

Overall Score:

**73 - Moderate**

Legal Framework Score:

**88 - Strong**

Actual Implementation Score:

**58 - Very Weak**

Category 1. Non-Governmental Organizations, Public Information and Media

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### 1.1. <sup>82</sup>Anti-Corruption Non-Governmental Organizations

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1. Are anti-corruption/good governance NGOs legally protected?

67

01a. In law, citizens have a right to form NGOs focused on anti-corruption or good governance.

**Yes** | No

**Comments:**

According to the Law on Citizens Associations, Article 38, non-governmental organizations (NGOs) focused on anti-corruption and good governance issues are considered as associations of public interest, therefore they are eligible to be financed from the state budget. This indicates that anti-corruption organizations in Serbia are recognized as an important factor that contributes to fulfillment of the widest public interests aims.

In addition, Article 55 of the Constitution of the Republic of Serbia stipulates: "Freedom of political, union and any other form of association shall be guaranteed, as well as the right to stay out of any association.

"Associations shall be formed without prior approval and entered in the register kept by a state body, in accordance with the law.

"Secret and paramilitary associations shall be prohibited. Constitutional Court may ban only such associations the activity of which is aimed at violent overthrow of constitutional order, violation of guaranteed human or minority rights, or inciting of racial, national and religious hatred. Judges of Constitutional Court, judges, public prosecutors, Defender of Citizens, members of police force and military persons may not be members of political parties. "

**References:**

Law on Citizens Associations, Official Gazette of RS, no. 51/2009.

Available at: <http://www.sostelefon.org.rs/zakoni/17.%20Zakon%20o%20udruzenjima.pdf>, accessed Aug. 7, 2011.

Constitution of the Republic of Serbia, Official Gazette of RS, no. 83/2006, Article 55, available at: <http://www.predsednik.rs/mwc/epic/doc/ConstitutionofSerbia.pdf>

**Yes:** A YES score is earned when freedom to assemble into groups promoting good governance or anti-corruption is protected by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence. Non-governmental organizations (NGOs) are defined here as any organized group that is separate from the state working on issues of governance, transparency, and/or anti-corruption.

**No:** A NO score is earned when any single non-violent group is legally prohibited from organizing to promote good governance or anti-corruption. These groups may include non-violent separatist groups, political parties or religious groups.

01b. In law, anti-corruption/good governance NGOs are free to accept funding from any foreign or domestic sources.

Yes | No

**Comments:**

In Serbia, the majority of anti-corruption NGOs are funded by the international donors, although there is legal provision, Article 38, Law on Citizen Association, that enables NGOs to be funded by the government. Some of the main donors-funded anti-corruption NGOs in Serbia are: USAID (U.S. Agency for International Development), SIDA (Swedish International Development Cooperation Agency), CIDA (Canadian International Development Agency), OSCE (Organization for Security and Co-operation in Europe), UNDP (United Nations Development Program), Royal Netherlands Embassy, DFID (Department for International Development), German Ministry of Foreign Affairs, Austrian Ministry of Foreign Affairs, Swiss Ministry of Foreign Affairs, EU, Spanish Agency for International Development and Cooperation (AECID). For more information refer to: <http://www.oecd.org/dataoecd/49/32/37152800.pdf>

**References:**

In Law on Citizens Associations there are no legal provisions prohibiting or defining specific sources of funding for anti-corruption or good governance NGOs.

Law on Citizens Associations, Official Gazette of RS, no. 51/09.

Available at: <http://www.sostelefon.org.rs/zakoni/17.%20Zakon%20o%20udruzenjima.pdf>, accessed Aug. 7, 2011

**Yes:** A YES score is earned if anti-corruption/good governance NGOs face no legal or regulatory restrictions to raise or accept funds from any foreign or domestic sources. A YES score may still be earned if funds from groups with a history of violence or terrorism (within last ten years) are banned.

**No:** A NO score is earned if there any formal legal or regulatory bans on foreign or domestic funding sources for NGOs focused on anti-corruption or good governance.

01c. In law, anti-corruption/good governance NGOs are required to disclose their sources of funding.

Yes | No

**Comments:**

Although there is no legal provision that stipulates disclosure of funding sources, NGOs are obligated by the projects approved to make public information of particular donors for the project. Therefore, the majority of websites of the anti-corruption NGOs have information on donors and projects that certain donors funded.

**References:**

There are no legal provisions that would mandate disclosure of funding sources.

**Yes:** A YES score is earned if anti-corruption/good governance NGOs are required to publicly disclose their sources of funding.

**No:** A NO score is earned if no such public disclosure requirement exists.

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## 2. Are anti-corruption/good governance NGOs able to operate freely?

75

02a. In practice, the government does not create barriers to the organization of new anti-corruption/good governance NGOs.

100 | 75 | 50 | 25 | 0

**Comments:**

The Serbian government has not created barriers for creation of new NGOs dealing with anti-corruption/good governance programmatic issues. The government is eager to support the work of such organizations and establish a good collaboration relationship with above organizations. Namely, there are a number of examples where the government has engaged certain NGOs in creating legal framework, or have asked for expertise of the NGOs' members. However, there are some constraints regarding restriction of the information and funds awarded from the state budget since corruption is not a funding priority at the moment.

**References:**

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August 2011, CeSID premises, Belgrade, Serbia.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, interview held on 22 August 2011, BIRODI, Belgrade, Serbia.

Slobodan Georgijev, Project Coordinator, BIRN regional NGO, Belgrade Serbia, and journalist, Vreme, interview held on 18 August 2011, Belgrade, Serbia.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

**100:** NGOs focused on promoting good governance or anti-corruption can freely organize with little to no interaction with the government, other than voluntary registration.

**75:**

**50:** NGOs focused on promoting good governance or anti-corruption must go through formal steps to form, requiring interaction with the state such as licenses or registration. Formation is possible, though there is some burden on the NGO. Some unofficial barriers, such as harassment of minority groups, may occur.

**25:**

**0:** Other than pro-government groups, NGOs focused on promoting good governance or anti-corruption are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

02b. In practice, anti-corruption/good governance NGOs actively engage in the political and policymaking process.

100 | 75 | 50 | 25 | 0

**Comments:**

For instance, the Center for Free Elections and Democracy (CeSID) has actively participated in creation of the new Law on Political Subjects Financing. Likewise, Transparency International also participated in drafting the national Anti-Corruption Strategy, Anti-Corruption Agency Law, Public Procurement Strategy, the draft Law on Public Procurement, etc. However, the government does not have a legal obligation to consider the NGOs' initiatives.

**References:**

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August 2011, CeSID premises, Belgrade, Serbia.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, interview held on 22 August 2011, BIRODI, Belgrade, Serbia

Slobodan Georgijev, Project Coordinator, BIRN regional NGO, Belgrade Serbia, and journalist, Vreme, interview held on 18 August 2011, Belgrade, Serbia

**100:** Non-governmental organizations focused on anti-corruption or good governance are an essential component of the political process. NGOs provide widely valued insights and have political power. Those NGOs play a leading role in shaping public opinion on political matters.

**75:**

**50:** Anti-corruption/good governance NGOs are active, but may not be relevant to political decisions or the policymaking process. Those NGOs are willing to articulate opinions on political matters, but have little access to decision makers. They

have some influence over public opinion, but considerably less than political figures.

25:

0: Anti-corruption/good governance NGOs are effectively prohibited from engaging in the political process. Those NGOs are unwilling to take positions on political issues. They are not relevant to changes in public opinion.

02c. In practice, no anti-corruption/good governance NGOs have been shut down by the government for their work on corruption-related issues during the study period.

Yes | No

**Comments:**

According to sources available, there were no NGOs dealing with anti-corruption issues that were shut down by the government in the period researched for the purpose of this report.

**References:**

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August 2011, CeSID premises, Belgrade, Serbia.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, interview held on 22 August 2011, BIRODI, Belgrade, Serbia.

Slobodan Georgijev, Project Coordinator, BIRN regional NGO, Belgrade Serbia, and journalist, Vreme, interview held on 18 August 2011, Belgrade, Serbia.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

**Yes:** A YES score is earned if there were no NGOs shut down by the government or forced to cease operations because of their work on corruption-related issues during the study period. YES is a positive score.

**No:** A NO score is earned if any NGO has been effectively shut down by the government or forced to cease operations because of its work on corruption-related issues during the study period. The causal relationship between the cessation of operations and the NGO's work may not be explicit, however the burden of proof here is low. If it seems likely that the NGO was forced to cease operations due to its work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

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### 3. Are anti-corruption/good governance NGO activists safe when working on corruption issues?

100

03a. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been imprisoned.

Yes | No

**Comments:**

There were no media reports or any other relevant sources indicated that there were anti-corruption NGO activists imprisoned.

**References:**

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August 2011, CeSID premises, Belgrade, Serbia.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, interview held on 22 August 2011, BIRODI, Belgrade, Serbia.

Slobodan Georgijev, Project Coordinator, BIRN regional NGO, Belgrade Serbia, and journalist, Vreme, interview held on 18 August 2011, Belgrade, Serbia.

**Yes:** A YES score is earned if there were no NGO activists imprisoned because of their work covering corruption. YES is a positive score.

**No:** A NO score is earned if any activist was jailed in relation to work covering corruption. The causal relationship between the official charges and the person's work may not be explicit, however the burden of proof here is low. If it seems likely that the person was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes. "Imprisoned" is defined here as detention by the government lasting more than 24 hours.

03b. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been physically harmed.

Yes | No

**Comments:**

There were no media reports or any other relevant sources indicated that there were anti-corruption NGO activists physically harmed.

**References:**

Slobodan Georgijev, Project Coordinator, BIRN regional NGO, Belgrade Serbia, and journalist, Vreme, interview held on 18 August 2011, Belgrade, Serbia.

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August 2011, CeSID premises, Belgrade, Serbia.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, interview held on 22 August 2011, BIRODI, Belgrade, Serbia.

**Yes:** A YES score is earned if there were no documented cases of NGO activists covering corruption being assaulted in the specific study period. A YES score can be earned if there was an attack but it was clearly unrelated to the activist's work. YES is a positive score.

**No:** A NO score is earned if there were any documented cases during the study period of assault to an activist who covers corruption. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

03c. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been killed.

Yes | No

**Comments:**

There were no reports available stating that in the past year anti-corruption NGO activists were killed.

**References:**

Slobodan Georgijev, Project Coordinator, BIRN regional NGO, Belgrade Serbia, and journalist, Vreme, interview held on 18 August 2011, Belgrade, Serbia.

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August 2011, CeSID premises, Belgrade, Serbia.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, interview held on 22 August 2011, BIRODI, Belgrade, Serbia.

**Yes:** A YES score is earned if there were no documented cases of NGO activists being killed because of their work covering corruption in the specific study period. YES is a positive score.

**No:** A NO score is earned if there were any documented cases during the study period where a person was killed related to a corruption trial, scandal or investigation. The relationship between a mysterious death and an individual's history may not be clear, however the burden of proof here is low. If it is reasonable that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

#### 4. Can citizens organize into trade unions?

75

04a. In law, citizens have a right to organize into trade unions.

Yes | No

##### Comments:

Article 55 of the Constitution of the Republic of Serbia stipulates: "Freedom of political, union and any other form of association shall be guaranteed, as well as the right to stay out of any association; and that associations shall be formed without prior approval and entered in the register kept by a state body, in accordance with the law.

Article 206 of the Labour Law of the Republic of Serbia, Official Gazette of RS, no. 24/2005 and 61/2005 stipulates that: "Employees are granted the right to organize in trade unions without approval and with obligation to be signed into registry of trade unions."

Although organization into trade unions is guaranteed by the law and constitution, the process of registration and formal organization is complex and affects heavily the process of unions' formation. For additional information on the legal process for unions' establishment, please refer to: <http://survey.ituc-csi.org/Serbia.html?lang=en#tabs-3>. Also, for detailed process of trade union registration, please refer to: <http://www.nezavisnost.org/pages/naslovna/osnivanje-novih-sindikata.php#>.

##### References:

Constitution of the Republic of Serbia, Official Gazette of RS, no. 83/2006, Article 55: Available at: <http://www.predsednik.rs/mwc/epic/doc/ConstitutionofSerbia.pdf>, accessed 3 August 2011.

Labour Law of the Republic of Serbia, Official Gazette of RS, no. 24/2005, 61/2005, Article 206. Available at: <http://www.lexadin.nl/wlg/legis/nofr/eur/lxweser.htm>, accessed 3 August 2011.

Rulebook on Trade Union Registration, Official Gazette of RS, no. 10/2010 and 50/2005, available at: <http://www.svos.org.rs/pdfs/pravilnik-o-upisu-sindikata-u-registar.pdf>, accessed 3 August 2011.

**Yes:** A YES score is earned when trade unions are allowed by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

**No:** A NO score is earned when any single non-violent trade union is legally prohibited by the government from organizing.

04b. In practice, citizens are able to organize into trade unions.

100 | 75 | 50 | 25 | 0

##### Comments:

Organization into trade unions faces a number of limitations. For instance, the main barriers are reflected in intimidation at work. According to the Annual Survey of Violations of Trade Unions Rights-Serbia 2011 Report, there were numerous examples of intimidation, discrimination and dismissal from work of the trade unions' activists. For instance, during a second 65-day strike over the wages (starting on 9 August 2010), workers and trade union leaders were subjected to physical and psychological abuse, including illegal surveillance, by the company owner Jovica Stefanović and a hired security team. The employer has previously also undertaken discriminatory measures against women workers who were pregnant or who gave birth."

In another example, management of Interlemin, in Leskovac, continuously threatened union leaders with dismissal. Saša Milenović, president of the company organization of the Autonomous Metalworkers' Union of Serbia (SSMS), and Dragan Stojković, president of the Industrial Workers' Union Interlemin, were dismissed in July 2010 after a strike over unpaid wages that lasted more than two months. Ten further members of the striking committee were also threatened with dismissal. The local Labour Inspectorate overruled this decision as illegal in August 2010, and the union leaders were allowed to return to work.

Furthermore, until recently, trade unions were not fully relevant to political or policy debates; however, the situation has changed recently. Namely, the president of the Confederation of Autonomous Trade Unions of Serbia announced that they are ready to take part in the forthcoming election process. For details, please refer to: <http://www.sindikat.rs/vesti.htm#rku>.

**References:**

Annual Survey of Violation of Trade Union's Rights, Serbia 2011, International Trade Union Confederation, Brussels, Belgium, available at: [http://survey.ituc-csi.org/IMG/pdf/Survey\\_ITUC\\_EN\\_web.pdf](http://survey.ituc-csi.org/IMG/pdf/Survey_ITUC_EN_web.pdf), accessed 3 August 2011.

Slobodan Georgijev, Project Coordinator, BIRN regional NGO, Belgrade Serbia, and journalist, Vreme, interview held on 18 August 2011, Belgrade, Serbia.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, interview held on 22 August 2011, BIRODI, Belgrade, Serbia.

**100:** Trade unions are common and are an important part of the political process and political discourse. Trade union organizers have widely understood rights. Trade unions are free from intimidation or violence.

**75:**

**50:** Trade unions exist, but are not always relevant to politics or policy debates. Barriers to organizing trade unions exist, such as intimidation at work, or retribution firings. Trade union organizers have some rights, but these may not be commonly known, or are difficult to defend.

**25:**

**0:** Trade unions are rare. Significant barriers to organization exist, including direct violence. Rights of union organizers are not widely known, or are ineffective in protecting organizers.

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## 1.2. Media's Ability to Report on Corruption

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### 5. Are media and free speech protected?

100

05a. In law, freedom of the media is guaranteed.

Yes | No

**Comments:**

According to Article 50 of the Constitution of the Republic of Serbia, freedom of the media is guaranteed by the Constitution of the Republic of Serbia and the Public Information Law: Everyone shall have the freedom to establish newspapers and other forms of public information without prior permission and in a manner laid down by the law.

"Censorship shall not be applied in the Republic of Serbia. Competent court may prevent the dissemination of information through means of public informing only when this is necessary in a democratic society to prevent inciting to violent overthrow of the system established by the Constitution or to prevent violation of territorial integrity of the Republic of Serbia, to prevent propagation of war or instigation to direct violence, or to prevent advocacy of racial, ethnic or religious hatred enticing discrimination, hostility or violence. The law shall regulate the exercise of right to correct false, incomplete or inaccurately imparted information resulting in violation of rights or interests of any person, and the right to react to communicated information."

Public Information Law in Articles 1, 4 and 5 regulate (Article 1) the right to public information as a right to the freedom of expression of thought and the rights and obligations of persons involved in the public information process; entailing the freedom of expression of thought, the freedom to gather, investigate, publish and disseminate ideas, information and opinions, the freedom to print and distribute (disseminate) newspapers and other media outlets, the freedom to produce and broadcast radio and television programs, the freedom to receive ideas, information and opinions, the freedom to establish legal persons dealing with public information; (Article 4): "Media outlets shall freely publish ideas, information and opinions on phenomena, events and personalities about which the public has a justified interest to know, unless otherwise specified by the law; (Article 5): In order to protect the interests of invalids, handicapped persons and other individuals with special needs, the Republic, autonomous province or local government shall secure part of the funds or other conditions for such persons to freely exercise the right to public information, especially the freedom of reception of ideas, information and opinions."

**References:**

Constitution of the Republic of Serbia, Official Gazette RS, no. 83/2006, Freedom of the Media. Article 50: Available at: <http://www.predsednik.rs/mwc/epic/doc/ConstitutionofSerbia.pdf>, accessed 18 August 2011.

**Yes:** A YES score is earned if freedom of the press is guaranteed in law, including to all political parties, religions, and ideologies.

**No:** A NO score is earned if any specific publication relating to government affairs is legally banned, or any general topic is prohibited from publication. Specific restrictions on media regarding privacy or slander are allowed, but not if these amount to legal censorship of a general topic, such as corruption or defense. A NO score is earned if non-government media is prohibited or restricted.

05b. In law, freedom of speech is guaranteed.

Yes | No

**Comments:**

In Serbia, freedom of speech is guaranteed by the Constitution of the Republic of Serbia.

According to Article 46 of the Constitution, "The freedom of thought and expression shall be guaranteed, as well as the freedom to seek, receive and impart information and ideas through speech, writing, art or in some other manner.

"Freedom of expression may be restricted by the law if necessary to protect rights and reputation of others, to uphold the authority and objectivity of the court and to protect public health, morals of a democratic society and national security of the Republic of Serbia."

**References:**

Constitution of the Republic of Serbia, Official Gazette RS, no. 83/2006, Freedom of thought and expression, Article 46, Available at: <http://www.predsednik.rs/mwc/epic/doc/ConstitutionofSerbia.pdf>, accessed 5 August 2011.

**Yes:** A YES score is earned if freedom of individual speech is guaranteed in law, including to all political parties, religions, and ideologies.

**No:** A NO score is earned if any individual speech is legally prohibited, regardless of topic. Specific exceptions for speech linked with a criminal act, such as a prohibition on death threats, are allowed. However, any non-specific prohibition earns a NO score.

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## 6. Are citizens able to form print media entities?

94

06a. In practice, the government does not create barriers to form a print media entity.

100 | 75 | 50 | 25 | 0

**Comments:**

In Serbia, print media need to be registered according to Law on Public Information in the Media, outlets must register within the Business Registers Agency. The government does not create barriers in the registration process of the print media. However, there were considerable debates on the unconstitutional character of a number of provisions of the Law on Public Information notably related to introducing compulsory registration of media outlets in the Media Outlets Register. For instance, media that do not register will be banned and subject to high fines.

According to former OSCE Mission in Serbia Ambassador, Hans Ola Urstad, "...although the establishment of the Register of Media Outlets is a positive development, the mission is concerned with the introduction of compulsory registration which is a condition for forming media entity or its existence since it could jeopardize media freedoms." (Interview published in Danas newspaper on 25 August 2009, available at: [http://www.danas.rs/vesti/drustvo/oeps\\_ugrozavanje\\_medijske\\_reforme.55.html?news\\_id=170225](http://www.danas.rs/vesti/drustvo/oeps_ugrozavanje_medijske_reforme.55.html?news_id=170225)).

Taking into account the above, it could be argued that some indirect barriers exist.

**References:**

Slobodan Georgijev, Project Coordinator, BIRN regional NGO, Belgrade, Serbia, and journalist, Vreme, interview held on 18 August 2011, Belgrade, Serbia.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, 22 August, BIRODI, Belgrade, Serbia.

Report on Pressures and Control of the Media in Serbia (Izvestaj o pritiscima i kontroli medija u Srbiji), Savet za borbu protiv korupcije, 29 August 2011, Beograd.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

Rule Book on Media Outlets Registration Released (Objavljen pravilnik o registraciji javnih glasila) Emportal, 7 October 2009, available at: <http://www.emportal.rs/vesti/srbija/100651.html>, accessed 11 November 2011.

**100:** Print media entities can freely organize with little to no interaction with the government. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

**75:**

**50:** Formation of print media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur.

**25:**

**0:** Print media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

06b. In law, where a print media license is necessary, there is an appeals mechanism if a license is denied or revoked.

Yes | No

**Comments:**

Therefore, there is no appeal mechanism for a denied print media license prescribed by this Law. However according to this Law and bylaw on media outlets registration, every media outlet in Serbia needs to be registered according to above mentioned bylaw. Bylaw is available at: <http://www.uns.org/sr-Latn-CS/content/dokumenta/5986/pravilnik-o-načinu-vođenja-registra-javnih-glasila.xhtml>

**References:**

Law on Public Information, Official Gazette of the Republic of Serbia No. 43/2003, 61/2005, 71/2009, 89/2010 Available at: <http://www.kultura.gov.rs/?p=56>, accessed 18 August 2011.

U.S. Department of State, Serbia, Page 13, available at: <http://www.state.gov/documents/organization/160212.pdf>, accessed 18 August 2011.

**Yes:** A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied print media license, including through the courts. A YES score is also earned if no print license is necessary.

**No:** A NO score is earned if there is no appeal process for print media licenses.

06c. In practice, where necessary, citizens can obtain a print media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens can register media outlets, whether print or electronic, in the Serbian Business Registers Agency. The time necessary to obtain a decision on registration usually is 10 days.

**References:**

Slobodan Georgijev, Project Coordinator, BIRN regional NGO, Belgrade, Serbia, and journalist, Vreme, interview held on 18 August 2011, Belgrade, Serbia.

Registering Media Outlets (Upis u registar javnih glasila), Local Press, available at: <http://www.localpress.org.rs/sh/1/vesti/702/?tpj=75&tpjd=6>, accessed 13 September 2011.

Rule Book on Media Outlets Registration will be on Time (Pravilnik o registraciji javnih glasila stize na vreme), Serbian Union of Journalists, 15 September 2011, available at: <http://www.uns.org.rs/sr-Latn-CS/content/vesti/5075/pravilnik-o-registraciji-medija-stize-na-vreme.xhtml>, accessed 15 September 2011.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, 22 August, BIRODI, Belgrade, Serbia.

Registration of Media Outlets (Upis u registar javnih glasila), Local Press, available at: <http://www.localpress.org.rs/sh/1/vesti/702/?tpj=75&tpjd=6> accessed 18 August 2011.

Rules of Procedure on Media Outlets Registration, Official Gazette no. 43/03, 61/05 i 71/09, available at: <http://www.uns.org.rs/sr-Latn-CS/content/dokumenta/5986/pravilnik-o-načinu-vođenja-registra-javnih-glasila.xhtml>, accessed 18 August 2011.

**100:** Licenses are not required or licenses can be obtained within two months.

**75:**

**50:** Licensing is required and takes more than two months. Some groups may be delayed up to six months.

**25:**

**0:** Licensing takes close to or more than one year for most groups.

06d. In practice, where necessary, citizens can obtain a print media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Registering a media outlet at the Serbian Business Registers Agency is free of charge.

**References:**

Slobodan Georgijev, Project Coordinator, BIRN regional NGO, Belgrade, Serbia, and journalist, Vreme, interview held on 18 August 2011, Belgrade, Serbia.

Rules of Procedure on Media Outlets Registration, Official Gazette RS no. 43/03, 61/05 i 71/09, available at: <http://www.uns.org.rs/sr-Latn-CS/content/dokumenta/5986/pravilnik-o-načinu-vođenja-registra-javnih-glasila.xhtml>, accessed 18 August 2011.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, 22 August, BIRODI, Belgrade, Serbia.

**100:** Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

**75:**

**50:** Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

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## 7. Are citizens able to form broadcast (radio and TV) media entities?

07a. In practice, the government does not create barriers to form a broadcast (radio and TV) media entity.

100 | 75 | 50 | 25 | 0

**Comments:**

There is limited number of frequencies that can be allocated for broadcasting. This is in most cases the general explanation why some licenses have been denied. However, the reasons for not issuing the licenses are mostly of a political nature. The Serbian Broadcasting Agency, which is responsible for issuing the broadcasting licenses, is under great political influence. A number of reports from international organizations and the EU expressed wide concern over the license-issuing mechanism which was evaluated as nontransparent and biased.

**References:**

Slobodan Georgijev, Project Coordinator, BIRN regional NGO, Belgrade, Serbia, and journalist, Vreme, interview held on 18 August 2011, Belgrade, Serbia.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, 22 August 2011, BIRODI, Belgrade, Serbia.

Verica Barac, President of the Anti-Corruption Council, interview held on 7 September 2011, Belgrade, Serbia.

Report on Pressures and Control of the Media in Serbia (Izvestaj o pritiscima i kontroli medija u Srbiji), Savet za borbu protiv korupcije, 29 August 2011, Beograd.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

**100:** Broadcast media entities can freely organize with little to no interaction with the government. Media groups have equal access to broadcast bandwidth through a reasonably fair distribution system. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

**75:**

**50:** Formation of broadcast media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur. Division of broadcast bandwidth is widely viewed to be somewhat unfair.

**25:**

**0:** Broadcast media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear. This score is appropriate if the division of broadcast bandwidth is widely viewed to be used as a political tool.

07b. In law, where a broadcast (radio and TV) media license is necessary, there is an appeals mechanism if a license is denied or revoked.

Yes | No

**Comments:**

There is no appeal mechanism if a license is denied or revoked.

**References:**

There is no legal ground.

U.S. Department of State, Serbia, page 13, available at: <http://www.state.gov/documents/organization/160212.pdf>, accessed 18 August 2011.

**Yes:** A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied broadcast media license, including through the courts. A YES score is also earned if no broadcast license is necessary.

**No:** A NO score is earned if there is no appeal process for broadcast media licenses.

07c. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens can register a media outlet, whether print or electronic, in the Serbian Business Registers Agency. However, registration and licensing of broadcast media is another separate procedure and is processed by the Republic Broadcast Agency. The agency is responsible for issuing a broadcasting license to the broadcasting media.

After the RBA launches a public tender for issuing a broadcasting license, applicants are given 60 days to submit required documentation. The period needed for RBA to decide on the license issuing is 90 days. Therefore, the process usually takes more than five months.

**References:**

Slobodan Georgijev, Project Coordinator, BIRN regional NGO, Belgrade, Serbia, and journalist, Vreme, interview held on 18 August 2011, Belgrade, Serbia.

Rules of Procedure on Media Outlets Registration, Official Gazette no. 43/03, 61/05 i 71/09, available at: <http://www.uns.org.rs/sr-Latn-CS/content/dokumenta/5986/pravilnik-o-načinu-vodenja-registra-javnih-glasila.xhtml>, accessed 18 August 2011.

Zoran Gavrilovic, Director of Society against Corruption Program, BIRODI, 22 August 2011, BIRODI, Belgrade, Serbia.

Report on Pressures and Control of the Media in Serbia (Izvestaj o pritiscima i kontroli medija u Srbiji), Savet za borbu protiv korupcije (Anti-corruption Council), 29 August 2011, Beograd.

**100:** Licenses are not required or licenses can be obtained within two months.

**75:**

**50:** Licensing is required and takes more than two months. Some groups may be delayed up to six months.

**25:**

**0:** Licensing takes close to or more than one year for most groups.

07d. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The cost of licensing is regulated by the the Broadcasting Law, Article 66 (Official Gazette no. 42/02, 97/04, 76/05, 79/05, zakon, 62/06, 85/06, 86/06 – and 41/09) available at: [http://www.paragraf.rs/propisi/zakon\\_o\\_radiodifuziji.html](http://www.paragraf.rs/propisi/zakon_o_radiodifuziji.html). However, the license's costs are subject to changes and currently are as follows:

1. yearly broadcasting license costs 20,576.00 RS Dinars.
2. yearly cost for using broadcasting frequency is 2,139.00 RS Dinars.

