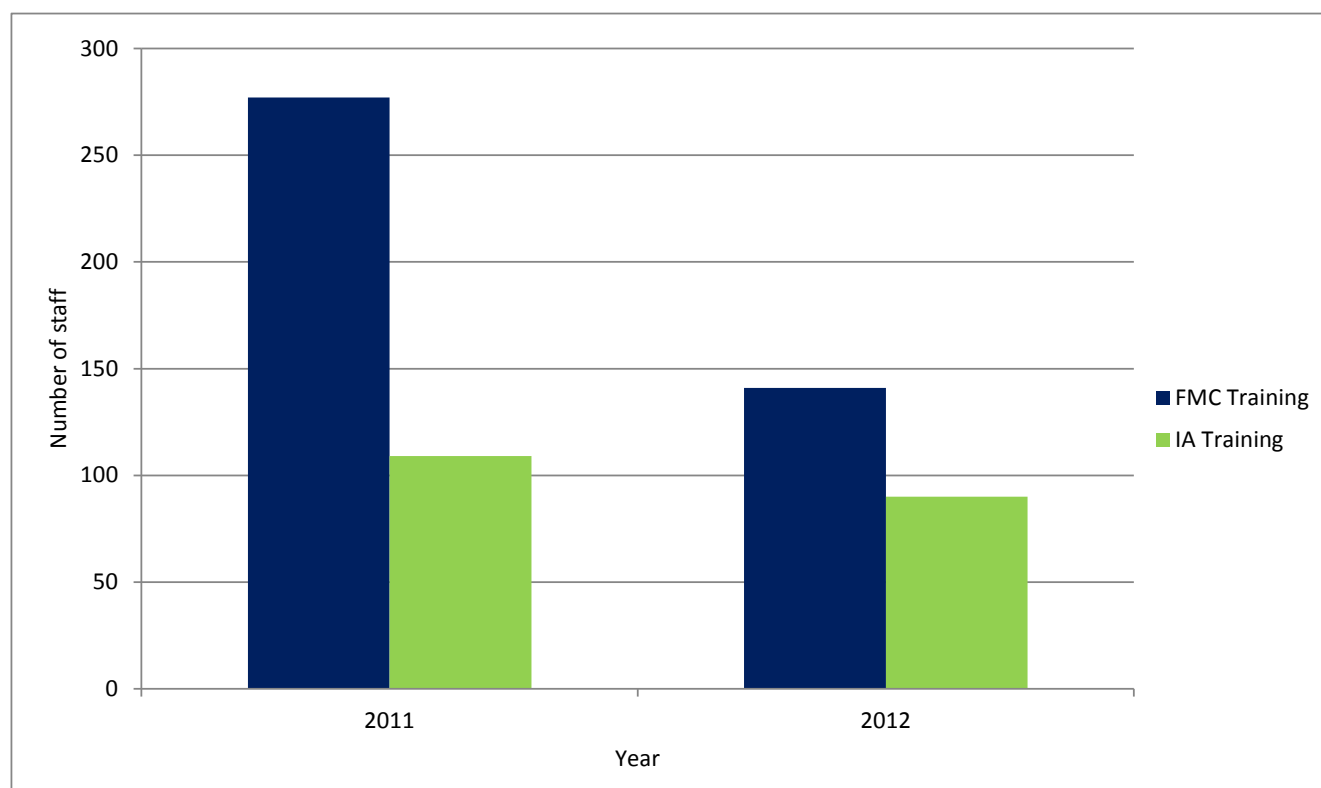
Training is a main feature in the current PIFC Strategy and they are limited to financial management and control as well as internal audit. In principle, training is an important factor in PAR as it enhances civil servants’ professional competence. Staff turnover – estimated at 15-20% per year – is deemed a major problem in Serbian public administration. Changes in government lead to higher turnover ratios, especially in senior positions.<sup>61</sup>

Although declining in intensity the CHU has, since its establishment in 2009, focused on training activity, rather than improving PIFC methodology, monitoring FMC systems and identifying IA good practice, which would further enhance PIFC performance and quality. In 2012 FMC-related training was attended by 141 (in 2011: 277) participants, while internal auditing training was attended by 90 (in 2011: 109) people. If the CHU maintains its emphasis on vocational training it will be difficult to achieve good governance and the wider

<sup>61</sup> Ibid page 42.

perspectives necessary for achieving a change in attitudes and behavioural change necessary for sound financial management. This is because the training addresses administrative levels rather than the higher-level decision making.

Figure 5. **Staff trained in financial management and control and internal audit**



Source: Ministry of Finance and Economy, Central Harmonisation Unit

Improving outcomes will largely depend on better co-ordination of civil service training and training policies, including giving a stronger role to central civil service training centres, institutes and schools. The CHU has already identified the need for a continuous development plan – which is a requirement for IA professionalisation. To enhance FMC and IA professionalisation, the CHU needs to internalise the ultimate aim of sound financial management, promote lessons learned through cross-fertilisation and start building on Serbian good practice.

**Although the CHU is the general provider of IA and FMC training, it cannot currently be considered a strategic driver for improving and developing it. This is partly due to its focus on training and development of technical information, with little interaction with FMC and IA staff in direct budget beneficiaries. The CHU has no clear and effective reporting system to provide the government with timely information on shortages and corrective measures necessary to implement IA and FMC systems in the public sector at a strategic level. There is an opportunity to free up resources of the CHU in shifting its training obligation to central civil service training centres, institutes and schools, while providing input into training curricula.**

## 2.2. Conditions and capacity for FMC

*Relevant FMC systems and procedures should be operational and functioning.*

Even though both the Treasury and Ministry of Finance and Economy have developed laws and regulations on FMC and accounting principles, managers are not always aware of the ultimate purpose for the FMC existence. This suggests that the existing rules are not well implemented. The rule implementation refers to the effective application of formal rules in the daily practice of civil service management. The application of formal rules can be stronger as evidenced in both the 2012 SAI annual report and the 2011 PIFC consolidated annual report.

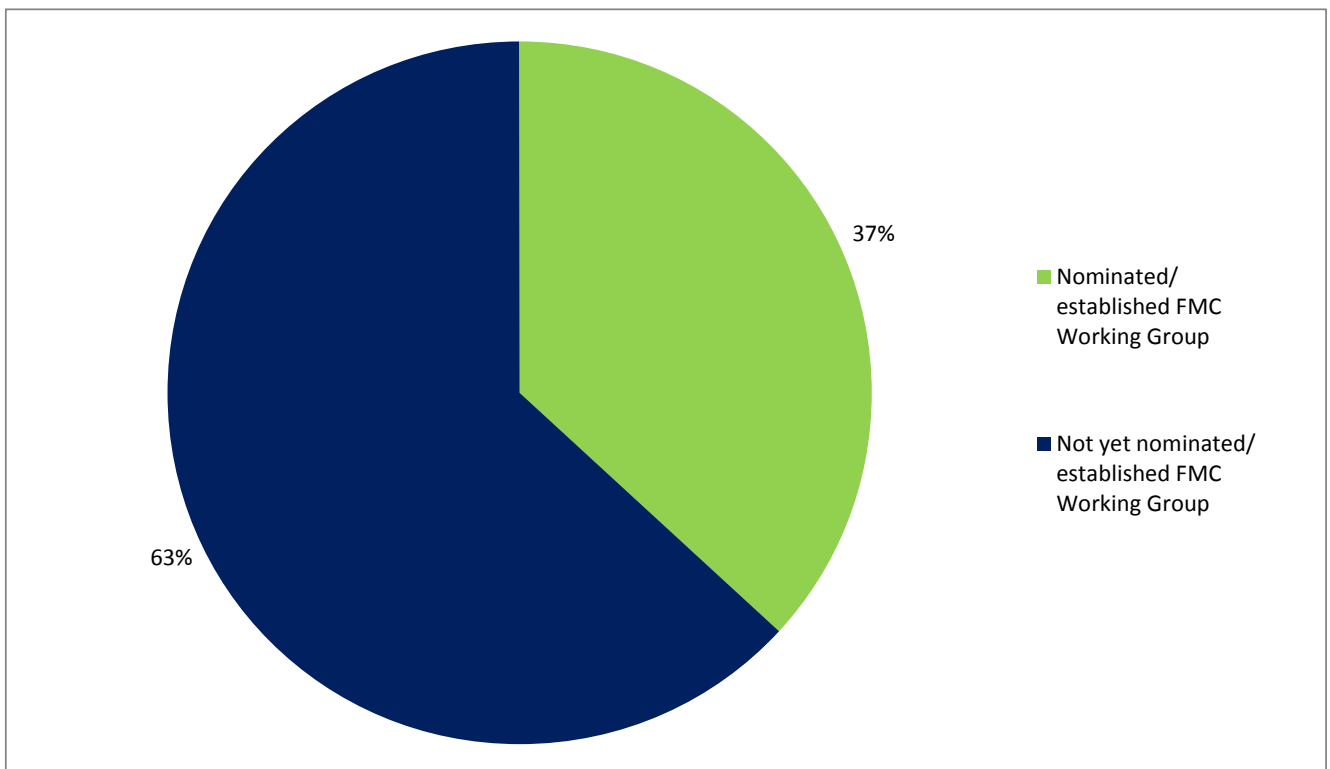
These documents identified important infringements of existing rules, e.g. in financial control, accounting and procurement. One can conclude that while budget beneficiaries gradually accept risk management methodologies, the existing control systems aim primarily to ensure legality. They do not focus on impediments to key objectives.

