MINISTRY OF JUSTICE

REPORT OF THE REPUBLIC OF SERBIA ON MEASURES TAKEN IN ORDER TO COMPLY WITH THE RECOMMENDATIONS OF THE GROUP OF STATES AGAINST CORRUPTION (GRECO)

Belgrade, December 2007

The Report of the Group of States against Corruption for the Republic of Serbia was adopted at its plenary meeting in June 2006 and it includes 25 recommendations.

The Constitution of the Republic of Serbia came into force on 8 November 2006. The Constitutional Law on the Implementation of the Constitution of the Republic of Serbia specified deadlines for the harmonization of particular laws with the Constitution and set a general deadline of 31 December 2008 for the harmonisation of other laws not in harmony with the Constitution.

The Republic of Serbia has taken the following measures in order to implement the recommendations including the topics of the First and Second Evaluation Rounds:

i. that the implementation of the Public Procurement Law be enhanced, notably by providing training to civil servants involved in the procurement process

Degree of implementation: implemented satisfactorily

Draft Law on Public Procurement has been prepared by a working group consisting of the representatives of the Ministry of Finance, Public Procurement Office and Commission for the Protection of Rights. The current Law has undergone significant changes. 2/3 of the articles have been changed.

Key changes are:

The protection of rights in public procurement procedures has been improved. It has been proposed that the Commission for the Protection of Rights be an autonomous body, independent of the executive power, whose members and chairman should be elected by the National Assembly, and not by the Government, which is now the case.

Exemptions from the Law have been narrowed, above all regarding the so-called “confidential procurements”. As it was stated in the GRECO report, The Law does not apply to confidential procurements which are regulated by special regulations. Thus, the government bodies may set forth in their acts that the procurement of particular goods, services or works is confidential and in this manner provide the basis for the exemption from the Law.

The proposed Draft Law specifies that “confidential procurement” is only the procurement accompanied by other, special security measures regulated by separate regulations, which govern the cases of threat to life, health country, etc. Unless accompanied by special security measures specified by separate regulations, procurement cannot become confidential only because it has been declared confidential by an act of the government body.

The Draft provides for a more effective mechanism of monitoring and control of public procurement procedures by increasing transparency. It has been proposed that all public calls for tenders, decisions on contract awarding, information on submitted requests for the protection of rights, Commission decisions.., be posted on the specialised portal of the Public Procurement Office. The Office would also gather quarterly reports on concluded public procurement contracts, which would include much more information than before, enabling it to spot irregularities in public procurement procedures more efficiently. For example, if the portal provides the information that a request for the protection of rights with suppressive effect has been submitted, and the portal or the report contains the information that the contract has been concluded, it will be evident that the provision on suspensivity was not complied with. In this manner the Office will be able to better cross-analyse information collected on different basis and thus monitor the regularity of public procurement procedures more effectively. The Draft provides a clear legal requirement that the Office shall deliver all information on observed irregularities in public procurement procedures to the State Audit Institution or other competent institution.

The recommendation regarding enhancement of training and professionalisation of civil servants involved in public procurement has been incorporated in the Draft Law in the following way: every contracting authority, whose annual procurements exceed 20 million dollars, shall designate at least one employee whose primary job shall be public procurement. It does not mean new employment, but the obligation to designate a person, among the current employees, who will be in charge of and responsible for public procurement. It has also been specified that public procurement employees shall undergo a standardised training programme, prepared by the Public Procurement Office. After undergoing the training programme, the employee shall take an examination (test) before a commission consisting of one representative from the Ministry of Finance, Public Procurement Office and Commission for the Protection of Rights, respectively. Those who successfully pass the written and oral examination shall be awarded a certificate.

The Register of persons awarded this certificate shall be maintained by the Public Procurement Office and shall be announced on their website.

The customer shall be obliged to register the employee for the exam not later than one year since the Law came into force, which precisely determines the time frame for providing the training of the public procurement employee. In addition, the Law specifies that the requirements regarding the lecturer, training programme, the examination procedure and certification should be specified in more detail in a separate by-law issued by the Minister of Finance.

A precondition for the beginning of comprehensive, standardised training of civil servants in public procurement by competent lecturers is that a new Public Procurement Law, including these provisions, is enacted in the National Assembly as soon as possible, and that a corresponding Rulebook regulating the whole procedure in more detail is approved.

In March 2007, fifty employees in state bodies, public enterprises and institutions, as well as in other institutions of the Republic of Serbia, completed a

seminar organised by the OSCE Mission and the Public Procurement Office of the Republic of Serbia (details on www.ujn.sr.gov.yu/english/indexeng.htm).

For the purpose of improved implementation of the Public Procurement Law a training seminar on "Public Procurement" was organised on 12,13 and 14 November 2007, which included civil servants involved in public procurement procedures. 80 civil servants attended the training course. In addition to this, on 10 and 13 December 2007, there was a training course attended by 60 civil servants from public administration bodies and Government services.

Training is provided through professional workshops and seminars organised by specialist magazines using the Bulletin of the Ministry of Finance, as well as through the communication with the Public Procurement Office, consultations and through the website of this office.

ii. that ways should be found to render the procedure for appointing and promoting judges and prosecutors more transparent, in order to foster the public's confidence in the complete independence of prosecutors and judges from any improper political influence and their impartiality in exercising their functions

Degree of implementation: implemented satisfactorily

The Decision on the Adoption of the National Judicial Reform Strategy, which came into effect on 3 June 2006, stipulates, among other things:

«The process of selecting and appointing judges must serve the institutional and individual independence of the judicial system. The new Constitution must establish and guarantee the autonomy and independence of judges. Individual independence of judges shall be guaranteed by the High Judicial Council as the new judicial body in the constitutional system of the Republic of Serbia.

The High Judicial Council will have the sole authority to propose nominees for the first judicial appointment to the National Assembly. The proposed nominees will be appointed by the National Assembly for a limited term of three years. Upon the expiry of such term, the High Judicial Council, in a procedure prescribed by the law, will decide on the permanent appointment of judges, and the decision declaratively confirmed by the Speaker of the National Assembly, before whom the elected judges will take the oath of office.

Court presidents will be elected by the National Assembly upon the proposal of the High Judicial Council, in a procedure to be regulated by a separate law.

After the establishment of the National Judicial Training Institute, successfully passing the Institute's final examination will be a highly valued criterion for the appointment to the judiciary. The High Judicial Council will also develop precise criteria for the new manner of judicial nomination, appointment, promotion, discipline and termination of office.

After the promulgation of the new Constitution, i.e. legal framework, there will be formed a new network of courts with changed jurisdictions and optimal number of judges, in accordance with the needs and clearly measurable standards, and criteria to be defined by the High Judicial Council. It is inevitable that on the basis of such standards and criteria the judicial system itself will ensure that the best and most respected judges or lawyers are appointed to the judiciary; also, that the most capable and responsible are promoted to higher courts in accordance with their skills and capabilities, and that those who are average stay in the same instance courts, and that those who do not meet the minimal criteria and standards are not appointed.

The Constitution of the Republic of Serbia, which came into force in November 2006, specifies, *inter alia*, the following in relation to the position of judicial bodies:

Election of judges
Article 147

«On proposal of the High Judicial Council, the National Assembly shall elect as a judge the person who is elected to the post of judge for the first time.

Tenure of a judge who was elected to the post of judge for the first time shall last three years.

In accordance with the Law, the High Judicial Council shall elect judges to posts of permanent judges in that or other court.

In addition, The High Judicial Council shall decide on election of judges who hold the post of permanent judges to other or higher court.

Termination of a judge's tenure of office
Article 148

A judge's tenure of office shall terminate at his/her own request, upon coming into force of legally prescribed conditions or upon relief of duty for reasons stipulated by the Law, as well as if he/she is not elected to the position of a permanent judge.

The High Judicial Council shall pass a decision on termination of a judge's tenure of office. A judge shall have the right to appeal with the Constitutional Court against the decision. The lodged appeal shall not include the right to lodge a Constitutional appeal.

The proceedings, grounds and reasons for termination of a judge's tenure of office, as well as the reasons for the relief of duty of the President of Court shall be stipulated by the Law.

The High Judicial Council
Status, constitution and election
Article 153

The High Judicial Council is and independent and autonomous body which shall provide for and guarantee independence and autonomy of courts and judges.