For more details please refer to: [http://www.rra.org.rs/uploads/useruploads/Javni\\_konkursi/2011-lokal-TV.pdf](http://www.rra.org.rs/uploads/useruploads/Javni_konkursi/2011-lokal-TV.pdf)

**References:**

Serbian Broadcasters Successfully Lobby for Lower Licensing Fees, 6 September 2009, IREX, available at: <http://www.irex.org/news/serbian-broadcasters-successfully-lobby-lower-licensing-fees>, accessed 18 August 2011.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, 22 August 2011, BIRODI, Belgrade, Serbia.

**100:** Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

**75:**

**50:** Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

## 8. Can citizens freely use the Internet?

88

08a. In practice, the government does not prevent citizens from accessing content published on-line.

100 | 75 | 50 | 25 | 0

### Comments:

No available sources indicated that there were cases where the government prevented citizens from accessing content published on the Internet. However, there were some isolated reports that government monitored emails. For instance, after death threats to Brankica Stankovic, a B92 journalist, the police monitored email sources in order to identify the sender(s).

### References:

2010 Human Rights Report: Serbia, U.S. Department of State, Bureau of Democracy, Human Rights and Labor, 8 April 2011, available at: <http://www.state.gov/g/drl/rls/hrrpt/2010/eur/154449.htm>, accessed 3rd August 2011.

World Report 2011 Serbia, Human Rights Watch, January 2011, available at: [http://www.hrw.org/sites/default/files/related\\_material/World%20Report%20Chapter%20Serbia.pdf](http://www.hrw.org/sites/default/files/related_material/World%20Report%20Chapter%20Serbia.pdf), accessed 3rd August 2011.

**100:** The government does not prevent Internet users from accessing online content. While some forms of content may be illegal to download or own (such as child pornography), the government does not manipulate networks to prevent access to this information. This indicator addresses direct government intervention in the transfer of information, not indirect deterrents such as intimidation, surveillance or technical difficulties in countries with poor infrastructure.

**75:**

**50:** Internet users are prevented by the government from reaching online content in some cases. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

**25:**

**0:** Internet users are routinely prevented from accessing online content. Government restrictions are in place at all times for certain topics. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

08b. In practice, the government does not censor citizens creating content on-line.

100 | 75 | 50 | 25 | 0

### Comments:

Although there were no sources available to show that the government censored citizens creating content online so far, there is some evidence that the government reacted by shutting down accounts mocking Minister of Foreign Affairs Vuk Jeremic on the social network Twitter.

### References:

2010 Human Rights Report: Serbia, U.S. Department of State, Bureau of Democracy, Human Rights and Labor, April 2011, available at: <http://www.state.gov/g/drl/rls/hrrpt/2010/eur/154449.htm>, accessed 3 August 2011.

Disgruntled Community Vs. Disgruntled Politician on Twitter, Global Voices, 18 July 2011, available at: <http://globalvoicesonline.org/2011/07/18/serbia-disgruntled-community-vs-disgruntled-politician-on-twitter/>, accessed 3 August 2011.

Ministry of Foreign Affairs blocked sarcastic profile about Vuk Jeremic at Twitter (Ministarstvo spoljnih poslova blokiralo satiricni profil o Vuku Jeremicu na Tviteru), Blic, 14 July 2011, available at: <http://www.blic.rs/IT/265772/Ministarstvo-spoljnih-poslova-blokiralo-satiricni-profil-o-Vuku-Jeremicu-na-Tviteru>, accessed 3rd August 2011.

**100:** The government never removes online information or disables servers due to their political content. All political speech is protected with limited exceptions, such as legitimate intellectual property restrictions; direct calls to violence; or pornography.

**75:**

**50:** In some cases, the government restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting restricted content, or indirectly through threats or intimidation against the persons posting political content.

**25:**

**0:** The government regularly restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting the restricted content, or indirectly through threats or intimidation against the persons posting political content.

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## 9. Are the media able to report on corruption?

67

09a. In law, it is legal to report accurate news even if it damages the reputation of a public figure.

Yes | No

### Comments:

This law prohibits pointing someone out as a perpetrator of a criminal offense before the verdict brought by the Court of Justice becomes effective.

Public Information Law's Articles 17 and 45 stipulate the following:

Article 17:

The competent district court may upon a motion by the public prosecutor ban the dissemination of a piece of information if it establishes that such a prohibition is necessary in a democratic society to prevent: calls for a violent overthrow of the constitutional order, the undermining of the territorial integrity of the Republic, prevent propagation of war, incitement to immediate violence or racial, ethnic or religious hatred representing incitement to discrimination, hostility or violence, and that the publication of such information would directly result in a serious, irremediable consequence that could not be prevented in another manner.

Article 45:

Exceptionally from Article 43 of this Law, private information or personal records of a person may be published without the consent of the person they refer to if:

1. The person had intended the information or the record for the public.
2. The information, or record refers to a personality, phenomenon or event of public interest, especially if it applies to a holder of a state or political post and publishing the information is important in view of the fact that the person is discharging those duties.
3. The person has given rise to the publication of such information or record by his/her behavior.
4. The information has been disclosed or the record made in a public parliamentary debate or a public debate in a parliamentary body.
5. Publication is in the interest of judiciary, national security or public security.
6. The person did not object to the collection of information or the making of the record, although he/she was aware that this was done for publication purposes.
7. Publication is in the interest of science or education.
8. Publication is necessary to alert of a danger (prevention of a contagious disease, search for a missing person, fraud, etc.).
9. The record includes a multitude of persons or voices (fans, concert audience, protesters, passers-by etc.).
10. A record of a public gathering is at issue.

### References:

Public Information Law, Official Gazette of RS, no. 43/2003, 61/2005, 71/2009 and 89/2010 – decision of Constitutional Court of Serbia, Articles 17, 45. Available at: Available at: <http://www.kultura.gov.rs/?jez=&p=33>, accessed 4th August 2011.

**Yes:** A YES score is earned if it is legal to report accurate information on public figures regardless of damage to their reputations. Public figures are defined broadly, including anyone in a position of responsibility in the government or civil service; any political leader; leaders of civil society groups including religious groups, trade unions, or NGOs; leaders or officers of large businesses. A YES score can still be earned if a reckless disregard for the truth (i.e. slander) is prohibited.

**No:** A NO score is earned if privacy laws protect any public figures (as defined in the YES coding) from accurate information.

09b. In practice, the government or media owners/distribution groups do not encourage self-censorship of corruption-related stories.

100 | 75 | 50 | 25 | 0

**Comments:**

Self-censorship is not encouraged, but according to various sources it still exists. According to IREX media sustainability Report 2010: "...The panelists agreed that self-censorship is spreading even more this year than before, due to political pressures and, above all, the economic pressures that brought most media to their knees. Many (local) media feel forced to accept blackmail as the only way to survive. Furthermore, editors increasingly turn to self-censorship, fearing the 20,000 euro fines introduced in last year's amendments."

In addition, according to the IREX Report: "...The media did neglect some more complex and serious problems, such as Serbia's long-term economic stagnation, budget processes, the real conditions of approaching European Union membership, and corruption. Although some media reportedly maintain lists of forbidden topics, in most cases there simply are no journalists qualified to address specialized issues. Information on the earthquake was published promptly, but (it was) never analyzed why so many houses were destroyed in an earthquake of such magnitude."

In addition, some positive processes that will reduce self-censorship recently have been launched, such as decriminalization of defamation and libel.

**References:**

Slobodan Georgijev, Project Coordinator, BIRN regional NGO, Belgrade, Serbia, and journalist, Vreme, interview held on 18 August 2011, Belgrade, Serbia.

Miodrag Cvorovic, journalist and producer Insajder documentary, B92 TV, interview held on 30 August 2011, Belgrade, Serbia.

Report on Pressures and Control of the Media in Serbia (Izvestaj o pritiscima i kontroli medija u Srbiji), Savet za borbu protiv korupcije, 29 August 2011, Beograd.

Verica Barac, President of the Anti-Corruption Council, interview held on 7 September 2011, Belgrade, Serbia.

Serbia Media Sustainability Index 2010, IREX, page 120.  
Available at: [http://www.irex.org/sites/default/files/EE\\_MSI\\_2011\\_Serbia.pdf](http://www.irex.org/sites/default/files/EE_MSI_2011_Serbia.pdf), accessed 18 August 2011.

Freedom House Serbia 2010 Report, Sanja Pesek and Dragana Nikolajevic, pp. 465-467, available at: <http://www.freedomhouse.eu/images/Reports/NIT-2010-Serbia-final.pdf> accessed 18 August 2011.

IPI welcomes planned decriminalisation of defamation and libel, IFEX, Vienna, 25 July 2011, available at: [http://www.ifex.org/serbia/2011/07/25/decriminalisation\\_defamation\\_libel/](http://www.ifex.org/serbia/2011/07/25/decriminalisation_defamation_libel/), accessed 18 August 2011.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, 22 August, BIRODI, Belgrade, Serbia.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

**100:** The government, its proxies, or media ownership/distribution groups make no attempt to restrict media coverage of corruption-related issues through unofficial means.

**75:**

**50:** The government, its proxies, or media ownership/distribution groups make some attempts to restrict media coverage of corruption-related issues through unofficial means, such as restricting access by disfavored media outlets, or other short-term consequences. Violent reprisals against media outlets are rare.

**25:**

**0:** The government, its proxies, or media ownership/distribution groups actively use illegal methods to restrict reporting of corruption-related issues. This may include harassment, arrests, and threats. Journalists and publishers take a personal risk to report on corruption, and media outlets who commonly report on corruption face long-term consequences or violent reprisals.

09c. In practice, there is no prior government restraint (pre-publication censoring) on publishing corruption-related stories.

100 | 75 | 50 | 25 | 0

**Comments:**

Pre-publication censoring is not applied formally but indirectly through various political and economical pressures. According to Vukašin Obradović, the president of the Independent Association of Journalists of Serbia, in his interview for Deutsche Welle, the media in Serbia face sophisticated censorship through hidden political pressures and very strong economic influence by tycoons, politicians and owners of monopoly-oriented marketing agencies that are close to the government (available at: <http://www.dw-world.de/dw/article/0,,6378076,00.html>). As Obradovic argues, in 2010, government control over media has increased. It is reflected in increased financial assistance to media and consequently greater influence over media editing policies.

Therefore, although there is no direct pre-censorship of the government on corruption-related stories, there are evident indirect pressures. For instance, in 2009, after releasing a B92 Insider documentary on the football mafia in Serbia, the author and presenter of the documentary, Brankica Stankovic, received a number of death threats. She was put under 24-hour police protection. To date, police have not found the source of the threats and the journalist is still under police protection.

**References:**

Slobodan Georgijev, Project Coordinator, BIRN regional NGO, Belgrade Serbia, and journalist, Vreme, interview held on 18 August 2011, Belgrade, Serbia.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, 22 August, BIRODI, Belgrade, Serbia.

Report on Pressures and Control of the Media in Serbia (Izvestaj o pritiscima i kontroli medija u Srbiji), Savet za borbu protiv korupcije, 29 August 2011, Beograd.

Verica Barac, President of the Anti-Corruption Council, Interview held on 7 September 2011, Belgrade, Serbia.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

Sophisticated Censorship in Serbia (Sofisticirana cenzura u Srbiji), Javni Servis.me, 30 December 2010, available at: <http://javniservis.me/2010/12/30/sofisticirana-cenzura-u-srbiji/>, accessed 11 November 2011.

**100:** The government never prevents publication of controversial corruption-related materials.

**75:**

**50:** The government prevents publication of controversial corruption-related material in cases where there is a strong political incentive to suppress the information. This score is appropriate in countries where illiteracy is high, the government may allow a free print press but censor broadcast media.

**25:**

**0:** The government regularly censors material prior to publication, especially politically sensitive or damaging corruption-related material. This score is appropriate even if the government restricts only politically damaging news while allowing favorable coverage.

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## 10. Are the media credible sources of information?

80

10a. In law, print media companies are required to publicly disclose their ownership.

Yes | No

**Comments:**

The Register on Media Outlets is publicly available at the web portal of the Serbian Business Registers Agency.

According to the Law amending the Law on Public Information, Article 14: "The organization keeping the Register of Media Outlets shall, once a month, at the request of the ... authority in charge of public information, submit an excerpt from the Register of Media Outlets with data on founders of media outlets. The excerpt from the Register of Media Outlets mentioned in Paragraph

1 of this Article shall state the name and the identification number for each founder of the media outlet, information on the monetary part of capital stock and the overview of all media outlets of which he is a founder.”

**References:**

Law amending the Law on Public Information, Official Gazette of RS, no. 71/2009, Article 14v, available at: [http://www.paragraf.rs/propisi/zakon\\_o\\_javnom\\_informisanju.html](http://www.paragraf.rs/propisi/zakon_o_javnom_informisanju.html), accessed 4 August 2011.

**Yes:** A YES score is earned if print media companies are required by law to publicly disclose all owners of the company.

**No:** A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain types of entities or agents from being publicly disclosed.

10b. In law, broadcast (radio and TV) media companies are required to publicly disclose their ownership.

Yes | No

**Comments:**

According to the Law amending the Law on Public Information, Article 14v: “The organization keeping the Register of Media Outlets shall, once a month, at the request of the ... authority in charge of public information, submit an excerpt from the Register of Media Outlets with data on founders of media outlets. The excerpt from the Register of Media Outlets mentioned in Paragraph 1 of this Article shall state the name and the identification number for each founder of the media outlet, information on the monetary part of capital stock and the overview of all media outlets of which he is a founder.”

The Broadcasting Register is publicly available at: [http://www.rra.org.rs/pages/search\\_permits/latinica](http://www.rra.org.rs/pages/search_permits/latinica). In addition, according to the Law on Broadcasting, Article 55: The Broadcasting Agency keeps a register on broadcasting license issuance and the register is publicly available.

**References:**

Law amending the Law on Public Information, Official Gazette of RS, no. 71/2009, Article 14v. Available at: [http://www.paragraf.rs/propisi/zakon\\_o\\_javnom\\_informisanju.html](http://www.paragraf.rs/propisi/zakon_o_javnom_informisanju.html), accessed 4th August 2011.

Law on Broadcasting, Official Gazette of RS, no. 42/2002, 97/2004, 76/2005, 79/2005, 62/2006, 85/2006, 86/2006, 41/2009, Article 55. Available at: [http://www.paragraf.rs/propisi/zakon\\_o\\_radiodifuziji.html](http://www.paragraf.rs/propisi/zakon_o_radiodifuziji.html), accessed 18 August 2011.

**Yes:** A YES score is earned if broadcast media companies are required by law to publicly disclose all owners of the company.

**No:** A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain types of entities or agents from being publicly disclosed.

10c. In practice, journalists and editors adhere to strict, professional practices in their reporting.

100 | 75 | 50 | 25 | 0

**Comments:**

Professionalism in reporting depends on a number of factors. Firstly, in Serbia, journalists are underpaid, thus not motivated for achieving the highest standards while reporting. Furthermore, according to the IREX Media Sustainability Index Report 2010: “... fairness, objectivity, and sourcing in reporting have never been worse...”

“...In all media, superficiality reigns, and initiative—even among young journalists — has disappeared. We have a ‘Dead Sea,’ with minimal investigative journalism. For professionalism in Serbian media, 2010 was the worst year. Although, as mentioned above, RTS news has improved in respect to airing more viewpoints, there is still not enough investigative journalism, and journalists neglect a number of important themes.

“...Fortunately, there have been some excellent exceptions, with solid investigative stories despite the very difficult circumstances. Some examples include B92 TV program Insider, the B92 radio program Pascanik, and a number of serious analytical texts in Republika.”

**References:**

Slobodan Georgijev, Project Coordinator, BIRN regional NGO, Belgrade, Serbia, and journalist, Vreme, interview held on 18 August 2011, Belgrade, Serbia.

Verica Barac, President of the Anti-Corruption Council, interview held on 7 September 2011, Belgrade, Serbia.

Report on Pressures and Control of the Media in Serbia (Izvestaj o pritiscima i kontroli medija u Srbiji), Savet za borbu protiv korupcije, 29 August 2011, Beograd.

Serbia Media Sustainability Index 2010, IREX, page 120.

Available at: [http://www.irex.org/sites/default/files/EE\\_MSI\\_2011\\_Serbia.pdf](http://www.irex.org/sites/default/files/EE_MSI_2011_Serbia.pdf), accessed 18 August 2011.

Freedom House Serbia 2010 Report, Sanja Pesek and Dragana Nikolajevic, pp. 465-467. Available

at: <http://www.freedomhouse.eu/images/Reports/NIT-2010-Serbia-final.pdf> accessed 18 August 2011.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, 22 August 2011, BIRODI, Belgrade, Serbia.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

**100:** Editors and journalists at the major media outlets abide by a strict journalistic code of conduct and are unwilling to alter their coverage of a particular issue, event or person in exchange for money, gifts, or other favors or remuneration.

**75:**

**50:** Editors and journalists at the major media outlets generally avoid altering coverage in exchange for favors but some exceptions have been noted. Not all newsrooms abide by a formal journalistic code of conduct.

**25:**

**0:** Editors and journalists are widely known to "sell" favorable or unfavorable coverage in exchange for money, gifts, or other remuneration. The major media outlets do not abide by any formal journalistic code of conduct.

10d. In practice, during the most recent election, political parties or independent candidates received fair media coverage.

100 | 75 | 50 | 25 | 0

**Comments:**

The last elections in Serbia were held in 2008, therefore the data provided and indicator scoring applies to 2008 elections. Media coverage in hours in the last parliamentary elections was as follows: Coalition for European Serbia had 28 hours of media coverage; Liberal Democratic Party's media coverage was 8 hours; Democratic Party of Serbia – New Serbia (DSS-NS) had nearly 22 hours of media coverage; Serbian Radical Party (SRS) had nearly 24 hours of media coverage during the election campaign and SPS-PUPS-JS had slightly over 10 hours of media coverage during election campaign.

For more details please refer to Parliamentary Election in Serbia 2008, Media Monitoring, Medija Centar, at: [www.mc.rs/upload/documents/izbori\\_2008/PrI-Izbori-u-Srbiji-2008.ppt](http://www.mc.rs/upload/documents/izbori_2008/PrI-Izbori-u-Srbiji-2008.ppt)

**References:**

Slobodan Georgijev, Project Coordinator, BIRN regional NGO, Belgrade, Serbia, and journalist, Vreme, interview held on 18 August 2011, Belgrade, Serbia.

Presidential Election in Serbia 2008, Media Monitoring Final Report (Predsednicki izbori u Srbiji 2008, Monitoring medija završni izveštaj), Medija Centar, available

at: [http://www.mc.rs/upload/documents/istrazivanje/Finalni\\_Monitoring\\_predizbornog\\_izvestavanja\\_Parlamentarni\\_izbori\\_2008.pdf](http://www.mc.rs/upload/documents/istrazivanje/Finalni_Monitoring_predizbornog_izvestavanja_Parlamentarni_izbori_2008.pdf), accessed 18 August 2011

Parliamentary Election in Serbia 2008, Media Monitoring, Medija Centar, available at:

[www.mc.rs/upload/documents/izbori\\_2008/PrI-Izbori-u-Srbiji-2008.ppt](http://www.mc.rs/upload/documents/izbori_2008/PrI-Izbori-u-Srbiji-2008.ppt), accessed 18 August 2011.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, 22 August 2011, BIRODI, Belgrade, Serbia.

**100:** All political parties and independent candidates have some access to media outlets. Individual media outlets may have biases, but on balance, the national media coverage reflects the interests of the electorate. Media groups generally act as disinterested parties in an election. In places where a government is popular with the public, opposition viewpoints can access the public via media outlets.

**75:**

**50:** Major popular media outlets have a persistent bias regarding some parties or independent candidates. Some major parties may be partially excluded from media coverage, or draw more negative coverage. Media sectors may have distinct biases, such as newspapers favoring one party, while radio favors another.

**25:**

**0:** The mass media, on balance, have clear preferences in election outcomes and coverage is driven to achieve these goals. Some major parties or independent candidates are excluded or consistently negatively portrayed by mass media. Dissenting political opinions are only found on fringe or elite media outlets, such as Web sites.

10e. In practice, political parties and candidates have equitable access to state-owned media outlets.

100 | 75 | 50 | 25 | 0

**Comments:**

The last elections in Serbia were held in 2008, therefore the data provided applies to 2008 elections. Scoring of this indicator also applies to the last parliamentary and presidential election in 2008. Research data from the Independent Association of Serbian Journalists (NUNS) Media Monitoring Report for both parliamentary and presidential elections shows that political parties as well as political candidates have nearly equitable access to state-owned media, RTS. In particular, presidential candidate Boris Tadic had 30 minutes more coverage in the news on the RTS, while coverage related to election talk shows was equal. For more information, please refer to Presidential Election in Serbia 2008, Media Monitoring Final Report (Predsednicki izbori u Srbiji 2008, Monitoring medija završni izvešta), Medija Centar, available at: [http://www.mc.rs/upload/documents/istrazivanje/Finalni\\_Monitoring\\_predizbornog\\_izvestavanja\\_Parlamentarni\\_izbori\\_2008.pdf](http://www.mc.rs/upload/documents/istrazivanje/Finalni_Monitoring_predizbornog_izvestavanja_Parlamentarni_izbori_2008.pdf).

**References:**

Slobodan Georgijev, Project Coordinator, BIRN regional NGO, Belgrade, Serbia, and journalist, Vreme, interview held on 18 August 2011, Belgrade, Serbia.

Presidential Election in Serbia 2008, Media Monitoring Final Report (Predsednicki izbori u Srbiji 2008, Monitoring medija završni izvešta), Medija Centar, available at: [http://www.mc.rs/upload/documents/istrazivanje/Finalni\\_Monitoring\\_predizbornog\\_izvestavanja\\_Parlamentarni\\_izbori\\_2008.pdf](http://www.mc.rs/upload/documents/istrazivanje/Finalni_Monitoring_predizbornog_izvestavanja_Parlamentarni_izbori_2008.pdf), accessed 18 August 2011.

Parliamentary Election in Serbia 2008, Media Monitoring, Medija Centar, available at: [www.mc.rs/upload/documents/izbori\\_2008/Prl-izbori-u-Srbiji-2008.ppt](http://www.mc.rs/upload/documents/izbori_2008/Prl-izbori-u-Srbiji-2008.ppt), accessed 18 August 2011.

**100:** The government ensures that equal access and fair treatment of election contestants is provided by all state-owned media outlets, including all electronic and print media. This obligation extends to news reports, editorial comment, and all other content. All parties and candidates are offered consistent and equivalent rates for campaign advertising on state-owned media outlets.

**75:**

**50:** The government generally ensures equal access and fair treatment of all candidates and parties by state-owned media outlets but some exceptions exist. State-owned media may occasionally discriminate against particular parties or candidates and advertising rates may be confusing or non-transparent.

**25:**

**0:** The government uses state-owned media to routinely discriminate against opposition candidates and parties. Advertising space may be denied to opposition candidates and parties or higher rates may be charged.

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## 11. Are journalists safe when investigating corruption?

100

11a. In practice, in the past year, no journalists investigating corruption have been imprisoned.

Yes | No

**Comments:**

Although there is no evidence available that journalists investigating corruption have been imprisoned, physically harmed or killed, the journalists in Serbia reporting on corruption cases have been seriously threatened, and some of them are under 24-hour police protection (for instance, Brankica Stankovic, investigative journalist and reporter of the B92 documentary Insajder, has been threatened and has police protection; also Veran Matic, B92 editor-in-chief, was also under police protection due to numerous threats he faced). The threats came from individuals and groups that the "Insajder" documentary researched. For more information please refer to: [http://www.ifex.org/serbia/2011/03/15/ipi\\_support/](http://www.ifex.org/serbia/2011/03/15/ipi_support/)

**References:**

Slobodan Georgijev, Project Coordinator, BIRN regional NGO, Belgrade, Serbia, and journalist, Vreme, interview held on 18 August 2011, Belgrade, Serbia.

Miodrag Cvorovic, journalist and producer Insajder documentary, B92 TV, interview held on 30 August 2011, Belgrade, Serbia.

Media in Serbia: Threats and Profit Chasing, (Mediji u Srbiji: Pretnje i trka za profitom) EurActiv.rs portal, 16 June 2011, available at: <http://www.euractiv.rs/vesti/102-srbija-i-eu/2127-zabrinutost-zbog-loe-situacije-u-medijima.html>, accessed 18 August 2011.

IFEX, Independent station threatened after airing show on mining abuses, 23 February 2011, available at: [http://www.ifex.org/serbia/2011/02/23/b92\\_threatened/](http://www.ifex.org/serbia/2011/02/23/b92_threatened/), accessed 18 August 2011.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, 22 August 2011, BIRODI, Belgrade, Serbia.

**Yes:** A YES score is earned if there were no journalists imprisoned related to work covering corruption during the study period. A YES score is positive.

**No:** A NO score is earned if any journalist was jailed because of his/her work covering corruption during the study period. The causal relationship between the official charges and the journalist's work may not be explicit, however the burden of proof here is low. If it seems likely that the journalist was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes. "Imprisoned" is defined here as detention by the government lasting more than 24 hours.

11b. In practice, in the past year, no journalists investigating corruption have been physically harmed.

Yes | No

**Comments:**

Although there is no evidence available that journalists investigating corruption have been imprisoned, physically harmed or killed, the journalists in Serbia reporting on corruption cases have been seriously threatened, and some of them are under 24-hour police protection (for instance, Brankica Stankovic, investigative journalist and reporter of the B92 documentary Insajder, has been threatened and has police protection; also Veran Matic, B92 editor-in-chief, was also under police protection due to numerous threats he faced). The threats came from individuals and groups that the "Insajder" documentary researched. For more information please refer to: [http://www.ifex.org/serbia/2011/03/15/ipi\\_support/](http://www.ifex.org/serbia/2011/03/15/ipi_support/)

**References:**

Slobodan Georgijev, Project Coordinator, BIRN regional NGO, Belgrade, Serbia, and journalist, Vreme, interview held on 18 August 2011, Belgrade, Serbia.

Miodrag Cvorovic, journalist and producer Insajder documentary, B92 TV, interview held on 30 August 2011, Belgrade, Serbia.

Media in Serbia: Threats and Profit Chasing, (Mediji u Srbiji: Pretnje i trka za profitom) EurActiv.rs portal, 16 June 2011 available at: <http://www.euractiv.rs/vesti/102-srbija-i-eu/2127-zabrinutost-zbog-loe-situacije-u-medijima.html>, accessed 18 August 2011.

IFEX, Independent station threatened after airing show on mining abuses, 23 February 2011, available at: [http://www.ifex.org/serbia/2011/02/23/b92\\_threatened/](http://www.ifex.org/serbia/2011/02/23/b92_threatened/), accessed 18 August 2011.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, 22 August 2011, BIRODI, Belgrade, Serbia.

**Yes:** A YES score is earned if there were no documented cases of journalists being assaulted during the specific study period for their work covering corruption issues. A YES score is positive.

**No:** A NO score is earned if there were any documented cases of assault to a journalist covering corruption during the study period. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

11c. In practice, in the past year, no journalists investigating corruption have been killed.

Yes | No

**Comments:**

Although there is no evidence available that journalists investigating corruption have been imprisoned, physically harmed or killed, the journalists in Serbia reporting on corruption cases have been seriously threatened, and some of them are under 24-hour police protection. For instance, Brankica Stankovic, an investigative journalist and the reporter of the B92 documentary "Insajder," has been threatened and has police protection. Also Veran Matic, B92 editor-in-chief, received police protection due to numerous threats he faced. The threats came from individuals and groups that the "Insajder" documentary researched.

For more information please refer to: [http://www.ifex.org/serbia/2011/03/15/ipi\\_support/](http://www.ifex.org/serbia/2011/03/15/ipi_support/)

**References:**

Slobodan Georgijev, Project Coordinator, BIRN regional NGO, Belgrade, Serbia, and journalist, Vreme, interview held on 18 August 2011, Belgrade, Serbia.

Miodrag Cvorovic, journalist and producer Insajder documentary, B92 TV, interview held on 30 August 2011, Belgrade, Serbia.

Media in Serbia: Threats and Profit Chasing, (Mediji u Srbiji: Pretnje i trka za profitom) EurActiv.rs portal, 16 June 2011 available at: <http://www.euractiv.rs/vesti/102-srbija-i-eu/2127-zabrinutost-zbog-loe-situacije-u-medijima.html>, accessed 18 August 2011.