Amongst other issues the CHUs role is assess and evaluate the implementation and quality of FMC and IA in the public sector<sup>62</sup>. There is only little sign that the CHU takes on its responsibility in monitoring and evaluating FMC systems. By all accounts, the CHU does not shoulder its responsibility for evaluating risk registers. It hardly evaluates the internal control systems, nor does it identify common high-level risks that can affect good governance and public administration performance, or the controls necessary to reduce risks to an acceptable level.

Although managerial accountability is now more precisely defined, still the FMC system is being considered by management as a narrowly defined technical issue – in other words, managers are developing procedures, controls, audit trails and risk registers as a formality, but not as a concept for the creation of a solid control environment to ensure reaching institutional objectives in a cost-effective manner.

Of the 102 direct budget beneficiaries, only 42 have nominated FMC or established an FMC implementation working group. The other users have not yet adopted plans for FMC implementation and development.

Figure 6. **Budget beneficiaries’ establishment of financial management and control**



Source: Ministry of Finance and Economy, Central Harmonisation Unit

### *Budget inspection*

The Budget inspection unit<sup>63</sup> acts according to the programme and work plan approved by the minister. The unit’s main objective is to ensure compliance with the law<sup>64</sup> and the work plan is established based on complaints from the prosecutor’s office, the court or the police. It is authorised to issue administrative acts such as minutes and decisions by which it imposes measures and orders to remove the irregularity and presses

<sup>62</sup> BSL Article 83.

<sup>63</sup> BSL articles 84-91.

<sup>64</sup> BSL article 86.

misdemeanour charges against the subject of control, legal entity or responsible persons. Cases of significant irregularities or suspected fraudulent actions are forwarded to the Prosecutor's Office. The budget inspection prepares an annual report, which it submits to the government and National Assembly.

In 2012 the unit underwent several structural changes. Since December 2012, it is an independent structural unit subordinated to the minister. In compliance with the "Rulebook on the Internal Organisation and Systematisation of Jobs in the Ministry of Finance and Economy", budget inspection currently has 11 posts, of which one is vacant.

IA and budget inspection activities potentially overlap because they are both concerned with legal compliance although the focus of budget inspection is on compliance with the law on general administrative procedure. The fact that both functions have clearly separate legal bases will not alone alter managers' practice or perception of the difference between them. As both activities continue to develop, the potential for overlapping and the ensuing confusion need to be carefully monitored. Budget inspection is a complementary method for controlling proper use of public funds.

**Although FMC implementation has seen progress – including the development of detailed procedures and audit trails – the overall approach (establishing regulations) is still principally technical. Strong management support and understanding of the need to apply existing rules for sound and practical financial management concept is still at an embryonic level.**

**The budget inspection is an additional control available to the Ministry of Finance and Economy to ensure economical and legal use of the government budget. However, the practical effects of the systems in place to prevent and act on mistakes and irregularities and recover amounts lost due to negligence are still limited.**

### **2.3. Existence of functionally independent IA function**

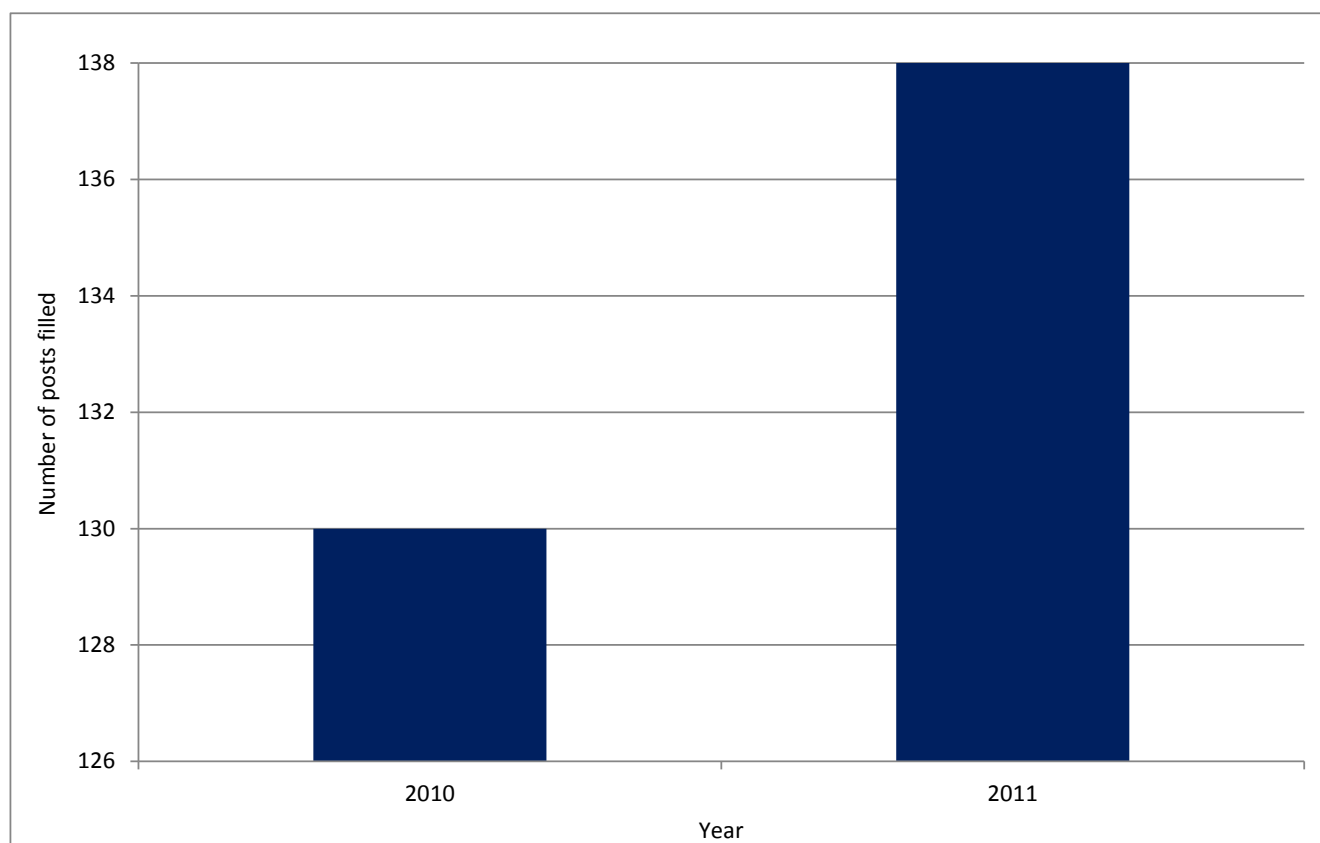
*Functionally independent IA arrangements with relevant functions, remit and scope should be operational and functioning.*

The head of institution is responsible for establishing and providing the necessary conditions for adequate IA functioning. The number of established IA units has increased. The 2011<sup>65</sup> consolidated annual report on IA activities confirms that 49 IA units (compared to 31 in the previous year) were established in both direct and indirect budget beneficiaries. Consequently, the number of recommendations has also increased.

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<sup>65</sup> Updated data on internal audit for 2012 will only be available with the next report in May 2013.