The High Judicial Council shall have 11 members.

The High Judicial Council shall be constituted of the President of the Supreme Court of Cassation, the Minister responsible for justice and the President of the authorised committee of the National Assembly as members ex officio and eight electoral members elected by the National Assembly, in accordance with the Law.

Electoral members shall include six judges holding the post of permanent judges, of which one shall be from the territory of autonomous provinces, and two respected and prominent lawyers who have at least 15 years of professional experience, of which one shall be a solicitor, and the other a professor at the Law Faculty.

Presidents of Court may not be electoral members of the High Judicial Council.

Tenure of office of the High Judicial Council shall last five years, except for the members appointed ex officio.

A member of the High Judicial Council shall enjoy immunity as a judge.

Jurisdiction of the High Judicial Council
Article 154

The High Judicial Council shall appoint and relieve of judges, in accordance with the Constitution and the Law, propose to the National Assembly the election of judges in the first election to the post of judge. Propose to the National Assembly the election of the president of the Supreme Court of cassation as well as presidents of courts, in accordance with the Constitution and the Law, participate in the proceedings of terminating the tenure of office of the President of the Supreme Court of Cassation and presidents of courts, in the manner stipulated by the Constitution and the Law, and perform other duties specified by the Law.

Legal remedy
Article 155

An appeal may be lodged with the Constitutional Court against a decision of the High Judicial Council, in cases stipulated by the Law.

Public Prosecutors and Deputy Public Prosecutors
Article 159

A Public Prosecutor shall perform the function of the Public Prosecutor’s Office.

A Public Prosecutor shall be elected by the National Assembly, on the Government proposal.

Tenure of office of the Public Prosecutor shall last six years and he/she may be re-elected.

A Deputy Public Prosecutor shall stand in for the Public Prosecutor in performing the function of the Public Prosecutor’s Office and shall be obliged to act according to his/her instructions.

On proposal of the State Prosecutor’s Council, the National Assembly shall elect as a Deputy Public Prosecutor the person who is elected to this function for the first time.

Tenure of office of a Deputy Public Prosecutor elected to that function for the first time shall last three years.

In accordance with the Law, the State Prosecutor's Council shall elect Deputy Public Prosecutors to permanently perform that function, in that or other Public Prosecutor's Office.

In addition, the State Prosecutor's Council shall decide on the election of Deputy Public Prosecutors to permanently perform that function in another or superior Public Prosecutor's office.

Termination of Public Prosecutor and Deputy Public Prosecutor's tenure of office
Article 161

A Public Prosecutor and Deputy Public Prosecutor may terminate their tenure of office at their own request, upon coming into force of legally prescribed conditions or upon relief of duty for reasons stipulated by the Law. A Public Prosecutor's tenure of office shall terminate even if he/she is not re-elected, and Deputy Public Prosecutor's tenure of office shall terminate if he/she is not permanently elected to that function.

A decision on termination of a Public Prosecutor's tenure of office shall be adopted by the National Assembly, in accordance with the Law, and it shall pass a decision on relief of duty on the Government proposal.

A decision on termination of a Deputy Public Prosecutor's tenure of office shall be passed by the State Prosecutor's Council.

A Public Prosecutor and Deputy Public Prosecutor may lodge an appeal with the Constitutional Court against the decision on termination of their tenure of office. The lodged appeal shall not include the right to lodge a Constitutional appeal.

The proceedings, grounds and reasons for termination of a Public prosecutor and Deputy Prosecutor's tenure of office shall be regulated by the Law.

Jurisdiction of the State Prosecutor's Office
Article 165

The State Prosecutor's Office shall propose to the National Assembly the candidates for the first election of a Deputy Public Prosecutor, elect Deputy Public Prosecutors to permanently perform that function, elect Deputy Public Prosecutors holding permanent posts as Deputy Public Prosecutors in other Public Prosecutor's Office, decide in the proceedings of termination of Deputy Public Prosecutor' s tenure of office in the manner stipulated by the Constitution and the Law, and perform other duties specified in the Law. »

In accordance with the solutions provided for by the Constitution of the Republic of Serbia, international standards and recommendations of the Council of Europe, as well as according to the experiences of the countries in transition, the Basic principles of systemic laws on judges and Basic principles of systemic laws on public prosecutors have been developed.

These basic principles have been positively assessed by the Council of Europe experts at the round table in July 2007. The comments and suggestions of experts were incorporated in the principles.

On 2 October 2007, a round table ”The importance of introducing clear and measurable criteria for the election, promotion, disciplinary accountability and relief from office of magistrates (judges and public prosecutors) in the Republic of Serbia”, was organised in cooperation with the Organisation for Security and Cooperation in Europe and the Council of Europe. The current solutions were discussed and the professional public was acquainted with the comparative-law experiences and practice of other countries. A public debate was opened on the need to establish more precise and measurable criteria for the evaluation of work of magistrates. The round table was attended by four international experts (one of whom was the Council of Europe expert) and about 100 participants (representatives of judicial institutions, international organisations and embassies).

The High Judicial Council, consisting of members dealing with the operations of the judiciary approved a Decision on the Standards and Criteria for Nominating Candidates for the Election of Judges and Presidents of Courts, which, considering the current legislation, enables higher transparency of the nomination procedure. According to this Decision, the High Judicial Council shall nominate candidates for judges for the first appointment and promotion. The Decision was distributed to all courts and posted on the Supreme Court website and in the Supreme Court Bulletin, which will be distributed to all courts in Serbia. Additionally, a decision was passed to the effect that all nominations of the High Judicial Council for the election of judges shall be distributed to the media through agencies immediately after they have been passed.

The Drafts of the Law on the High Judicial Council and the Law on Judges have been prepared. At the beginning of 2008, these drafts will be sent to the Council of Europe for expert analysis.

The Working Group for the preparation of the Law on Public Prosecutors and the Law on the State Prosecutorial Council prepared a Draft of the Law on Public Prosecutor’s Office and the Law on State Prosecutorial Council on the basis of harmonised proposals of the Republic Prosecutor’s Office and the Prosecutors Association of Serbia.

The Draft of the Law on the Public Prosecutor’s Office regulates the organisation and competences of public prosecutors’ offices, requirements and procedure for public prosecutor’s and deputy public prosecutor’s election and termination of office, rights and duties of public prosecutor and deputy public prosecutor, assessment of public prosecutors’ and deputy public prosecutors’ performance, promotion and disciplinary accountability of the public prosecutor and deputy public prosecutor, activities of judicial administration and prosecution administration in public prosecutor’s offices, requirement for staff employment and providing funds for the work of public prosecutor’s offices, as well as other issues of importance for their work.

The Draft of the Law on the State Prosecutorial Council regulates the position, composition, competence and modus operandi of the State Prosecutorial Council, the manner of election and dismissal and their term of office, as well as the organisation of support services of the State Prosecutorial Council.

The Drafts of the Laws were positively evaluated by the Council of Europe experts at the round table held on 5 and 6 November 2007. The comments and suggestions of experts were incorporated in the texts.

iii. that the conditions of tenure of deputy public prosecutors be reconsidered in order to give them a reasonable degree of stability

Degree of implementation: implemented satisfactorily

Provisions of Article 159 of the Constitution of the Republic of Serbia provide for the permanence of the function of the Deputy Public Prosecutor

Article 159

«On proposal of the State Prosecutor's Council, the National Assembly shall elect as a Deputy Public Prosecutor the person who is elected to this function for the first time.

Tenure of office of a Deputy Public Prosecutor elected to this function for the first time shall last three years.

In accordance with the Law, the State Prosecutor's Council shall elect Deputy Public Prosecutors to permanently perform that function, in that or other Public Prosecutor's Office.

In addition, the State Prosecutor's Council shall decide on the election of Deputy Public Prosecutors who permanently perform that function in another or superior Public Prosecutor's Office. »

The Draft of the Law on the Public Prosecutor's Office provides for a permanent position for deputy public prosecutors, and a term of office of 6 years for the Republic Public Prosecutor and other public prosecutors (note: a 3 year term of office is provided for a deputy public prosecutor elected for the first time, after which he is elected to a permanent position).

iv. that the term of office of the Special Prosecutor for Organised Crime and of his/her deputies be extended

Degree of implementation: partly implemented

The election and term of office of the Special Prosecutor for Fight against Organised Crime and his deputies is regulated in the Draft of the Law on State Bodies in the Criminal Proceedings for Organised Crime and Other particularly Complex Criminal Offences.