IFEX, Independent station threatened after airing show on mining abuses, 23 February 2011, available at: [http://www.ifex.org/serbia/2011/02/23/b92\\_threatened/](http://www.ifex.org/serbia/2011/02/23/b92_threatened/), accessed 18 August 2011.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, 22 August 2011, BIRODI, Belgrade, Serbia.

**Yes:** A YES score is earned if there were no documented cases of journalists being killed because of their work covering corruption-related issues during the study period. A YES score is positive.

**No:** A NO score is earned if there were any documented cases where a journalist was killed in relation to his or her work covering corruption-related issues in the study period. The relationship between a mysterious death and an individual's work may not be clear, however the burden of proof here is low. If it is a reasonable guess that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

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81  
1.3. Public Requests for Government Information

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12. Do citizens have a legal right to request information?

100

12a. In law, citizens have a right to request government information and basic government records.

Yes | No

**Comments:**

"There are four basic legal rights when it comes to access to information of public importance (Art. 5 of the Law): (1) right to be notified whether a public governing body possesses certain information, or if it is available to him; (2) right for information of public importance to be made available to him free of charge; (3) right to receive a copy of the document containing the requested information, with the payment of a defined fee in the amount of necessary costs of making the document copy; (4) right to have a copy of the document sent to his address by post, fax, email or by any other means, with the payment of a defined fee in the amount of necessary shipping costs; and, if the requested information is already available to the public, (5) the right for the governing body to direct him to it. If the document contains parts to which the public does not have justifiable interest to know, the

requester has the right for the public governing body to make other parts of the document available to him. For more details please refer to: <http://prvisud.rs/en/javnost-rada/access-to-information-of-public-importance>

According to Transparency Serbia's EC Progress Report Consultations with the European Commission: "... The Law on Free Access to Information (2004) is one of the most modern pieces of Serbian legislation and has proved to be a very valuable tool in the fight against corruption. Amendments improved oversight mechanisms, increasing the number of punishable violations and ensuring more effective execution of commissioner's decisions. However, there are still provisions to be clarified or changed in order to make this law more effective, such as providing the right to appeal a request rejected by one of the six top state institutions or guaranties of the supremacy of FOIA (Freedom of Information Act) legislation over other acts regulating similar issues."

**References:**

Law on Free Access to Information of Public Importance, Official Gazette of RS, no. 120/2004, 54/2007 and 104/2009, Article 5. Available at: <http://www.informacionpublica.gub.uy/sitio/descargas/normativas-internacionales-legislacion/serbia.pdf>, accessed 4 August 2011.

**Yes:** A YES score is earned if there is a formal right to request government documents, including constitutional guarantees. Exceptions can be made for national security reasons or individual privacy, but they should be limited in scope. All other government documents should be available upon a public request.

**No:** A NO score is earned if there is no such right.

12b. In law, citizens have a right of appeal if a request for a basic government record is denied.

Yes | No

**Comments:**

The Commissioner for Information of Public Importance and Personal Data Protection is an independent government institution mandated to consider complaints against the decisions of public authorities that violate the rights regulated by the Law.

Article 16, Paragraph 4, of the Law on Free Access to Information of Public Importance stipulates the following:

"If a public authority does not respond to a request within the specified deadline, an applicant may lodge a complaint with the commissioner, except in cases where this law provides otherwise."

**References:**

Law on Free Access to Information of Public Importance, Official Gazette of RS, no. 120/2004, 54/2007 and 104/2009, Article 16 paragraph 4. Available at: <http://www.informacionpublica.gub.uy/sitio/descargas/normativas-internacionales-legislacion/serbia.pdf>, accessed 4 August 2011.

**Yes:** A YES score is earned if there is a formal process of appeal for rejected information requests. A YES score can still be earned if the appeals process involves redress through the courts rather than administrative appeal.

**No:** A NO score is earned if there is no such formal process.

12c. In law, there is an established institutional mechanism through which citizens can request government records.

Yes | No

**Comments:**

According to the Law on Free Access to Information of Public Importance, Article 1, Paragraph 2: "For the purpose of exercising the rights of access to information of public importance held by public authorities, this law shall provide for the establishment of the institution of the Commissioner for Information of Public Importance (hereinafter referred to as commissioner) as an autonomous government body independent in the exercise of its powers."

For more information on the work of the commissioner in the period researched for the purpose of this report, refer to information booklet at: <http://poverenik.rs/images/stories/informator-o-radu/2011/avgust/informationbookletaugust.pdf>.

**References:**

Law on Free Access to Information of Public Importance, Official Gazette of RS, no. 120/2004, 54/2007 and 104/2009, Article 1, Paragraph 2. Available at: <http://www.informacionpublica.gub.uy/sitio/descargas/normativas-internacionales-legislacion/serbia.pdf>, accessed 4 August 2011

**Yes:** A YES score is earned if there is a formal government mechanism/institution through which citizens can access government records available under freedom of information laws. This mechanism could be a government office (or offices within agencies or ministries) or an electronic request system.

**No:** A NO score is earned if there is no such formal mechanism or institution.

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### 13. Is the right to information requests effective?

71

13a. In practice, citizens receive responses to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

In some cases citizens receive responses to information requests within the period prescribed by the Law on Free Access to Information of Public Importance, which is two weeks from the day the request was submitted — or in some cases that deadline may be extended by 40 days from the day the request was submitted. However, according to the Annual Report of the Commissioner for Information of Public Importance and Personal Data Protection, a rising number of appeals submitted to the commissioner support the fact that there is a great number of cases in which the responses were lacking or were not received within a reasonable time period.

**References:**

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, 22 August, BIRODI, Belgrade, Serbia.

Miodrag Cvorovic, journalist and producer "Insajder" documentary, B92 TV, interview held on 30 August 2011, Belgrade, Serbia.

Stanojka Mandic, Deputy of the Commissioner for Information of Public Importance and Personal Data Protection, interview held on 31 August 2011 Belgrade, Serbia.

Information Booklet on the Work of Commissioner for Information of Public Importance and Personal Data Protection, Belgrade 2011, available at: <http://poverenik.rs/images/stories/informator-o-radu/2011/jul/informationbookletjuly1.pdf>, accessed 1 September 2011.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

**100:** Records are available on-line, or records can be obtained within two weeks. Records are uniformly available; there are no delays for politically sensitive information. Legitimate exceptions are allowed for sensitive national security-related information.

**75:**

**50:** Records take around one to two months to obtain. Some additional delays may be experienced. Politically-sensitive information may be withheld without sufficient justification.

**25:**

**0:** Records take more than four months to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records. National security exemptions may be abused to avoid disclosure of government information.

13b. In practice, citizens can use the information request mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

There are no administrative taxes prescribed to be paid for submitting a request for information. In some cases, only the costs of copying need to be paid. However, according to interviews held, there were some cases where some state bodies asked citizens to pay for the information request procedure against rules and procedures, but these cases were in the minority.

**References:**

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, 22 August 2011, BIRODI, Belgrade, Serbia.

Miodrag Cvorovic, journalist and producer "Insajder" documentary, B92 TV, interview held on 30 August 2011, Belgrade, Serbia.

Stanojla Mandic, Deputy of the Commissioner for Information of Public Importance and Personal Data Protection, interview held on 31 August 2011 Belgrade, Serbia.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

13c. In practice, responses to information requests are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

In some cases, responses to information requests are specific and adhere to high-quality standards. However, there are a number of responses that have a general character and do not respond directly to what was requested by the citizens. In such cases, citizens usually submit appeals to the Commissioner for Information of Public Importance and Personal Data Protection in order to get requested information in a second procedure.

**References:**

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, 22 August, BIRODI, Belgrade, Serbia.

Miodrag Cvorovic, journalist and producer "Insajder" documentary, B92 TV, interview held on 30 August 2011, Belgrade, Serbia.

Stanojla Mandic, Deputy of the Commissioner for Information of Public Importance and Personal Data Protection, interview held on 31 August 2011 Belgrade, Serbia.

**100:** Responses to information requests typically address the requestor's questions in full and are not redacted or edited to remove sensitive information.

**75:**

**50:** Information requests are sometimes met with sufficient responses, but responses to information requests may be vague or overly general when sensitive information is sought.

**25:**

**0:** The government rarely or never replies to information requests with meaningful responses. If and when responses are issued, they are so overly general or heavily redacted as to render them useless.

13d. In practice, citizens can resolve appeals to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The Commissioner for Information of Public Importance and Personal Data Protection usually acts on appeals and resolves them within a period of 30 days as prescribed by the Law on Free Access to Information of Public Importance. Likewise, in 2010, the Protector of Citizens acted on the right for information of public importance. However, due to the large number of appeals submitted to the commissioner, some appeals take more than 30 days to be resolved. In addition, the commissioner faces problems of lack of capacity and personnel to carry out its mandate fully.

**References:**

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, 22 August, BIRODI, Belgrade, Serbia.

Miodrag Cvorovic, journalist and producer "Insajder" documentary, B92 TV, interview held on 30 August 2011, Belgrade, Serbia.

Stanojla Mandic, Deputy of the Commissioner for Information of Public Importance and Personal Data Protection, interview held on 31 August 2011 Belgrade, Serbia.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

**100:** The agency/entity acts on appeals quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

**75:**

**50:** The agency/entity acts on appeals quickly but with some exceptions. Some appeals may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency/entity does not resolve appeals in a timely fashion quickly. Appeals may be unacknowledged for many months and simple issues may take more than three months to resolve.

13e. In practice, citizens can resolve appeals to information requests at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens do not need to pay any administrative taxes for resolving appeals to information requests.

**References:**

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, 22 August 2011, BIRODI, Belgrade, Serbia.

Miodrag Cvorovic, journalist and producer "Insajder" documentary, B92 TV, interview held on 30 August 2011, Belgrade, Serbia.

Stanojla Mandic, Deputy of the Commissioner for Information of Public Importance and Personal Data Protection, interview held on 31 August 2011 Belgrade, Serbia.

Information Booklet on Work of Commissioner for Information of Public Importance and Personal Data Protection, Belgrade, 2011, available at: <http://poverenik.rs/images/stories/informator-o-radu/2011/jul/informationbookletjuly1.pdf>, accessed 1 September 2011.

2010 Regular Annual Report of the Protector of Citizens, available at: [http://www.ombudsman.rs/attachments/1420\\_Annual%20Report%202010.pdf](http://www.ombudsman.rs/attachments/1420_Annual%20Report%202010.pdf), accessed 1 September 2011.

**100:** In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge an access to information determination.

75:

50: In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge an access to information determination.

25:

0: The prohibitive cost of utilizing the access to information appeals mechanism prevents middle class citizens from challenging access to information determinations.

13f. In practice, the government gives reasons for denying an information request.

100 | 75 | 50 | 25 | 0

**Comments:**

According to interviews held, in some cases reasons for denying an information request are justified with the explanation that the person who requests information does not belong to the interested party to get the information. On the other hand, some explanations are related to the fact that requested information has no public character and cannot be revealed. However, in most cases, according to interviews held, the government gives informal documents to citizens stating reasons for denying information instead of a formal decision on denying.

**References:**

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, 22 August 2011, BIRODI, Belgrade, Serbia.

Miodrag Cvorovic, journalist and producer "Insajder" documentary, B92 TV, interview held on 30 August 2011, Belgrade, Serbia.

Stanojia Mandic, Deputy of the Commissioner for Information of Public Importance and Personal Data Protection, interview held on 31 August 2011 Belgrade, Serbia.

Information Booklet on Work of Commissioner for Information of Public Importance and Personal Data Protection, Belgrade, 2011, available at: <http://poverenik.rs/images/stories/informator-o-radu/2011/jul/informationbookletjuly1.pdf>, accessed 1 September 2011.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

100: The government always discloses to the requestor the specific, formal reasons for denying information requests.

75:

50: The government usually discloses reasons for denying an information request to the requestor, with some exceptions. The reasons may be vague or difficult to obtain.

25:

0: The government does not regularly give reasons for denying an information request to the requestor.

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Category 2. Elections

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## 2.1. <sup>76</sup>Voting and Party Formation

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14. Is there a legal framework guaranteeing the right to vote?

14a. In law, universal and equal adult suffrage is guaranteed to all citizens.

Yes | No

**Comments:**

The right to vote is guaranteed to all adult citizens of the country.

According to Article 52 of the Constitution of the Republic of Serbia: "Every citizen of age and working ability of the Republic of Serbia shall have the right to vote and be elected. Suffrage shall be universal and equal for all, the elections shall be free and direct and voting is carried out by secret ballot in person."

**References:**

Constitution of the Republic of Serbia, Official Gazette of RS, No. 83/2006, Article 52. Available at: <http://www.predsednik.rs/mwc/epic/doc/ConstitutionofSerbia.pdf>, accessed 4 August 2011.

**Yes:** A YES score is earned if the right to vote is guaranteed to all citizens of the country (basic age limitations are allowed). A YES score can still be earned if voting procedures are, in practice, inconvenient or unfair.

**No:** A NO score is earned if suffrage is denied by law to any group of adult citizens for any reason. Citizen is defined broadly, to include all ethnicities, or anyone born in the country. A NO score is earned if homeless or impoverished people are legally prohibited from voting.

14b. In law, there is a legal framework requiring that elections be held at regular intervals.

Yes | No

**Comments:**

According to Constitution of the Republic of Serbia, Article 102: "The term of office of the deputy shall begin on the day of confirmation of terms of office in the National Assembly and last four years, that is until the expiry of terms of office of deputies of that session of the National Assembly.

Under the terms stipulated by the law, a deputy shall be free to irrevocably put his/her term of office at disposal to the political party upon which proposal he or she has been elected a deputy. A deputy may not be a deputy in the Assembly of the autonomous province, nor an official in bodies of executive government and judiciary, nor may he or she perform other functions, affairs and duties, which represent a conflict of interest, according to the law.

Election, expiry of the term of office and status of deputies shall be stipulated by the law."

Furthermore, according to Law on Elections of Members of Parliament, Article 3: "The Parliament of the Republic of Serbia has 250 MPs (Members of Parliament) elected every four years."

**References:**

Constitution of the Republic of Serbia, Official Gazette of RS, No. 83/2006, Article 102. Available at: <http://www.predsednik.rs/mwc/epic/doc/ConstitutionofSerbia.pdf>, accessed 4 August 2011.

Law on Elections of Members of Parliament, Official Gazette of RS, No. 35/2000, 57/2003, 72/2003, 75/2003, 18/2004, 101/2005 and No. 85/2005), Article 3. Available at: <http://www.ombudsman.rs/pravamanjina/attachments/ZAKON%20o%20izboru%20narodnih%20poslanika.pdf>, accessed 4 August 2011.

**Yes:** A YES score is earned if there is a statutory or other framework enshrined in law that mandates elections at reasonable intervals.

**No:** A NO score is earned if no such framework exists.

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15. Can all citizens exercise their right to vote?

15a. In practice, all adult citizens can vote.

100 | 75 | 50 | 25 | 0

**Comments:**

Elections will be held in Serbia in 2012. The last parliamentary and presidential elections were held in 2008 and according to available sources there were no restrictions that prevented citizens, group of citizens, national minorities, etc., to vote.

**References:**

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August 2011, CeSID premises, Belgrade, Serbia.

Professor at the Faculty of Political Science, University of Belgrade who wishes to remain anonymous, interview held 15 August 2011, Belgrade, Serbia.

OSCE Office for Democratic Institutions and Human Rights Limited Election Observation Mission Republic of Serbia Parliamentary Elections 11 May 2008, Interim Report No. 2, April 2008  
<http://www.osce.org/odihr/elections/serbia/31733>, accessed 5 August 2011.

**100:** Voting is open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers.

**75:**

**50:** Voting is often open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers, with some exceptions.

**25:**

**0:** Voting is not available to some demographics through some form of official or unofficial pressure. Voting may be too dangerous, expensive, or difficult for many people.

15b. In practice, ballots are secret or equivalently protected.

100 | 75 | 50 | 25 | 0

**Comments:**

In practice, ballots are secret.

**References:**

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August 2011, CeSID premises, Belgrade, Serbia.

Professor at the Faculty of Political Science, University of Belgrade who wishes to remain anonymous, interview held 15 August 2011, Belgrade, Serbia.

OSCE Office for Democratic Institutions and Human Rights Limited Election Observation Mission Republic of Serbia Parliamentary Elections 11 May 2008, Interim Report No. 2, April 2008, available at: <http://www.osce.org/odihr/elections/serbia/31733>, accessed 5 August 2011.

Oko Izbora 16, CeSID, <http://www.scribd.com/doc/51935862/OKO-IZBORA-16>, accessed 5 August 2011.

**100:** Ballots are secret, or there is a functional equivalent protection, in all cases.

**75:**

**50:** Ballots are secret, or there is a functional equivalent protection, in most cases. Some exceptions to this practice have occurred. Ballots may be subject to tampering during transport or counting.

25:

0: Ballot preferences are not secret. Ballots are routinely tampered with during transport and counting.

15c. In practice, elections are held according to a regular schedule.

100 | 75 | 50 | 25 | 0

**Comments:**

In Serbia, elections are held according to a regular schedule, the minimum four-year period.

**References:**

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August 2011, CeSID premises, Belgrade, Serbia.

Professor at the Faculty of Political Science, University of Belgrade who wishes to remain anonymous, interview held 15 August 2011, Belgrade, Serbia.

Oklozboraz 16 CeSID, p.49, available at: <http://www.scribd.com/doc/51935862/OKO-IZBORA-16>, accessed 4 August 2011.

**100:** Elections are always held according to a regular schedule, or there is a formal democratic process for calling a new election, with deadlines for mandatory elections.

**75:**

**50:** Elections are normally held according to a regular schedule, but there have been recent exceptions. The formal process for calling a new election may be flawed or abused.

**25:**

**0:** Elections are called arbitrarily by the government. There is no functioning schedule or deadline for new elections.

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## 16. Are citizens able to participate equally in the political process?

85

16a. In law, all citizens have a right to form political parties.

Yes | No

**Comments:**

Before the new Law on Political Parties came into effect that set the requirement for the existing parties to register again, the Serbian political scene was made up of more than 600 political organizations.

The new law introduced more strict regulations and provisions which affected considerably the number of political parties in Serbia.

**References:**

Constitution of the Republic of Serbia, Official Gazette of RS, No. 83/2006, Article 55, paragraph 1. Available at: <http://www.predsednik.rs/mwc/epic/doc/ConstitutionofSerbia.pdf>, accessed 4 August 2011.

Law on Political Parties, Official Gazette of RS, No. 36/2009, available at: [http://www.paragraf.rs/propisi/zakon\\_o\\_politickim\\_strankama.html](http://www.paragraf.rs/propisi/zakon_o_politickim_strankama.html), accessed 4 August 2011.

**Yes:** A YES score is earned if citizens have the right to form political parties without interference from government. A YES score may still be earned if groups or individuals with a history of violence or terrorism (within last ten years) are banned

from forming political parties. Non-discriminatory minimal criteria (e.g. minimum age) are also allowed.

**No:** A NO score is earned if there are any legal or regulatory restrictions or prohibitions barring any types of political parties from being formed.

16b. In law, all citizens have a right to run for political office.

Yes | No

**Comments:**

According to the Constitution of the Republic of Serbia, all citizens have the right to run for political office.

**References:**

Constitution of the Republic of Serbia, Official Gazette of RS, No. 83/2006, Article 52:

**Yes:** A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) have the right under law to run for political office. A YES score may still be earned if individuals with a history of violence, terrorism, or criminality are banned from running for office.

**No:** A NO score is earned if there are any legal restrictions barring certain individuals or groups from running for political office.

16c. In practice, all citizens are able to form political parties.

100 | 75 | 50 | 25 | 0

**Comments:**

In practice, all citizens are able to form political parties. However, there is a significantly smaller number of political parties registered since the adoption of the new law on political party formation, which stipulates new registration and reregistration regulations that are more complicated. For instance, according to the previous law, the number of signatures for political party formation was 1,000, but according to the new law, 10,000 signatures are needed for registration of the party.

**References:**

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August 2011, CeSID premises, Belgrade, Serbia.

In Serbia 77 Political Parties Registered, Radio-television Vojvodina, source Tanjug, 26 April 2011, available at: [http://www.rtv.rs/sr\\_lat/drustvo/u-srbiji-registrovano-77-politickih-stranaka\\_250842.html](http://www.rtv.rs/sr_lat/drustvo/u-srbiji-registrovano-77-politickih-stranaka_250842.html), accessed 5 August 2011.

**100:** While there is no guarantee of electoral success, political parties can form freely without opposition.

**75:**

**50:** Some barriers to formation are present, such as burdensome registration requirements that may not be fairly applied. Some parties' political viewpoints may draw pressure from the government, such as surveillance or intimidation. Some political parties or organizations may have extra barriers to getting on a ballot.

**25:**

**0:** Some political parties are effectively barred from forming through some manner of official or unofficial pressure. This may include threats, arrest, or violence from competing parties or other groups.

16d. In practice, all citizens can run for political office.

**Comments:**

The financial costs of running an election campaign represent a significant barrier to running for political office. Namely, according to Marko Blagojevic, executive director of the Center for Free Elections and Democracy (CeSID) executive director (interview in Alo newspaper, 24 October 2011), political parties for the forthcoming election will be allocated approximately 150,000 euros from the state budget before election campaigns; the party that receives more than 30 percent of the votes will be allocated approximately 2 million euros, and the parties that received 5 percent of votes will be allocated approximately 200,000 euros. However, the costs of election campaigns are far higher than the state allocates to the political parties.

As Blagojevic points out, the cost of an average election campaign in Serbia is approximately 3 million to 4 million euros, while the cost of an election campaign can exceed 10 million euros. Therefore, the barriers in terms of costs of running for political office and surviving in the political scene in Serbia are considerable.

**References:**

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August 2011, CeSID premises, Belgrade, Serbia.

Professor at the Faculty of Political Science, University of Belgrade, who wishes to remain anonymous, interview held 15 August 2011, Belgrade, Serbia.

What are the Costs of Election Winning? (Koliko kosta pobeda na izborima), B92, 24 October 2011, available at: [http://www.b92.net/biz/vesti/srbija.php?yyyy=2011&mm=10&dd=24&nav\\_id=551849](http://www.b92.net/biz/vesti/srbija.php?yyyy=2011&mm=10&dd=24&nav_id=551849), accessed 12 November 2011.

**100:** While there is no guarantee of electoral success, anyone can run for office under transparent and equitable guidelines. There is a formal process for access to the ballot which is fairly applied. The costs of running a campaign are reasonable and do not deter candidates from entering a race.

**75:**

**50:** Some barriers exist to getting on the ballot and bureaucratic or regulatory requirements for doing so may be unfairly applied. The costs of running a political campaign are significant and result in dissuading some candidates from running for office. A system of party lists may discourage or prevent independent candidates from running for office.

**25:**

**0:** Citizens can effectively be barred from the ballot through government abuse of official rules and/or unofficial pressure. The costs of running a campaign are extremely high and result in most average citizens being unable to run an effective campaign for office.

16e. In practice, an opposition party is represented in the legislature.

**Comments:**

In practice, in all government levels, the opposition is represented.

**References:**

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August 2011, CeSID premises, Belgrade, Serbia.

Website of the Serbian Parliament, available at: <http://www.parlament.rs/national-assembly/composition/political-parties.500.html>, accessed 5 August 2011.

**100:** The opposition party always has some influence on the proceedings of the legislature. The opposition party can introduce legislation or bring pending matters to a vote without the consent of the ruling party.

**75:**

**50:** The opposition party has influence on the proceeding of the legislature, but it is limited in scope. The opposition's ability to force votes or publicly debate certain topics may be limited.

**25:**

0: The opposition party has only token participation in the legislature's proceedings and cannot advance legislation or force a debate.

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## 2.2. Election Integrity

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17. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

100

17a. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

Yes | No

**Comments:**

The law on State Electoral Commission as a new independent body has been drafted.

The Law on Elections of Members of Parliament, Article 34, governs. It states that the Republic Electoral Commission shall:

- 1) Oversee the legality of the elections.
- 2) Organize technical preparation for the elections.
- 3) Follow the application and give explanations in regard to the application of this Law.
- 4) Set down unified standards for election materials.
- 5) Set down the forms and regulations for carrying out election procedures foreseen by this Law.
- 6) Set down the kind of a spray as described in Article 68, paragraph 4, of this Law.
- 7) Determine and publish in the Official Gazette of the Republic of Serbia both number and addresses of polling places, not later than 20 days before the day set for holding of elections.
- 8) Form polling boards and appoint the presidents and members of the polling boards.
- 9) Determine the number of ballots for each polling place, stamp them and together with an authorized extract from the electoral roll, hand them over in notarized procedure to the polling boards.
- 10) Determine which election documents shall be sent to it.
- 11) Determine whether the electoral list has been compiled and filed in accordance with this Law and proclaims it.
- 12) Make a ruling on the proclamation of the electoral list.
- 13) Determine the manner of both keeping and handling of election materials.
- 14) Determine and publish the total results of the elections.
- 15) Determine the number of mandates belonging to each electoral list.
- 16) Submit a report to the National Assembly of the Republic of Serbia on the elections carried out.
- 17) Submit data to the authorities responsible for gathering and processing of statistical data.
- 18) Perform other duties foreseen by this Law.

**References:**

Rule of Procedure of the Republic Electoral Commission, available at: [http://www.rik.parlament.gov.rs/engleski/propisi\\_frames.htm](http://www.rik.parlament.gov.rs/engleski/propisi_frames.htm).

Law on the Elections of Members of Parliament, Official Gazette of RS, No. 35/2000 57/2003, 72/2003, 75/2003, 18/2004, 101/2005 and No. 85/2005), Articles 30 to 35 (for Republic Electoral Commission, REC) and Articles 99 and 100 for Supervisory Board.

**Yes:** A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to ensure the integrity of the election process.

**No:** A NO score is earned if no domestic agency or set of domestic agencies/entities exists that monitors elections. A NO score is earned if elections are only monitored by an agency informally, such as poll booth monitoring by the police, only by international observers, or only by NGOs. A NO score is earned if the domestic election agency or set of domestic agencies simply facilitates the process of voting but is not empowered to report violations or abuses.

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18. Is the election monitoring agency effective?

50

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18a. In law, the agency or set of agencies/entities is protected from political interference.

Yes | No

**Comments:**

According to Republic Electoral Commission Rules of Procedure, the work of the commission should be independent and public.

**References:**

Law on the Elections of Members of Parliament, Official Gazette of RS, No. 35/2000, 57/2003, 72/2003, 75/2003, 18/2004, 101/2005 and No. 85/2005),

Article 28. Available at: [http://www.rik.parlament.gov.rs/engleski/propisi\\_frames.htm](http://www.rik.parlament.gov.rs/engleski/propisi_frames.htm), accessed 5 August 2011.

Rules of Procedures of Republic Electoral Commission,

Article 13. Available at: [http://www.rik.parlament.gov.rs/engleski/propisi\\_frames.htm](http://www.rik.parlament.gov.rs/engleski/propisi_frames.htm), accessed 5 August 2011.

**Yes:** A YES score is earned only if the agency or set of agencies/entities has some formal organizational independence from the bodies contesting in the election. A YES score is still earned even if the entity is legally separate but in practice staffed by partisans.

**No:** A NO score is earned if the election monitoring agency or set of agencies/entities is legally tied to bodies contesting the election (i.e. an executive branch agency such as the Interior Ministry, or a committee of the legislature). A NO score is automatically earned if there is no domestic election monitoring agency.

18b. In practice, agency (or set of agencies/entities) appointments are made that support the independence of the agency.

100 | 75 | 50 | 25 | 0

**Comments:**

The Republic Electoral Commission (REC) includes a president, deputy president, 16 commission members along with their deputies, the secretary of the Commission and a representative of the Republic Institute for Statistics. Representation of each political party in REC is equal to the representation of the parties in the Parliament. Therefore, the electoral administration in Serbia is directly entrusted to political parties.

According to Djordje Vukovic in Toward Reforming Electoral Administration in Serbia, there are two main problems concerning the work of REC. The first is related to the problems in the work related to political affiliations of the REC's members that are characteristic for the work of the Parliament. This prevents better performance of the REC's work as well as disabling effective decision making within the REC. Another problem is the inconstancy of this body since every governing majority changes the composition of electoral bodies. This fact prevents establishment of a permanent electoral administration to professionally perform its duties.

**References:**

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August 2011, CeSID premises, Belgrade, Serbia.