Figure 7. Internal audit posts filled

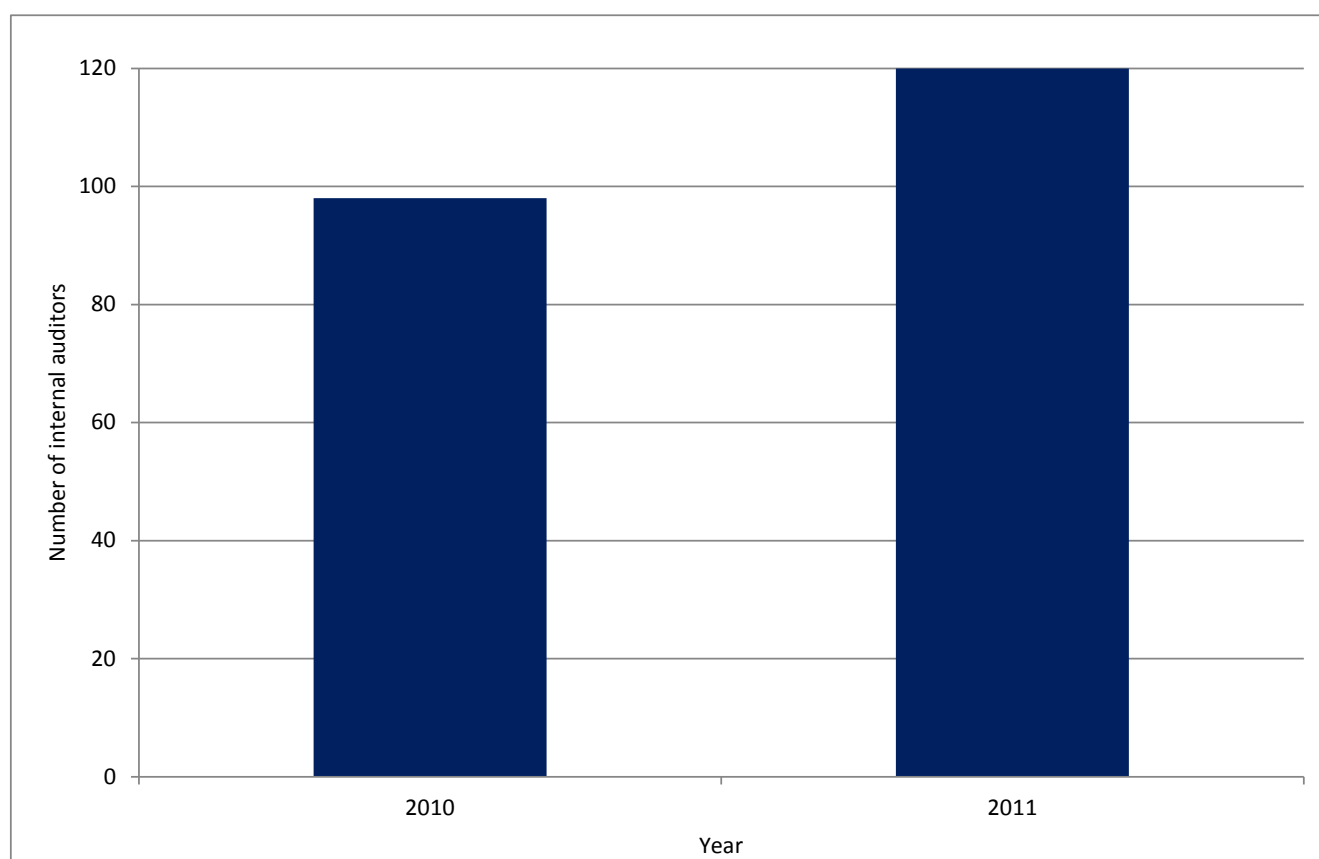


Source: Central Harmonisation Unit database

164<sup>66</sup> IA posts have been created, of which 138 are filled (in 2010: 130). Overall, approximately 120 (in 2010: 98) internal auditors have now acquired the title of “certified public internal auditor”.

<sup>66</sup> Source CHU database, data from 2011 regarding posts created for internal audit. Updated data for 2012 will only be available in May 2013.

Figure 8. Internal auditors acquired the title of “certified public internal auditor”

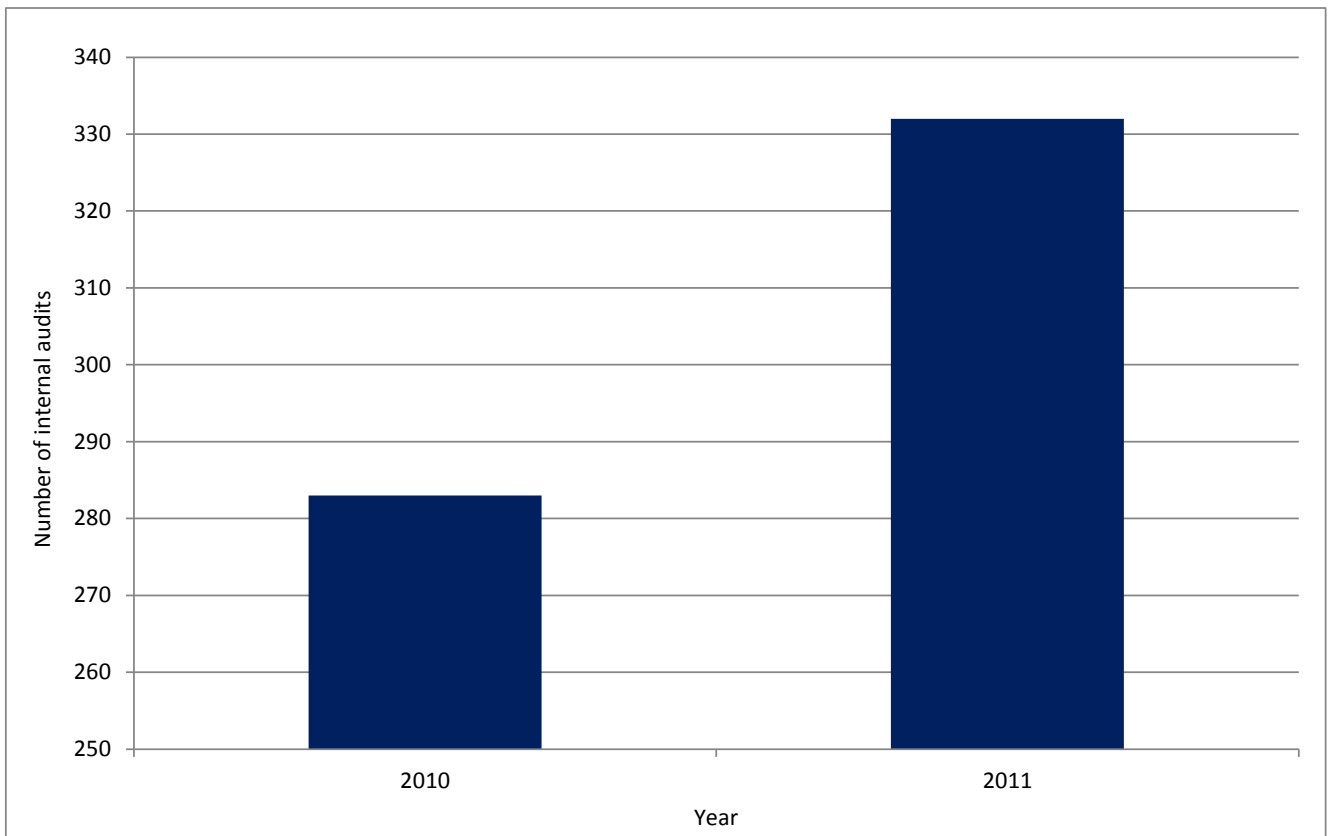


Source: Central Harmonisation Unit database

Established IA units plan their activities according to a three-year strategic plan and an annual work plan. In 2011 38 (in 2010: 33) IA units had prepared strategic plans (based on risk assessment) and produced annual plans<sup>67</sup>. The audit reports and recommendations are approved by the head of institution. IA performance reports indicate that in 2011, 332 audits were performed (against 283 in 2010) and internal auditors made 1 860 (1 994 in 2010) recommendations on improving performance and reducing risks to acceptable levels. Of these, 1 243 recommendations (compared with 1 358 in 2010) were implemented before 31 December 2011.

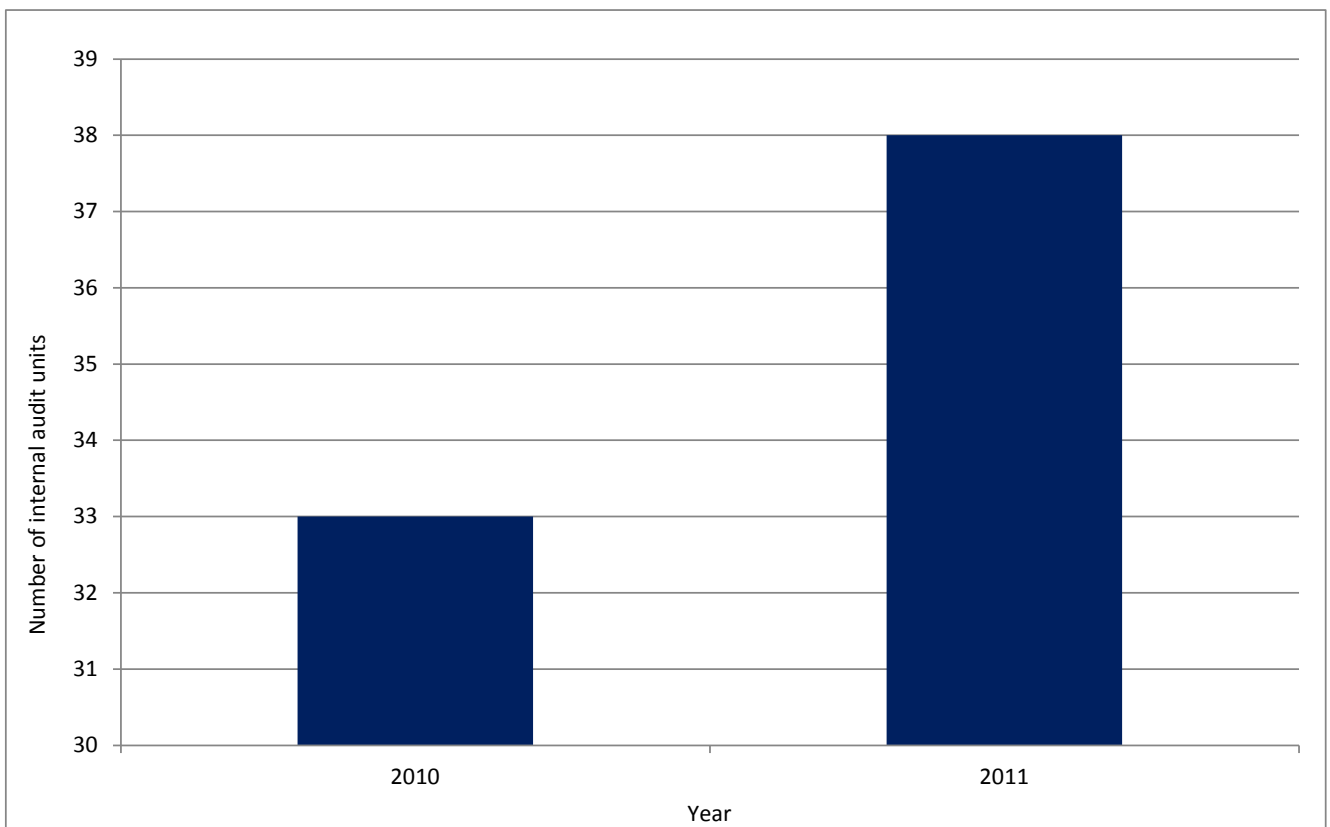
<sup>67</sup> Source CHU database.