According to the Draft of the Law, The Special Prosecutor, with his own consent, shall be elected by the National Assembly on Government proposal, upon obtaining the opinion of the High Judicial Council and/or the State Prosecutorial

Council. The Special Prosecutor shall be elected from among district public prosecutors and their deputies, as well as among deputies of the Republic Public Prosecutor, for a term of 6 years, with the possibility of re-elected.

The Draft of the Law stipulates that Special Prosecutor's deputies, with their consent, shall be assigned to the Special Prosecutor's Office by the Special Prosecutor. They shall be selected among district public prosecutors and their deputies, as well as among deputies of the Republic Public Prosecutor for a term of 6 years, with the possibility of re-election to the same position.

v. to create a special unit within the Public Prosecutor's Office to deal with corruption (including corruption-related economic crime offences).

Degree of implementation: partly implemented

The Republic Prosecutor's Office Work Plan for 2008, which was adopted in December 2007, in the part devoted to the distribution of assignments, provides for the establishment of a Special department within the Republic Public Prosecutor's Office to deal with criminal offences of corruption, including corruption-related economic crime offences, as a prosecutor's office of second instance. The department will comprise the Head of Department, Deputy Republic Public Prosecutor and financial experts. Regional departments for the fight against corruption will be established within District Public Prosecutor's Offices in Belgrade, Novi Sad, Niš and Kragujevac.

The Draft of the Law on Organized Crime stipulates that the Prosecutor's Office for Organised Crime shall have jurisdiction over criminal offences of «high-level corruption», i.e. giving bribes, accepting bribes, illegal mediation and abuse of office when:

1) the value, which is a material element of a criminal offence, exceeds the amount of 2 million dinars, or

2) when the defendant is holding a public office on the basis of election, designation or appointment.

vi. that i) a clear mechanism for cooperation between police and prosecutors is put in place, that would consolidate the leading role of the prosecutor in the preliminary investigations and would ensure that s/he is provided with all relevant information as soon as possible; ii) the creation of task forces composed of police officers and prosecutors be encouraged in order to promote team wok

Degree of implementation: the recommendation has been implemented in a satisfactory manner, bearing in mind that the first part of the recommendation has been implemented in a satisfactory manner, whereas the second part has been partly implemented.

The new Criminal Procedure Code («Official Gazette of RS», nos. 46/06 and 49/07), in its Chapter XIX, which refers to preliminary investigation and submission of notification on criminal offence, in Article 256, prescribes that the police authority shall without delay and no later than within 24 hours, notify the Public Prosecutor about grounds for suspicion that a criminal offence subject to *ex officio* public prosecution was committed, for which a penalty of five years in prison or a more severe sentence was stipulated, i.e. no later then 48 hours for a criminal offence for which a more lenient sentence is stipulated. Along with notification the police shall submit to the Public Prosecutor records, official notes and all other original material evidence on the activities conducted in the preliminary investigation. The obligation to inform the Public Prosecutor on the activities undertaken by the police lasts during the course of the entire preliminary investigation, and the police are obliged to notify the Public Prosecutor about any such activity within the stipulated time limits.

According to the provisions of the Criminal Procedure Code, the Public Prosecutor plays the predominant role in the pre-trial procedure, which also refers to the procedure conducted for organised crime criminal offences. The Criminal Procedure Code contains a chapter which regulates the criminal procedure for organised crime criminal offences, where the Special Prosecutor has wider authorisations in the course of proceedings, which is contained in the provisions of the new Criminal Procedure Code, which has come into force and whose implementation has been postponed until 31st December 2008. According to the provisions of the new Criminal Procedure Code, the Public Prosecutor conducts the investigation, in cooperation with the police and investigative judge. Furthermore, the Prosecutor would have, in line with his authorisations, a possibility to form task forces composed of policemen and public prosecutors.

With the implementation of the new Criminal Procedure Code, it will be possible to implement fully the second part of this recommendation.

vii. establishing continuous in-service training for police officers and prosecutors in order to share common knowledge and understanding on how to deal with corruption and financial crimes related to corruption, including the full use of the practical and legal means available for tracing and seizing the proceeds of corruption

Degree of implementation: implemented satisfactorily

The new Criminal Procedure Code (CPC) provides for the training of all prosecutors, in view of their role in the investigative procedure. At the Judicial Centre a training programme has been prepared for public prosecutors, as well as joint training for public prosecutors and police officers. Three joint seminars were organised on the following topic: relations between public prosecutors and the police, investigation and investigative activities, and cooperation between the police and public prosecutors in combating corruption.

At the Criminal Police Academy, there are specialist studies entitled «Law Enforcement Combating Modern Crime Forms». These studies cover the subjects

such as crime prevention, evidence provision and criminal investigation management, international cooperation between criminal police authorities, criminal identifications, financial investigations and special investigative methods.

More details in the separate Annex on training.

viii. to adopt legislative and other measures to establish an efficient system of special investigative techniques and to provide the competent agencies with appropriate means and training in order to make the system of special investigative techniques work efficiently in practice

Degree of implementation: implemented satisfactorily

The new CPC stipulates special investigative activities (special investigative techniques), as follows:

1. secret audio and video surveillance of suspects (Articles 146 and 147 of the CPC), which may be applied in the proceedings for the criminal offences of corruption which are committed in an organised manner, as well as for the criminal offences of corruption involving giving and receiving of bribe and abuse of office, if not committed in an organised manner;
2. rendering of simulated business services and conclusion of simulated legal affairs (Articles 148 - 150 of the CPC), which may be applied in the procedure for the criminal offences of corruption which are committed in an organised manner, as well as for the criminal offences of corruption involving the giving and receiving of bribe and abuse of office, if not committed in an organised manner;
3. engagement of an undercover agent (Articles 151 - 153 of the CPC), which may be applied in the proceedings for the criminal offences of corruption which are committed in an organised manner, as well as for the criminal offences of corruption for which a prison sentence of more than four years is envisaged (abuse of office, aggravated illegal possession, receiving of bribe - basic and aggravated offence forms and giving of bribe - basic offence form), if not committed in an organised manner;
4. controlled delivery (Article 154 of the CPC), which may be applied for all criminal offences of corruption;
5. automated computer search of personal data (Article 155 of the CPC), which may be applied in the procedure for the criminal offences of corruption which are committed in an organised manner, as well as for the criminal offences of corruption involving the giving and receiving of bribe and abuse of office, if not committed in an organised manner;
6. examination of cooperating witnesses (Articles 156 - 164 of the CPC), which can be applied in the procedure for the criminal offences of corruption which are committed in an organised manner.

Article 146 of the Criminal Procedure Code provides for the measure of secret audio and video surveillance of persons suspected of the criminal offences of receiving bribe, giving bribe, abuse of office. For the purpose of further harmonisation of the Criminal Procedure Code with international standards and GRECO recommendations, the drafting of amendments to this law is in progress,

which will, inter alia, provide for the extension of this measure to the criminal offence of illegal possession, whereby the recommendation would be implemented.

The programme of training and practical implementation of special investigative techniques, completed by the officers of the Ministry of the Interior within the Twinning Project with the Federal Crime Police of Germany, and the procurement of necessary equipment in line with the highest EU standards, have been conducted successfully.

Over 100 policemen were trained. Part of the training referred to the current legal framework for the implementation of special measures in the Ministry of the Interior.

The Ministry of the Interior financed from the budget the furbishing and equipping of premises (cca. 900 sqm) for the Special Investigative Method Service. In such a way adequate working conaditions have been created. The new premises are 2.5 times larger than the previous ones.

In the previous 6 months the Special Investigative Method Service doubled its number of staff, with this trend continuing in 2008 as well.

More details in the separate Annex on training.

ix. to introduce the necessary measures to ensure that a witness protection programme is fully operational in practice

Degree of implementation: implemented satisfactorily

The Law on the Protection Programme for the Participants in Criminal Proceedings ("Official Gazette of RS" no. 85/05), which came into force on 1st January 2006, provides for the formation of the Committee for Protection Programme Implementation. The Committee started operating on 16 January 2006.