Professor at the Faculty of Political Science, University of Belgrade, who wishes to remain anonymous, interview held 15 August 2011, Belgrade, Serbia.

Toward reforming electoral administration in Serbia, Djordje Vukovic, CeSID, Electoral Reform in Serbia, 10 May 2011, available at: <http://izbornareforma.rs/wordpress/wp-content/uploads/zbornik/Djordje%20Vukovic%20-%20Put%20ka%20reformi%20izborne%20administracije.pdf>, accessed 13 August 2011

**100:** Appointments to the agency or set of agencies/entities are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. However, individuals appointed may have clear party loyalties.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

18c. In practice, the agency or set of agencies/entities has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

The Republic Electoral Commission (REC) is provided with the assistance of the National Assembly Administrative Service because it does not have its own administrative staff. In 2011, for instance, 15 employees from the National Assembly's Administrative Department were engaged for the purpose of regular REC work.

**References:**

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August 2011, CeSID premises, Belgrade, Serbia.

Professor at the Faculty of Political Science, University of Belgrade, who wishes to remain anonymous, interview held 15 August 2011, Belgrade, Serbia.

Toward reforming electoral administration in Serbia, Djordje Vukovic, CeSID, Electoral Reform in Serbia, 10 May 2011, available at: <http://www.izbornareforma.rs/english/2011/05/towards-reforming-electoral-administration-in-serbia/>, accessed 13 August 2011.

**100:** The agency or set of agencies/entities has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency or set of agencies/entities has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

**25:**

**0:** The agency or set of agencies/entities has no staff, or such a limited staff that is clearly unqualified to fulfill its mandate.

18d. In practice, the agency or set of agencies/entities makes timely, publicly available reports following an election cycle.

100 | 75 | 50 | 25 | 0

**Comments:**

The reports following an election cycle are available on the Republic Electoral Commission (REC) website.

**References:**

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August 2011, CeSID premises, Belgrade, Serbia.

Professor at the Faculty of Political Science, University of Belgrade, who wishes to remain anonymous, interview held 15 August 2011, Belgrade, Serbia.

**100:** Reports are released to the public on a predictable schedule, without exceptions.

**75:**

**50:** Reports are released, but may be delayed, difficult to access, or otherwise limited.

**25:**

**0:** The agency or set of agencies/entities makes no public reports, issues reports which are effectively secret, or issues reports of no value.

18e. In practice, when necessary, the agency or set of agencies/entities imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

The Republic Electoral Commission (REC) does not have the authority to impose penalties on election offenders.

**References:**

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August 2011, CeSID premises, Belgrade, Serbia.

Professor at the Faculty of Political Science, University of Belgrade, who wishes to remain anonymous, interview held 15 August 2011, Belgrade, Serbia.

**100:** When rules violations are discovered, the agency or set of agencies/entities is aggressive in penalizing offenders and/or in cooperating with other agencies in penalizing offenders.

**75:**

**50:** The agency or set of agencies/entities enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency or set of agencies/entities does not effectively penalize offenders and/or cooperate with other agencies in penalizing offenders. The agency may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

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## 19. Are elections systems transparent and effective?

88

19a. In practice, there is a clear and transparent system of voter registration.

100 | 75 | 50 | 25 | 0

**Comments:**

The Law on Unified Registers of Voters was adopted in 2009. Though the Unified Register of Voters has not been created yet, according to interviews and a review of media reports, the Unified Register of Voters as an electronic database was to be created by the end of 2011.

According to data from the last presidential elections held in Serbia in 2008, after the register was finalized, changes to the register could be made only within the following two weeks and by the decision of a Municipal Court. After the first round of elections, changes to the register could be introduced on the basis of Municipal Court decisions until 48 hours before Election Day.

**References:**

Djordje Vukovic, Executive Director, CeSID, Interview held on 12 August 2011, CeSID premises, Belgrade, Serbia.

Professor at the Faculty of Political Science, University of Belgrade, who wishes to remain anonymous, interview held 15 August 2011, Belgrade, Serbia.

Observation of the Presidential Election in the Republic of Serbia, Second Round (3 February 2008), Council of Europe Parliamentary Assembly, available at: [http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc08/EDOC11534.htm#P110\\_9370](http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc08/EDOC11534.htm#P110_9370), accessed 14 September 2011

International Election Observation Mission, Early Parliamentary Elections, 11 May 2008, OSCE/ODIHR, available at: <http://www.osce.org/sr/odihr/elections/serbia/31837>, accessed 12 August 2011.

**100:** There is a transparent system of voter registration that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote.

**75:**

**50:** There is a transparent voter registration system that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote but there are some problems. Voters may have not access to registration lists with sufficient time to correct errors before voting or registration lists may at times be inaccessible.

**25:**

**0:** The system of voter registration is incomplete or does not exist. Government may routinely falsify registration lists to affect voting patterns and limit access to the polls. Double voting and "ghost" voting by non-existent voters is common.

19b. In law, election results can be contested through the judicial system.

Yes | No

**Comments:**

Article 97 of the Law on the Elections of Members of Parliament stipulates the following: "An appeal against a ruling of the Republic Electoral Commission rejecting or refusing the appeal, may be lodged with the Supreme Court of Serbia. This appeal shall be lodged through the Republic Electoral Commission within 48 hours of receipt of the ruling. The Republic Electoral Commission is bound to hand over the appeal and all required documents to the Supreme Court of Serbia within 24 hours from the moment of receipt of the appeal. The Supreme Court of Serbia shall rule on the appeal according to provisions of the law regulating the procedure in administrative cases. A ruling on the appeal shall be made not later than 48 hours after the receipt of the appeal and accompanying documentation. The ruling on the appeal goes immediately into effect and neither requirements for extraordinary revision of the court ruling, nor requests for repeated proceedings, foreseen by the Law on administrative procedure, can be filed against it. If the Court endorses this appeal, the relevant electoral act, or elections, shall be repeated at the latest within 10 days."

**References:**

Law on the Elections of Members of Parliament, Official Gazette of RS, No. 35/2000, 57/2003, 72/2003, 75/2003, 18/2004, 101/2005 and no. 85/2005),  
Article 97. Available at: [http://www.rik.parlament.gov.rs/engleski/propisi\\_frames.htm](http://www.rik.parlament.gov.rs/engleski/propisi_frames.htm), accessed 5 August 2011.

**Yes:** A YES score is earned if citizens or political parties can challenge allegedly fraudulent election results through the courts or other judicial mechanisms.

**No:** A NO score is earned if there is no legal right for citizens or political parties to challenge allegedly fraudulent election results in the courts or other judicial mechanisms.

19c. In practice, election results can be effectively appealed through the judicial system.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the Organization for Security and Co-operation in Europe (OSCE) International Election Observation Mission, May 11, 2008, 48 complaints were submitted to the REC by election day. These covered a broad range of issues, including membership of polling boards, rules for the registration of foreign observers, alleged distributions of material incentives to voters by election contestants, failure by the National Assembly to establish a Supervisory Board, and the REC's failure to provide timely and objective information about candidates to the voters. None of these complaints was upheld.

The Supreme Court delivered 11 decisions upon 13 appeals against REC decisions and upheld none, referring two appeals to the Belgrade District Court. The Constitutional Court issued two election-related judgments, including one suspending the provision of an REC instruction, which had lowered the number of signatures required for the registration for minority parties' lists to 3,000 instead of 10,000.

**References:**

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August 2011, CeSID premises, Belgrade, Serbia.

International Election Observation Mission, Republic of Serbia-Early Parliamentary Elections, May 11, 2008: Statement of Preliminary Findings and Conclusions, available at: <http://www.osce.org/odihr/elections/serbia/31837>, accessed 12 August 2011.

Professor at the Faculty of Political Science, University of Belgrade, who wishes to remain anonymous, interview held on 15 August 2011, Belgrade, Serbia.

**100:** The electoral appeals mechanism takes cases from both candidates complaining of flaws in the electoral process as well as citizens bringing complaints related to denial of suffrage or registration errors. There is an expedited process for resolving such complaints to avoid delaying a timely announcement of electoral results.

**75:**

**50:** The electoral appeals mechanism takes complaints from both candidates and voters but may not always act on complaints promptly. The appeals mechanism may be abused at times by parties or candidates seeking to delay the announcement of electoral results.

**25:**

**0:** The electoral appeals mechanism rarely or never acts on complaints brought by candidates or citizens. Citizens may not be able to bring complaints related to denial of suffrage or voter registration errors.

19d. In practice, the military and security forces remain neutral during elections.

100 | 75 | 50 | 25 | 0

**Comments:**

There were no elections in the period researched for the purpose of this report. Military and security forces remained neutral during last elections in Serbia, in 2008.

**References:**

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August 2011, CeSID premises, Belgrade, Serbia.

Professor at the Faculty of Political Science, University of Belgrade, who wishes to remain anonymous, interview held 15 August 2011, Belgrade, Serbia.

**100:** The military, military officers, and other security forces refrain from overtly supporting or opposing political candidates or commenting on elections. The military or security forces refrain from physically interfering with political campaigns, rallies, or voting.

**75:**

**50:** The military, military officers, and security forces may be known to unofficially support or oppose particular candidates or parties. The military or security forces generally refrain from the use of force to support or oppose particular candidates or parties but there are exceptions.

**25:**

**0:** The military or other security forces are an active and explicit player in politics and overly support or oppose particular candidates or parties. The military or security forces routinely exercise the use of force to support or oppose parties or candidates.

19e. In law, domestic and international election observers are allowed to monitor elections.

Yes | No

**Comments:**

There is no legal prohibition for domestic and international observers to monitor elections. However, the electoral laws lack clear provisions on participation of either international or nonpartisan domestic observers during local, parliamentary or presidential elections.

**References:**

Law on the Elections of Members of Parliament, Official Gazette of RS, No. 35/2000, 57/2003, 72/2003, 75/2003, 18/2004, 101/2005, 85/2005 and 36/2011), available at: [http://www.rik.parlament.gov.rs/engleski/propisi\\_frames.htm](http://www.rik.parlament.gov.rs/engleski/propisi_frames.htm), accessed 5 August 2011.

Law on Election of the President of the Republic, Official Gazette of RS, No. 111/2007 and 104/2009, available at: [http://www.paragraf.rs/propisi/zakon\\_o\\_izboru\\_predsednika\\_republike.html](http://www.paragraf.rs/propisi/zakon_o_izboru_predsednika_republike.html), accessed 12 September 2011.

Law on Local Elections, Official Gazette of RS, No. 129/2007 and 54/2011, available at: <http://www.ombudsman.rs/pravamanjina/attachments/Zakon%20o%20lokalnim%20izborima.pdf>, accessed 13 September 2011.

**Yes:** A YES score is earned if domestic and international election observers are allowed to monitor the electoral process.

**No:** A NO score is earned if there are any legal or regulatory prohibitions on the monitoring of the electoral process by domestic or international election observers.

19f. In practice, election observers are able to effectively monitor elections.

100 | 75 | 50 | 25 | 0

**Comments:**

According to interviews, national and international election observers witnessed the 2008 parliamentary elections in Serbia with no constraints reported.

**References:**

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August 2011, CeSID premises, Belgrade, Serbia.

International Election Observation Mission, Republic of Serbia-Early Parliamentary Elections, May 11, 2008: Statement of Preliminary Findings and Conclusions, available at: <http://www.osce.org/odihr/elections/serbia/31837>, accessed 12 August 2011

Professor at the Faculty of Political Science, University of Belgrade, who wishes to remain anonymous, interview held 15 August 2011, Belgrade, Serbia.

**100:** Election observers have unfettered access to polling sites, counting stations, and voters themselves. The government does not interfere with the observers' activities.

**75:**

**50:** Election observers generally have access to polling sites, counting stations, and voters but encounter restrictions in certain areas. The government may impose burdensome regulatory or bureaucratic requirements on observers to discourage their involvement.

**25:**

**0:** Election observers' movements are significantly limited by the government and many polling and counting sites are restricted or barred from observers. The government imposes so many bureaucratic or regulatory burdens on the observers that their mission is rendered ineffective.

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## 20. Are there regulations governing the financing of political parties?

83

20a. In law, there are limits on individual donations to political parties.

Yes | No

### Comments:

The issue of political financing in Serbia has been regulated from 1997. Since then, laws and revisions have been passed in 2003, 2008 and 2009. The newest law on financing of political parties was adopted in June 2011.

The new law contains several restrictions on how political parties and election campaigns in Serbia can be funded. Overall, the regulations seem to provide reasonable limitations while allowing political parties to function effectively. In comparison with previous legislation, the new regulations are arguably less burdensome for the political entities.

The maximum value of donations on an annual level that an individual may give to political entities for regular work shall not exceed 20 average monthly salaries.

### References:

Law on Financing of Political Parties, Official Gazette of RS, No. 43/2011, Article 10 paragraph 1: Available at: [http://www.ifes.org/~media/Files/Publications/Reports/2011/The\\_Serbian\\_2011\\_Law\\_on\\_Financing\\_Political\\_Activities.pdf](http://www.ifes.org/~media/Files/Publications/Reports/2011/The_Serbian_2011_Law_on_Financing_Political_Activities.pdf), accessed 5 August 2011

**Yes:** A YES score is earned if there are any limits in size on individual contributions to political parties. A YES score is also earned if individual contributions are prohibited.

**No:** A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20b. In law, there are limits on corporate donations to political parties.

Yes | No

### Comments:

The maximum value of donation at an annual level that a legal entity may give to political entities for regular work shall not exceed 200 average monthly salaries.

### References:

Law on Financing of Political Parties, Official Gazette of RS, No. 43/2011, Article 10 paragraph 2, Available at: [http://www.ifes.org/~media/Files/Publications/Reports/2011/The\\_Serbian\\_2011\\_Law\\_on\\_Financing\\_Political\\_Activities.pdf](http://www.ifes.org/~media/Files/Publications/Reports/2011/The_Serbian_2011_Law_on_Financing_Political_Activities.pdf), accessed 5 August 2011

**Yes:** A YES score is earned if there are any limits in size on corporate contributions to political parties. A YES score is earned if corporate contributions are prohibited.

**No:** A NO score is earned if there are no limits on corporate contributions to political parties. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20c. In law, there are limits on total political party expenditures.

Yes | No

**Comments:**

One of the major changes in the new law was the removal of limits on how much political parties are allowed to spend. Previous legislation contained fairly strict spending limits on political entities, though it was expressed as limits on the amounts that entities could raise in total.

**References:**

There is no legal ground in the current Law on Political Subjects Financing.

**Yes:** A YES score is earned if there are any limits in size on political party expenditures during the course of an election.

**No:** A NO score is earned if there are no limits on political party expenditures during an election. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20d. In law, there are requirements for the disclosure of donations to political parties.

Yes | No

**Comments:**

The annual reports should, in accordance with the new law, be submitted no later than April 15 each year, cover the preceding calendar year, and be accompanied by the opinion of an accredited auditor. Once submitted, the entity must publish the information on its website within eight days and send it for publication in the Official Gazette of Republic of Serbia.

**References:**

Law on Financing of Political Parties, Official Gazette of RS, No. 43/2011, Articles 28 and 29. Available at: [http://www.ifes.org/~media/Files/Publications/Reports/2011/The\\_Serbian\\_2011\\_Law\\_on\\_Financing\\_Political\\_Activities.pdf](http://www.ifes.org/~media/Files/Publications/Reports/2011/The_Serbian_2011_Law_on_Financing_Political_Activities.pdf), accessed 5 August 2011

**Yes:** A YES score is earned if there are any requirements mandating the disclosure of financial contributions to political parties.

**No:** A NO score is earned if there are no requirements mandating the disclosure of contributions to political parties, existing regulations do not require a donor's name or amount given, or the regulations allow for anonymous donations. Systems where only certain donation amounts are required to be made public (above a non-trivial amount) also earn a NO score.

20e. In law, there are requirements for the independent auditing of the finances and expenditures of political parties when financial irregularities are uncovered.

Yes | No

**Comments:**

The new Law on Political Subjects Financing enables the Anti-Corruption Agency to "engage relevant experts and institutions" for auditing finances and expenditures of political parties if irregularities are discovered. However, the law does not enable nor require the agency to audit candidates.

**References:**

Law on Financing of Political Parties, Official Gazette of RS, No. 43/2011, Article 32. Available at: [http://www.ifes.org/~media/Files/Publications/Reports/2011/The\\_Serbian\\_2011\\_Law\\_on\\_Financing\\_Political\\_Activities.pdf](http://www.ifes.org/~media/Files/Publications/Reports/2011/The_Serbian_2011_Law_on_Financing_Political_Activities.pdf), accessed 5 August 2011.

**Yes:** A YES score is earned if there is a legal or regulatory requirement for the independent auditing of party finances and expenditures when irregularities are uncovered. The auditing is performed by an impartial third-party.

**No:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of political parties' finances and expenditures when financial irregularities are uncovered. A NO score is also earned if such requirements exist but allow for parties to self-audit.

20f. In law, there is an agency or entity that monitors the financing of political parties.

Yes | No

**Comments:**

Article 5 of the Law on Anti-Corruption Agency stipulates that the agency "rules on conflict of interest; performs tasks in accordance with the law governing financing of political parties, and/or political entities; issues opinions and directives for enforcing of this Act," among other actions.

The Anti-Corruption Agency started its work in January 2010 replaces previous agencies engaged in financing political parties oversight (The Finance Committee of the Serbian Parliament and Republic Electoral Commission). It is explicitly nonpartisan.

**References:**

Anti-Corruption Agency Law, Official Gazette of RS, No. 97/2008 and 53/2010, Article 5, Available at: <http://www.acas.rs/en/zakoni-i-drugi-propisi/the-mayor/law-on-agency.html>, accessed 5 August 2011.

IFES. "The Serbian 2011 Law on Financing Political Activities." [http://www.ifes.org/~media/Files/Publications/Reports/2011/The\\_Serbian\\_2011\\_Law\\_on\\_Financing\\_Political\\_Activities.pdf](http://www.ifes.org/~media/Files/Publications/Reports/2011/The_Serbian_2011_Law_on_Financing_Political_Activities.pdf)

**Yes:** A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around the financing of political parties. A YES score is earned even if the agency/entity is ineffective in practice.

**No:** A NO score is earned if there is no such agency or entity. A NO score is also earned if this monitoring is solely carried out by the media and non-governmental organizations.

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## 21. Are there regulations governing the financing of individual political candidates?

100

21a. In law, there are limits on individual donations to political candidates.

Yes | No

**Comments:**

Political candidates are also considered as political subjects, therefore the same regulation applies as for political parties.

Maximum value of donation on at annual level that a natural person may give to political entities for regular work shall not exceed 20 average monthly salaries.

**References:**

Law on Financing of Political Parties, Official Gazette of RS, No. 43/2011, Article 10 paragraph 1, Available at: [http://www.ifes.org/~media/Files/Publications/Reports/2011/The\\_Serbian\\_2011\\_Law\\_on\\_Financing\\_Political\\_Activities.pdf](http://www.ifes.org/~media/Files/Publications/Reports/2011/The_Serbian_2011_Law_on_Financing_Political_Activities.pdf), accessed 5 August 2011

**Yes:** A YES score is earned if there are any limits in size on individual contributions to political candidates. A YES score is also earned if individual contributions are prohibited.

**No:** A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition candidates in a discriminatory manner.

21b. In law, there are limits on corporate donations to individual political candidates.

Yes | No

**Comments:**

Political candidates are considered as political subjects, therefore the same regulations are applied to both entities.

**References:**

Law on Financing of Political Subjects, Official Gazette of RS, No. 43/2011,  
Article 10 paragraph 2:

Maximum value of donation at annual level that a legal entity may give to political entities for regular work shall not exceed 200 average monthly salaries.

Available

at: [http://www.ifes.org/~media/Files/Publications/Reports/2011/The\\_Serbian\\_2011\\_Law\\_on\\_Financing\\_Political\\_Activities.pdf](http://www.ifes.org/~media/Files/Publications/Reports/2011/The_Serbian_2011_Law_on_Financing_Political_Activities.pdf), accessed 5 August 2011

**Yes:** A YES score is earned if there are any limits in size on corporate contributions to individual political candidates. A YES score is earned if corporate contributions are prohibited.

**No:** A NO score is earned if there are no limits on corporate contributions to individual political candidates. A NO score is also earned if limits are applied by the government on opposition candidates in a discriminatory manner.

21c. In law, there are requirements for the disclosure of donations to individual political candidates.

Yes | No

**Comments:**

Articles 28 of the Law on Political Subjects Financing stipulate the following:

"A political entity with representatives in representative bodies and registered political parties are required to submit to the Agency an annual financial statement, as well as a report on donations and assets, together with the opinion of an auditor certified in accordance with accounting and audit regulations not later than 15 April of the current year for the preceding year.

Political entities referred in paragraph 1 of this article are required to publish within eight days of submission of the annual financial statement to the Agency, the statement on their web site and forward it for publishing in the "Official Gazette of the Republic of Serbia.

The Director of the Agency shall specify the content of the annual financial statement".

Article 29:

A political entity participating in election campaign is required to submit to the Agency a report on election campaign costs within 30 days from the date of publication of final election results.

The report on election campaign costs contains information on origin, amount and structure of raised and spent funds from public and private sources.

The report on election campaign costs is compiled for the period from the date of calling of elections until the date of publishing final election results.

The report on election campaign costs is published on the website of the Agency. The content of the report on election campaign costs is specified by the director of the Agency."

**References:**

Law on Financing of Political Subjects, Official Gazette of RS, No. 43/2011,  
Articles 28 and 29. Available at:

[http://www.ifes.org/~media/Files/Publications/Reports/2011/The\\_Serbian\\_2011\\_Law\\_on\\_Financing\\_Political\\_Activities.pdf](http://www.ifes.org/~media/Files/Publications/Reports/2011/The_Serbian_2011_Law_on_Financing_Political_Activities.pdf), accessed 5 August 2011.

**Yes:** A YES score is earned if there are any requirements mandating the disclosure of financial contributions to individual political candidates.

**No:** A NO score is earned if there are no requirements mandating the disclosure of contributions to individual political candidates, existing regulations do not require a donor's name or amount given, or the regulations allow for anonymous donations. Systems where only certain donation amounts are required to be made public (above a non-trivial amount) also earn a NO score.

21d. In law, there are requirements for the independent auditing of the campaign finances of individual political candidates when irregularities are uncovered.

Yes | No

**Comments:**

The new Law on Political Subjects Financing enables the Anti-Corruption Agency to "engage relevant experts and institutions" for auditing finances and expenditures of political entities. The law does not explicitly mandate the agency to audit financial reports of individual political candidates, but "political entity" also includes individual candidates, so the provision also applies to individual candidates.

**References:**

Law on Financing of Political Subjects, Official Gazette of RS, No. 43/2011, Article 32 and 34. Available at:

[http://www.ifes.org/~media/Files/Publications/Reports/2011/The\\_Serbian\\_2011\\_Law\\_on\\_Financing\\_Political\\_Activities.pdf](http://www.ifes.org/~media/Files/Publications/Reports/2011/The_Serbian_2011_Law_on_Financing_Political_Activities.pdf), accessed 5 August 2011.

**Yes:** A YES score is earned if there is a legal or regulatory requirement for the independent auditing of an individual candidate's campaign finances and expenditures when financial irregularities are uncovered. The auditing is performed by an impartial third-party.

**No:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of an individual candidate's campaign finances and expenditures when financial irregularities are uncovered. A NO score is also earned if such requirements exist but allow for candidates to self-audit.

21e. In law, there is an agency or entity that monitors the financing of individual political candidates' campaigns.

Yes | No

**Comments:**

The Anti-Corruption Agency is mandated to monitor financing of all political subjects whether political parties or individual political candidates during election campaign.

**References:**

Anti-Corruption Agency Law, Official Gazette of RS, No. 97/2008 and 53/2010,

Article 5. Available at: <http://www.acas.rs/en/zakoni-i-drugi-propisi/the-mayor/law-on-agency.html>, accessed 5 August 2011.

**Yes:** A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around the financing of individual political candidates' campaigns. A YES score is earned even if the agency/entity is ineffective in practice.

**No:** A NO score is earned if there is no such agency or entity. A NO score is also earned if this monitoring is solely carried out by the media and non-governmental organizations.

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## 22. Are the regulations governing the political financing of parties effective?

33

22a. In practice, the limits on individual donations to political parties are effective in regulating an individual's ability to financially support a political party.

100 | 75 | 50 | 25 | 0

**Comments:**

Up until January 2010 there was no institution that oversaw the donations to political parties. With establishment of the Anti-Corruption Agency, Serbia finally has a body that is charged with overseeing political parties' financing. Before the agency had been established the overseeing of financial activities of the political parties was performed by the Republic Electoral Commission and the Parliamentary Finance Committee. Since the new law on political parties has been adopted in June 2011, the effectiveness of the enforcement that regulates financing political parties is not yet known. However, by the old law the effectiveness could not be qualified as good.

**References:**

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August, CeSID premises, Belgrade, Serbia.

Ivana Petrin, Adviser, Department for the Control of Political Parties Financing, Anti-corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Verica Barac, President of the Anti-Corruption Council, interview held on 7 September 2011, Belgrade, Serbia

Professor at the Faculty of Political Science, University of Belgrade who wishes to remain anonymous, interview held 15 August 2011, Belgrade, Serbia.

Finansiranje politickih partija – izmedju norme i prakse (Financing of Political Parties – between the norm and practice), CeSID, April 2008, Belgrade.

Available at: <http://izbornareforma.rs/wordpress/wp-content/uploads/resurscentar/Finansiranje%20politickih%20partija.pdf>, accessed 12 August 2011

Miroslava Milenovic, fraud examiner, Office Milenovic, Belgrade, Serbia, interview held on 17 August 2011, Belgrade, Serbia.

Annual Report on Anti-Corruption Agency for 2010, March 2011, available at: [http://www.acas.rs/images/stories/Annual\\_Report\\_for\\_2010.pdf](http://www.acas.rs/images/stories/Annual_Report_for_2010.pdf), accessed 25 August 2011

**100:** Existing limits represent the full extent to which an individual can directly or indirectly financially support a political party. Limits are reasonably low enough in the context of the total costs of running a campaign.

**75:**

**50:** Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a political party. However, exceptions and loopholes exist through which individuals can indirectly support political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular party; unregulated loans to parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a political party are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

22b. In practice, the limits on corporate donations to political parties are effective in regulating a company's ability to financially support a political party.

100 | 75 | 50 | 25 | 0

**Comments:**

Limits on corporate donations to political parties could not be qualified as effective according to previous legislation on financing political parties in Serbia. Namely, there were a number of loopholes and indirect support to the parties. A controlling mechanism was not in place before the Anti-Corruption Agency was established. The new law on financing political subjects has been endorsed just recently and its implementation that regulates the limits on corporate donations can not be assessed.

There are a number of examples of how corporate donations affected political parties' decisions. For instance, according to media reports, after donating to SPS a million RS Dinars, the private corporation subsequently won the tender announced by the Ministry of Education whose minister is an SPS official.

Furthermore, according to a Blic Newspaper article published in May 2011 (<http://www.blic.rs/Vesti/Tema-Dana/254196/Svestranke-negiraju-veze-s-tajkunima>) there are strong links between powerful businessmen and political parties in Serbia. Donation

of the corporations or individuals are not recorded through regular financial system and therefore cannot be tracked.

**References:**

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August, CeSID premises, Belgrade, Serbia.

Ivana Petrin, Adviser, Department for the Control of Political Parties Financing, Anti-Corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Verica Barac, President of the Anti-Corruption Council, Interview held on 7 September 2011, Belgrade, Serbia

Professor at the Faculty of Political Science, University of Belgrade who wishes to remain anonymous, interview held 15 August 2011, Belgrade, Serbia.

National Assembly Report for 2009, May 2010, Page 6, available

at: <http://www.parlament.gov.rs/upload/archive/files/lat/pdf/izvestaji/2009/Izvestaj%20o%20radu%20odboru%20u%202009%20web%20Lat.pdf>, accessed 12 August 2011.

Miroslava Milenovic, fraud examiner, Office Milenovic, Belgrade, Serbia, interview held on 17 August 2011, Belgrade, Serbia.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

Company gave donation to SPS and won the bid (Firma dala donaciju SPS-u pa dobila tender) Kurir, 24 June 2011, available at: <http://www.kurir-info.rs/vesti/drustvo/firma-dala-donaciju-sps-u-pa-dobila-tender-97738.php>, accessed 12 November 2011.