Figure 9. Internal audits performed



Source: Central Harmonisation Unit database

Figure 10. Internal audit units prepared strategic plans (based on risk assessment) and produced annual audit plans



Source : Central Harmonisation Unit database

While the legal requirements for establishing a functionally independent IA unit exist, the environment in which it operates needs to be taken into account to assess whether it can operate according to its intentions. According to international standards, independence and impartiality are core requirements of IA. The head of IA in each ministry reports to the minister. According to civil service law, the top position in the ministerial bureaucracy (the state secretary) is excluded from civil service. Hence, the highest-ranking civil servant is the assistant minister. SIGMA paper No. 48 on “Civil Service Professionalisation in Western Balkans” concludes that depoliticising the senior civil service is difficult<sup>68</sup>. Developing IA is a challenge under these circumstances. Six ministries<sup>69</sup> have just one internal auditor. The IA units’ capacity and effective coverage, as well as proper supervision of the audit function, are therefore still in the early stages.

The IA unit shall provide advice, guidelines, training, assistance or other services of the institution in which it operates to improve the management process, thus increasing its value<sup>70</sup>. One of the key principles IA is internal auditors’ independence and impartiality. Internal auditors of public administration bodies are sometimes involved in developing internal control procedures, e.g. descriptions of quality systems. Such participation can significantly affect audit independence and scope. It is therefore essential to clearly separate responsibility between advisory and assurance services and to secure institutional management approval. Furthermore, when the number of internal auditors is limited, this can influence their direct involvement in development of internal procedures which has an impact on their independence. Such practice should therefore be carefully assessed. The CHU could usefully provide guidelines in this regard.

Internal auditors, also refer to the need to enhance their independence. Although there are clear requirements on safeguarding the independence of internal auditor in rules and regulations, the practical application of these requirements is questionable, taking in to account the reported involvement of internal auditors in other tasks that were not related to internal audit and the lack of management’s understanding of the role of internal audit as well as the general environment in which it operates.

#### *Association of professionals*

There are two associations of professionals in Serbia. There is the Institute of Internal Audit (IIA) Serbia branch which has some 70 members. There is also the Association of Certified Public Sector Internal Auditors was established in 2011 as a non-profit and non-governmental organisation and in 2012 about 50 internal auditors were members of this Association. This development can be regarded as important, as it displays a commitment by the internal auditors themselves to increasing professionalism and the creation of an esprit de corps. In 2012 the Association published a collection of articles called “Good Governance and Internal Audit” and organized several workshops on various issues that were of interest to the internal auditors working in public sector.

#### *Co-operation between internal and external auditors*

There are signs of successful co-operation in certain public administrations for example through sharing internal audit plans and participating in assessment of conclusions made the State Audit Institution as well as in discussions about necessary corrective actions. Steps have also been taken to improve the co-operation between the SAI and the CHU in a more generic way for example through the establishment of a joint working group. This working group has seven members and consists of the President of the SAI, the Head of the CHU, three additional representatives from the SAI and two additional representatives from the CHU. Following the general elections in 2012 this group has not yet (March 2013) been re-nominated, but some activities continue. For example, a workshop on establishing constructive co-operation was held in December 2012 with SIGMA support.

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<sup>68</sup> Page 47.

<sup>69</sup> Source CHU database.

<sup>70</sup> BSL article 82.

The co-operation between the CHU and SAI is essential to ensuring the SAI is able to use IA work – provided it is reliable – in the future. Well-planned collective resources could also be better used to avoid work duplication.

**Progress in establishing IA units is evident and the number of performed audits and internal auditors has increased. However, an effective and functioning IA system has not yet been established in all public administration bodies. The Ministry of Finance and Economy has not yet taken measures to provide the government with timely information on institutions that do not yet meet the requirements set in the budget system law. As for the government, it has not yet approved an IA implementation schedule that would ensure the IA system is operational and functioning throughout the public administration.**

## 2.4. Irregularities and recovery of funds

*Systems should be in place to prevent and act on mistakes and irregularities and to recover any amounts lost as a result of irregularity or negligence.*

The IA rulebook defines the rules and responsibilities of the internal auditor with regard to suspected fraud cases<sup>71</sup>. The Civil service law also states the duty to notify a suspicion of the existence of corruption. However, data on significant mistakes and serious irregularities found by the SAI<sup>72</sup> and budget inspection unit<sup>73</sup> suggest the current FMC system is not robust enough. Managerial responsibility and related tasks are not clearly defined, nor are control procedures to prevent serious mistakes and irregularities adequately applied.

The SAI and budget inspection unit are legally bound to inform law enforcement bodies of serious irregularities and unjustified or illegal payments uncovered. The budget inspection's 2011 annual report also provides information on measures applied and the most common irregularities identified during controls. These include violation of laws and regulations related to budget execution and accounting, e.g. lack of supporting documentation for payments made and records that are outdated or improper, accounting records are not kept up to date. Yet public administration bodies have not developed a policy to combat fraud and serious irregularities in public fund management or defined responsibilities in the established systems (as well as employees) when serious irregularities or fraudulent actions are uncovered.

The CHU does not pay enough attention to the issue of fraud. Even though financial managers and internal auditors need specific knowledge to detect fraud<sup>74</sup>, the CHU has not developed related guidelines to support them. It should encourage fraud awareness and provide them with methodological support for fraud risk assessment and fraud management control.

**A common preventive system ensuring that relevant actions against serious mistakes and serious irregularities are taken still does not exist. In addition, a policy on fraud and serious irregularities in financial management has not been adopted.**

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<sup>71</sup> IA rulebook, article 20.

<sup>72</sup> Summary Report of Audit findings, Audits Performed in 2012, State Audit Institution.

<sup>73</sup> Budget inspection 2011 annual report.

<sup>74</sup> An example of this is shown in the OECD report Strengthening Integrity and Fighting Corruption in Education, Serbia 2012; specifically the section on Staff Policies and Management of Resources, pays attention to problems in education financing, financial accountability and employment policies for teachers and principals.

# **PUBLIC PROCUREMENT**

**SERBIA**

**APRIL 2013**

## **1. The state of play and main developments since last assessment**

### **1.1. State of play**

The public procurement system is in a state of transition due to the passing of a new Public Procurement Law at the end of 2012 ("PPL 2012"). Public procurement reform has achieved a significantly higher profile since the election of the new Government in July 2012. PPL 2012 is intended to address previous failings in the legal framework, drive through efficiencies and tackle corruption in public procurement. The challenge for 2013 and beyond is to ensure that the implementation of measures provided for in PPL 2012 continue to be supported, both politically and in terms of resources.

### **1.2. Main developments since last assessment**

Substantive legislative changes have taken place since April 2012. Amendments to the Public Procurement Law 2008 ("PPL 2008") proposed in 2011<sup>75</sup> were abandoned due to a change of Government. The new Public Procurement Law 2012 was proposed by Parliament. The Explanatory Notes to the draft PPL 2012 refer to PPL 2008 as a missed opportunity to significantly improve the public procurement system and co-ordinate with the European Union. The draft PPL 2012 was the subject of wide public and stakeholder consultation<sup>76</sup> and was adopted on 29 December 2012, with the start of implementation timetabled for 1 April 2013.

New by-laws required for implementation of PPL 2012 were prepared by the Public Procurement Office by 13 March 2013 (with promulgation expected by 1 April 2013) and include regulations on: 1) mandatory elements of tender documentation in public procurement procedures and the manner of proofing fulfilment of conditions; 2) keeping records and reporting on public procurement; 3) the instruction on the form and content of an opinion on requests for approval of negotiated procedure; 4) the form and content of a public procurement plan and reports on execution of public procurement plans; 5) a civil supervisor.

A new President and members of the Republic Commission for Protection of Bidders' Rights in Public Procurement Procedures were appointed on 26 March 2013.

Minimal progress has been made on the development of the Public-Private Partnerships and Concessions Law 2011. The by-laws originally planned for adoption in early 2012 had not been adopted by the end of March 2013, but the draft Value for Money Methodology has been prepared. The PPP Commission has undertaken limited activity.