The Committee has three members as follows: one from the Supreme Court of Serbia, the second was appointed by the Republic Public Prosecutor among his deputies, while the third member is the Head of the Protection Unit. All Committee members have deputies. Deputy Head of the Protection Unit, by the virtue of his title, also takes place of the Head in the Committee.

The Protection Unit has been established as an inependent organisational unit within the Police Directorate of the Ministry of the Interior of the Republic of Serbia, which implements the protection programme and performs other activities in accordance with the Law.

The Protection Unit has so far implemented measures of protection programme aimed at protected persons, as well as the persons close to them, who participated in the criminal procedures for organised crime and war crimes.

In accordance with the Law, the Unit has established international cooperation with numerous units from the EU countries, which has led to higer-quality and more efficient implementation of measures aimed at the persons included in the protection programme.

Furthermore, the high level of international cooperation, which is also regulated by a number of international treaties, agreements, has resulted in the exchange of protected persons and persons close to them who are included in the protection programme, with the EU members.

x. that the legal provisions regarding temporary freezing of suspicious transactions be extended in order to cover all corruption offences

Degree of implementation: implemented satisfactorily

Article 86 of the new CPC provides for the acquiring of information from a bank or other legal entity and suspension or temporary seizure of financial transactions. This measure may be applied to all criminal offences, unlike in the previous CPC, according to which it was possible only for criminal offences punishable by at least four years' imprisonment.

xi. that the use of seizure and confiscation measures in corruption cases is encouraged also with regard to illicit property transferred to third parties and to the equivalent value of property not found

Degree of implementation: implemented satisfactorily

The Ministry of Justice has established a Working group for the Drafting of the Law on the Seizure of Assets from Criminal Offences. The WG has prepared a draft Law, which will be sent to the Council of Europe for expert analysis within the PACO Serbia project by the end of 2007. This law will regulate the implementation of the measures of temporary and permanent seizure of assets in corruption cases, property of illicit origin that has been transferred to other persons, as well as the collection of the amount of equivalent value to such property if it has not been found. Furthermore, the Law provides for the establishment of the Directorates for Seized Assets Management.

The new Criminal Code that came into force on 1 January 2006, in its Chapters 6 and 7 (Articles 87, 91, 92), and the new Criminal Procedure Code (Articles 82, 87-94 and 490-497), enable the identification, location, freezing and seizure of proceeds of criminal offences.

Within the CARPO project of the Council of Europe, after the instructive training courses on the conducting of financial investigations and seizing of proceeds from criminal offences, the representatives of the Special Prosecutor's Office for Combating Organised Crime, Special Department of the District Court in Belgrade

and the Service for Combating Organised Crime of the Ministry of the Interior of the Republic of Serbia prepared a Manual for police officers, judges and prosecutors entitled: «Financial Investigations and Seizure of Assets Acquired by Criminal Offences». Three seminars were held on this topic in Belgrade, Novi Sad and Niš, with the participation of police officers, prosecutors and investigating judges. The purpose of the Manual and seminars was to promote the importance of conducting financial investigations, enable the improvement of skills in their conduct, all for the purpose of as efficient as possible use of existing legal possibilities for seizing illicit proceeds from criminal offences.

Statistics on the number of cases in the prosecutor's offices and courts in which illicit proceeds were seized show that in public prosecutor's offices:

- in 2006 there were 23 cases, while
- in 2007 there were 54 cases.

In certain cases seized proceeds amounted from EUR 10,000 to USD 10 million.

Separate statistics on seized proceeds are not gathered, so the stated data are incomplete.

These data show that the number of cases in which proceeds were seized doubled. This is a result of the implementation of the Ministry of Justice training programme, with the assistance of several international organisations and states (UNDP, Council of Europe – Carpo Project, OSCE, SPAI, USA...) in the course of previous few years.

In 2007 the UNDP organised a regional conference on assets seizure, at which the manual entitled «Digest of relevant assets forfeiture legislation» was presented.

In March 2007 the Special Prosecutor's Office for Organised Crime and the Office of Resident Legal Advisor of the US Ministry of Justice attached to the US Embassy and the OSCE Mission in Serbia organised a two-day International Conference on the Seizure of Assets Acquired by Criminal Offences, where different models of seizing assets acquired by criminal offences, such as the American and Italian, were presented.

In June 2007 a conference was held in Niš on financial investigation and seizing assets acquired by criminal offences, aimed at police officers, prosecutors and judges and organised by the District Court in Belgrade, Administration for the Prevention of Money Laundering, Ministry of the Interior and Special Prosecutor's Office for Organised Crime.

Two five-day conferences (27-31 August 2007 and 3-7 September 2007) were organised by the Judicial Centre on the following topic: «Strengthening the Rule of Law in Serbia Through Combating Organised Crime».

There are plans to organise a training course for judges, prosecutors and police officers in 4 cities in Serbia in the first half of 2008, within the PACO Project in Serbia.

More details in the separate Annex on training.

xii. to keep under careful review the range of reporting institutions, pursue enhanced training initiatives to increase awareness of suspicious transaction reporting and monitor progress. The GET also recommends that guidelines be issued containing money laundering indicators, for all obliged entities

Degree of implementation: implemented satisfactorily

In comparison with the Law on the Prevention of Money Laundering from 2001, which was in force at the time of evaluation, the Law which was adopted at the end of 2005 extends the list of obliged entities, so that it now also includes investment funds and other institutions which operate on the financial market, broker-dealer companies, custody banks, organisers of classical and special games of chance (casinos, slot-machine clubs, betting places), as well as of other games of chance, other legal and natural persons engaged in trade in automobiles, vessels and other valuable objects, organisation of travels, intermediation in negotiations related to granting loans, brokerage and agency activities in insurance and organisation of auctions and lawyers and law partnerships.

The new Draft Law on the Prevention of Money Laundering and Terrorist Financing, which should be adopted by mid 2008, revisits the list of those organisations. A new list of obliged entities has been composed in line with the money laundering risks and terrorist financing risks. Article 4 of the Draft Law on the Prevention of Money Laundering and Terrorist Financing reads as follows:

Obliged entities

Article 4

"(1) For the purpose of this law, the obliged entities shall be:

1) banks;

2) authorised exchange offices;

3) investment fund management companies;

4) voluntary pension fund management companies;

5) financial lessors;

6) insurance companies and companies and natural persons engaged in brokerage and agency activities in insurance, which have a licence for performing life insurance activities;

7) post offices;

8) broker-dealer companies and other entities registered for performing securities-related activities;

9) organisers of special games of chance in gaming shops;

10) organisers of games of chance which are organised over the internet, telephone or in another way through telecommunication links;

11) audit companies;

12) authorised auditors.

(2) The obliged entities shall also be understood to mean the natural and legal persons engaged in the following activities:

1) intermediation in real estate trade;

2) provision of accounting services;

3) tax advisory services;

4) intermediation in concluding credit agreements and granting loans;

5) factoring and forfeiting;

6) provision of surety;

7) issuance of payment and credit cards and card operations;

8) provision of payment services including money transfer;

9) issuance of electronic money and intermediation in the issuance of such money"

The new draft law provides for the prohibition of receiving cash money in exchange for goods or services by persons selling goods or providing services in the Republic of Serbia, in the amount of EUR 15,000 or more. Because of that provision, the sellers of higher value goods, who are obliged entities under the current Law, are removed from the list from Article 4 of the Draft.

As regards the training for the obliged entities in the implementation of the provisions of the Law on the Prevention of Money Laundering, the Administration for the Prevention of Money Laundering participates regularly in the conferences organised by the associations of certain obliged entities (banks, leasing companies, accountants and auditors, etc.). The conferences are held with the assistance of foreign donors, so one conference on risk-based approach was held for the obliged entities within the project of the Council of Europe entitled «Project Against Economic Crime in the Republic of Serbia - PACO Serbia». An important form of training is conducted through daily contacts between the Administration and the obliged entities' authorised persons (compliance officers), as well as through the possibility for the interested parties to ask questions on the Administration web site. The proposed National Strategy for Combating Money Laundering and Terrorist Financing stresses the need for training institutionalisation, both for government bodies and for obliged entities. Training recommendations are as follows:

3.4 Recommendations on professional training and advanced training

"For the purpose of the institutionalisation of training of government bodies, supervisory bodies and obliged entities, it is necessary to:

3.4.1 Conduct an analysis of needs for professional training and advancement, covering the competent government and supervisory bodies, as well as obliged entities through their associations.