**100:** Existing limits represent the full extent to which a company can directly or indirectly financially support a political party. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

**75:**

**50:** Existing limits generally represent the full extent to which a company can directly or indirectly financially support a political party. However, exceptions and loopholes exist through which companies can indirectly support political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular party; unregulated loans to parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to political parties are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

22c. In practice, the limits on total party expenditures are effective in regulating a political party's ability to fund campaigns or politically-related activities.

100 | 75 | 50 | 25 | 0

**Comments:**

The scoring of this indicator relates to the previous Law on Political Parties Financing.

Enforcement of the new law will be known after the 2012 election campaigns.

**References:**

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August, CeSID premises, Belgrade, Serbia.

Ivana Petrin, Adviser, Department for the Control of Political Parties Financing, Anti-Corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Verica Barac, President of the Anti-Corruption Council, interview held on 7 September 2011, Belgrade, Serbia.

Professor at the Faculty of Political Science, University of Belgrade who wishes to remain anonymous, interview held 15 August 2011, Belgrade, Serbia.

National Assembly Report for 2009, May 2010, Page 6, available

at: <http://www.parlament.gov.rs/upload/archive/files/lat/pdf/izvestaji/2009/Izvestaji%20o%20radu%20odboru%20u%202009%20web%20Lat.pdf>, accessed 12 August 2011.

Finansiranje političkih partija – između norme i prakse (Financing of Political Parties – between the norm and practice), CeSID, April 2008.

Available at: <http://izbornareforma.rs/wordpress/wp-content/uploads/resurscentar/Finansiranje%20politickih%20partija.pdf>, accessed 12 August 2011.

Miroslava Milenovic, fraud examiner, Office Milenovic, Belgrade, Serbia, interview held on 17 August 2011, Belgrade, Serbia.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

**100:** Existing limits represent the full extent to which political parties are able to finance their activities. Limits are reasonably low enough in the context of the total costs of running a party to be meaningful.

**75:**

**50:** Existing limits generally represent the full extent to which a political party can finance its activities. However, exceptions and loopholes exist through which parties can generate revenue or finance their activities beyond the scope of existing regulations. Such loopholes could include taking loans that are outside of the scope of regulations covering direct donations; links to revenue-generating business activities that are beyond the scope of electoral or campaign-related regulations; or accepting in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a party.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The majority of expenditures are made outside of the formal limitation system. Limits are so high that they are meaningless in the context of the overall costs of running a party.

22d. In practice, when necessary, an agency or entity monitoring the financing of political parties independently initiates investigations.

100 | 75 | **50** | 25 | 0

#### Comments:

Practical effectiveness of the Anti-Corruption Agency cannot be fully evaluated since the agency started its work in 2010. However, the agency does not have an investigative function but controls one. Therefore, when it comes to the investigation need the agency transfers the case to the relevant investigative institution. Currently, the staff of the Oversight Department of the Agency completed training in the area of control of the financial reports. In addition, misdemeanor charges have been raised against political parties where irregularities in financial reports have been discovered by the agency.

#### References:

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August, CeSID premises, Belgrade, Serbia.

Ivana Petrin, Adviser, Department for the Control of Political Parties Financing, Anti-Corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Misdemeanor Charges Against Political Parties, Anti-Corruption Agency, available at: [http://acas.rs/images/stories/podnete\\_prekrasajne\\_prijave\\_azurirano.pdf](http://acas.rs/images/stories/podnete_prekrasajne_prijave_azurirano.pdf), accessed 14 September 2011

Professor at the Faculty of Political Science, University of Belgrade who wishes to remain anonymous, interview held 15 August 2011, Belgrade, Serbia.

Finansiranje političkih partija – između norme i prakse (Financing of Political Parties – between the norm and practice), CeSID, April 2008.

Available at: <http://izbornareforma.rs/wordpress/wp-content/uploads/resurscentar/Finansiranje%20politickih%20partija.pdf>, accessed 12 August 2011

Miroslava Milenovic, fraud examiner, Office Milenovic, Belgrade, Serbia, interview held on 17 August 2011, Belgrade, Serbia.

Annual Report on Anti-Corruption Agency for 2010, March 2011, p. 54, available at: [http://www.acas.rs/images/stories/Annual\\_Report\\_for\\_2010.pdf](http://www.acas.rs/images/stories/Annual_Report_for_2010.pdf), accessed 25 August 2011

Absurd Financial Reports of the Parties, Press online, 25 May 2011, available at: [http://www.pressonline.rs/sr/vesti/vesti\\_dana/story/162419/Dinkić\\_+Velja+i+Čeda+bez+para.html](http://www.pressonline.rs/sr/vesti/vesti_dana/story/162419/Dinkić_+Velja+i+Čeda+bez+para.html), accessed 17 August 2011

**100:** The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of political parties, or cooperates well with other agencies that do. The agency is fair in its application of this power.

75:

50: The agency or entity will start investigations, but often relies on external pressure to set priorities, has limited effectiveness when investigating, or is reluctant to cooperate with other agencies in politically sensitive cases. The agency, though limited in effectiveness, is still fair in its application of power.

25:

0: The agency or entity rarely investigates on its own, is uncooperative with other agencies, or the agency or entity is partisan in its application of this power.

22e. In practice, when necessary, an agency or entity monitoring the financing of political parties imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

The Anti-Corruption Agency is mandated to control the financing of political parties and political subjects in general. The agency can start the procedure against offenders and send relevant investigation documentation to the relevant court. However, the agency is not mandated to impose penalties on offenders.

According to Agency's 2010 Annual Report "...in cases when political entities do not submit their reports about raised and spent funds for financing election campaigns, the Division for Oversight of Financing of Political Entities submits misdemeanor reports."

**References:**

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August, CeSID premises, Belgrade, Serbia.

Ivana Petrin, Adviser, Department for the Control of Political Parties Financing, Anti-Corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Professor at the Faculty of Political Science, University of Belgrade who wishes to remain anonymous, interview held 15 August 2011, Belgrade, Serbia.

Press Online. [http://www.pressonline.rs/sr/vesti/vesti\\_dana/story/162419/Dinki%27,+Velja+i+%C3%84eda+bez+para.html](http://www.pressonline.rs/sr/vesti/vesti_dana/story/162419/Dinki%27,+Velja+i+%C3%84eda+bez+para.html)

Annual Report on Anti-Corruption Agency for 2010, March 2011, p. 53, available at: [http://www.acas.rs/images/stories/Annual\\_Report\\_for\\_2010.pdf](http://www.acas.rs/images/stories/Annual_Report_for_2010.pdf), accessed 25 August 2011.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

100: When rules violations are discovered, the agency or entity is aggressive in penalizing offenders or cooperates well with other agencies that impose penalties.

75:

50: The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power and may refuse cooperation with other agencies.

22f. In practice, contributions to political parties are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

The auditing of financial reports of political parties has been performed according to the provisions of the previous Law on

Financing Political Parties, meaning that financial report were reviewed by the licensed auditor. However, according to new Law on Financing of Political Subjects, the Anti-Corruption Agency can propose or initiate auditing of financial reports of the parties which further can be performed by the Supreme Audit Institution (SAI). That practice has not been established yet.

**References:**

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August, CeSID premises, Belgrade, Serbia.

Ivana Petrin, Adviser, Department for the Control of Political Parties Financing, Anti-Corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Verica Barac, President of the Anti-Corruption Council, interview held on 7 September 2011, Belgrade, Serbia.

Professor at the Faculty of Political Science, University of Belgrade who wishes to remain anonymous, interview held 15 August 2011, Belgrade, Serbia.

Miroslava Milenovic, fraud examiner, Office Milenovic, Belgrade, Serbia, interview held on 17 August 2011, Belgrade, Serbia.

SAI has no Capacity for Political Party Auditing, Kraljevo Press, 20 July 2011, available at: <http://www.kraljevopress.com/vesti/dri-nema-kapaciteta-za-reviziju-stranaka>, accessed 17 August 2011.

**100:** Political party finances are regularly audited using generally accepted auditing practices. The auditing may be regular and comprehensive or only initiated after an initial review reveals irregularities. Auditing includes the auditing of nominally independent financial organizations that act as financial extensions of the party.

**75:**

**50:** Political party finances (as defined) are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions. Contributions to the political party may be sufficiently audited, but the auditing of nominally independent extensions of the party may not be.

**25:**

**0:** Party finances are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

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### 23. Are the regulations governing the political financing of individual candidates effective?

10

23a. In practice, the limits on individual donations to political candidates are effective in regulating an individual's ability to financially support a particular candidate.

100 | 75 | 50 | 25 | 0

**Comments:**

There were no elections in Serbia in the researched period for the purpose of this report. Scoring is applied to 2008 presidential elections. The Anti-Corruption Agency will establish a monitoring mechanism for the upcoming election in 2012 which will follow activities of the political subjects in the election campaigns. This will enable for more accurate fulfillment of its control function over all aspects of political subjects' engagements during the election campaign.

In the Serbian electoral system there are nominators of an individual candidate for the presidential elections and 60 candidates for the National Assembly of the Autonomous Province of Vojvodina. The nominator of the candidate submits the same financial reports as political parties for parliamentary or local elections. At the moment when an elected candidate takes his mandate he is considered as an "official" (for instance president) and he is required to submit reports that are related to "officials" as prescribed by the Law on Anti-Corruption Agency.

**References:**

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August, CeSID premises, Belgrade, Serbia.

Ivana Petrin, Adviser, Department for the Control of Political Parties Financing, Anti-Corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Finansiranje politickih partija – izmedju norme i prakse (Financing of Political Parties – between the norm and practice), CeSID, April 2008.

Professor at the Faculty of Political Science, University of Belgrade who wishes to remain anonymous, interview held 15 August 2011, Belgrade, Serbia.

**100:** Existing limits represent the full extent to which an individual can directly or indirectly financially support a political candidate. Limits are reasonably low enough in the context of the total costs of running a campaign.

**75:**

**50:** Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a particular candidate. However, exceptions and loopholes exist through which individuals can indirectly support particular political candidates above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate; unregulated loans to candidates (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a particular political candidate are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

23b. In practice, the limits on corporate donations to individual candidates are effective in regulating a company's ability to financially support a candidate.

100 | 75 | 50 | 25 | 0

#### Comments:

There were no elections in Serbia in the research period for this report. Scoring is applied to 2008 presidential elections. The Anti-Corruption Agency will establish a monitoring mechanism for the upcoming election in 2012 which will follow activities of the political subjects in the election campaigns. This will enable for more accurate fulfillment of its control function over all aspects of political subjects' engagements during election campaign.

#### References:

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August, CeSID premises, Belgrade, Serbia.

Ivana Petrin, Adviser, Department for the Control of Political Parties Financing, Anti-corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Finansiranje politickih partija – izmedju norme i prakse (Financing of Political Parties – between the norm and practice), CeSID, April 2008.

Available at: <http://izbornareforma.rs/wordpress/wp-content/uploads/resurscentar/Finansiranje%20politickih%20partija.pdf>, accessed 12 August 2011

**100:** Existing limits represent the full extent to which a company can directly or indirectly financially support an individual candidate. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

**75:**

**50:** Existing limits generally represent the full extent to which a company can directly or indirectly financially support an individual candidate. However, exceptions and loopholes exist through which companies can indirectly support individual candidates above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate; unregulated loans to candidates (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to individual candidates are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

23c. In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns independently initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

The Anti-Corruption Agency is mandated to control financing of political subjects and their election campaigns. This practice will be applied as of upcoming elections which will take place in spring 2012.

**References:**

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August, CeSID premises, Belgrade, Serbia.

Ivana Petrin, Adviser, Department for the Control of Political Parties Financing, Anti-Corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Verica Barac, President of the Anti-Corruption Council, Interview held on 7 September 2011, Belgrade, Serbia.

Finansiranje politickih partija – izmedju norme i prakse (Financing of Political Parties – between the norm and practice), CeSID, April 2008.

Available at: <http://izbornareforma.rs/wordpress/wp-content/uploads/resurscentar/Finansiranje%20politickih%20partija.pdf>, accessed 12 August 2011.

Professor at the Faculty of Political Science, University of Belgrade who wishes to remain anonymous, interview held 15 August 2011, Belgrade, Serbia.

**100:** The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of individual candidates' campaigns, or cooperates well with other agencies that do. The agency is fair in its application of this power.

**75:**

**50:** The agency or entity will start investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power. It may be reluctant to cooperate with other investigatory agencies.

**25:**

**0:** The agency or entity rarely investigates on its own, or the agency or entity is partisan in its application of this power. It does not cooperate well with other investigatory agencies.

23d. In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

The Anti-Corruption Agency is mandated to control financing of political subjects and their election campaigns. This practice will be applied as of upcoming elections which will take place in spring 2012.

**References:**

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August, CeSID premises, Belgrade, Serbia.

Ivana Petrin, Adviser, Department for the Control of Political Parties Financing, Anti-Corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Verica Barac, President of the Anti-Corruption Council, interview held on 7 September 2011, Belgrade, Serbia.

Finansiranje politickih partija – izmedju norme i prakse (Financing of Political Parties – between the norm and practice), CeSID, April 2008.

Available at: <http://izbornareforma.rs/wordpress/wp-content/uploads/resurscentar/Finansiranje%20politickih%20partija.pdf>, accessed 12 August 2011

Professor at the Faculty of Political Science, University of Belgrade who wishes to remain anonymous, interview held 15 August 2011, Belgrade, Serbia.

**100:** When rules violations are discovered, the agency or entity is aggressive in penalizing offenders or in cooperating with other agencies that do.

**75:**

**50:** The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power or may refuse to cooperate with other agencies.

23e. In practice, the finances of individual candidates' campaigns are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

Auditing of election campaigns of political candidates was not performed in practice.

**References:**

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August, CeSID premises, Belgrade, Serbia.

Ivana Petrin, Adviser, Department for the Control of Political Parties Financing, Anti-Corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Verica Barac, President of the Anti-Corruption Council, interview held on 7 September 2011, Belgrade, Serbia.

Finansiranje politickih partija – izmedju norme i prakse (Financing of Political Parties – between the norm and practice), CeSID, April 2008.

Available at: <http://izbornareforma.rs/wordpress/wp-content/uploads/resurscentar/Finansiranje%20politickih%20partija.pdf>, accessed 12 August 2011

Professor at the Faculty of Political Science, University of Belgrade who wishes to remain anonymous, interview held 15 August 2011, Belgrade, Serbia.

Miroslava Milenovic, fraud examiner, Office Milenovic, Belgrade, Serbia, interview held on 17 August 2011, Belgrade, Serbia.

**100:** The finances of individual candidates' campaigns are regularly audited using generally accepted auditing practices. The auditing may be regular and comprehensive or only initiated after an initial review reveals irregularities.

**75:**

**50:** The finances of individual candidates' campaigns are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions.

**25:**

**0:** The finances of individual candidates' campaigns are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

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## 24. Can citizens access records related to the financing of political parties?

63

24a. In practice, political parties disclose data relating to financial support and expenditures within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Political parties are obligated to submit their financial reports once a year. Financial reports of political parties are available at the Anti-Corruption Agency's website: [http://www.acas.rs/sr\\_cir/aktuelnosti/250.html](http://www.acas.rs/sr_cir/aktuelnosti/250.html).

**References:**

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August, CeSID premises, Belgrade, Serbia.

Ivana Petrin, Adviser, Department for the Control of Political Parties Financing, Anti-Corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Professor at the Faculty of Political Science, University of Belgrade who wishes to remain anonymous, interview held 15 August 2011, Belgrade, Serbia.

Miroslava Milenovic, fraud examiner, Office Milenovic, Belgrade, Serbia, interview held on 17 August 2011, Belgrade, Serbia.

**100:** Political parties disclose their sources of funding and expenditures at least every quarter.

**75:**

**50:** Political parties disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.

**25:**

**0:** Political parties never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regular withheld from public disclosure.

24b. In practice, citizens can access the financial records of political parties within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Records submitted can be accessed online at the Anti-Corruption Agency's website. In addition, the majority of political parties publish their financial reports on their websites which are thus available to the public. Therefore, there is an immediate access to the parties' financial reports available online. However, records that are not available online takes approximately two weeks to be obtained.

According to Anti-Corruption Agency's 2010 Annual Report, "annual financial reports for 2009 were not submitted by the Sandžak Democratic Party, which in 2009 obtained funds from the Budget of the Republic of Serbia, and the Democratic Party of the Hungarians from Vojvodina, which in 2009 obtained funds from the Budget of the AP of Vojvodina. In 2009, the agency requested amendments of financial reports from 29 parties, 15 of which were financed from the republic. ... Six of the 15 submitted financial reports required amendments. The agency also required that the two parties which did not submit annual financial reports for 2009 meet their legal responsibility and submit their reports. In cases when political entities do not submit their reports about raised and spent funds for financing election campaigns, the Division for Oversight of Financing of Political Entities submits misdemeanor reports."

In sum, the financial records of political parties that are uploaded on the Anti-Corruption Agency website or by the political parties on their respective websites are immediately available to the public. However, those that are not submitted or uploaded to the agency's website are available upon free upon requesting access to information, and it can take a maximum 15 days for requests to be answered.

**References:**

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August, CeSID premises, Belgrade, Serbia.

Ivana Petrin, Adviser, Department for the Control of Political Parties Financing, Anti-Corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Financial reports of political parties are available at: [http://www.acas.rs/sr\\_cir/aktuelnosti/250.html](http://www.acas.rs/sr_cir/aktuelnosti/250.html), accessed 7 September 2011.

Miroslava Milenovic, fraud examiner, Office Milenovic, Belgrade, Serbia, interview held on 17 August 2011, Belgrade, Serbia.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take two to four weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

24c. In practice, citizens can access the financial records of political parties at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Financial records of political parties are available online, published at the website of the Anti-Corruption Agency. In addition, a majority of the political parties publish their financial reports on their websites.

**References:**

Djordje Vukovic, Executive Director, CeSID, 12 August, CeSID premises, Belgrade, Serbia.

Ivana Petrin, Adviser, Department for the Control of Political Parties Financing, Anti-Corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Financial reports of political parties are available at: [http://www.acas.rs/sr\\_cir/aktuelnosti/250.html](http://www.acas.rs/sr_cir/aktuelnosti/250.html), accessed 7 September 2011.

Miroslava Milenovic, fraud examiner, Office Milenovic, Belgrade, Serbia, interview held on 17 August 2011, Belgrade, Serbia.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

24d. In practice, the publicly available records of political parties' finances are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

Publicly available records of political parties are in prescribed forms according to the Law on Accounting and Auditing. However, these forms are general and lack details in reporting. The main inconsistency of these reports is related to the fact that they are the same as for the business companies. This is not in line with the aim of the operating of political parties, which is not working for profit, therefore, their reports cannot be the same as the reports of the business entities. In addition, the reports lack written disclosures. Opinions of the licenses auditors, where available, are often over-generalized and not substantial enough.

The new Law on Financing of Political Subjects allows for more detailed and adjusted financial reports from political subjects.

**References:**

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August, CeSID premises, Belgrade, Serbia.

Ivana Petrin, Adviser, Department for the Control of Political Parties Financing, Anti-Corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Verica Barac, President of the Anti-Corruption Council, interview held on 7 September 2011, Belgrade, Serbia.

Financial reports of political parties are available at: [http://www.acas.rs/sr\\_cir/aktuelnosti/250.html](http://www.acas.rs/sr_cir/aktuelnosti/250.html), accessed 7 September 2011.

Miroslava Milenovic, fraud examiner, Office Milenovic, Belgrade, Serbia, interview held on 17 August 2011, Belgrade, Serbia.

**100:** Publicly available records of political parties' finances are complete and detailed, itemizing all significant sources of income and expenditures.

**75:**

**50:** Publicly available records of political parties' finances are available but are often lacking in important details, are overly general, or are otherwise incomplete.

**25:**

**0:** Publicly available records of political parties' finances, when available, are so incomplete or overly general as to render them useless in understanding a party's sources of income and its expenditures.

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## 25. Can citizens access records related to the financing of individual candidates' campaigns?

25

25a. In practice, individual political candidates disclose data relating to financial support and expenditures within a reasonable time period.

100 | 75 | 50 | 25 | 0

### Comments:

There were no elections in the research period. The scoring criteria is applied for the presidential election of 2008. However, new Law on Political Subjects Financing prescribes that all political subjects need to disclose information on financial support and expenditures.

### References:

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August, CeSID premises, Belgrade, Serbia.

Ivana Petrin, Adviser, Department for the Control of Political Parties Financing, Anti-Corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Financial reports of political parties are available at: [http://www.acas.rs/sr\\_cir/aktuelnosti/250.html](http://www.acas.rs/sr_cir/aktuelnosti/250.html), accessed 7 September 2011.

**100:** Individual candidates disclose their sources of funding and expenditures at least every quarter.

**75:**

**50:** Individual candidates disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.

**25:**

**0:** Individual candidates never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regular withheld from public disclosure.

25b. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

On the Anti-Corruption Agency website there is no information related to the financing of individual candidates' campaigns available since the agency was established in 2010 and the last presidential elections were held in 2008. The scoring of this indicator refers to the 2008 elections.

**References:**

Djordje Vukovic, Executive Director, CeSID, held on 12 August, CeSID premises, Belgrade, Serbia.

Ivana Petrin, Adviser, Department for the Control of Political Parties Financing, Anti-Corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Financial reports of political parties are available at: [http://www.acas.rs/sr\\_cir/aktuelnosti/250.html](http://www.acas.rs/sr_cir/aktuelnosti/250.html), accessed 7 September 2011.

Professor at the Faculty of Political Science, University of Belgrade who wishes to remain anonymous, interview held 15 August 2011, Belgrade, Serbia.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take two to four weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

25c. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Effectiveness of this indicator will be possible to assess after the 2012 elections. The scoring of this indicator refers to the 2008 election.

**References:**

Djordje Vukovic, Executive Director, CeSID, held on 12 August, CeSID premises, Belgrade, Serbia.

Ivana Petrin, Adviser, Department for the Control of Political Parties Financing, Anti-Corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Financial reports of political parties are available at: [http://www.acas.rs/sr\\_cir/aktuelnosti/250.html](http://www.acas.rs/sr_cir/aktuelnosti/250.html), accessed 7 September 2011.

Professor at the Faculty of Political Science, University of Belgrade who wishes to remain anonymous, interview held 15 August 2011, Belgrade, Serbia.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

25d. In practice, the publicly available records of political candidates' campaign finances are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

It is not possible to assess this indicator for the researched period since the Anti-Corruption Agency was established in January 2010 and the last presidential elections were in 2008. Effectiveness of this indicator will be possible to assess after 2012 elections. The scoring of this indicator refers to the 2008 election.

**References:**

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August, CeSID premises, Belgrade, Serbia.

Ivana Petrin, Adviser, Department for the Control of Political Parties Financing, Anti-Corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Financial reports of political parties are available at: [http://www.acas.rs/sr\\_cir/aktuelnosti/250.html](http://www.acas.rs/sr_cir/aktuelnosti/250.html), accessed on 7 September 2011.

Professor at the Faculty of Political Science, University of Belgrade who wishes to remain anonymous, interview held 15 August 2011, Belgrade, Serbia.

**100:** Publicly available records of political candidates' campaign finances are complete and detailed, itemizing all significant sources of income and expenditures.

**75:**

**50:** Publicly available records of political candidates' campaign finances are available but are often lacking in important details, are overly general, or are otherwise incomplete.

**25:**

**0:** Publicly available records of political candidates' campaign finances, when available, are so incomplete or overly general as to render them useless in understanding a candidate's sources of income and expenditures.

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Category 3. Government Conflicts of Interest Safeguards & Checks and Balances

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65  
3.1. Conflicts of Interest Safeguards & Checks and Balances:  
Executive Branch

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26. In law, can citizens sue the government for infringement of their civil rights?

100

26a. In law, can citizens sue the government for infringement of their civil rights?

Yes | No

**Comments:**

Any person deprived of liberty, detained or convicted for a criminal offense without grounds or unlawfully shall have the right to rehabilitation and compensation of damage by the Republic of Serbia, as well as other rights stipulated by the law.

Everyone shall have the right to compensation of material or non-material damage inflicted on him by unlawful or irregular work of a state body, entities exercising public powers, bodies of the autonomous province or local self-government.

The law shall stipulate conditions under which the injured party may demand compensation for damage directly from the person who or entity that inflicted the damage.

**References:**

Constitution of the Republic of Serbia, Official Gazette of RS, No. 83/2006, Article 35: Available at: <http://www.predsednik.rs/mwc/epic/doc/ConstitutionofSerbia.pdf>, accessed 20 August 2011.

**Yes:** A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) can receive compensation or redress through the courts for civil rights violations committed by the government, such as failure to follow due process of law when detaining suspected criminals.

**No:** A NO score is earned if any group of citizens is excluded from the right to sue the government, or no such mechanism exists.

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## 27. Can the chief executive be held accountable for his/her actions?

69

27a. In practice, the chief executive gives reasons for his/her policy decisions.

100 | 75 | 50 | 25 | 0

**Comments:**

In the majority of cases, the chief executive regularly gives reasons for his policy decisions. Citizens have immediate access to the president's General Secretariat website which provides information on, among other things, the majority of the president's activities and therefore policy decisions. Lately, the majority of the president's statements are related to the policy that Serbia has toward reestablishing dialogue with Pristina on Northern Kosovo issues.

**References:**

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, interview held on 22 August 2011, BIRODI, Belgrade, Serbia.

Slobodan Georgijev, Project Coordinator, BIRN regional NGO, Belgrade, Serbia, and journalist, Vreme, interview held on 18 August 2011, Belgrade, Serbia.

**100:** The chief executive and/or cabinet ministers give formal explanations of all policy matters. The chief executive regularly takes critical questions from journalists or an opposition party, usually at least once a month. There is no censoring of such sessions.

**75:**

**50:** The chief executive and/or cabinet ministers give explanations of policy, but not always in a timely or complete way. The chief executive occasionally takes critical questions from journalists or an opposition party, but not in a regular or formalized process. Particular issues of political sensitivity may be censored by government broadcasters.

**25:**

**0:** The chief executive and/or cabinet ministers do not give substantial justifications for policy. Public appearances by the chief executive offer no exposure to critical questions. The government and government-run media routinely censor such sessions.

27b. In law, the judiciary can review the actions of the executive.

Yes | No

**Comments:**

The Constitutional Court shall decide on:

1. Compliance of laws and other general acts with the Constitution, generally accepted rules of the international law and ratified international treaties.
2. Compliance of ratified international treaties with the Constitution.
3. Compliance of other general acts with the law.
4. Compliance of the statutes and general acts of autonomous provinces and local self-government units with the Constitution and the law.
5. Compliance of general acts of organizations with delegated public powers, political parties, trade unions, civic associations and collective agreements with the Constitution and the law.

**References:**

Constitution of the Republic of Serbia Official Gazette of RS, No. 83/2006, Article 167:

Available at: <http://www.predsednik.rs/mwc/epic/doc/ConstitutionofSerbia.pdf>, accessed 20 August 2011.

**Yes:** A YES score is earned if there is a formal process by which the judiciary can pass judgments on the legality or constitutionality of actions taken by the executive.

**No:** A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exemptions exist with respect to executive actions that are reviewable (a national security exemption, for example).

27c. In practice, when necessary, the judiciary reviews the actions of the executive.

100 | 75 | 50 | 25 | 0

**Comments:**

There are cases where the judiciary reviews the actions of the chief executive. However, the process of review is rather slow. The capacities of the Constitutional Court are not in line with the number of cases it needs to handle.

According to EU Commission 2010 Progress Report " ... The Constitutional Court faces a backlog of some 7,000 pending cases, including the appeals filed by judges and prosecutors who have not been reappointed."

A huge backlog of cases prevented the court from acting effectively and within a reasonable time period.

**References:**

Constitutional Court "Replaces" 1.300 Officials (Ustavni sud "smenjuje" 1.300 funkcionera), Politika, 7 September 2011, available at: <http://www.politika.rs/rubrike/Politika/Ustavni-sud-smenjuje-1-300-funkcionera.lt.html>, accessed 9 September 2011.

EU Commission Serbia 2010 Progress Report, accompanying the communication from the Commission to the European Parliament and the Council, Enlargement Strategy and Main Challenges 2010-2011, page 10. Available at: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2010/package/sr\\_rapport\\_2010\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/sr_rapport_2010_en.pdf), accessed 5 September 2011.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

Annual Report on the Work of Constitutional Court 2010.