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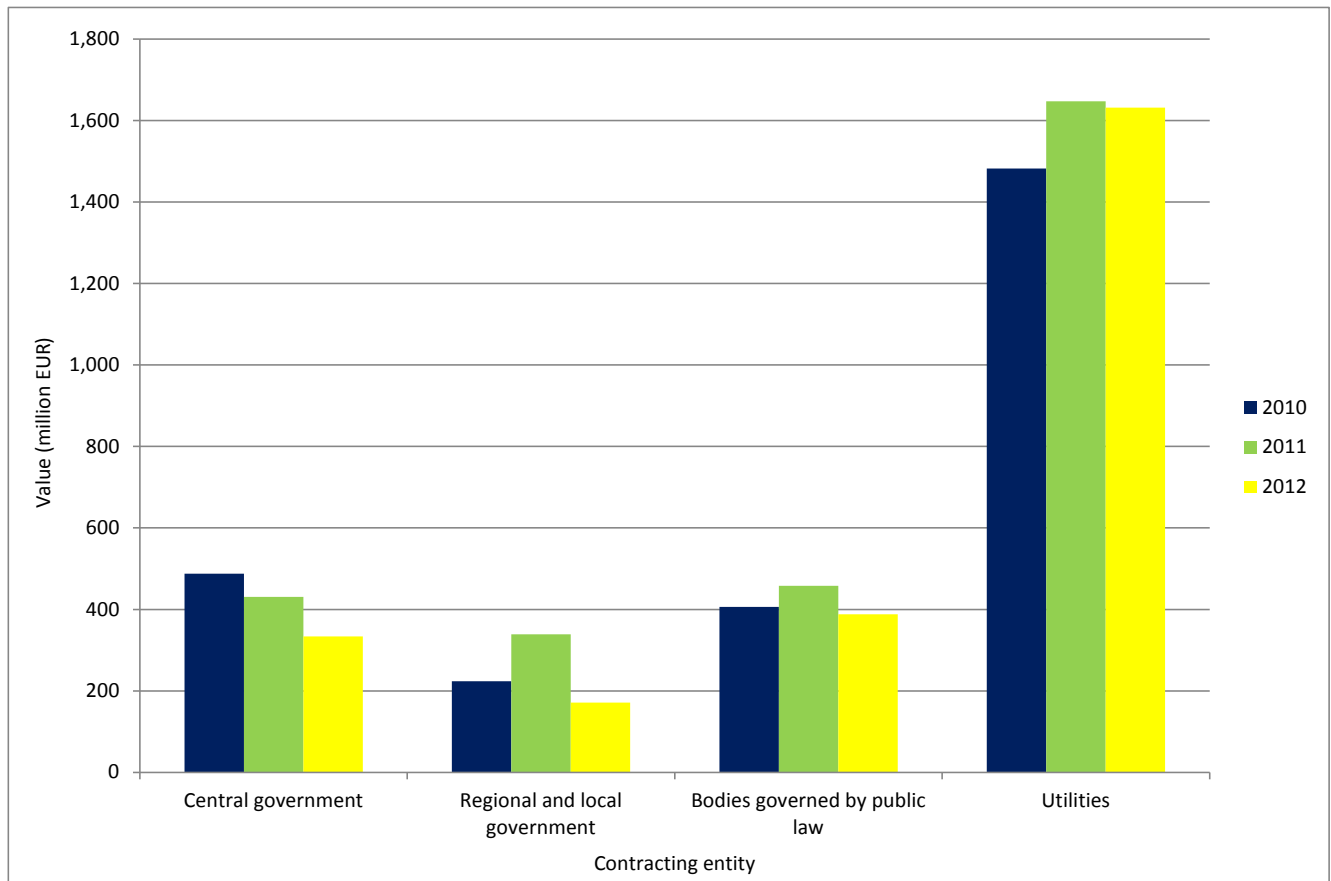
<sup>75</sup> Adopted formally by the Government on 30 December 2011.

<sup>76</sup> Stakeholders participating in the consultation included, among others: contracting authorities, NGOs, the Chamber of Commerce, economic operators and the Association of Procurement Professionals.

## 2. Analysis

The total value of the public procurement market in Serbia exceeds EUR 2,500 million annually. Figure 11 below presents the value of contracts awarded by contracting entities in Serbia.

Figure 11. Value of contracts (million EUR)



Source: Public Procurement Office

### 2.1. Legislative framework

The main aims for PPL 2012, expressed in the Explanatory Notes, are fourfold: 1) define solutions which would prevent possible violations; 2) increase control efficiency; 3) improve efficiency and duration of the procedure; and 4) harmonise with the EU Directives and good practice in EU Member States. The following assessment considers the PPL 2012 with those four aims in mind<sup>77</sup>; where relevant, combining information and comments on the legal provisions, the available procurement tools and practical impact.

#### *Increasing transparency - assisting in prevention of possible violations*

PPL 2012 introduces a number of provisions to improve transparency in procurement and thus assist in preventing violations.

Procurement plans: PPL 2012 requires that contracting authorities adopt an annual procurement plan by 31 January of each year and submit it electronically to both the Public Procurement Office (PPO) and the State Audit Institution (SAI) within 10 days of adoption. Contracting authorities may only initiate procurement procedures envisaged in the plan and for which funds have been allocated. In limited circumstances, a

<sup>77</sup> The issues identified under the headings are not an exhaustive list of the relevant measures but are key examples.

subsequent variation is permitted<sup>78</sup>. Contracting authorities must also compile an annual report of the execution of the public procurement plan and send it to the PPO and SAI by 31 March of the following year.

Publication of Procurement Notices: Low value contracts<sup>79</sup> represent a substantial part of contracting authorities' purchasing activities<sup>80</sup>. The award of considerable numbers of low value contracts without a requirement for prior public notification (as was the case under PPL 2008) may have resulted in the corrupt award of contracts - low value procurements are identified as an area of abuse in the Explanatory Notes. Under PPL 2012, contracting authorities are obliged to publish low value contract opportunities on the PPO portal, increasing the transparency of the process and opening up opportunities for bidders. There is a continued requirement for publication of contract notices for contracts above five million Dinars (EUR 44,760) (supplies and services) and ten million dinars (EUR 89,520) (works) on both the PPO portal (free of charge) and the portal of the Official Gazette (for a fee<sup>81</sup>).

Publication of Tender documents: PPL 2012 obliges contracting authorities to publish all tender documents (and subsequent amendments to tender documents), for both low value and high value contracts, on the PPO portal at the same time that the procurement notice/call for competition is published.

Right to inspect concluded contracts: Corrupt practices can commonly occur after contracts are awarded, e.g. through contract extension to cover additional items or works, variations in required quality standards or shifts in pricing. PPL 2012 includes a right for bidders, candidates or applicants to inspect concluded contracts relating to a process in which they participated.

Other specific measures for prevention of corruption: These and other transparency measures need to be read together with specific measures included in Part II of PPL 2012 under the heading "Prevention of Corruption and Conflict of Interest". This part of the law includes corruption reporting duties, whistleblower provisions, and measures addressing conflicts of interest. Control efficiency and enforcement measures are also of significant impact and are further outlined below.

**PPL 2012 introduces a significant number of provisions that should improve transparency and thus reduce corruption, but there is still room for further improvement. For example, far greater transparency and accountability would be achieved by a clear obligation in the PPL to publish procurement plans and reports on the PPO portal. On the other hand, simultaneous publication of procurement notices on the PPO portal and in the Official Gazette is an unnecessary duplication resulting in an additional administrative burden and costs on contracting entities.**

#### *Increasing control efficiency*

The PPL introduces a number of measures to increase control efficiency. The practical impact of many of these measures on the operation of the procurement system as a whole is not clear as implementation has yet to start.

The PPO's control functions: PPL 2012 has significantly expanded the activities of the PPO to include additional control activities. For example, the PPO is now required to: receive and consider annual procurement plans; give its opinion on whether, in relation to particular contracts, the requirements for use of the negotiated

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<sup>78</sup> See Article 51.

<sup>79</sup> Low value contracts under PPL 2012 (Art. 39) are contracts valued under three million dinars (EUR 26 860 thousand) for works and 400 000 Dinars (EUR 3 580) for supplies and services.

<sup>80</sup> See Annex 2: PPO statistics show 54 871 low value procurements in the period 1 January to 30 November 2012, with an estimated value of EUR 761 million. The 2011 PPO statistics show 75 983 low value procurements, with an estimated value of EUR 403.5 million.

<sup>81</sup> The annual subscription to use the Official Gazette/Bulletin costs EUR 700, plus a fee for each notice published. One contracting authority referred to the cost exceeding EUR 100 for each of the advertisements they had placed in 2012, another referred to expenditure of around EUR 10 000 per year on Official Gazette subscription and notices.

procedure without prior notice or competitive dialogue are met, and give approval on the use of centralised purchasing and opinions on joint procurement arrangements<sup>82</sup>.

The PPO undertook ex ante control of the use of the negotiated procedure without prior advertisement before 2009 (under PPL 2002). SIGMA's 2007 and 2008 assessments concluded that the PPO was flooded by thousands of requests for prior approval and was therefore only able to perform the task perfunctorily and had to neglect its other duties. PPL 2008 abolished this requirement in order to enable the PPO to properly perform its other functions. The PPL 2012 Explanatory Notes rightly underline that there continues to be an overuse of negotiated procedures and that this is a major area for violations. Due to changes in the legislation, the number of requests is likely to be less than under PPL 2002.