3.4.2 Conduct professional training and advancement in the area of combating money laundering and terrorist financing through the Judicial Centre, Educational-Research

Centre of the Security-Information Agency, Education Department of the Ministry of the Interior and specialised bodies within the supervisory bodies.
3.4.3 Include in the professional training and advancement programmes special programme sections on combating money laundering and terrorist financing, financial investigations and seizure of proceeds.
3.4.4 Appoint the representatives from the Ministry of the Interior, Ministry of Justice, Public Prosecutor's Office, courts, Administration for the Prevention of Money Laundering, Customs Administration, Tax Administration, National Bank of Serbia and Securities Commission, who will be in charge of professional training and advanced training in money laundering and terrorist financing, financial investigations and seizure of proceeds (hereinafter: instructors). The same is recommended for the associations of obliged entities.
3.4.5 Provide professional advancement for instructors for combating money laundering and terrorist financing, financial services and seizure of proceeds, as well as in the area of work methods and techniques.
3.4.6 Provide technical and other conditions for the work of instructors."

The current Law on the Prevention of Money Laundering and Terrorist Financing, as well as the new Draft Law explicitly provide for the obligation of each obliged entity to provide regular professional training and advance ment to all employees performing activities referred to in that law.

Article 11 Paragraph 2 of the Law on the Prevention of Money Laundering reads as follows:

«The obliged entity shall provide training for the employees performing the duties referred to in this Law, in accordance with the standards and methodology prescribed by the regulation passed on the basis of Article 13 Paragraph 2 of this Law, undertake internal control of the activities performed in accordance with this Law, as well as make a list of indicators for the identification of suspicious transactions.»

This Article also regulates the training of obliged entities, which is also part of the recommendation, as well as the obligation of preparing the list of indicators. This issue is regulated in more detail by the «Regulation on Determining the Methodology, Obligations and Activities for Performing Operations in accordance with the Law on the Prevention of Money Laundering», as follows:

Article 7

"The lists of indicators, based on Article 11 Paragraph 2 and Article 28 Paragraph 4 of the Law, prepared by the obliged entity, lawyer, law partnership, audit company, authorised auditor and legal or natural person responsible for keeping business books or providing tax advisory services, shall be prepared in accordance with the Know-Your-Client principle, and they shall be amended in accordance with the newly-identified money laundering methods.

When preparing the list of indicators a deviation from the usual method of operation and behaviour of the client is particularly taken into account, as well as the circumstances related to the status, revenues and other facts in connection with the

client, and circumstances related to transactions and states in which transactions are conducted.

The indicators prepared by the Administration and other competent government bodies shall be posted on the official web site of the Office, or submitted in another manner to the legal and natural persons referred to in Paragraph 1 of this Article who are obliged to include these indicators in the list of indicators referred to in Paragraph 1 of this Article."

Organisations and associations to which the legal or natural persons referred to in Paragraph 1 of this Article may participate in the preparation of indicators.»

In accordance with the Law and Regulation, the indicators for the identification of suspicious transactions have been prepared and posted on the website of the Administration for the Prevention of Money Laundering, for banks, entities operating on the securities market, insurance organisations and exchange offices. The preparation of those indicators for other obliged entities is in progress.

More details in the separate Annex on training.

xiii. that the Action Plan for the implementation of the National Anti-corruption Strategy be adopted and that an efficient monitoring of its implementation is ensured

Degree of implementation: implemented satisfactorily

The Action Plan for the implementation of the National Anti-Corruption Strategy was adopted by the Government of the Republic of Serbia on 21 December 2006. The Plan was drafted as part of the Twinning Project in which the partner of the Ministry of Justice was the Anti-corruption Commission of the Republic of Slovenia.

The Government set up the Commission for the implementation of the National Anti-corruption strategy and the GRECO recommendations whose members are representatives of relevant ministries, the judiciary, the National Assembly, the Anti-corruption Council, the media and non-governmental sector.

The Draft of the Law on Anti-corruption Agency, prepared in cooperation with the Council of Europe, stipulates that the Agency monitor the implementation of the National Anti-corruption strategy, the Action Plan for the implementation of the Strategy and the action plans for every realm of government, as well as to pass its opinions with regard to their implementation.

The setting up of the Anti-corruption Agency was also supported by the European Union in the framework of the IPA Project within which half a million euro is provided by the Government of the Republic of Serbia and one million and a half by the European Union.

xiv. to provide training to civil servants on the public's rights under the Law on Free Access to Information of Public Importance and give appropriate information on the Law to the public at large

Degree of implementation: implemented satisfactorily

Article 42 of the Law on Free Access to Information of Public Importance stipulates the following:

"For the purpose of efficient implementation of the Law, the state body shall train the employees in order to acquainting them with their duties with regard to the rights enshrined in this Law.

The training of the employees referred to in paragraph 1 of this Article shall cover in particular: the content, scope and significance of the rights to free access to information of public importance, the procedure for exercising these rights, the treatment of the holders of information, their maintenance and keeping as well as the types of data that a state body is obliged to publish."

In November 2006 the Commissioner for Information of Public Importance submitted to the Human Resources Management Service of the Government of Serbia the proposed topics from the field of free access to information of public importance to be covered by a integral programme of professional advancement of employees. The Government adopted the Programme for a comprehensive professional advancement of civil servants working inside the public administration bodies and the services of the Government for 2007. The Programme has covered the topics of the transparency of work and that of free access to information of public importance.

In September 2007, three seminars were organized by the Human Resources Management Service and the Information Commissioner, for the civil servants working within republic bodies and organizations and the representatives of administrative districts who are authorized to act upon the request for free access to information of public importance. The topics discussed at the seminars concerned the enforcement of the law on information accessibility in keeping with the adopted Programme of the Government on the comprehensive professional advancement of civil servants. 75 authorized persons attended the seminar.

Representatives of the Information Commissioner's Service were directly involved in the organization of great number of seminars for the training of civil servants (60 or so), namely:

In cooperation with the OSCE Mission in Serbia and with the support of the heads of administrative districts a training programme was organized in 10 regional centres covering the staff from all municipalities belonging to the district centres. Also, seven (7) seminars for journalists were also organized with the topic of how to make use of the Law on access to information in investigative journalism.

In cooperation with the CESID, a project called "Lawful Way to the Truth" was realized and 15 panel discussions organized around Serbia with the aim of acquainting the citizens, via public debates, media appearances and the distribution of

information materials, of the rights enshrined in the Law and state bodies with their duties.

In cooperation with the Belgrade Centre for Human Rights and with the support of the American Bar Association – Rule of Law Initiative – Europe and Eurasia (ABA/CEELI) 13 seminars for judges, public prosecutors and magistrate authorities were held (attended by 138 participants). The topic was the implementation of the Law on Free Access to Information of Public Importance. Two seminars were organized for the would-be information seekers, citizens, media representatives, non-governmental organizations and public at large. Around 50,000 leaflets on the right to free access to information were distributed to the citizens of Belgrade, Novi Sad, Nis and Kragujevac.

On the occasion of the international Right to Know Day, 28 September 2007, a number of events were organized in Belgrade, Novi Sad, Nis, Kragujevac and many other places around Serbia, within a joint action of the Commissioner and international and local non-government organizations. On that occasion the Information Commissioner presented an award to the President of the High Commercial Court for the exceptional contribution to the freedom of access to information which was awarded to a network of commercial courts in Serbia by a jury. He also presented citations to the Minister for Public Administration and Local Self-Government and the President of the Smederevo Municipality for their contribution in the exercise of freedom of access to information. In 2006 the same award was presented to the Minister of Science and Environmental Protection.

Separate seminars were held for the needs of the Ministry of the Interior, Human Resources Management Service of the Government, Tax Administration and the Treasury Administration of the Ministry of Finance, General Secretariat of the Government and for all authorized persons in the Government, i.e. Ministries, responsible for acting upon the requests for access to information as well as within the Executive Council of Vojvodina.