**100:** When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing executive actions and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power. It does not need to rely upon the executive to initiate a constitutional or legal review.

**75:**

**50:** The judiciary will review executive actions, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

**25:**

0: The judiciary does not effectively review executive policy. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power. It must rely on instructions from the executive in order to initiate a legal or constitutional review.

27d. In practice, the chief executive limits the use of executive orders for establishing new regulations, policies, or government practices.

100 | 75 | 50 | 25 | 0

**Comments:**

In Serbia, executive orders are based in the legislature. However, there are some exceptions such as regulations or governmental "conclusions" that are sometimes considered unconstitutional. For instance, the governmental conclusion on the "Kosovo Allowance" was declared unconstitutional by the Constitutional Court in April 2010. As stated in the Constitutional Court decision, the issue of the "Kosovo Allowance" cannot be regulated by "conclusion," but only by law. To date, the law on the above issue has not been endorsed.

**References:**

Zoran Gavrilovic, Director of Society Against Corruption Programme, BIRODI, interview held on 22 August 2011, BIRODI, Belgrade, Serbia.

Djordje Vukovic, Executive Director, CeSID, interview held on 12 August, Belgrade, Serbia.

100: The chief executive utilizes executive orders only when there is no constitutional or legal requirement for official legislative action or approval. Executive orders are limited in number and narrow in scope.

75:

50: The chief executive sometimes relies on executive orders to implement policies and regulations opposed by the legislature. Some executive orders are overly broad in scope and are designed to circumvent constitutional or legal requirements for legislative action or approval.

25:

0: The chief executive routinely abuses executive orders to render the legislature practically useless. Executive orders are the norm, not the exception, and directly contravene constitutional or legal requirements for legislative action or approval.

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## 28. Is the executive leadership subject to criminal proceedings?

0

28a. In law, the heads of state and government can be prosecuted for crimes they commit.

Yes | No

**Comments:**

The president enjoys immunity as a deputy and the executive branch does not control whether investigative or prosecutorial immunity can be lifted on the head of state or government.

According to the Constitution of the Republic of Serbia, Article 119:  
"The President of the Republic shall enjoy the immunity as a deputy.

The National Assembly shall decide on the immunity of the president.

**References:**

Constitution of the Republic of Serbia Official Gazette of RS, no. 83/2006, Article 119. Available at: <http://www.predsednik.rs/mwc/epic/doc/ConstitutionofSerbia.pdf>, accessed 20 August 2011.

**Yes:** A YES score is earned if the heads of state and government can be investigated, charged or prosecuted for criminal allegations. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**No:** A NO score is earned if either the head of state or government cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on the heads of state or government.

28b. In law, ministerial-level officials can be prosecuted for crimes they commit.

Yes | **No**

**Comments:**

Investigative or prosecutorial immunity can be lifted on ministerial-level officials.

Article 134, Paragraph 2, of the Constitution of the Republic of Serbia stipulates: "The prime minister and the members of the government shall enjoy immunity as a deputy. The government shall decide on the immunity of the prime minister and the member of the government."

**References:**

Constitution of the Republic of Serbia Official Gazette of RS, no. 83/2006, Article 134 paragraph 2, available at: <http://www.predsednik.rs/mwc/epic/doc/ConstitutionofSerbia.pdf>, accessed 20 August 2011.

**Yes:** A YES score is earned if ministerial-level officials, or their equivalents, can all be investigated, charged or prosecuted for criminal allegations.

**No:** A NO score is earned if any ministerial-level official, or equivalent official, cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on ministerial-level officials.

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## 29. Are there regulations governing conflicts of interest by the executive branch?

66

29a. In law, the heads of state and government are required to file a regular asset disclosure form.

**Yes** | No

**Comments:**

The Anti-Corruption Agency is mandated to hold a register of an official's property. The register is publicly available.

Article 43 of the law covering the Anti-Corruption Agency stipulates that: "The official is obliged to submit to the agency within 30 days of election, appointment or nomination, a disclosure report concerning his property and income, or entitlement to use a flat for official purposes, and on the property and income of spouse or common-law partner, as well as of underage children if they live in the same household, on the day of election, appointment or nomination. Should the official fail to submit the report within the deadline specified, the agency shall notify the body in which the official is holding a public office. A report is also filed within 30 days from the day of termination of office with the status as of the day of termination of office."

The information on salary and other entitlements received by the official from the budget and other public sources and information on the public functions he/she discharges is public.

**References:**

Law on Anti-Corruption Agency, Official Gazette of RS, no. 97/2008, 53/2010 Article 43. Available at: <http://www.acas.rs/en/zakoni-i-drugi-propisi/the-mayor/law-on-agency.html>

**Yes:** A YES score is earned if the heads of state and government are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form need not be publicly available to score a YES. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**No:** A NO score is earned if either the head of state or government is not required to disclose assets.

29b. In law, ministerial-level officials are required to file a regular asset disclosure form.

Yes | No

**Comments:**

Article 43 of the Anti-Corruption Agency Law stipulates the following:  
“The official is obliged to submit to the agency within 30 days of a election, appointment or nomination, a disclosure report concerning his property and income, or entitlement to use a flat for official purposes, and on the property and income of spouse or common-law partner, as well as of underage children if they live in the same household, on the day of election, appointment or nomination. Should the official fail to submit the report within the deadline specified, the agency shall notify the body in which the official is holding a public office. A report is also filed within 30 days from the day of termination of office with the status as of the day of termination of office.”

**References:**

Law on Anti-Corruption Agency, Official Gazette of RS, no. 97/2008, 53/2010  
Article 43. Available at: <http://www.acas.rs/en/zakoni-i-drugi-propisi/the-mayor/law-on-agency.html>, accessed 22 August 2011.

**Yes:** A YES score is earned if ministerial-level officials, or their equivalents, are all required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets.

**No:** A NO score is earned if ministers are not required to disclose assets. A NO score is earned if some ministers must disclose assets, but other ministers are not required.

29c. In law, there are regulations governing gifts and hospitality offered to members of the executive branch.

Yes | No

**Comments:**

Articles 39 of the Anti-Corruption Agency Law stipulates the following:  
An official may not accept gifts in connection with discharge of a public office, except for protocol or other appropriate gifts, however, even in such cases the gift may not be in money or securities. An official is required to hand over the protocol gift to the body competent to manage property in public ownership, unless the value of the gift does not exceed 5 percent of the value of the average net salary in the Republic of Serbia. An official may not retain an appropriate gift whose value exceeds 5 percent of the average monthly net salary in the Republic of Serbia and/or appropriate gifts received during a calendar year whose aggregate value exceeds one average net salary in the Republic of Serbia. The criteria for establishing what is deemed an appropriate gift and the duty of reporting and recording thereof is determined by the agency. If necessary, the agency establishes the value of the gift.

Article 40 on Rejecting Gifts states:  
An official who has been offered a gift that he is not allowed to accept shall reject such offer or promise and inform the giver that the gift, if accepted, will become public property. If the official could not reject the gift, he/she shall hand over the gift to the body competent to manage property in public ownership. An official is required to submit a written report on the event to his direct superior and the agency, as soon as possible.

**References:**

Law on Anti-Corruption Agency, Official Gazette of RS, no. 97/2008, 53/2010 Article 39, 40, 41 and 42. Available at: <http://www.acas.rs/en/zakoni-i-drugi-propisi/the-mayor/law-on-agency.html>

**Yes:** A YES score is earned if there are formal guidelines regulating gifts and hospitality offered to members of the executive branch of government.

**No:** A NO score is earned if there are no guidelines or regulations with respect to gifts and hospitality offered to members of the executive branch. A NO score is earned if the guidelines are overly general and do not specify what is and is not appropriate.

29d. In law, there are requirements for the independent auditing of the executive branch asset disclosure forms (defined here as ministers and heads of state and government).

Yes | **No**

**Comments:**

The Law on Anti-Corruption Agency, Official Gazette, No.97/2008 whose implementation started as of January 1, 2010, does not strictly specify the issue of independent auditing if irregularities in asset disclosure forms are revealed.

**References:**

There is no legal ground.

**Yes:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of executive branch asset disclosures. The auditing is performed by an impartial third-party. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**No:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of executive branch asset disclosures or if such requirements exist but allow for self-auditing.

29e. In law, there are restrictions on heads of state and government and ministers entering the private sector after leaving the government.

**Yes** | No

**Comments:**

Article 38 of the Anti-Corruption Agency Law stipulates the following:

“During the period of two years after termination of the public office, the official whose office has ceased may not take employment or establish business cooperation with a legal entity, entrepreneur or international organization engaged in activity relating to the office the official held, except under approval of the agency.”

**References:**

Law on Anti-Corruption Agency, Official Gazette of RS, No. 97/2008, 53/2010, Article 38. Available at: <http://www.acas.rs/en/zakoni-i-drugi-propisi/the-mayor/law-on-agency.html>

**Yes:** A YES score is earned if there are regulations restricting the ability of heads of state/government and ministers to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**No:** A NO score is earned if no such restrictions exist.

29f. In practice, the regulations restricting post-government private sector employment for heads of state and government and ministers are effective.

100 | 75 | **50** | 25 | 0

**Comments:**

During 2010, the Anti-Corruption Agency issued a number of approvals to former government officials for employment in the private sector where conflict of interest is not seen as an issue. In addition, the Law on Anti-Corruption Agency started its implementation at the beginning of 2010, therefore the practice regarding law enforcement and the work of the agency on this issue is scarce.

According to interviews for this report the great majority of officials respected the law provisions that are related to private sector engagements restrictions after finishing engagement within the government.

**References:**

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, 22 August, BIRODI, Belgrade, Serbia.

Natasa Bojic, Adviser, Department for Prevention, Conflict of Interest Sub-department, Anti-Corruption Agency, Belgrade, interview held on 7 September 2011, Belgrade, Serbia.

Annual Report of the Anti-Corruption Agency for 2010, March 2011, p. 37, available at: [http://acas.rs/images/stories/Annual\\_Report\\_for\\_2010.pdf](http://acas.rs/images/stories/Annual_Report_for_2010.pdf).

**100:** The regulations restricting post-government private sector employment for heads of state/government and ministers are uniformly enforced. There are no cases or few cases of those officials taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate "cooling off" period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain sectors, heads of state/government or ministers are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Heads of state/government or ministers routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced. A zero score is also earned if heads of state and government or minister are allowed to hold private sector jobs while in office.

29g. In practice, the regulations governing gifts and hospitality offered to members of the executive branch are effective.

100 | 75 | **50** | 25 | 0

**Comments:**

The effectiveness of the regulation governing gifts offered has increased in 2010 when compared to the previous periods. The register of gifts is publicly available at the website of the Anti-Corruption Agency.

However, there is no control mechanism established to determine whether the executive branch reported all gifts as it is obligated to do by law.

**References:**

Dejan Damnjanovic, Adviser, Department of Registers, Anti-Corruption Agency, interview held on 7 September 2011, Belgrade, Serbia.

Annual Report of the Anti-Corruption Agency for 2010, p. 37, available at: [http://acas.rs/images/stories/Annual\\_Report\\_for\\_2010.pdf](http://acas.rs/images/stories/Annual_Report_for_2010.pdf), accessed 9 September 2010.

Register of Gifts, available at: <http://acas.rs/images/stories/KatalogPoklona.pdf>, accessed 9 September 2011.

**100:** The regulations governing gifts and hospitality to members of the executive branch are regularly enforced. Members of the executive branch never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to members of the executive branch are generally applied though exceptions exist. Some ministers in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations governing gifts and hospitality to members of the executive branch are routinely ignored and unenforced. Ministers and other members of the executive branch routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

29h. In practice, executive branch asset disclosures (defined here as ministers and above) are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

The Anti-Corruption Agency controls the content of the submitted asset reports. However, an independent audit has not been initiated so far by the agency.

**References:**

Dejan Damnjanovic, Adviser, Department of Registers, Anti-Corruption Agency, interview held on 7 September 2011, Belgrade, Serbia.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, 22 August, BIRODI, Belgrade, Serbia.

Annual Report on Anti-Corruption Agency for 2010, March 2011, p. 51, available at: [http://www.acas.rs/images/stories/Annual\\_Report\\_for\\_2010.pdf](http://www.acas.rs/images/stories/Annual_Report_for_2010.pdf), accessed 25 August 2011.

Miroslava Milenovic, fraud examiner, Office Milenovic, Belgrade, Serbia, interview held on 17 August 2011, Belgrade, Serbia.

**100:** Executive branch asset disclosures are regularly audited using generally accepted auditing practices.

**75:**

**50:** Executive branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

**25:**

**0:** Executive branch asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

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### 30. Can citizens access the asset disclosure records of the heads of state and government?

88

30a. In law, citizens can access the asset disclosure records of the heads of state and government.

Yes | No

**Comments:**

Article 47 of the Anti-Corruption Law stipulates that:

“The agency shall keep a register of property containing all data from the report and shall exercise oversight of the property of the officials. The information on salary and other entitlements received by the official from the budget and other public sources and information on the public functions he/she discharges is public.”

In addition, the information concerning the official's property as follows is also public:

- Ownership right on real property in the country of residence or abroad, without specifying the address of such property.
- Ownership right on a vehicle, without specifying the registration number.
- Savings deposit, without specifying the bank and account number.
- Right to use a flat for official purposes.

**References:**

Law on Anti-Corruption Agency, Official Gazette of RS, No. 97/2008, 53/2010 Article 47. Available at: <http://www.acas.rs/en/zakoni-i-drugi-propisi/the-mayor/law-on-agency.html>, accessed 20 August 2011

**Yes:** A YES score is earned if the heads of state and government file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

**No:** A NO score is earned if there is no asset disclosure for either the head of state or government. A NO score is earned if the form is filed, but not available to the public.

30b. In practice, citizens can access the asset disclosure records of the heads of state and government within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Records submitted to the Anti-Corruption Agency are available online at the agency's website:  
[http://www.acas.rs/sr\\_cir/aktuelnosti/199.html](http://www.acas.rs/sr_cir/aktuelnosti/199.html).

**References:**

Dejan Damnjanovic, Adviser, Department of Registers, Anti-Corruption Agency, interview held on 7 September 2011, Belgrade, Serbia.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, 22 August, BIRODI, Belgrade, Serbia.

Annual Report on Anti-Corruption Agency for 2010, March 2011, pp. 47-48, available at: [http://www.acas.rs/images/stories/Annual\\_Report\\_for\\_2010.pdf](http://www.acas.rs/images/stories/Annual_Report_for_2010.pdf), accessed 25 August 2011.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some additional delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

30c. In practice, citizens can access the asset disclosure records of the heads of state and government at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens can access the asset disclosure records of the officials at the website of the Anti-Corruption Agency. There is no cost to access the information other than the cost of Internet service.

**References:**

Dejan Damnjanovic, Adviser, Department of Registers, Anti-Corruption Agency, interview held on 7 September 2011, Belgrade, Serbia.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, 22 August, BIRODI, Belgrade, Serbia.

Annual Report on Anti-corruption Agency for 2010, March 2011, available at: [http://www.acas.rs/images/stories/Annual\\_Report\\_for\\_2010.pdf](http://www.acas.rs/images/stories/Annual_Report_for_2010.pdf), accessed 25 August 2011.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

30d. In practice, the asset disclosure records of the heads of state and government are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

According to Anti-Corruption Agency, there were a number of reports submitted by officials that were technically incomplete in hard-copy format.

**References:**

Dejan Damnjanovic, Adviser, Department of Registers, Anti-Corruption Agency, interview held on 7 September 2011, Belgrade, Serbia.

Annual Report on Anti-Corruption Agency for 2010, March 2011, p. 47, available at: [http://www.acas.rs/images/stories/Annual\\_Report\\_for\\_2010.pdf](http://www.acas.rs/images/stories/Annual_Report_for_2010.pdf), accessed 25 August 2011.

100: The asset disclosure records of the heads of state and government are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

75:

50: The asset disclosure records of the heads of state and government contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

25:

0: The asset disclosure records of the heads of state and government are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

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31. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

25

31a. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

100 | 75 | 50 | 25 | 0

**Comments:**

It is common practice of politicians to use government resources for a political party's business. For instance, the daily newspaper Novosti recently published an article of how ministries use government resources. Several ministries are under suspicion of using cars for the political party's purposes.

According to the director of the Anti-Corruption Agency, Zorana Markovic, the agency is currently investigating the use of government cars by (Socialist Party of Serbia) SPS officials for Slobodan Milosevic's death anniversary ceremony.

**References:**

Dejan Damnjanovic, Adviser, Department of Registers, Anti-Corruption Agency, interview held on 7 September 2011, Belgrade, Serbia.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, 22 August, BIRODI, Belgrade, Serbia.

State Funds in Favor of Political Parties Interests (Drazavne pare u stranackoj funkciji), Akter, 7 February 2011, available at: <http://www.akter.co.rs/politikaprint/3350-dravne-pare-u-stranackoj-funciji.html>, accessed 4 September 2011.

Ministries Doing Party's Business (Ministri vode i partijska posla), Vecernje novosti, 10 May 2011, available at: <http://www.novosti.rs/vesti/naslovna/aktuelno.69.html:329981-Ministri-vode-i-partijska-posla>, accessed 4 September 2011.

Markovic: Politicians Break the Law (Markovic: politicari krse zakon), B92, available at: [http://www.b92.net/info/komentari.php?nav\\_id=510523](http://www.b92.net/info/komentari.php?nav_id=510523), accessed 4 September.

**100:** Clear rules are followed distinguishing state functions from party activities. Government funds are never used for party activities. The civil service is completely distinct from party bureaucracy.

**75:**

**50:** The ruling party is, in principal, separate from the state, but exceptions to this standard sometimes occur. Examples may be the use of civil servants to organize political rallies, use of government vehicles on campaign trips, or use of government funds for party purposes.

**25:**

**0:** The government bureaucracy is an extension of the ruling party. There are few boundaries between government and party activities. Government funds, equipment and personnel are regularly used to support party activities.

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### 3.2. Conflicts of Interest Safeguards & Checks and Balances: Legislative Branch

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#### 32. Can members of the legislature be held accountable for their actions?

50

32a. In law, the judiciary can review laws passed by the legislature.

Yes

No

#### Comments:

Article 167 of the Constitution of the Republic of Serbia stipulates that:  
"The Constitutional Court shall decide on:

1. Compliance of laws and other general acts with the Constitution, generally accepted rules of the international law and ratified international treaties.
2. Compliance of ratified international treaties with the Constitution.
3. Compliance of other general acts with the law.
4. Compliance of the statutes and general acts of autonomous provinces and local self-government units with the Constitution and the law.
5. Compliance of general acts of organizations with delegated public powers, political parties, trade unions, civic associations and collective agreements with the Constitution and the Law.

The Constitutional Court shall:

1. Decide on the conflict of jurisdictions between courts and state bodies.
2. Decide on the conflict of jurisdictions between republic and provincial bodies or bodies of local self-government units.
3. Decide on the conflict of jurisdictions between provincial bodies and bodies of local self-government units.
4. Decide on electoral disputes for which the court jurisdiction has not been specified by the law.
5. Perform other duties stipulated by the Constitution and the law.

#### References:

Constitution of the Republic of Serbia Official Gazette RS, No. 83/2006, Article 167. Available at: <http://www.predsednik.rs/mwc/epic/doc/ConstitutionofSerbia.pdf>, accessed 4 September 2011

**Yes:** A YES score is earned if there is a formal process by which the judiciary or constitutional courts can pass judgments on the legality or constitutionality of laws passed by the legislature.

**No:** A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exceptions exist exempting certain legislative actions from being reviewed (a national security exemption, for example).

32b. In practice, when necessary, the judiciary reviews laws passed by the legislature.

100 | 75 | **50** | 25 | 0

**Comments:**

The judiciary gives opinions on certain laws passed by the legislature when necessary. Opinion on laws strictly related to judicial legal framework are given by the High Judicial Council. However, the opinions are rarely taken as valid and included in amendments to the laws by the legislature.

**References:**

The Impact of the Practice of the Constitutional Court on Society: A short overview on the origination, development and current constitutional physiognomy of the Constitutional Court of the Republic of Serbia, Bosa Nenadic and Olivera Vucic, Cape Town, 23, 24 January. Available at: [http://www.venice.coe.int/WCCJ/Papers/SRB\\_ConstCourt\\_E.pdf](http://www.venice.coe.int/WCCJ/Papers/SRB_ConstCourt_E.pdf), accessed 25 August 2011.

Blank Resignations are Unconstitutional, E-novine, 26 April 2011, available at: <http://www.e-novine.com/srbija/vesti/46404-Blanko-ostavke-neustavne.html>, accessed 25 August 2011.

Outreach Strategy for the Constitutional Court of Serbia, Gregor Strojic, OSCE Mission to Serbia, p. 33 and 34, Available at: <http://www.osce.org/serbia/40497>, accessed 25 August 2011.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

**100:** When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing laws passed and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power.

**75:**

**50:** The judiciary will review laws passed, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

**25:**

**0:** The judiciary does not effectively review laws passed. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power.

32c. In law, are members of the national legislature subject to criminal proceedings?

Yes | **No**

**Comments:**

The legislative branch controls whether investigative or prosecutorial immunity can be lifted on members of the legislature.

**References:**

Constitution of the Republic of Serbia Official Gazette of RS, No. 83/2006, Article 103. Available at: <http://www.predsednik.rs/mwc/epic/doc/ConstitutionofSerbia.pdf>, accessed 4 September 2011.

**Yes:** A YES score is earned if all members of the legislature can, in law, be investigated and prosecuted for criminal allegations.

**No:** A NO score is earned if any member of the legislature cannot, in law, be investigated and prosecuted for criminal proceedings. A NO score is also earned if the legislative branch itself controls whether investigative or prosecutorial immunity can be lifted on members of the legislature.

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### 33. Are there regulations governing conflicts of interest by members of the national legislature?

39

33a. In law, members of the national legislature are required to file an asset disclosure form.

Yes | No

**Comments:**

According to the law establishing the Anti-Corruption Agency, a member of the national legislature is considered as an "official" and therefore is obligated to file an asset disclosure form.

**References:**

Law on Anti-Corruption Agency, Official Gazette of RS, No. 97/2008, 53/2010,  
Article 43. Available at: <http://www.acas.rs/en/zakoni-i-drugi-propisi/the-mayor/law-on-agency.html>, accessed 22 August 2011.

**Yes:** A YES score is earned if all members of the legislature are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

**No:** A NO score is earned if any member of the legislature is not required to disclose assets.

33b. In law, there are restrictions for national legislators entering the private sector after leaving the government.

Yes | No

**Comments:**

Article 38, paragraph 4 of the Law on Anti-Corruption Agency allows for an official directly elected by the citizens to enter private sector without restrictions applied to other officials.

The Article 38 is as follows:

"During the period of two years after termination of the public office, the official whose office has ceased may not take employment or establish business cooperation with a legal entity, entrepreneur or international organization engaged in activity relating to the office the official held, except under approval of the agency. The official whose office has ceased shall, prior to employment or business cooperation ... seek approval of the agency, which shall pass decision on this request within 15 days. Should the agency fail to pass a decision ... within the deadline, it shall be deemed that approval for employment or business cooperation has been given. The ban ... does not refer to an official elected directly by citizens."

**References:**

Law on Anti-Corruption Agency, Official Gazette of RS, No. 97/2008, 53/2010 Article 38. Available at: <http://www.acas.rs/en/zakoni-i-drugi-propisi/the-mayor/law-on-agency.html>, accessed 22 August 2011.

**Yes:** A YES score is earned if there are regulations restricting national legislators' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

**No:** A NO score is earned if no such restrictions exist.

33c. In law, there are regulations governing gifts and hospitality offered to members of the national legislature.

Yes | No

**Comments:**

Articles 39, 40, 41 and 42 of the Law on Anti-Corruption Agency stipulates the following:

(Article 39) Accepting Gifts

An official may not accept gifts in connection with discharge of a public office, except for protocol or other appropriate gifts, however, even in such cases the gift may not be in money or securities. An official is required to hand over the protocol gift to the body competent to manage property in public ownership, unless the value of the gift does not exceed 5 percent of the value of the average net salary in the Republic of Serbia. An official may not retain an appropriate gift whose value exceeds 5 percent of the average monthly net salary in the Republic of Serbia and/or appropriate gifts received during a calendar year whose aggregate value exceeds one average net salary in the Republic of Serbia. The criteria for establishing what is deemed an appropriate gift and the duty of reporting and recording thereof is determined by the agency. If necessary, the Agency establishes the value of the gift.

(Article 40) Rejecting Gifts

An official who has been offered a gift that he is not allowed to accept shall reject such offer or promise and inform the giver that the gift, if accepted, will become public property. If the official could not reject the gift, he/she shall hand over the gift to the body competent to manage property in public ownership. An official is required to submit a written report on the event ... to his direct superior and the agency, as soon as possible.

**References:**

Law on Anti-Corruption Agency, Official Gazette of RS, No. 97/2008, 53/2010 Article 39, 40, 41 and 42. Available at: <http://www.acas.rs/en/zakoni-i-drugi-propisi/the-mayor/law-on-agency.html>, accessed 22 August 2011.

**Yes:** A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the legislature.

**No:** A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the legislature. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

33d. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national legislature.

Yes | No

**Comments:**

The Law on Anti-Corruption Agency, whose implementation started as of Jan. 1, 2010, does not strictly specify the issue of independent auditing if irregularities in asset disclosure forms are revealed.

**References:**

There is no legal ground.

**Yes:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of legislative branch asset disclosures. The auditing is performed by an impartial third-party.

**No:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of legislative branch asset disclosures or if such requirements exist but allow for self-auditing.

33e. In practice, the regulations restricting post-government private sector employment for national legislators are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

During 2010, the Anti-Corruption Agency, upon request of former officials, gave a number of approvals for employment in the private sector, where conflicts of interest are not seen as an issue.

**References:**

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, 22 August, BIRODI, Belgrade, Serbia.

Natasa Bojic, Adviser, Department for Prevention, Conflict of Interest Sub-department, Anti-Corruption Agency, Belgrade, interview held on 7 September 2011, Belgrade, Serbia.

Annual Report of the Anti-Corruption Agency for 2010, p. 37, March 2011, available at: [http://acas.rs/images/stories/Annual\\_Report\\_for\\_2010.pdf](http://acas.rs/images/stories/Annual_Report_for_2010.pdf), accessed 9 September 2010.

**100:** The regulations restricting post-government private sector employment for national legislators are uniformly enforced. There are no cases or few cases of legislators taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate "cooling off" period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain sectors, legislators are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced. A zero score is also earned if legislators are allowed to hold private sector positions while in office.

33f. In practice, the regulations governing gifts and hospitality offered to national legislators are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

The effectiveness of regulation governing gifts offered has increased in 2010 when compared to the previous periods. The register of gifts is publicly available at the website of the Anti-Corruption Agency. However, there is no control mechanism established to determine whether the legislative branch reported all gifts as it is obligated to do by the law.

**References:**

Dejan Damjanovic, Adviser, Department of Registers, Anti-Corruption Agency, interview held on 7 September 2011, Belgrade, Serbia.

Annual Report of the Anti-Corruption Agency for 2010, p. 37, available at: [http://acas.rs/images/stories/Annual\\_Report\\_for\\_2010.pdf](http://acas.rs/images/stories/Annual_Report_for_2010.pdf), accessed 9 September 2010.

Register of Gifts, available at: <http://acas.rs/images/stories/KatalogPoklona.pdf>, accessed 9 September 2011.

**100:** The regulations governing gifts and hospitality to national legislators are regularly enforced. Legislators never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to national legislators are generally applied though exceptions exist. Some legislators in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

33g. In practice, national legislative branch asset disclosures are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

According to Anti-Corruption 2010 Annual Report Division for Oversight of Officials' Property " ...This Division proposes an annual plan for review of data, review of officials' assets reports and determining reasons of discrepancies between the data reported and the actual situation (i.e. determining reasons for discrepancy between the increased value of officials' property and their legal and reported revenues).

In case of suspicion that an official conceals the actual value of his/her property, the agency may request that the official submit data on property and revenues of other related entities.

However, regular auditing is not performed. It is initiated when some suspicions arise.

**References:**

Dejan Damjanovic, Adviser, Department of Registers, Anti-Corruption Agency, interview held on 7 September 2011, Belgrade, Serbia.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, 22 August, BIRODI, Belgrade, Serbia.