Civil supervisor role: PPL 2012 includes new provisions for monitoring of the entire public procurement procedure for all contracts of a value over 1 billion dinars (approximately EUR 9 million). This monitoring is to be undertaken by an unpaid civil supervisor, appointed by the PPO.

There is a risk that the solution proposed may not work the way the drafters would like it to work because the provisions of the PPL related to the functions performed by independent experts are under regulated. They are supposed to have access to any activity, document, decision etc. taken in the course of a public procurement procedure. While their rights are relatively well defined, the same cannot be said about their obligations and duties. For instance, they are not required by law to sign a document stating that they will not disclose information which should be kept confidential, which creates a risk of potential breach of confidentiality.

**The new PPL introduces a number of measures aimed at increasing control efficiency. It is an important (and positive) development that the Serbian authorities recognised corruption as the main problem of the public procurement system and are determined to implement more instruments to tackle the problem. It is unclear, however, whether the PPO will have the capacity to meet its obligations in a proper and timely fashion, especially regarding the various approvals to be issued (for a list of all of the PPO's functions, see Annex 1). There is a real danger that practical problems linked to approval processes will stifle the system and divert the PPO from its other important roles.**

#### *Improving efficiency and shortening the duration of procedures*

A number of elements in the PPL are intended to improve efficiency and the conduct of procurement procedures. These include:

Central Register of Bidders: PPL 2012 provides for the establishment by 1 September 2013 of a non-obligatory central register to which bidders who fulfil the mandatory requirements for participation can apply. Bidders listed on the register will not be required to prove compliance with mandatory requirements each time they bid.

Grounds for rejection of tenders: The Explanatory Notes acknowledge the problem of an overly formalistic approach under PPL 2008 to grounds for rejection of tenders. An over-formalistic approach can result in the rejection of tenders which are non-compliant on technical grounds but which have no material impact on the bid itself. PPL 2012 revises the wording relating to grounds for rejection of tenders<sup>83</sup>, which should mean that tenders are no longer rejected on purely formalistic grounds.<sup>84</sup>

Automatic Exclusion: PPL 2012 expands significantly PPL 2008 provisions concerning the impact of negative references on bidders' qualification. Under PPL 2012 a contracting authority must automatically reject bids when it has evidence that a bidder is contravening of one of a number of listed grounds<sup>85</sup>. In addition, where

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<sup>82</sup> Article 48 on centralised procurement requires PPO approval for a decision on contracting authority or agreement between contracting authorities. Article 50 requires opinion from the PPO on the decision on joint conduct of a specific public procurement procedure.

<sup>83</sup> Article 106 Essential Deficiencies in Bid.

<sup>84</sup> An example provided of practice under the previous PPL was rejection on the grounds of failure by a bidder to initial one page in a full set of tender documents.

<sup>85</sup> Article 83 List of Negative References. The listed grounds for rejection relate to the bidder's behaviour in other public procurement procedures or failure to fulfil obligations under a previously awarded public procurement contract.

the PPO determines that it has received adequate evidence (as specified in the PPL Art. 83) from a contracting authority, it must add the bidder to the negative references list which is published on the PPO website. That bidder is then excluded from bidding for public procurement contracts of the same type for a period of between 3 to 15 months. The bidder may appeal against the PPO decision with the Republic Commission for Protection of Bidders' Rights<sup>86</sup>.

Tender documents: PPL 2008 allowed contracting authorities to charge bidders for tender documents, which can have a detrimental effect on competition. According to PPL 2012, tender documents must be published on the PPO portal and the contracting authority's own web site at same time as the invitation to bid is published, and so are available free of charge.

New procurement tools also have the potential to deliver improvements in the efficiency and conduct of procedures, including the duration. For example:

- Frameworks, electronic auctions, dynamic purchasing systems and e-procurement: There are provisions in PPL 2012, which were not contained in PPL 2008, permitting the use of new procurement tools: frameworks, electronic auctions and dynamic purchasing systems. Greater emphasis is also placed on e-procurement in PPL 2012 with the incorporation of measures closely aligned with the Directives. Each of these measures has the potential to both reduce paper work and speed up procurement processes for greater efficiency.
- Centralised and joint procurement: PPL 2012 expands the role of the Administration for Joint Services to widen its scope and encompass more contracting authorities. The PPL also includes provisions covering joint procurement (Art. 50).

**There are a number of measures which have the potential to improve the efficiency and duration of procedures. The success of measures such as the Central Register of Bidders, the introduction of new procurement tools and the increasing use of centralised and joint procurement will depend on the sufficient allocation of resources for their establishment and operation. The question of sufficient resourcing will need to be the subject of ongoing review as PPL 2012 is implemented in practice. Provisions on automatic exclusion raise concerns, particularly regarding the automatic nature of the exclusion on widely defined grounds and fixed exclusion periods, which have the potential to be abused or used in a disproportionate manner.**

#### *Alignment with the Directives*

PPL 2008 was based on the EU Public Procurement Directives, although there were several discrepancies and many provisions of the Directives had not been transposed. PPL 2012 remedies many of these discrepancies and is much more closely aligned to the Directives than PPL 2008. For example, the utilities provisions are more closely (but not fully) aligned; contracting authorities are free to use either the open or a form of restricted procedure, and competitive dialogue has been introduced, as well as new procurement tools. Some discrepancies remain. These include, for example, the definition of contracting authorities, the retention of the qualification system in addition to other standard procedures and national preferences.

## **2.2. Central Public Procurement Institutions**

The Ministry of Finance and Economy no longer takes the lead in preparing and amending the public procurement legislation. The new PPL has transferred this role to the PPO. The PPO's functions are significantly expanded under PPL 2012. The powers of the Republic Commission for Protection of Bidders' Rights are also extended under the new PPL.

#### *Public Procurement Office (PPO)*

The PPO, an independent stand-alone organisation with a staff of 20, has not been allowed to recruit additional staff. In 2012 the PPO continued its previous activities which include: running the procurement

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<sup>86</sup> See Section 2.2 for role and activities of Republic Commission for the Protection of Bidders' Rights.

portal<sup>87</sup>; collecting procurement data; producing reports; providing practical advice on procurement processes and running the certification scheme for public procurement officers. The PPO was also heavily involved in the consultation process for the proposed PPL 2012 and members of the PPO have participated in the delivery of training. Since the adoption of PPL 2012, the PPO has prepared by-laws required prior to implementation on 1 April 2013. Work has also been completed on the upgrade of the PPO portal in order to align it with the new Law, improve user experience and make access to data more user friendly. In May 2012, the PPO achieved ISO 9001 accreditation. With support from the Anti-corruption Agency, the PPO prepared its internal Integrity Plan in March 2013.

Changes to the PPO's functions and activity introduced by PPL 2012: As mentioned earlier, the activities of the PPO have been significantly expanded under PPL 2012. In addition to control measures, the PPO is tasked with a number of new activities including appointing the civil supervisor and initiating minor offences procedures. A full list of the PPO's activities are set out in Annex 1.

#### *Administration for Joint Services*

Under PPL 2008 the Administration for Joint Services ('the Administration') was responsible for some centralised procurement for government bodies. Under PPL 2012 its responsibilities have expanded to cover (including through frameworks, dynamic purchasing systems and electronic auctions) more purchasing for a greater number of contracting authorities. PPL 2012 requires that the Government provides adequate working conditions for the Administration, including staff and technical capacities to enable the Administration to commence activities within eight months of PPL 2012 entering into force.

#### *PPP Commission*

There has been very limited activity in connection with the PPP and Concessions Law. The by-laws and the first draft of the Value for Money Methodology required under the PPP Law have been prepared. The work of the first PPP Commission was slowed down during 2012 by the change of Government. New PPP Commission members were appointed with effect from November 2012, with secretariat services provided by the Ministry of Finance. Four projects have been considered by the PPP Commission since the last SIGMA assessment. Three were approved<sup>88</sup> and one was referred back to the proposing contracting authority. The PPP Commission website provides limited information<sup>89</sup>.

#### *Republic Commission for Protection of Bidders' Rights in Public Procurement Procedures*

The Republic Commission, which is an independent review body, has 39 staff. It achieved ISO 9001 accreditation in 2012. The appointments of the members of the previous Republic Commission were terminated by the new PPL and the appointment of the members of the new Republic Commission was the subject to an open public competition. A new President and members were appointed on 26 March 2013.

Interlocutors from both contracting authorities and business consistently commented in interviews conducted for this assessment that the work of the Republic Commission has improved recently, through better response times, more transparency in decision making and more efforts to monitor decision enforcement<sup>90</sup>. Enforcement procedures are the responsibility of the relevant state authority. Commission decisions may be appealed against in the Administrative Court.<sup>91</sup> PPL 2012 endows the Commission with some new functions

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<sup>87</sup> <http://www.ujn.gov.rs/en.html>.

<sup>88</sup> (1) City of Sabac, construction of public garage, value EUR 5 million, 30 year concession period. (2) Municipality Apatin, construction of a port on the Danube, value EUR 19. 2 million, 50- year concession period. (3) City of Loznica, urban and suburban passenger transport, value EUR 11 million, 5 year concession period.