In the organization of the Council of Europe's Office in Belgrade a seminar was held in Novi Sad in November 2007, with the topic: the right to privacy, free access to information and freedom of expression and participants were judges, prosecutors, lawyers and journalists.

The access to information was also discussed as a topic at certain schools, at the classes of civil education.

Consultations regarding the implementation of the Law are held within the Commissioner's Service on a daily basis and upon the request of various state bodies or information seekers.

On the Right to Know Day in 2006 and 2007 special editions of the Guides to the Law on Free Access to Information of Public Importance were published in 20,000 copies, in accordance with the powers set out in Article 37 of the Law. The first edition of the guide was published in the second half of 2005 in 20,000 copies in Serbian and in 5,000 copies in the languages of six national minorities as well as in the Roma language in 1,000 copies. The Guide to the Law was prepared with the

assistance of the OSCE Mission and the NGO Coalition for free access to information which distributed a special issue of the Guide in 5,000 copies throughout its network.

A conference on the implementation of the Law on Free Access to Information of Public Importance was held in Belgrade in 2006, organized in cooperation with the Coalition for the Free Access to Information, covering the topics concerning the protection of personal data and handling secret information in the context of access to information.

The employees working within the judicial authorities responsible for the free access to information have undergone general training as well as special training courses for judicial authorities.

The citizens may find out about the decisions of the highest instance in our system of courts at the web site of the Supreme Court of Serbia where answers to their questions are also provided, as stipulated by the Law. The spokespersons have been introduced in the work of courts and public prosecutor's offices for the purpose of informing the public of the work of courts and public prosecutor's offices. In order to establish a more transparent judicial system and better relations between the courts and public prosecutors' offices on the one hand and the media and citizens on the other, the Secretariat for the Implementation of National Judicial Reform Strategy has published a Guide for the spokespersons and representatives of the courts dealing with public relations called "Public Relation in Courts" (the manual was presented to the public on 29th June 2007) and the Guide for the representatives of the prosecutors' offices and the media called "Public relations at prosecutors' offices" (the manual was presented to the public on 19th October 2007).

A guidebook called "Public relations at courts" is the first manual of the kind in the region which offers practical pieces of advice and suggestions for improving public relations of the courts and public prosecutors' offices in Serbia. Their aim is to meet the needs of a dynamic society in transition and is intended primarily to judges and public prosecutors as well as those employed in courts and public prosecutors' offices whose work is evaluated on a daily basis by the media and citizens. The experience and suggestions contained in this manual have already been applied inside certain courts in Serbia.

The manual for the representatives of public prosecutors' offices and the media called "Public Relations at the Public Prosecutors' Offices" was created as a result of experience and practice in the specialized prosecutors' offices for war crimes and organized crime. The purpose of this manual is to provide assistance and support to the journalists covering judicial topics and problems so that they can find their way around the often complicated legal issues and terminology. The growing number of professionals working within prosecutors' offices and responsible for public relations also makes use of this manual in order to better understand specific characteristics of the media as a mirror of the public. The manuals were distributed to all district and municipal courts and prosecutors' offices in the territory of Serbia, journalists dealing with judicial issues and the media and will be of great help to all.

xv. to speed up the setting up of the ombudsperson at central level and to encourage the local governments to establish ombudspersons

Degree of implementation: implemented satisfactorily

The National Assembly of the Republic of Serbia adopted on 14th September 2005 the Law on Ombudsman (Civic Defender) (*"Official Gazette of RS"* no. 79/2005 and 54/2007). The National Assembly of the Republic of Serbia elected the Civic Defender on 29th June 2007. The Civic Defender swore an oath before the National Assembly of the Republic of Serbia and took the office to which he was elected.

The Civic Defender proposed to the National Assembly of the Republic of Serbia to appoint 4 candidates for the Deputy Civic Defenders to whom he would, in keeping with the Law, delegate powers for the exercise of affairs prescribed by the Law, particularly in the field of protection of freedoms and rights of persons deprived of liberty, freedoms and rights of child, freedoms and rights of persons with disabilities, freedoms and rights of the persons belonging to national minorities and gender equality.

In August 2007, the Rules on the internal organization and job classification of the Civic Defender's Support Service were submitted to the National Assembly of the Republic of Serbia for approval. The Rules envisage setting up of a service with 63 employees of whom 8 would hold a high school degree and 55 university degrees. The total of 66% of employees will deal with the affairs falling within the remit of the Defender (protection of freedoms and rights and the control and improvement of work of public administration) while 34% will be part of administrative and logistic staff. 25 persons holding university degrees will be processing the complaints submitted by citizens while 6 persons will work on initiating new legislation. In November 2007 the Assembly passed a decision approving the Rules on internal organization and job classification of the Support Service of the Civic Defender published in the "Official Gazette of the Republic of Serbia" no. 100/2007.

When admitting to work within the Civic Defender's Support Service the following principles will be applied: equal employment opportunities and conditions, provisions on preventive measures with regard to the restrictions at the moment of employment, the provisions providing for mandatory professional training, provisions on the conflicts of interest and reception of gifts, the codes of ethics and provisions on disciplinary procedure and sanctions.

The proposed Budget for 2008 for the Civic Defender is 1, 150, 000 EUR and office premises have already been provided.

By mid 2007 the total of 268 complaints were submitted to the Civic Defender. So far, only the most urgent cases have been dealt with where a danger of irremediable consequences was posed, in spite of the recommendations from international practice advising against dealing with complaints pending the setting up of the support service.

There were 24 complaints that were deemed priority and procedural actions have been taken, either for the purpose of dealing with the complaints or their rejection, so that the citizens should not suffer any harmful consequences for addressing the Defender whose competences do not cover the particular case.

As for the local ombudspersons (there are 12 of them), the Provincial Ombudsman (for the Province of Vojvodina) has already been established in the Republic of Serbia and he has 5 deputies. Out of these 5, 3 are in charge of the protection of the right of child, gender equality and the protection of the rights of national minorities. The City of Belgrade also has a Civic Defender. The institute of Ombudsman also exists in the following towns and municipalities: Backa Topola, Sombor, Subotica, Becej, Zrenjanin, Kragujevac, Sabac, Nis, Grocka and Rakovica. The Ombudsperson in the Municipality of Rakovica has a deputy for national minorities.

xvi. to prepare and adopt special mandatory anti-corruption training programmes tailored to the various categories of civil servants

Degree of implementation: implemented satisfactorily

The Decree on the Establishment of the Human Resources Management Service entered into force on 1 July 2006. The Service is, inter alia, entrusted with the task of preparing for the Government a draft programme of comprehensive professional improvement of civil servants and the organization thereof in line with the adopted programme. The Sector for the professional improvement of civil servants of the HRM Service is responsible for the tasks related to: needs analysis and needs assessment for the training of civil servants, preparation of draft Programme of the comprehensive professional improvement of civil servants for the Government; organization of professional improvement in keeping with the adopted Programme; monitoring and analysis of the effects of comprehensive professional advancement; coordination of the donors' activities in the realization of projects related to professional improvement of civil servants, coordination of activities of bodies and organizations involved in the projects, monitoring of project implementation, informing about the projects and drafting of analyses and reports regarding the project results as well as other affairs in the field of professional improvement of civil servants.

Article 96 and 97 of the Law on Civil Servants stipulates that a civil servant has the right and duty to professionally advance himself in accordance with the needs of a state body. The professional improvement training if funded by the budget of the Republic of Serbia.

Every year the Government will pass a Programme of comprehensive professional advancement of civil servants working within the public administration bodies and the services of the Government, upon the proposal of the Human Resources Management Service. At the proposal of the Human Resources Management Service, the Government has adopted the Programme of comprehensive

professional advancement for 2007 at its session of 29 March 2007. The comprehensive professional advancement is devoted to different categories of civil servants in accordance with the hierarchy of work posts: appointed civil servants, management positions of internal units in the public administration bodies and special organizations, other civil servants in the public administration as well as new employees in public administration. The Programme also is designed in such a way as to meet the needs of professional improvement of different target groups whose jobs may cover human resources management, conducting of administrative procedure, EU integration, imparting information of public importance, public relations, material – financial affairs. Project coordinators and associates are also covered by the Programme.