Annual Report on Anti-Corruption Agency for 2010, March 2011, p. 51, available at: [http://www.acas.rs/images/stories/Annual\\_Report\\_for\\_2010.pdf](http://www.acas.rs/images/stories/Annual_Report_for_2010.pdf), accessed 25 August 2011.

**100:** Legislative branch asset disclosures are regularly audited using generally accepted auditing practices.

**75:**

**50:** Legislative branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

**25:**

**0:** The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

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### 34. Can citizens access the asset disclosure records of members of the national legislature?

88

34a. In law, citizens can access the asset disclosure records of members of the national legislature.

Yes | No

**Comments:**

The Anti-Corruption Agency is mandated to keep a register on officials' property at the agency's website.

**References:**

Law on Anti-Corruption Agency, Official Gazette of RS, No. 97/2008, 53/2010 Article 47. Available at: <http://www.acas.rs/en/zakoni-i-drugi-propisi/the-mayor/law-on-agency.html>, accessed 20 August 2011

**Yes:** A YES score is earned if members of the national legislature file an asset disclosure form that is, in law, accessible to the public (individuals, non-governmental groups or journalists).

**No:** A NO score is earned if there is no asset disclosure for members of the national legislature. A NO score is earned if the form is filed, but not available to the public.

34b. In practice, citizens can access legislative asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The asset disclosure records of the officials are available at the Anti-Corruption Agency's website at: [http://www.acas.rs/sr\\_cir/aktuelnosti/199.html](http://www.acas.rs/sr_cir/aktuelnosti/199.html).

**References:**

Dejan Damnjanovic, Adviser, Department of Registers, Anti-Corruption Agency, interview held on 7 September 2011, Belgrade, Serbia.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, 22 August, BIRODI, Belgrade, Serbia.

Annual Report on Anti-Corruption Agency for 2010, March 2011, available at: [http://www.acas.rs/images/stories/Annual\\_Report\\_for\\_2010.pdf](http://www.acas.rs/images/stories/Annual_Report_for_2010.pdf), accessed 25 August 2011.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

34c. In practice, citizens can access legislative asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The asset disclosure records of the officials are available at the Anti-Corruption Agency's website at: [http://www.acas.rs/sr\\_cir/aktuelnosti/199.html](http://www.acas.rs/sr_cir/aktuelnosti/199.html).

**References:**

Dejan Damnjanovic, Adviser, Department of Registers, Anti-Corruption Agency, interview held on 7 September 2011, Belgrade, Serbia.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, 22 August, BIRODI, Belgrade, Serbia.

Annual Report on Anti-Corruption Agency for 2010, March 2011, available at: [http://www.acas.rs/images/stories/Annual\\_Report\\_for\\_2010.pdf](http://www.acas.rs/images/stories/Annual_Report_for_2010.pdf), accessed 25 August 2011.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

34d. In practice, the asset disclosure records of members of the national legislature are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the Anti-Corruption Agency, there were a number of reports submitted by the officials that were technically incomplete in hard-copy format.

**References:**

Dejan Damnjanovic, Adviser, Department of Registers, Anti-Corruption Agency, interview held on 7 September 2011, Belgrade, Serbia.

Annual Report on Anti-Corruption Agency for 2010, March 2011, p. 47, available at: [http://www.acas.rs/images/stories/Annual\\_Report\\_for\\_2010.pdf](http://www.acas.rs/images/stories/Annual_Report_for_2010.pdf), accessed 25 August 2011.

**100:** The asset disclosure records of members of the national legislature are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

**75:**

**50:** The asset disclosure records of the members of the national legislature contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

**25:**

**0:** The asset disclosure records of the members of the national legislature are overly general, lack any meaningful detail, and do not provide clear accounting of the individuals' sources of income, investments, and other financial assets.

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## 35. Can citizens access legislative processes and documents?

92

35a. In law, citizens can access records of legislative processes and documents.

Yes | No

**Comments:**

Citizen can access records of legislative processes and documents via the website of the Serbian Parliament at: <http://www.parliament.gov.rs>.

The issue of public hearings is regulated by Articles 83 and 84 of the National Assembly Rules of Procedures is as follows: Committees may organize public hearings for the purpose of obtaining information, or professional opinions on proposed acts which are in the parliamentary procedure, clarification of certain provisions from an existing or proposed act, clarification of issues of importance for preparing the proposals of acts or other issues within the competences of the committee, as well as for the purpose of monitoring the implementation and application of legislation, i.e., realization of the oversight function of the National Assembly.

Furthermore, the Law on the National Assembly stipulates that: "The work of the National Assembly shall be public."

**References:**

The Law on the National Assembly, Official Gazette of the Republic of Serbia No. 9/2010, Article 6 and Article 11. Available at: <http://www.parliament.rs/upload/documents/The%20Law%20on%20the%20National%20Assembly.pdf>, accessed 23 August 2011.

Rules of Procedure of the National Assembly, Official Gazette of the Republic of Serbia, No. 52/2010, Articles 254, 255, 256, 257, 258 and 259. Available at: <http://www.parliament.rs/upload/documents/Rules%20of%20Procedure.pdf>, accessed 23 August 2011.

**Yes:** A YES score is earned if there is a general legal right to access records of legislative proceedings including voting records. A YES score can still be given if there are formal rules for specific exemptions to the right to disclosure (special secret sessions related to national security).

**No:** A NO score is earned if there is no general right to access documents recording legislative proceedings. A NO score is earned if there are exemptions to the general right that are not clearly defined by formal rules.

35b. In practice, citizens can access records of legislative processes and documents within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Legislative processes and different documents can be accessed by citizens over Parliament's website, or citizens can request information from the National Assembly.

**References:**

Information Booklet, December 2010, available at: <http://www.parlament.gov.rs/activities/information-booklet/information-booklet---contents.618.html>, accessed 4 September 2011.

Website of the Serbian Parliament, available at: [http://www.parlament.gov.rs/Eleventh\\_Extraordinary\\_Session\\_of\\_the\\_National\\_Assembly\\_of\\_the\\_Republic\\_of\\_Serbia\\_in\\_2011\\_Convened.13718](http://www.parlament.gov.rs/Eleventh_Extraordinary_Session_of_the_National_Assembly_of_the_Republic_of_Serbia_in_2011_Convened.13718) 4 September 2011.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

35c. In practice, citizens can access records of legislative processes and documents at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Documents can be accessed through the National Assembly's website or by an information request which does not impose a financial burden on the citizens.

**References:**

Information Booklet, December 2010, available at: <http://www.parlament.gov.rs/activities/information-booklet/information-booklet---contents.618.html>, accessed 4 September 2011.

Website of the Serbian Parliament, available at: [http://www.parlament.gov.rs/Eleventh\\_Extraordinary\\_Session\\_of\\_the\\_National\\_Assembly\\_of\\_the\\_Republic\\_of\\_Serbia\\_in\\_2011\\_Convened.13718](http://www.parlament.gov.rs/Eleventh_Extraordinary_Session_of_the_National_Assembly_of_the_Republic_of_Serbia_in_2011_Convened.13718) 4 September 2011

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

67

### 3.3. Conflicts of Interest Safeguards & Checks and Balances: Judicial Branch

#### 36. Are judges appointed fairly?

42

36a. In law, there is a transparent procedure for selecting national-level judges.

Yes

No

#### Comments:

All positions for judges and prosecutors were advertised. The High Judicial Council reviewed around 5,000 applications for judges during five months and evaluated them according to the candidates' expertise, capability and integrity. The council re-elected 1,528 judges and 886 judges were elected for the first time. Around 700 judges, or one-third of sitting judges, were not re-elected and have lost their positions. Among the highest profile cases, the current Chair of the Judges Association of Serbia was not re-elected.

The State Prosecutorial Council, according to similar evaluation criteria, elected 67 public prosecutors and 416 deputy prosecutors out of 900 applicants; 88 prosecutors were elected for the first time. Some 150 prosecutors, or one-third of previously employed prosecutors, were not re-elected.

#### References:

Constitution of the Republic of Serbia Official Gazette of RS, No. 83/2006, Article 147. Available at: <http://www.predsednik.rs/mwc/epic/doc/ConstitutionofSerbia.pdf>, accessed 4 September 2011.

Law on Judges, Official Gazette of RS, No. 116/2008, 58/2009, 104/2009, 101/2010, Articles 10, 43 to 52. Available at: <http://www.vss.sud.rs/doc/dokum/Zakon%20o%20sudijama.pdf>, accessed 4 September 2011.

Law on High Judicial Council, Official Gazette of RS, No. 116/2008 and 101/2010, Article 13. Available at: [http://www.mpravde.gov.rs/images/6\\_Law\\_on\\_High\\_Judicial\\_Council.pdf](http://www.mpravde.gov.rs/images/6_Law_on_High_Judicial_Council.pdf), accessed 4 September 2011.

**Yes:** A YES score is earned if there is a formal process for selecting national level justices. This process should be public in the debating and confirmation stages. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

**No:** A NO score is given if there is no formal process of selection or the process is conducted without public oversight. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

36b. In practice, professional criteria are followed in selecting national-level judges.

**Comments:**

National and international professional bodies and organizations, including the Judges Association of Serbia, the Venice Commission of the Council of Europe and the European Union have raised serious concerns during the formulation of judges election criteria and during the process of reelection of judges about the quality of the evaluation criteria and the transparency of the process. The re-election process was criticized for not holding personal interviews with candidates, for using criteria that are not objectively measurable, as well as for an apparent lack of uniform application of evaluation criteria. It was also a serious concern that no appeal process was envisaged.

In addition, the sessions of both councils were closed and their proceedings were declared a state secret. No official response was given to the allegations from the unelected prosecutors and judges. In addition, all decisions made about judges reelection have been endorsed by incomplete composition of the High Judicial Council. The High Judicial Council started to work in complete composition as of July 2010.

Furthermore, if we consider the fact that the High Judicial Council processed 5,020 applications in 400 working hours as stipulated by the representatives of High Judicial Council, the conclusion that arose is that each application would not have been receiving adequate attention.

**References:**

Interim Opinion on the Draft Decisions of High Judicial Council and of the State Prosecutorial Council on the Implementation of the Laws on the Amendments to the Laws Judges and on the Public Prosecution of Serbia, Adopted by the Venice Commission at its 87th Plenary Session (Venice, 17-18 June 2011) [http://www.venice.coe.int/docs/2011/CDL-AD\(2011\)015-e.pdf](http://www.venice.coe.int/docs/2011/CDL-AD(2011)015-e.pdf), accessed 4 September 2011.

Annual Report of the Protector of Citizens 2010, available at: <http://www.ombudsman.rs/images/dokumenta/Annual%20Report%202010.pdf>, accessed 4 September 2011.

Dragana Boljevic, President of the Judges Association of Serbia, interview held on 19 September 2011, Belgrade, Serbia.

EU Commission Serbia 2010 Progress Report, accompanying the communication from the Commission to the European Parliament and the Council, Enlargement Strategy and Main Challenges 2010-2011, page 10. Available at: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2010/package/sr\\_rapport\\_2010\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/sr_rapport_2010_en.pdf), accessed 5 September 2011.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

Re-election of Judges should be Reviewed, B92, 30 April 2010, available at: [http://b92.net/eng/news/politics-article.php?yyyy=2010&mm=04&dd=30&nav\\_id=66820](http://b92.net/eng/news/politics-article.php?yyyy=2010&mm=04&dd=30&nav_id=66820), accessed 4 September 2011.

Brussels Criticizes Re-election of Judges, Blic, 16 March 2010, available at: <http://english.blic.rs/News/6161/Brussels-criticizes-reelection-of-judges>, accessed 4 September 2011.

**100:** National-level judges selected have relevant professional qualifications such as formal legal training, experience as a lower court judge or a career as a litigator.

**75:**

**50:** Most national-level judges selected meet these qualifications, with some exceptions.

**25:**

**0:** National-level judges are often unqualified due to lack of training or experience.

36c. In law, there is a confirmation process for national-level judges (i.e. conducted by the legislature or an independent body).

Yes | **No**

**Comments:**

There is no independent body that reviews decisions of the High Judicial Council.

**References:**

There is no legal ground.

**Yes:** A YES score is earned if there is a formal process establishing a review of national-level judicial nominees by an agency or entity independent from the body appointing the judges.

**No:** A NO score is earned if there is no formal review. A NO score is earned if the review is conducted by the same body that appoints the judges (such as the Prime Minister approving judicial nominees put forward by the Minister of Justice, both of whom are part of the executive).

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### 37. Can members of the judiciary be held accountable for their actions?

79

37a. In law, members of the national-level judiciary are obliged to give reasons for their decisions.

Yes | No

**Comments:**

The judgements always have a written form.

**References:**

Civil Procedure Code, Official Gazette of RS, No. 125/2004 and 111/2009, Articles 341 and 342. Available at: [http://www.mpravde.gov.rs/images/22\\_civil\\_procedure\\_code.pdf](http://www.mpravde.gov.rs/images/22_civil_procedure_code.pdf), accessed 4 September 2011

Criminal Code Procedure, Official Gazette of RS, No. 46/2006 Articles 384 and 385. Available at: <http://www.osce.org/serbia/24811>, accessed 4 September 2011.

**Yes:** A YES score is earned if there is a formal and mandatory process for judges to explain their decisions.

**No:** A NO score is earned if justices are not required to explain decisions. A NO score is earned if there is a general exemption from explaining some decisions (such as national security).

37b. In practice, members of the national-level judiciary give reasons for their decisions.

100 | 75 | 50 | 25 | 0

**Comments:**

Judges are formally required to give reasons for their decisions in writing.

**References:**

Dragana Boljevic, President of the Judges Association of Serbia, interview held on 19 September 2011, Belgrade, Serbia.

Srdjan Korac, Research Fellow, Center for Security Studies, Belgrade, Interview held on 24 August 2011, Belgrade, Serbia.

Example of the Judgment of the Court of Appeal in Belgrade available at: <http://www.bg.ap.sud.rs/cr/articles/sudska-praksa/pregled-sudske-prakse-apelacionog-suda-u-beogradu/krivicno-odeljenje/organizovani-kriminal/kz1-po1-4-11.html>, accessed 11 November 2011.

**100:** Judges are formally required to explain their judgments in detail, establishing a body of precedent. All judges comply with these requirements.

**75:**

**50:** Judges are compelled to give substantial reasons for their decisions, but some exceptions exist. These may include special courts, such as military courts or tribunals.

**25:**

**0:** Judges commonly issue decisions without formal explanations.

37c. In law, there is a disciplinary agency (or equivalent mechanism) for the national-level judicial system.

Yes | No

**Comments:**

According to Article 93 of the Law on Judges “Disciplinary bodies are: the Disciplinary Prosecutor, Deputy Disciplinary Prosecutors and the Disciplinary Commission, established by the High Judicial Council.

The High Judicial Council shall appoint the members of disciplinary bodies from among judges. The High Judicial Council shall publish an act stipulating the requirements for the appointment, duration of the term of office, and manner of termination of office, as well as the method of work and decision-making of disciplinary bodies.”

**References:**

Law on Judges, Official Gazette of RS, No. 116/2008, 58/2009, 104/2009, 101/2010, Article 93. Available at: <http://www.unhcr.org/refworld/country,,LEGISLATION,SRB,4562d8b62,4b5712672,0.html>, accessed 4 September 2011.

Rule Book on Disciplinary Procedure and Disciplinary Responsibility of Judges, Official Gazette of RS, No. 71/2010, available at: <http://bazapropisa.net/sr/pravilnici/4395-pravilnik-o-disciplinskom-postupku-i-disciplinskij-odgovornosti-sudija.html>, accessed 4 September 2011.

Law on High Judicial Council, Official Gazette of RS, no. 116/2008, Article 13, paragraph 10. Available at: [http://www.mpravde.gov.rs/images/6\\_Law\\_on\\_High\\_Judicial\\_Council.pdf](http://www.mpravde.gov.rs/images/6_Law_on_High_Judicial_Council.pdf), accessed 5 September 2011.

**Yes:** A YES score is earned if there is a disciplinary agency (or equivalent mechanism) for the judicial system. A disciplinary agency is defined here as an agency or mechanism specifically mandated to investigate breaches of procedure, abuses of power or other failures of the judiciary. A YES score can still be earned if the judicial disciplinary agency (or mechanism) is internal to the judiciary.

**No:** A NO score is earned if no agency or mechanism is specifically mandated to act as a disciplinary mechanism for the national-level judiciary.

37d. In law, the judicial disciplinary agency (or equivalent mechanism) is protected from political interference.

Yes | No

**Comments:**

The Law on Judges in Article 93 stipulates the following:

Disciplinary bodies are: the Disciplinary Prosecutor, Deputy Disciplinary Prosecutors and the Disciplinary Commission, established by the High Judicial Council. The High Judicial Council shall appoint the members of disciplinary bodies from among judges. The High Judicial Council shall publish an act stipulating the requirements for the appointment, duration of the term of office, and manner of termination of office, as well as the method of work and decision-making of disciplinary bodies.

**References:**

Law on Judges, Official Gazette of RS, No. 116/2008, Article 93, available at: <http://www.unhcr.org/refworld/country,,NATLEGBOD,,SRB,,4b5712672,0.html>

**Yes:** A YES score is earned if there are formal rules establishing that the judicial disciplinary agency (or equivalent mechanism) is protected from political interference by the executive and legislative branches.

**No:** A NO score is earned if there are no formal rules establishing the independence of the judicial disciplinary agency (or equivalent mechanism). A NO score is given if the judicial disciplinary agency or equivalent mechanism function is carried out by an executive ministry or legislative committee.

37e. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

The Disciplinary Prosecutor institution is regulated by the Law on Judges and the Law on High Judicial Council and the Rule of Procedures of Disciplinary Procedure and Disciplinary Responsibility of Judges, as adopted by the High Judicial Council in September 2010. The High Judicial Council appointed the Disciplinary Prosecutor and three Deputy Prosecutors in December 2010.

However, the Disciplinary Prosecutor simultaneously serves as a judge at the Higher Court of Belgrade. The practice of the work of the Disciplinary Prosecutor is short to adequately assess the effectiveness of its work.

According to interviews, there have been no investigations initiated in the period researched for the purpose of this report.

**References:**

Dragana Boljevic, President of the Judges Association of Serbia, interview held on 19 September 2011, Belgrade, Serbia.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

**100:** The judicial disciplinary agency (or equivalent mechanism) aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The judicial disciplinary agency (or equivalent mechanism) is fair in its application of this power.

**75:**

**50:** The judicial disciplinary agency (or equivalent mechanism) will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The judicial disciplinary agency (or equivalent mechanism), though limited in effectiveness, is still fair in its application of power.

**25:**

**0:** The judicial disciplinary agency (or equivalent mechanism) rarely investigates on its own or cooperates in other agencies' investigations, or the judicial disciplinary agency (or equivalent mechanism) is partisan in its application of this power.

37f. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

Disciplinary Prosecutor initiates disciplinary investigations and Disciplinary Commission imposes penalties on offenders. However, the practice of the work of Disciplinary Prosecutor is short to adequately assess the effectiveness of its work.

**References:**

Dragana Boljevic, President of the Judges Association of Serbia, interview held on 19 September 2011, Belgrade, Serbia.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

**100:** When rules violations are discovered, the judicial disciplinary agency (or equivalent mechanism) is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

**75:**

**50:** The judicial disciplinary agency (or equivalent mechanism) enforces rules, but is limited in its effectiveness. The judicial disciplinary agency (or equivalent mechanism) may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

25:

0: The judicial disciplinary agency (or equivalent mechanism) does not effectively penalize offenders. The judicial disciplinary agency (or equivalent mechanism) may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The judicial disciplinary agency (or equivalent mechanism) may be partisan in its application of power.

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38. Are there regulations governing conflicts of interest for the national-level judiciary?

61

38a. In law, members of the national-level judiciary are required to file an asset disclosure form.

Yes | No

**Comments:**

Under the Law on Anti-Corruption Agency, a member of national-level judiciary is considered as an "official" therefore is obliged to file an asset disclosure form.

**References:**

Law on Anti-Corruption Agency, Official Gazette of RS, No. 97/2008, 53/2010 Article 43: Available at: <http://www.acas.rs/en/zakoni-i-drugi-propisi/the-mayor/law-on-agency.html>, accessed 22 August 2011.

**Yes:** A YES score is earned if all members of the national-level judiciary are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

**No:** A NO score is earned if any member of the national-level judiciary is not required to publicly disclose assets.

38b. In law, there are regulations governing gifts and hospitality offered to members of the national-level judiciary.

Yes | No

**Comments:**

Regulation governing gifts and hospitality for the national-level judges are prescribed by the Law on Anti-Corruption Agency. Judges are considered as "officials" therefore the same regulation are applied as for executive and legislative branch officials.

**References:**

Law on Anti-Corruption Agency, Official Gazette, No. 97/2008, 53/2010 Article 39, 40, 41 and 42. Available at: <http://www.acas.rs/en/zakoni-i-drugi-propisi/the-mayor/law-on-agency.html>, accessed 22 August 2011.

**Yes:** A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the national-level judiciary.

**No:** A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the national-level judiciary. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

38c. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national-level judiciary.

Yes | No

**Comments:**

The Law on Anti-Corruption Agency, whose implementation started as of Jan. 1, 2010, does not strictly specify the issue of independent auditing if irregularities in asset disclosure forms are revealed.

**References:**

There is no legal ground.

**Yes:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of national-level judiciary asset disclosures. The auditing is performed by an impartial third-party.

**No:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of national-level judiciary asset disclosures or if such requirements exist but allow for self-auditing.

38d. In law, there are restrictions for national-level judges entering the private sector after leaving the government.

Yes | No

**Comments:**

Article 38 of the Law on Anti-Corruption Agency stipulates the following:

“During the period of two years after termination of the public office, the official whose office has ceased may not take employment or establish business cooperation with a legal entity, entrepreneur or international organization engaged in activity relating to the office the official held, except under approval of the agency. The official whose office has ceased shall, prior to employment or business cooperation ... seek approval of the agency, which shall pass decision on this request within 15 days. Should the Agency fail to pass a decision ... within the deadline, it shall be deemed that approval for employment or business cooperation has been given. The ban ... does not refer to an official elected directly by citizens.”

**References:**

Law on Anti-Corruption Agency, Official Gazette of RS, No. 97/2008, 53/2010 Article 38. Available at: <http://www.acas.rs/en/zakoni-i-drugi-propisi/the-mayor/law-on-agency.html>, accessed 22 August 2011.

Law on Judges, Official Gazette of RS, No. 116/2008, Articles 30 and 31. Available at: [http://www.unhcr.org/refworld/publisher,NATLEGBOD,,SRB,4b5712672,0.html](http://www.unhcr.org/refworld/publisher/NATLEGBOD,,SRB,4b5712672,0.html), accessed 23 September 2011.

Law on Public Prosecution, Official Gazette of RS, No. 116/2008, 104/2009 and 101/2010, Articles 65, 66, 67 and 68. Available at: [http://www.mpravde.gov.rs/images/2\\_Public\\_Prosecution\\_Law.pdf](http://www.mpravde.gov.rs/images/2_Public_Prosecution_Law.pdf), accessed 23 September 2011.

**Yes:** A YES score is earned if there are regulations restricting national-level judges' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

**No:** A NO score is earned if no such restrictions exist.

38e. In practice, the regulations restricting post-government private sector employment for national-level judges are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

During 2010, the Anti-Corruption Agency, upon request of former officials, gave a number of approvals for employment in the private sector where conflict of interest is not seen as an issue.

**References:**

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, 22 August, BIRODI, Belgrade, Serbia.

Natasa Bojic, Adviser, Department for Prevention, Conflict of Interest Sub-department, Anti-Corruption Agency, Belgrade, interview held on 7 September 2011, Belgrade, Serbia.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011

Annual Report of the Anti-Corruption Agency for 2010, p. 37, available at: [http://acas.rs/images/stories/Annual\\_Report\\_for\\_2010.pdf](http://acas.rs/images/stories/Annual_Report_for_2010.pdf), accessed 9 September 2010.

**100:** The regulations restricting post-government private sector employment for national-level judges are uniformly enforced. There are no cases or few cases of judges taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate "cooling off" period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain cases, judges are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced. A zero score is also earned if judges are allowed to hold private sector jobs while serving on the bench.

38f. In practice, the regulations governing gifts and hospitality offered to members of the national-level judiciary are effective.

100 | 75 | **50** | 25 | 0

**Comments:**

The effectiveness of regulation governing gifts offered has increased in 2010 compared to the previous periods. The register of gifts is publicly available at the website of the Anti-Corruption Agency. However, there is no control mechanism established to determine whether the legislative branch reported all gifts as it is obligated to do by law.

**References:**

Dejan Damnjanovic, Adviser, Department of Registers, Anti-Corruption Agency, interview held on 7 September 2011, Belgrade, Serbia.

Annual Report of the Anti-Corruption Agency for 2010, p. 37, available at: [http://acas.rs/images/stories/Annual\\_Report\\_for\\_2010.pdf](http://acas.rs/images/stories/Annual_Report_for_2010.pdf), accessed 9 September 2011.

Register of Gifts, available at: <http://acas.rs/images/stories/KatalogPoklona.pdf>, accessed 9 September 2011.

**100:** The regulations governing gifts and hospitality to members of the national-level judiciary are regularly enforced. Judges never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to members of the national-level judiciary are generally applied though exceptions exist. Some judges are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

38g. In practice, national-level judiciary asset disclosures are audited.

**Comments:**

The Anti-Corruption Agency controls the content of the submitted asset reports. However, an independent audit has not been initiated by the agency so far.

**References:**

Dejan Damnjanovic, Adviser, Department of Registers, Anti-Corruption Agency, interview held on 7 September 2011, Belgrade, Serbia.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, 22 August, BIRODI, Belgrade, Serbia.

Annual Report on Anti-Corruption Agency for 2010, March 2011, p. 51, available at: [http://www.acas.rs/images/stories/Annual\\_Report\\_for\\_2010.pdf](http://www.acas.rs/images/stories/Annual_Report_for_2010.pdf), accessed 25 August 2011.

**100:** National-level judiciary asset disclosures are regularly audited using generally accepted auditing practices.

**75:**

**50:** National-level judiciary asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

**25:**

**0:** The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

### 39. Can citizens access the asset disclosure records of members of the national-level judiciary?

88

39a. In law, citizens can access the asset disclosure records of members of the national-level judiciary.

Yes | No

**Comments:**

Asset disclosure records of the national-level judiciary can be accessed at the Anti-Corruption Agency website at [http://www.acas.rs/sr\\_cir/aktuelnosti/199.html](http://www.acas.rs/sr_cir/aktuelnosti/199.html).

Articles 68 and 70 of the Law on the Anti-Corruption Agency specify regulations on public access to asset disclosures.

**References:**

Law on Anti-Corruption Agency, Official Gazette of RS, No. 97/2008, 53/2010, Articles 68 and 70.

**Yes:** A YES score is earned if members of the national-level judiciary file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

**No:** A NO score is earned if there is no asset disclosure for members of the national-level judiciary. A NO score is earned if the form is filed, but not available to the public.

39b. In practice, citizens can access judicial asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The asset disclosure records of the officials are available at the Anti-Corruption Agency website at: [http://www.acas.rs/sr\\_cir/aktuelnosti/199.html](http://www.acas.rs/sr_cir/aktuelnosti/199.html).

**References:**

Dejan Damnjanovic, Adviser, Department of Registers, Anti-Corruption Agency, interview held on 7 September 2011, Belgrade, Serbia.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, 22 August, BIRODI, Belgrade, Serbia.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

Annual Report on Anti-Corruption Agency for 2010, March 2011, available at: [http://www.acas.rs/images/stories/Annual\\_Report\\_for\\_2010.pdf](http://www.acas.rs/images/stories/Annual_Report_for_2010.pdf), accessed 25 August 2011.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

39c. In practice, citizens can access judicial asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The asset disclosure records of the officials are available at the Anti-Corruption Agency's website at: [http://www.acas.rs/sr\\_cir/aktuelnosti/199.html](http://www.acas.rs/sr_cir/aktuelnosti/199.html).

**References:**

Dejan Damnjanovic, Adviser, Department of Registers, Anti-Corruption Agency, interview held on 7 September 2011, Belgrade, Serbia.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, 22 August, BIRODI, Belgrade, Serbia.

Annual Report on Anti-Corruption Agency for 2010, March 2011, available at: [http://www.acas.rs/images/stories/Annual\\_Report\\_for\\_2010.pdf](http://www.acas.rs/images/stories/Annual_Report_for_2010.pdf), accessed 25 August 2011.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

39d. In practice, the asset disclosure records of the national-level judiciary are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the Anti-Corruption Agency, there were a number of reports submitted by the officials that were technically incomplete in hard-copy format.