<sup>89</sup> <http://www.ppp.gov.rs/lt/izvestaji-komisije>.

<sup>90</sup> The Republic Commission reports that in 2012 it received 1 182 claims for protection of rights (1 400 in 2011) and that 85.86% of these claims were dealt within the statutory deadline for administering the initial act; the Republic Commission's decisions are now published on its website; in 2012 it worked on 904 reports relating to failure by contracting authorities to implement its decisions, 799 of which were subsequently implemented as requested.

<sup>91</sup> According to information provided by the Republic Commission, in 2012 there were 110 such cases, of which 100 upheld the Commission's original decision and 10 did not.

with effect from 1 April 2013, most notably the right to institute minor offences procedures, impose related fines and annul contracts.

#### *State Audit Institution (SAI)*

The SAI audits direct budget beneficiaries, local self-government and public companies. In 2012, the SAI issued 143 reports, each of which included a chapter on public procurement. Among those, 122 described irregularities. Most irregularities related to the conclusion of a contract without procurement procedures, the use of a negotiated procedure without competition, procurement not in accordance with the financial plan and failure to publish notices on the portal or in the Official Gazette. The SAI informed SIGMA that in 2010/11 it filed more than 185 requests to institute minor offence proceedings for breaches of public procurement law.

**There has been a major shift in the reform dynamics following the change of Government. Corruption, which had been identified in previous assessments over many years as a major issue in public procurement, is now clearly acknowledged by the Government as a significant problem. There is an internally driven political will to tackle the problem, as evidenced by the rapid introduction of PPL 2012 with significant new anti-corruption provisions.**

**Central institutions are in place and operational, with improvements noted in particular in the activities of the Republic Commission. Concerns exist regarding the PPO's ability to deliver effectively on its increased activities and the expertise of contracting entities using the new procurement tools.**

### **2.3. Enforcement: Complaints Review and Control**

Protection of Bidders' Rights: Under PPL 2012 all interested bidders, applicants, candidates or other persons, as well as the PPO, State Audit Institution, public attorney and civil supervisor, can appeal (for a fee) against decisions of contracting authorities and the PPO to the Republic Commission. Standstill periods at contract award stage are provided for. Filing an appeal automatically suspends the contracting authority's activities pending the decision. A number of remedial measures are available to the Republic Commission, including whole or partial termination of the procedure. New Commission powers under PPL 2012, which previously lay within the sole jurisdiction of the courts, include institution of minor offences procedures against both contracting authority officers and bidders, and the imposition of a range of fixed fines for those offences as well as the cancellation of concluded contracts. The limitation period for the minor offences has been increased from 1 to 3 years.<sup>92</sup> It remains to be seen in practice how enforcement of the Commission's new powers will be effected.

A new provision in PPL 2012<sup>93</sup> provides that if a claimant has made 3 unsuccessful requests for the protection of rights within a 6 month period, then it shall be assumed that the claimant has abused the process and the claimant shall be fined unless it can prove to the Republic Commission otherwise.

Criminal Code: The Criminal Code was amended on 24 December 2012 following a consultation process. Article 234a of the Criminal Code now contains new offences of "misfeasance in public procurement" (enforced by the court) applicable to individuals from both contracting authorities and bidders. The punishment is potentially very severe, ranging from 6 months to 10 years imprisonment.

**Whilst the clear anti-corruption message behind the minor offences provisions and amendments to the Criminal Code are welcome, there is a danger that these will create a climate of fear of being punished for even small omissions and inconsequential mistakes. There is a potential negative result on the operation of the system with contracting authorities adopting a very bureaucratic approach to procurement which may not deliver value for money outcomes. There is also a danger that the automatic exclusion provisions could impact negatively on the appeals system by dissuading bidders from making appeals.**

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<sup>92</sup> See Article 156 for list of fees, which vary according to the value of the contract and type of procurement process. Articles 157-158 set out the statutory periods within which the Republic Commission must make decisions. See Article 112 and 149 - 10 day standstill period (5 days for low value contracts). See Article 169 for list of minor offences and fines.

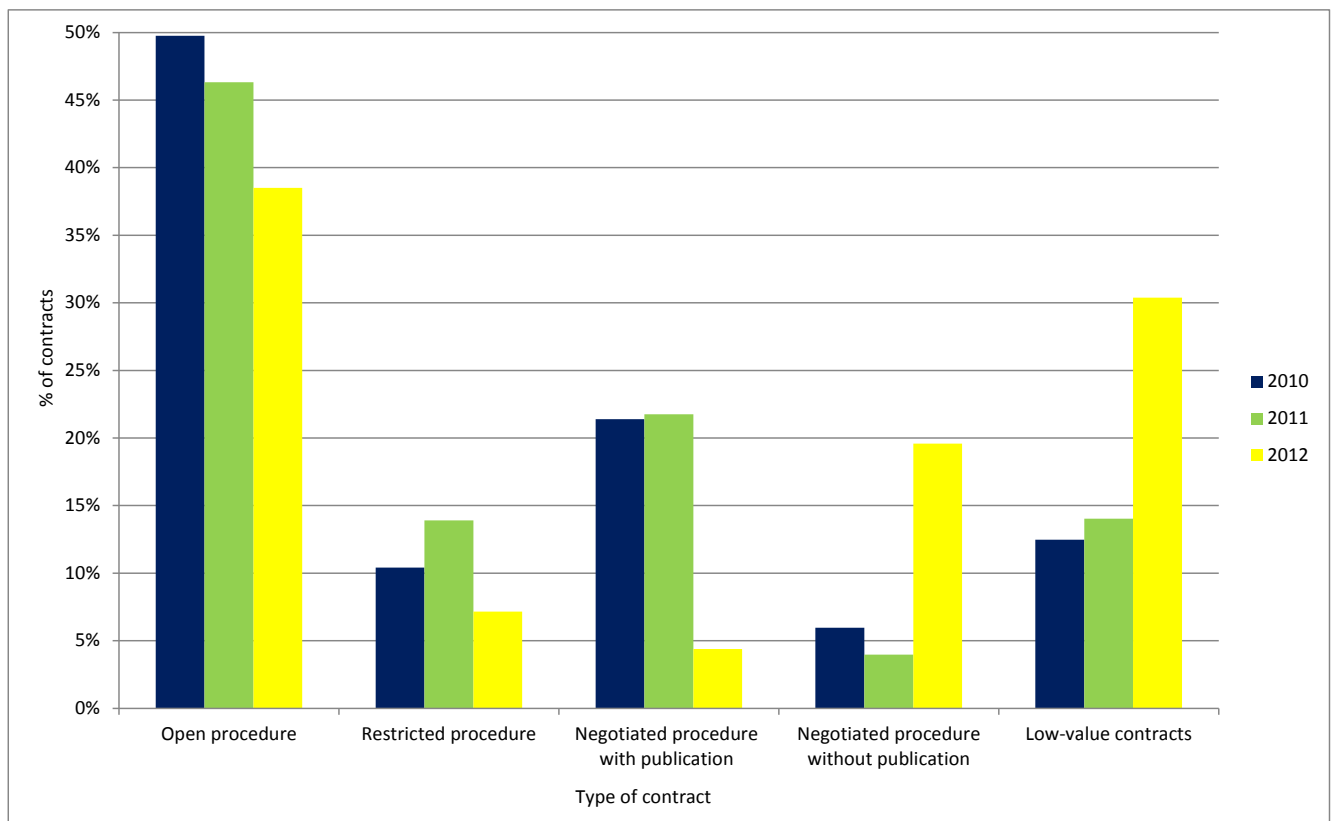
<sup>93</sup> Article 164.

## 2.4. Procurement Operations and Practice

Activity in 2012: Statistics provided by the PPO for 2012 (Annex 2) show a total of 81 833 concluded public procurement contracts with a total value of Euro 2 524 849 161. These figures are substantially lower than in 2011. The award procedures used for high value public procurement contracts (over the national thresholds) were: open procedure — 16 090; restricted procedure — 4 817; negotiated procedure without prior notice — 5 030; negotiated procedure with prior notice — 1. There were 54 871 low value procurements.

Figure 12<sup>94</sup> below demonstrates some negative trends in the reality of the public procurement in Serbia over the last three years, most notably: 1) a relatively low (and decreasing) percentage of value of contracts awarded in the most competitive procedure (open procedure); 2) a relatively high (and growing) percentage of value of contracts awarded in less competitive procedures; and 3) a relatively high (and growing) percentage of low-value contracts (which might suggest a common practice of splitting contracts to avoid publication and fully fledged procedures).

Figure 12. Procurement procedures used (contract value)



Source: Public Procurement Office

**Professionalisation:** The Association of Procurement Professionals was established in early 2012 and currently has 150 registered members. It was closely involved in the consultation process for PPL 2012. Its activities include creating a support network and information sharing opportunities for procurement professionals, providing training and co-operating with other professional associations. The Association has International Federation of Purchasing and Supply Management (IFPSM) associate status.