The Programme of professional advancement for 2007 envisaged the following fields of professional improvement for civil servants:

1. Organization of public administration and its affairs: normative legislation in the fields of public administration, internal organization of the public administration bodies, administrative procedure, methods of drafting new pieces of legislation;
2. Civil servants system: human resources planning and selection, monitoring and evaluation of work of civil servants, planning of human resources professional advancement, a single human resources register;
3. Modern governance and management in public administration: governance in public administration, management in public administration, stress and discrimination at work;
4. Transparency of work: public relations, free access to information of public importance, transparency of work and corruption;
5. Public administration projects: drafting of project proposals, project leading, project management in the European Union;
6. The system of public finances: budgetary financing, financial management and control, public procurement;
7. On the way to the European Union: basic courses, twinning training, specialized trainings;
8. General and common affairs in public administration: abiding by grammatical, stylistic and orthographic rules in the drafting of legal acts, office administration, the role of information systems in public administration, e-government, computer literacy;
9. Training of trainers in stated administration: basic training and specialized trainings.

A training sessions for those employed in public administration have been organized in the field of professional advancement since the establishment of the Service, concerning the Law on Civil servants within the DIAL (Drafting and Implementing Administrative Legislation) project of the European Agency for Reconstruction – "Technical support for the preparation and implementation of administrative-law regulations". The aim of the Project is to formulate policies (drafting of detailed documents containing proposals, policies and the necessary reform measures); legislation drafting (amendments to the laws regulating: civil service, public administration, public agencies, defender of citizens, internal administrative control etc.); implementation (providing practical recommendations for

the purpose of fast and facilitated implementation of new regulations in civil service; preparation and implementation of the programmes for professional advancement of civil servants related to the application of new standards).

Between August and December 2006, there were 6 seminars at which the new laws and respective decrees were presented to 453 attendants; 2 seminars were devoted to human resources planning and the implementation of the relevant decrees with 42 civil servants undergoing the training, 4 seminars were devoted to the application o f the Decree on the implementation of the internal and public competition with 96 civil servants trained and another 6 seminars concerned the Decree on the implementation of the evaluation procedure with the total of 400 trained evaluators and controllers across ministries.

The project called "Development of modern human resources management in public administration of the Republic of Serbia" funded by the SIDA- Swedish agency for International Development and Cooperation – as a donor, the Swedish Institute for Public administration (SIPU) – the implementing body, the Human Resources Management Service (HRMS) – project holder and implementing partner. The project has for the past three years been providing the basic trainings for human resources management for those public administration bodies which had not been covered by the previous phases of the project.

Between January and May 2007 the following seminars were organized: an informative seminar called "The selection procedure in the public administration", for the secretaries in the ministries and other managers in the bodies of public administration and services of the Government for the purpose of improving the recruitment and selection procedure of human resources. The seminar was attended by 35 managers.

The Human Resources Management Services, in cooperation with the Twinning project ("Strengthening the capacities for policy making and the coordination of work of ministries") organized a two-day seminar called "Strategic Planning" for managers within the public administration bodies and the Government services. The seminar was attended by around 80 managers. The following training sessions were carried out until June 2007: "Project management" and "the Leadership skills".

The Human Resources Management Service, in cooperation with the experts from the Joint Project "Towards more efficient reform implementation – improving planning, budgeting, monitoring and reporting" financed by the Ministry of Foreign affairs of the Kingdom of Norway, organized training courses called "Methods and techniques for carrying out analysis".

In 2007 within the programme of professional advancement of civil servants working within the public administration bodies and Government services 3 seminars were organized for one of the GOP modules – New management mechanisms in public administration.

The main goal of the training concerning the fight against corruption is to raise awareness of the importance of transparency of work for the purpose of combating

corruption and reducing the level of corruption in public administration. The target group of this professional advancement are civil servants responsible for imparting the information of public importance, civil servants advocating or promoting the ideas of the public administration bodies and all other civil servants. The professional advancement is implemented through courses lasting one or several days, lectures and workshops. The funds for the organization and implementation of these events are provided from the resources of the Human Resources Management Service. The training covering this field is planned for 2008.

The Republic of Serbia is one of the signatories of the Protocol of Cooperation for the opening of the Regional School of Public Administration (RESPA) that will educate civil servants.

xvii. to expand the application of the Law on the Prevention of Conflicts of Interest in the Discharge of Public Office so that it would include all public officials who perform public administration functions without excluding those indicated in Article 2 paragraphs 2 and 3 of the Law (i.e. judges and public prosecutors and "officials appointed to organs of institutions and other organisations whose founder is the Republic of Serbia, the autonomous province, the municipalities, the towns and the City of Belgrade")

Degree of implementation: partly implemented

Article 6 of the Constitution of the Republic of Serbia prohibits the conflict of interests:

"No person may perform a state or public function in conflict with their other functions, occupation or private interests.

The presence of conflict of interest and responsibility in its resolution shall be regulated by the Constitution and law."

Public officials are subject to implementation of the Law on Prevention of Conflicts of Interest, as well as provisions dealing with conflicts of interest in the Law on Civil Servants (Articles 25-31): prohibitions on supplemental labour, formation of economic companies, public service and engagement in entrepreneurship.

Civil servants may, with the written consent of their superior, work outside their normal working hours for another employer provided that such additional labour is not prohibited by a law or other regulation and that it does not create a possibility for a conflict of interest or affect the impartiality of the work of the civil servant.

Civil servants may not establish economic companies or public services or engage in entrepreneurship.

Under the Law on Local Self-Government, the office of persons invested or appointed by the municipality is discontinued on their election to the local council.

The president of the municipality [mayor] may not be a member of the municipal assembly [local council].

Under the Law on Health Insurance, the director, deputy directors and members of the managing board and oversight committee of the Republic Health Insurance Bureau may not, directly or through a third natural or legal person, hold shares as owners of stock, shareholders, employees or persons working under temporary contract, in legal or natural persons who provide health-care services with whom contracts are concluded for the exercise of rights proceeding from compulsory medical insurance, as well as in insurance companies engaged in voluntary medical insurance activities, in order to prevent conflicts between the public and private interests. These provisions are also valid for the director of the Provincial Bureau and directors of Bureau branches.

Under the Law on Public Agencies, the director and members of the managing boards of such agencies are treated as public officials within the meaning of the law on the Prevention of Conflicts of Interest.

Provisions dealing with conflicts of interest are also applicable to the process of forting electoral bodies – the Republic Electoral Commission and electoral commissions.

Under the Law on Higher Education, members of the National Council and of the Commission for Accreditation and Assessment of Quality may not be persons elected to, invested with or appointed to functions in state bodies, territorial autonomy bodies or local self-government bodies, political party bodies, or managerial posts in higher-education institutions.

Provisions on incompatibility of functions and conflicts between the public and private interests are also contained in a number of other laws.

Three-and-a-half years have passed since the Law on Prevention of Conflicts of Interest in the Performance of Public Functions has been in effect, and a little under three years since the establishment and activation of the Republic Committee for Resolving Conflicts of Interest.

In the first half of its term of office, the Republic Committee initiated about 1,300 proceedings, ordered almost 400 non-public and 140 public measures, issued several hundred opinions and several dozen legal opinions, and its Support Service compiled records on about 13,000 public officials, registered over 19,000 property and income reports, and processed about 17,000 such reports.

In the working version of the Law on the Anti-Corruption Agency, the term ‘public official’ [‘functionary’] is defined in accordance with the following recommendation:

“a public official is any person elected, invested or appointed to the organs of authority of the Republic of Serbia, autonomous province, municipality, city or the City of Belgrade and to the organs of public enterprises, institutions and other

organizations founded by the Republic of Serbia, autonomous province, municipality, city or the City of Belgrade."

xviii. to introduce clear rules/guidelines for situations where public officials move to the private sector (*pantouflage*) in order to avoid situations of conflicts of interest

Degree of implementation: partly implemented

Under the Law on Prevention of Conflicts of Interest (Article 8), public officials have 30 days from their election, appointment or investiture to transfer their controlling rights in economic companies to a legal or natural person not linked to them, who may exercise them in their own name and for the account of the public official until the termination of the public function. Public officials may not provide to persons to whom they have transferred controlling rights information, instructions and orders, nor may they in any way or form exert influence through those persons on the exercise of rights and obligations in the economic entity. Public officials may not be members of boards of directors or supervisory committees nor directors, deputy directors or assistant directors in economic entities (Article 9). National deputies and local council members are exempt from this last prohibition and may exercise controlling rights in economic entities provided this does not affect their impartial and uncontrolled performance of public service. The body in charge of determining any linkage between the public official's commercial activities and their public service activities is the Republic Committee for Resolving Conflicts of Interest. Public officials' obligation to submit reports up to two years after termination of their public function makes it possible to establish any sudden increase in their value of their property which might be linked to their earlier performance of public function.