**Training and certification:** Public procurement training for both contracting authorities and bidders is provided by the private sector and other organisations such as the Chambers of Commerce, often using speakers from the PPO. Training on the new PPL is ongoing. The Public Procurement Manual<sup>95</sup>, which has been used for

<sup>94</sup> Value of public contracts according to the procurement methods used-based on data received from the Serbian Public Procurement Office: full information for 2010 and 2011, and the first three quarters of 2012.

<sup>95</sup> Prepared by a regional EU Technical Assistance Project in the end of 2012.

training of trainers, will need to be updated to reflect changes. The PPO is responsible for organising the certification programme for procurement officials, rating level II credits in CIPS. The first certified procurement officers graduated in December 2010 and 1 600 officers had been certified by 31 March 2013.

**Comparing the public procurement market in 2012 to previous years, some negatives trends continue, particularly in relation to the use of less competitive procedures. However, the introduction by the new PPL of advertising requirements and greater transparency in relation to low value contracts should assist in promoting greater competition. Increased professionalisation and ongoing engagement with stakeholders will be an important factor in delivering improvements in the public procurement system as a whole.**

**Annex 1: Activities of the Public Procurement Office referred to in PPL 2012**

<b>A Activities listed in Article 136</b>	
1	Monitors the application of this Law
2	Adopts bylaws in the area of public procurement
3	Participates in drafting regulations in the area of public procurement
4	Issues opinions on interpretation and application of provisions under this Law
5	Examines the fulfillment of requirements for conducting negotiated procedure under Article 36 of this Law and for competitive dialogue
6	Proposes a list of contracting authorities to the Government, according to data from reports and records on public procurements it possesses
7	Participates in drafting the plan for combating corruption
8	Appoints civil supervisor
9	Prepares framework agreement models
10	Gives approval to decision or agreement referred to in Articles 48 and 50 of this Law
11	Defines the standard forms of public procurement notices
12	Maintains the list of negative references
13	Defines the manner of keeping records and drafting public procurement reports
14	Compiles quarterly, semi-annual and annual reports on public procurements
15	Determines the manner and programme of professional training and the manner of expert examination of public procurement offices, and keeps the register of public procurement officers
16	Manages the Public Procurement Portal
17	Takes measures aimed at development and upgrading of the public procurement system
18	Files requests for the protection of rights
19	Informs the State Audit Institution and Budgetary Inspection on defined irregularities in conduction public procurement procedures and delivering public procurement reports
20	Initiates misdemeanour proceedings when learn in any way of a violation of this Law which can be grounds for minor offence liability
21	Initiates the procedure for annulment of a public procurement contract
<b>B Other references to PPO in PPL 2012</b>	
22	Identifies from the procurement plan procurements which do not fall within the "paragraph 1" exemption
23	Draft content of internal act to be adopted by contracting authorities to regulate process of public procurement procedure in detail
24	Notify body in charge of supervising contracting authority for failure to adopt internal act within the required timescales
25	Receive whistleblower reports
26	Regulate detailed requirements and manner of work of civil supervisor
27	Receive reports from civil supervisor on concluded/cancelled procurements
28	Publish notice of decision to award contract where conflict of interest
29	Produces form for contracting authorities to use to request opinion on use of negotiated procedure without advertisement
30	Draft instructions on types and manner of negotiations
31	Receive electronic version of annual procurement plan Receive report on execution of plan Determine format and content of procurement plan and report on execution
32	Detail mandatory elements of the tender documents and determine framework models for tender documents
33	Regulate manner of proving fulfilment of requirements (proof of eligibility)
34	Receive report on acceptance of bid higher than estimated value
35	Receive reports on amendments to contracts
36	Provide additional documents, data, explanations and opinion to Republic Commission in context of a claim

**Annex 2: Statistics**  
**Procurement statistics for 2012<sup>1</sup>**  
**(submitted by the Public Procurement Office)**

<b>Number of contracting entities<sup>2</sup></b>		
Central government	273	
Regional and local authorities	671	
Other (bodies governed by public law) HEALTHCARE, CULTURE, EDUCATION	1 555	
Utilities PUBLIC ENTERPRISES-INCLUDING PE OPERATING BOTH IN UTILITIES SECTOR AND "CLASSICAL" SECTOR/BOTH ON CENTRAL AND LOCAL LEVEL	546	
Total number of contracting entities	3 045	
<b>Awarded<sup>3</sup> public contracts/Contracting entities</b>	<b>Total (estimated) value (in EUR)</b>	<b>Total number<sup>4</sup></b>
Central government	333 503 545	16 706
Regional and local authorities	171 144 134	6 226
Other (bodies governed by public law) HEALTHCARE, CULTURE, EDUCATION	387 766 491	31 357
Utilities PUBLIC ENTERPRISES	1.632 434 991	27 455
Total public contracts awarded	2 524 849 161	81 833
<b>Awarded concessions/Contracting entities</b>	/	/
Central Government	/	/
Regional and local authorities	/	/
Other (bodies governed by public law)	/	/
Utilities	/	/
<i>Total concessions awarded</i>	/	/
<b>Awarded public contracts above the EU thresholds<sup>5</sup></b>		
Works <sup>6</sup>	89 199 437	4
Services <sup>7</sup>	416 537 116	185
Goods <sup>8</sup>	458 309 723	640
Mixed contracts	/	/
Total public contracts above the EU thresholds	964 046 277	829
<b>Awarded concessions above the EU thresholds</b>	/	/
Works <sup>9</sup>	/	/
Services <sup>10</sup>	/	/
Other	/	/
Total concessions above the EU thresholds	/	/
<b>Procurement methods used<sup>11</sup> (above the national thresholds<sup>12</sup>)</b>		
Open procedure	972 148 053	16 090
Restricted procedure	180 808 866	48 17
Negotiated procedure with prior publication of a notice	110 609 277	983
Negotiated procedure without prior publication of a notice <sup>13</sup>	494 288 143	5 030
Other procedures (competitive dialogue, etc.) DESIGN CONTEST	2527	1
<b>Low- value procurement (estimated)</b>	767 165 812	54 871
<b>Participation rate (average number of submitted tenders)</b>		
Works 3,5		
Services 2,3		
Goods 2,6		

<b>Review procedures</b>		
Number of complaint received		
Number of complaint treated		
Number appealed to the Court		
Number of decisions with interim measures		

A list of the 10 biggest procuring entities (name, main activity, (estimated) annual procurement budget):

1. PE Electric Power Industry of Serbia
2. PE Powerplants "Nikola Tesla" d.o.o., Obrenovac
3. "Electric power industry of Serbia", Mining Basin "KOLUBARA" Lazarevac
4. Republic Fund of Health Insurance, Belgrade
5. Public Enterprise "SRBIJAGAS" NOVI SAD
6. Construction Directorate of Serbia, Belgrade
7. JP-EPS privredno drustvo TERMOLEKTRANE I KOPOVI KOSTOLAC
8. Public Enterprise "INFORMATIKA" Novi Sad
9. Public Utility Company "Belgrade Power Plants", Belgrade
10. City of Belgrade – City Administration

A list of 10 biggest public contracts/concessions awarded and/or advertised in 2012 (subject of the contract, name of the contracting authority and contractor (if selected), (estimated) value, time of execution):

1. Public Enterprise "SRBIJAGAS" NOVI SAD, 56 739 027<sup>14</sup>, "EUROFRAME", Slovakia
2. Public Enterprise "INFORMATIKA" Novi Sad, 46 528 857, "SAGO", Slovenia
3. "Electric power industry of Serbia", Mining Basin "KOLUBARA" Lazarevac, 37 500 000,
4. Kolubara-services, enterprise for protection of property
5. PE Electric Power Industry of Serbia, 28 921 598, "AIK Bank", Nis
6. PE Powerplants "Nikola Tesla" d.o.o., Obrenovac, 23 034 866, "Alstom"
7. Public Utility Company "Belgrade Power Plants", 22 281 170, Petroleum Industry of Serbia
8. PE Electric Power Industry of Serbia, 21 579 482, "AIK Bank", Nis
9. PE Electric Power Industry of Serbia, 19 935 714, "Banca Intesa", Belgrade
10. PE Electric Power Industry of Serbia, 19 935 714, "Unicredit Bank", Belgrade
11. PE Electric Power Industry of Serbia, 19 891 661, Petroleum Industry of Serbia

<sup>1</sup> Statistics cover contracts awarded in the period 1 January 2012 – 30 November 2012, as provided by the Serbian PPO.

<sup>2</sup> As for 30 November 2012.

<sup>3</sup> Statistics should refer to contracts awarded (based on contract award notices), if not available, please give the data on contracts advertised (based on contract notices).

<sup>4</sup> Please indicate whether the data include the low value contracts.

<sup>5</sup> Please indicate whether the data include contracts awarded by the utilities sector.

<sup>6</sup> Above EUR 5,000,000.

<sup>7</sup> Above EUR 130,000 for public institutions, EUR 400,000 for utilities.

<sup>8</sup> Above EUR 130,000 for public institutions, EUR 400,000 for utilities.

<sup>9</sup> Above EUR 5,000,000.

<sup>10</sup> Above EUR 130.000.

<sup>11</sup> Both for public contracts and concessions.

<sup>12</sup> Including contracts above EU thresholds.

<sup>13</sup> Including single-source procurement.

<sup>14</sup> In EUR, exchange rate 1:112.