The Draft of the Law on the Anti-Corruption Agency, drafted with the help of Council of Europe experts, contains a provision in connection with the implementation of this recommendation which covers all public officials:

Article 30

"Public officials whose public function has been terminated may for two years after that termination not be employed by or establish commercial co-operation with a legal person or entrepreneur involved in activities linked with the function performed by the public officials, unless approved by the Agency.

Public officials whose public function has been terminated, or the legal person or entrepreneur referred to in § 1 of this Article, shall before concluding an employment contract or engaging in commercial co-operation ask the Agency to provide its consent. The Agency is obliged to decide on the request within no more than 15 days.

In case the Agency does not issue a decision in the period referred to in paragraph 2 of this Article, it shall be deemed that it has given its consent for the employment or engagement in commercial co-operation."

xix. to lower the value of any gifts that may be accepted by public officials to levels that clearly do not raise concerns regarding bribes or other forms of undue advantage

Degree of implementation: partly implemented

The highest state officials (the President of the Republic and the Prime Minister) submit periodical reports to the Republic Committee for Resolving Conflicts of Interest about protocolary and commemorative gifts received. Reception and disposal of gifts received by public officials from foreign governments, their agencies or organizations, international organizations and foreign natural and legal persons is regulated by a separate law.

The Draft of the Law on the Anti-Corruption Agency, drafted with the help of Council of Europe experts, contains a provision in connection with the implementation of this recommendation:

Article 35

"Public officials may not receive gifts in connection with performance of public function, except for protocolary or commemorative presents, but not even then if the present is in the form of money, securities or other valuables.

The procedure concerning protocolary gifts is regulated by separate law.

The value of a commemorative present may not exceed one-tenth of the value of an average net monthly salary in the Republic of Serbia, i.e., the total value of commemorative gifts received during one year may not exceed the value of two average net monthly salaries in the Republic of Serbia.

The criteria for determining which gifts are deemed commemorative are defined by the Agency.

Where needed, the Agency determines the value of a present."

xx. to adopt codes of conduct for civil servants at national level and to organise a wide-scope campaign for their implementation in public institutions

Degree of implementation: partly implemented

A Working Group of the High Civil Service Council has prepared a working version of a civil service code of conduct.

Codes of conduct are in existence for various public authorities and organizations, such as the Customs Administration, the Tax Administration, the judiciary, the Prosecution, lawyers...

xxi. to ensure that civil servants who report suspicions of corruption in public administration in good faith are adequately protected from retaliation when they report their suspicions

Degree of implementation: partly implemented

Three years of experience in connection with the implementation of the Law on Free Access to Information of Public Importance have resulted in the preparation of various proposed revisions.

The revisions envision among other things protection from liability of authorized persons in public authorities who provide access to information for the purpose of detecting corruption or other unlawful activities, while believing the accuracy or entirety of the information. The provision is intended to protect persons empowered to act on requests to provide information from reprisals when they reveal information behind which is concealed corruption or other unlawful activity, all of which should contribute to a more efficient fight against corruption.

The revisions are part of a civil sector project entitled 'Legislative Initiative of the Coalition for Freedom of Access to Information'.

xxii. to limit licenses and permits to those that are indispensable, to reduce the turnaround time required for obtaining them and to encourage the compilation and editing of guidelines both for civil servants handling licenses and permits and for the general public

Degree of implementation: partly implemented

The Civil Service Reform Strategy provides the introduction of e-services for the general public and for economic entities, both at national and at local level: diverse public services, questions of citizens' personal status, residence and citizenship, services involving issuance of various types of permits, filing of tax returns, etc. Of particular interest is the so-called Citizens' Internet Interaction, where individuals can post objections, comments and suggestions, obtain necessary information, etc.

The Government of the Republic of Serbia has established a Republic of Serbia state administration website (www.euprava.gov.yu), where individuals and legal persons can access information about services, such as obtaining birth and other certificates, registering changes of address, health-care services, building permits, filing tax returns, welfare payments, registration of legal persons, public procurement, permits in connection with environmental protection, as well as in connection with authorities at Republic and local self-government level.

xxiii. adopting the necessary legislation to speedily implement liability of legal persons for offences of corruption providing for sanctions –

including monetary sanctions – that are effective, proportionate and dissuasive, in accordance with the Criminal Law Convention on Corruption (ETC No. 173)

Degree of implementation: partly implemented

The Ministry of Justice has formed a Working Group for Drafting the Law on the Liability of Legal Persons for Criminal Offences.

xxiv. encouraging private auditors, accountants and other advisory professionals to report suspicions of corruption to the public prosecutor and to organise training on the detection and reporting of corruption

Degree of implementation: partly implemented

An expertise was sought from the Council of Europe, within the framework of the PACO Serbia project, of the Criminal Code and the new Criminal Procedure Code, in order to gauge how well they are harmonized with international anti-corruption standards. A round-table gathering was organized at which the issue was discussed by experts from the Council of Europe and the Serbian judiciary. Given that the Ministry of Justice has received the results of the said expertise and also opinions in connection with international standards in the struggle against hi-tech crime, money laundering and the financing of terrorism, and that the Republic of Serbia is set to ratify several Council of Europe conventions in 2008, the process of revising these laws will be performed in a comprehensive manner, so that they are harmonized with the relevant international standards.

Completion of work on forming a State Audit Institution is expected in mid-2008, when it will be possible for direct co-operation to be established between the state and private professions in this sphere.

The Association of Accountants and CPAs is through its training programmes, seminars and the periodical it publishes examining practical examples and providing replies to questions which appear in practice.

xxv. to speed up the introduction of a national auditing authority

Degree of implementation: partly implemented

The Law on the State Audit Institution has been in effect since 29 November 2005. The State Audit Institution formed under the said law is the highest state body which controls public funds in the Republic of Serbia. The Law also defines its purview, legal status, competences, organization and manner of operation. Under the Constitution and the Law, the Institution is an independent and self-governing state body.

Under the Law, the Institution's highest organ is a five-member Council (president, vice-president and three members). The State Audit Institution's Council was elected on 24 September 2007. Its members are public officials of the Institution, permanently employed in the Institution, and their function is incompatible with the performance of jobs and functions in other authorities or organizations or the performance of any other paid service.

Besides the Council's members, the Institution's public officials are also supreme state auditors. Election of supreme state auditors is planned for the beginning of 2008. Their election, and that of state auditors, must under the Law be completed no later than six months from the date of election of the Council – by 26 March 2008. The number of supreme state auditors in the Institution is determined by an internal Institution regulation.

The Institution has a President of the Institution, a vice-president, a Council, auditing services and auxiliary services, expected to be formed in the first half of 2008.

The Institution has an obligation to formulate an educational programme for obtaining the titles of state auditor and certified state auditor, and to appoint an Examination Commission in accordance with the said Law no later than two years from the date of election of the Council. The curriculum must comply with international standards, directives and documents pertaining to the education of state auditors.

The Institution performs its activities in accordance with its Rules of Procedure and International Accounting Standards for the Public Sector, International Auditing Standards, and domestic regulations.

Since the recent establishment of the State Audit Institution, all the Council's activities have been directed at the creation of material preconditions for the Institution's operation, as well as the performance of tasks defined by law in connection with the commencement of work.

In the first half of 2008, the Institution's activities will focus on continuation of activities on securing the necessary conditions for unimpeded functioning (in particular hiring of staff, and personnel training).

Technical assistance is expected to be provided by the European Union in connection with the formation of the Institution (staff training and establishment of IT relevant to auditing), which will create the necessary preconditions for enabling the Institution to audit EU funds.

The Council is performing all activities required for creating the necessary conditions for the establishment of the Institution, and holds that the Institution will be opened in the first half of 2008.