**References:**

Dejan Damnjanovic, Adviser, Department of Registers, Anti-Corruption Agency, interview held on 7 September 2011, Belgrade, Serbia.

Annual Report on Anti-Corruption Agency for 2010, March 2011, p. 47, available at: [http://www.acas.rs/images/stories/Annual\\_Report\\_for\\_2010.pdf](http://www.acas.rs/images/stories/Annual_Report_for_2010.pdf), accessed 25 August 2011.

**100:** The asset disclosure records of the national-level judiciary are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

**75:**

**50:** The asset disclosure records of the national-level judiciary contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

**25:**

**0:** The asset disclosure records of the national-level judiciary are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

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### 3.4. Budget Process Oversight & Transparency

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#### 40. Can the legislature provide input to the national budget?

67

40a. In law, the legislature can amend the budget.

Yes | No

**Comments:**

According to Public Finance for Development: Strengthening Public Finance Capacities in the Western Balkans and Commonwealth of Independent States, Country Profile Document, "The new Budget System Law, adopted in July 2009, introduced modern and efficient instruments of public finance management, specifically medium-term framework for expenditures and public investments, three-year budget and fiscal risk assessment, and expenditure ceilings.

Article 44 of the Budget System Law stipulates:

"The amendment to the proposed budget performed by the National Assembly, and/or local government assembly, must remain within the maximum amount of the deficit envisaged in the budget proposed by the government, and/or by the local government executive authority. Surplus envisaged in the budget proposed by the government, and/or by the local government executive authority, shall not be used to increase the expenditures envisaged in the proposed budget. Proposal for the decrease of revenues must contain measures for the increase of other revenues or decrease of expenditures by the same amount."

**References:**

Law on Budget System of the Republic of Serbia, Official Gazette of RS, No. 54/2009, 73/2010 and 101/2010. Article 44.  
Available at: <http://www1.worldbank.org/publicsector/pe/BudgetLaws/SerbiaBudgetSystemLawJuly162009EnglishFINAL.pdf>

**Yes:** A YES score is earned if the legislature has the power to add or remove items to the national government budget.

**No:** A NO score is earned if the legislature can only approve but not change details of the budget. A NO score is earned if the legislature has no input into the budget process.

40b. In practice, significant public expenditures require legislative approval.

100 | 75 | 50 | 25 | 0

**Comments:**

Public expenditures are regulated by the Budget System Law. According to the Budget System Law, the Parliament must approve the state budget and the financial plans of extra budgetary funds.

According to SIGMA's 2009 Serbia Public Expenditure Management System Assessment, "Any amendment proposed by parliament that leads to increased expenditure in relation to the government's budget must be accompanied by a corresponding decrease of expenditure elsewhere in the budget or by a proposal for increased revenue. It is noteworthy that changes in the direction of greater expenditures proposed by parliament cannot be covered by additional state borrowing but have to be strictly compensated by the reduction of other expenditure or the creation of new revenue. Significant changes in current-year expenditure require parliamentary approval through a supplementary budget. According to the Budget System Law, the government has the mandate to make reallocations between appropriations of up to five per cent of the initial figure. More substantial changes must be approved by parliament. Although parliament approves the state budget, it is not in a position to seriously challenge the government's proposal."

In addition, a November 2010 report, "Public Expenditure and Financial Accountability Assessment – Public Financial Management Performance Report," stipulates that "[c]lear rules exist concerning changes to the budget by the executive under Article 61 of the BSL. Strict safeguards have been defined with respect to sums and nature of these changes which are being observed, but allow for considerable administrative reallocations."

**References:**

Republic of Serbia Public Expenditure and Financial Accountability Assessment, Public Financial Management Performance Report, November 2010. <http://www.mfin.gov.rs/UserFiles/File/dokumenti/PEFA%20Serbia%202010%20ENG.pdf>. Accessed 12 September 2011.

International Budget Partnership, Open Budget Questionnaire, Serbia, September 2009, available at: <http://internationalbudget.org/wp-content/uploads/2011/04/Serbia-OBQ2010QuestionnaireFinal.pdf>. Accessed 12 September 2011.

Verica Barac, President of the Anti-Corruption Council, interview held on 7 September 2011, Belgrade, Serbia.

**100:** All significant government expenditures (defined as any project costing more than 1% of the total national budget), must be approved by the legislature. This includes defense and secret programs, which may be debated in closed hearings.

**75:**

**50:** Most significant government expenditures (as defined) are approved by the legislature, but some exceptions to this rule exist. This may include defense programs, an executive's personal budget, or other expenses.

**25:**

**0:** The legislature does not have the power to approve or disapprove large portions of the government budget, or the legislature does not exercise this power in a meaningful way.

40c. In practice, the legislature has sufficient capacity to monitor the budget process and provide input or changes.

100 | 75 | 50 | 25 | 0

**Comments:**

Legislature has capacity to amend the budget law, however monitoring capacity over budget process is limited.

**References:**

Republic of Serbia Public Expenditure and Financial Accountability Assessment, Public Financial Management Performance Report, November 2010, available at: <http://www.mfin.gov.rs/UserFiles/File/dokumenti/PEFA%20Serbia%202010%20ENG.pdf>, accessed 12 September 2011

International Budget Partnership, Open Budget Questionnaire, Serbia, September 2009, available at: <http://internationalbudget.org/wp-content/uploads/2011/04/Serbia-OBI2010QuestionnaireFinal.pdf>, accessed 12 September 2011.

Verica Barac, President of the Anti-Corruption Council, interview held on 7 September 2011, Belgrade, Serbia.

**100:** Legislators benefit from a sufficient and qualified staff as well as adequate financial and physical resources. Lack of capacity is never a reason why legislators cannot carry out their duties effectively.

**75:**

**50:** Legislators have some staff and financial resources but are limited by a shortfall of resources to adequately perform all of their budgetary oversight functions. Legislators are occasionally overwhelmed by the volume of work to be performed.

**25:**

**0:** Legislators have little to no staff and virtually no financial resources with which to perform their budgetary oversight role. Lack of resources is a regular and systemic problem that cripples the performance of the legislature.

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#### 41. Can citizens access the national budgetary process?

42

41a. In practice, the national budgetary process is conducted in a transparent manner in the debating stage (i.e. before final approval).

100 | 75 | **50** | 25 | 0

**Comments:**

The debating stage on the national budget approved in 2010 lasted two weeks, while in previous years the main debate was conducted in the week of budget final approval.

**References:**

Republic of Serbia Public Expenditure and Financial Accountability Assessment, Public Financial Management Performance Report, November 2010, available at: <http://www.mfin.gov.rs/UserFiles/File/dokumenti/PEFA%20Serbia%202010%20ENG.pdf>, accessed 12 September 2011.

International Budget Partnership, Open Budget Questionnaire, Serbia, September 2009, available at: <http://internationalbudget.org/wp-content/uploads/2011/04/Serbia-OBI2010QuestionnaireFinal.pdf>, accessed 12 September 2011.

Verica Barac, President of the Anti-corruption Council, Interview held on 7 September 2011, Belgrade, Serbia.

**100:** Budget debates are public and records of these proceedings are easily accessible. Authors of individual budget items can easily be identified. Nearly all budget negotiations are conducted in these official proceedings.

**75:**

**50:** There is a formal, transparent process for budget debate, but major budget modifications may be negotiated in separate, closed sessions. Some items, such as non-secret defense projects, may be negotiated in closed sessions. Authors of individual line items may be difficult to identify.

**25:**

**0:** Budget negotiations are effectively closed to the public. There may be a formal, transparent process, but most real discussion and debate happens in other, closed settings.

41b. In practice, citizens provide input at budget hearings.

100 | 75 | 50 | 25 | 0

**Comments:**

In practice, citizens do not provide input to the budget debate because they do not have formal access to public hearings during the budget process debate.

**References:**

Republic of Serbia Public Expenditure and Financial Accountability Assessment, Public Financial Management Performance Report, November 2010, available at: <http://www.mfin.gov.rs/UserFiles/File/dokumenti/PEFA%20Serbia%202010%20ENG.pdf>, accessed 12 September 2011.

International Budget Partnership, Open Budget Questionnaire, Serbia, September 2009, available at: <http://internationalbudget.org/wp-content/uploads/2011/04/Serbia-OB12010QuestionnaireFinal.pdf>, accessed 12 September 2011.

Verica Barac, President of the Anti-Corruption Council, interview held on 7 September 2011, Belgrade, Serbia.

Control of Public Finances: Overview of the Institutions and Media, (Kontrola javnih finansija: Pregled stanja u institucijama i medijima), BIRN Serbia and Pro Koncept, available at <http://www.skockajtebudzet.rs/rs/clanak/kontrola-javnih-finansija>, accessed 12 September 2011.

**100:** Citizens, usually acting through NGOs, can provide information or commentary to the budget debate through a formal process. This information is essential to the process of evaluating budget priorities.

**75:**

**50:** Citizens or NGOs can provide input, but this information is often not relevant to budget decisions.

**25:**

**0:** Citizens or NGOs have no formal access to provide input to the budget debate.

41c. In practice, citizens can access itemized budget allocations.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens can access the budget allocations, but this access is limited, namely citizens can access the budget law for a certain year when it has already been adopted. There is no "Citizens Budget," or non-technical explanation for a wider public on budget items and budget proposals in general.

**References:**

Republic of Serbia Public Expenditure and Financial Accountability Assessment, Public Financial Management Performance Report, November 2010, available at: <http://www.mfin.gov.rs/UserFiles/File/dokumenti/PEFA%20Serbia%202010%20ENG.pdf>, accessed 12 September 2011.

International Budget Partnership, Open Budget Questionnaire, Serbia, September 2009, available at: <http://internationalbudget.org/wp-content/uploads/2011/04/Serbia-OB12010QuestionnaireFinal.pdf>, accessed 12 September 2011.

Verica Barac, President of the Anti-Corruption Council, interview held on 7 September 2011, Belgrade, Serbia.

Law on the Budget of the Republic of Serbia for 2011, Official Gazette, No. 101/2010, available at: <http://www.mfin.gov.rs/UserFiles/File/zakoni/Zakon%20o%20budzetu%20RS%20za%202011.pdf>, accessed 12 September 2011.

**100:** Citizens, journalists and NGOs can access itemized lists of budget allocations. This information is easily available and up to date.

75:

50: Citizens, journalists and NGOs can access itemized lists of budget allocations but this information may be difficult to access, incomplete or out of date.

25:

0: Citizens cannot access an itemized list of budget allocations, due to secrecy, prohibitive barriers or government inefficiency.

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42. In law, is there a separate legislative committee which provides oversight of public funds?

100

42a. In law, is there a separate legislative committee which provides oversight of public funds?

Yes | No

**Comments:**

The Finance Committee of the Parliament provides oversight of public funds.

**References:**

Rules of Procedures of the Parliament of the Republic of Serbia, Official Gazette of RS, No. 52/2010, Articles 46 and 55. Available at: [http://www.parlament.rs/national-assembly/important-documents/rules-of-procedure/working-bodies-of-the-national-assembly\\_1355.html](http://www.parlament.rs/national-assembly/important-documents/rules-of-procedure/working-bodies-of-the-national-assembly_1355.html), accessed 17 August 2011.

**Yes:** A YES score is earned if there is a dedicated legislative committee (or equivalent group located in the legislature) that oversees the expenditure of public funds.

**No:** A NO score is earned if no such body exists within the legislature. A NO score is earned if there is a body executing this function but it is not part of the legislature (such as a separate supreme audit institution).

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43. Is the legislative committee overseeing the expenditure of public funds effective?

67

43a. In practice, department heads regularly submit reports to this committee.

100 | 75 | 50 | 25 | 0

**Comments:**

The Serbian government submits year-end reports to the Parliament's Finance Committee. The Ministry of Finance in the Bulletin of Public Finances publishes in-year reports that are available on the Ministry of Finance's website.

The chain of reporting is as follows: The Treasury produces reports on budget execution and presents them to the government within two weeks of the end of each month. Currently, direct budget beneficiaries are required to submit annual reports to the Treasury by March 31. An end-of-year report should be produced and a draft law on the end-of-year report should be prepared by the Ministry of Finance and presented to the government by June 15. This report also includes the end-of-year accounts for the extra-budgetary funds. By July 15, the government should submit final accounts to the Parliament (including separate final accounts of the state budget and decisions on the final accounts of the financial plans of the social security organisations). According to the State Budget Act, the consolidated report must be sent to Parliament by Sept. 30. Although the executive is required to submit final accounts to the Parliament, such accounts are currently of limited value.

The Budget System Law also requires the government to submit an external audit report together with the final accounts. To date, three reports of this kind were produced by the State Audit Institution and have been submitted to the Finance Committee

**References:**

Republic of Serbia Public Expenditure and Financial Accountability Assessment, Public Financial Management Performance Report, November 2010, available at: <http://www.mfin.gov.rs/UserFiles/File/dokumenti/PEFA%20Serbia%202010%20ENG.pdf>, accessed 12 September 2011

International Budget Partnership, Open Budget Questionnaire, Serbia, September 2009, available at: <http://internationalbudget.org/wp-content/uploads/2011/04/Serbia-OBi2010QuestionnaireFinal.pdf>, accessed 12 September 2011.

**100:** Heads of ministry- or cabinet-level agencies submit regular, formal reports of expenses to a budget oversight committee.

**75:**

**50:** Agency heads submit reports to a budget oversight committee, but these reports are flawed in some way. The reports may be inconsistently delivered, or lacking important details.

**25:**

**0:** There is no budget oversight committee or equivalent, or heads of agencies do not submit meaningful reports to the agency.

43b. In practice, the committee acts in a non-partisan manner with members of opposition parties serving on the committee in an equitable fashion.

100 | 75 | 50 | 25 | 0

**Comments:**

The information on the work of the Finance Committee can be obtained from short releases published at the Parliament's website. The composition of the Finance Committee is equitable in distribution comprised of legislators from both ruling and opposition parties.

**References:**

Finance Committee composition, available at: <http://www.parlament.gov.rs/national-assembly/composition/working-bodies/committees.2.492.html>, accessed 12 September 2011.

Sittings of the Finance Committee, available at: <http://www.parlament.gov.rs/activities/national-assembly/working-bodies/committees.-sub-committees.-working-groups.580.html>, accessed 12 September 2011.

International Budget Partnership, Open Budget Questionnaire, Serbia, September 2009, available at: <http://internationalbudget.org/wp-content/uploads/2011/04/Serbia-OBi2010QuestionnaireFinal.pdf>, accessed 12 September 2011.

Republic of Serbia Public Expenditure and Financial Accountability Assessment, Public Financial Management Performance Report, November 2010, available at: <http://www.mfin.gov.rs/UserFiles/File/dokumenti/PEFA%20Serbia%202010%20ENG.pdf>, accessed 12 September 2011.

Committee Did Not Discuss Audit Report (Odbor nije raspravljao o reviziji), 14 January 2011, B92, available at: [http://www.b92.net/info/vesti/index.php?yyyy=2011&mm=01&dd=14&nav\\_category=11&nav\\_id=485707](http://www.b92.net/info/vesti/index.php?yyyy=2011&mm=01&dd=14&nav_category=11&nav_id=485707), accessed 12 September 2011.

Jeopardized Independence of State Audit (Ugrozena nezavisnost drzavne revizije), Politika, 23 January 2011 available at: <http://www.politika.rs/rubrike/Ekonomija/Ugrozena-nezavisnost-drzavne-revizije.lt.html>, accessed 12 September 2011.

Members of Parliament do not Read the Reports (Poslanici ne citaju izvestaje), B92, 9 May 2011, available at: [http://www.b92.rs/info/vesti/pregled\\_stampe.php?yyyy=2011&mm=05&dd=09&nav\\_id=510934](http://www.b92.rs/info/vesti/pregled_stampe.php?yyyy=2011&mm=05&dd=09&nav_id=510934), accessed 12 September 2011.

**100:** The committee is comprised of legislators from both the ruling party (or parties) and opposition parties in a roughly equitable distribution. All members of the committee — including opposition party members — are able to fully participate in the activities of the committee and influence the committee's work to roughly the same extent as any other member of the committee.

**75:**

**50:** The committee is comprised of legislators from both the ruling party (or parties) and opposition parties although the ruling party has a disproportionate share of committee seats. The chairperson of the committee may be overly influential and curb other members' ability to shape the committee's activities.

25:

0: The committee is dominated by legislators of the ruling party and/or the committee chairperson. Opposition legislators serving on the committee have in practice no way to influence the work of the committee.

43c. In practice, when necessary, this committee initiates independent investigations into financial irregularities.

100 | 75 | 50 | 25 | 0

**Comments:**

The Finance's Committee work is not fully available publicly. Namely, there is only short descriptions of the committee's sessions available at the Parliament's website. The Committee however cooperates with the State Audit Institution in terms of reviewing reports submitted by the Supreme Audit Institution (SAI). On the other hand Finance Committee often focuses its control mechanism over illegitimate budget spending by the executive branch.

**References:**

Sittings of the Finance Committee, available at: <http://www.parlament.gov.rs/activities/national-assembly/working-bodies/committees,-sub-committees,-working-groups.580.html>, accessed 12 September 2011.

International Budget Partnership, Open Budget Questionnaire, Serbia, September 2009, available at: <http://internationalbudget.org/wp-content/uploads/2011/04/Serbia-OBI2010QuestionnaireFinal.pdf>, accessed 12 September 2011.

Republic of Serbia Public Expenditure and Financial Accountability Assessment, Public Financial Management Performance Report, November 2010, available at: <http://www.mfin.gov.rs/UserFiles/File/dokumenti/PEFA%20Serbia%202010%20ENG.pdf>, accessed 12 September 2011.

Committee did not Discussed Audit Report (Odbor nije raspravljao o reviziji), 14 January 2011, B92, available at: [http://www.b92.net/info/vesti/index.php?yyyy=2011&mm=01&dd=14&nav\\_category=11&nav\\_id=485707](http://www.b92.net/info/vesti/index.php?yyyy=2011&mm=01&dd=14&nav_category=11&nav_id=485707), accessed 12 September 2011.

Jeopardized Independence of State Audit (Ugrozena nezavisnost drzavne revizije), Politika, 23 JAnuary 2011 available at: <http://www.politika.rs/rubrike/Ekonomija/Ugrozena-nezavisnost-drzavne-revizije.lt.html>, accessed 12 September 2011.

Control of Public Finances: Overview of the Institutions and Media, (Kontrola javnih finansija: Pregled stanja u institucijama i medijima), BIRN Serbia and Pro Koncept, available at <http://www.skockajtebudzet.rs/rs/clanak/kontrola-javnih-finansija>, accessed 12 September 2011.

100: When irregularities are discovered, the committee is aggressive in investigating the government.

75:

50: The committee starts investigations, but is limited in its effectiveness. The committee may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The committee does not effectively investigate financial irregularities. The committee may start investigations but not complete them, or may fail to detect offenders. The committee may be partisan in its application of power.

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Category 4. Public Administration and Professionalism

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#### 4.1. <sup>66</sup>Civil Service: Conflicts of Interest Safeguards and Political Independence

44. Are there national regulations for the civil service encompassing, at least, the managerial and professional staff?

50

44a. In law, there are regulations requiring an impartial, independent and fairly managed civil service.

Yes | No

**Comments:**

According to Civil Service System of the Republic of Serbia, Compilation of Laws and Explanatory Articles, October 2006: "...the principle of performance of civil servants is based on European standards. Above all, it is the principle of legality of work of civil servants. ... A civil servant shall be obligated to act in conformity with professional rules, impartially and politically neutrally, and at work he/she must not express his or her political beliefs. The application of the aforementioned principles should develop professionalism, objectivity and quality of work of civil servants and provided them with guarantees for preservation of professional integrity."

Also, Civil Servants Law, Article 5, stipulates that: "A civil servant shall be obliged to act in accordance with the Constitution, law and other legislation, in accordance with professional rules, impartially and political neutrally. At work, a civil servant cannot express or assert his or her political beliefs."

**References:**

Constitution of the Republic of Serbia, Official Gazette of RS, No. 83/2006, Article 136. Available at: <http://www.skupstinskamreza.rs/portal/attachments/ZAKON%20O%20PREDSJEDNIKU%20REPUBLIKE.pdf>, accessed 26 August 2011.

Law on State Administration, Official Gazette No. 79/2005 and No. 101/2007, Article 7 and 8. Available at: [http://www.mpravde.gov.rs/images/34\\_law\\_on\\_state\\_administration.pdf](http://www.mpravde.gov.rs/images/34_law_on_state_administration.pdf), accessed 26 August 2011.

Civil Servants Law, Official Gazette of RS, No. 79/2005, 81/2005, 83/2005, 64/2007 and 67/2007, Article 5. Available at: [http://www.mpravde.gov.rs/images/33\\_law\\_on\\_civil\\_servants.pdf](http://www.mpravde.gov.rs/images/33_law_on_civil_servants.pdf), accessed 26 August 2011.

**Yes:** A YES score is earned if there are specific formal rules establishing that the civil service carry out its duties independent of political interference.

**No:** A NO score is earned if there are no formal rules establishing an independent civil service.

44b. In law, there are regulations to prevent nepotism, cronyism, and patronage within the civil service.

Yes | No

**Comments:**

Under the Civil Servants Law there are no regulations explicitly covering issues of nepotism and cronyism. However, the issue of conflict of interest of civil servants is regulated by the law. In addition, the Law on Anti-Corruption Agency is applied to senior-level civil servants.

Article 25 of the above mentioned Law stipulates the following:

"A civil servant cannot receive presents in regard to the performance of his or her tasks, except protocol presents and occasional presents of smaller value, or any other services or other benefits for himself or herself or for other persons. A civil servant may not use his or her status as a state authority in order to influence the exercise of his or her rights or rights of people related to him. Legislation that regulates the prevention of conflict of interest in the discharge of public function shall be applied accordingly in regard to determination of the circle of people related to a civil servant and receipt of presents."

**References:**

Civil Servants Law, Official Gazette of RS, No. 79/2005, 81/2005, 83/2005, 64/2007 and 67/2007, Article 25. Available at: [http://www.mpravde.gov.rs/images/33\\_law\\_on\\_civil\\_servants.pdf](http://www.mpravde.gov.rs/images/33_law_on_civil_servants.pdf), accessed 26 August 2011.

**Yes:** A YES score is earned if there are specific formal rules prohibiting nepotism, cronyism, and patronage in the civil service. These should include competitive recruitment and promotion procedures as well as safeguards against arbitrary disciplinary actions and dismissal.

**No:** A NO score is earned if no such regulations exist.

44c. In law, there is an independent redress mechanism for the civil service.

Yes | No

**Comments:**

Articles 142 to 153 of the Civil Servants Law governs.

(Article 142) Competence of Appeals Commissions states: The Appeals Commission shall decide upon appeals of civil servants against the ruling in which in the administrative procedure it is decided on their rights and obligations and on appeals of candidates of the internal and public concurs. The Appeals Commission shall apply the Law that regulates the general administrative procedure.

**References:**

Civil Servants Law, Official Gazette of RS, No. 79/2005, 81/2005, 83/2005, 64/2007 and 67/2007, Articles 142 to 153. Available at: [http://www.mpravde.gov.rs/images/33\\_law\\_on\\_civil\\_servants.pdf](http://www.mpravde.gov.rs/images/33_law_on_civil_servants.pdf), accessed 26 August 2011.

**Yes:** A YES score is earned if there is a mechanism to which civil servants and applicants for the civil service can take grievances regarding civil service management actions. The mechanism should be independent of their supervisors but can still be located within the government agency or entity (such as a special commission or board). Civil servants are able to appeal the mechanism's decisions to the judiciary.

**No:** A NO score is earned if no such mechanism exists, or if the only recourse civil servants have is directly through the courts.

44d. In law, civil servants convicted of corruption are prohibited from future government employment.

Yes | No

**Comments:**

There is no legal provision regulating prohibition from future government employment if civil servants are convicted of corruption.

**References:**

Civil Servants Law, Official Gazette, No. 79/2005, 81/2005, 83/2005, 64/2007 and 67/2007, Available at: [http://www.mpravde.gov.rs/images/33\\_law\\_on\\_civil\\_servants.pdf](http://www.mpravde.gov.rs/images/33_law_on_civil_servants.pdf)

**Yes:** A YES score is earned if there are specific rules prohibiting continued government employment following a corruption conviction.

**No:** A NO score is earned if no such rules exist or if the ban is not a lifetime ban.

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45. Is the law governing the administration and civil service effective?

42

45a. In practice, civil servants are protected from political interference.

**Comments:**

A number of examples of political interference on civil servants are available at Center for Investigative Journalism of Serbia.

**References:**

Verica Barac, President of the Anti-Corruption Council, interview held on 7 September 2011, Belgrade, Serbia.

Srdjan Korac, Research Fellow, Center for Security Studies, Belgrade, Interview held on 24 August 2011, Belgrade, Serbia.

Serbian Public Administration Reform: Issue of Integrity (Reforma javne uprave u Srbiji: Pitanje integriteta), Srdjan Korac, Executive Editor Revija za bezbednost, Revija za bezbednost, year III, No. 8, August 2009, pp. 5–25.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011

CINS at: <http://www.cins.org.rs/?cat=102>

Cvetkovic Unlawfully Hires Officials, Vesti On-line <http://www.vesti-online.com/Vesti/Srbija/142667/Cvetkovic-nezakonito-uposjava-funkcionere>

**100:** Civil servants operate independently of the political process, without incentive or pressure to render favorable treatment or policy decisions on politically sensitive issues. Civil servants rarely comment on political debates. Individual judgments are rarely praised or criticized by political figures. Civil servants can bring a case to the courts challenging politically-motivated firings.

**75:**

**50:** Civil servants are typically independent, yet are sometimes influenced in their judgments by negative or positive political or personal incentives. This may include favorable or unfavorable treatment by superiors, public criticism or praise by the government, or other forms of influence. Civil servants may bring a case to the judicial system challenging politically-motivated firings but the case may encounter delays or bureaucratic hurdles.

**25:**

**0:** Civil servants are commonly influenced by political or personal matters. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. Civil servants are unable to find a remedy in the courts for unjustified or politically-motivated firings.

45b. In practice, civil servants are appointed and evaluated according to professional criteria.

**Comments:**

A number of examples of political interference on civil servants are available at Center for Investigative Journalism of Serbia. Also, Transparency Serbia took legal action against the Cabinet of the Serbian prime minister for not disclosing information of public interest regarding hiring of public officials.

**References:**

SIGMA Assessment Serbia 2010, available at: <http://www.oecd.org/dataoecd/28/43/46402069.pdf>, accessed 26 August 2011. "Transparency" Sued Serbian Government, Politika, Nemanja Nenadic, 6 June 2011, available at: <http://www.politika.rs/rubrike/Politika/Transparentnost-tuzila-srpsku-Vladu.lt.html>

Srdjan Korac, Research Fellow, Center for Security Studies, Belgrade, Interview held on 24 August 2011, Belgrade, Serbia.

Serbian Public Administration Reform: Issue of Integrity (Reforma javne uprave u Srbiji: Pitanje integriteta), Srdjan Korac, Executive Editor Revija za bezbednost, Revija za bezbednost, year III, no. 8, August 2009, pp. 5–25.

Verica Barac, President of the Anti-Corruption Council, interview held on 7 September 2011, Belgrade, Serbia.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011

CINS. <http://www.cins.org.rs/?cat=102>

**100:** Appointments to the civil service and their professional evaluations are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments and professional assessments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

**25:**

**0:** Appointments and professional assessments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

45c. In practice, civil service management actions (e.g. hiring, firing, promotions) are not based on nepotism, cronyism, or patronage.

100 | 75 | 50 | **25** | 0

#### Comments:

The Law on Civil Servants regulates establishment of and systematization of job positions within the public administration institutions. Regulations consists of job descriptions for civil servants and are in most cases available online.

However, according to Nemanja Nenadic, Transparency International Serbia, (interview published in the daily Politika on 6 June 2011) in Serbia there are a number of officials in positions in the civil administration who skipped the procedures of formal employment. Specifically, Nenadic says that in May 2011 out of 340 officials with the civil administration, 201 were employed under the formal employment procedure.

Also, according to media reports spouses of some officials are also employed in the state administration (for more detail please refer to: Officials' Wives employed in the Public Administration (Zene funkcionera nasle posao u drzavnoj upravi), Blic Online, 2 November 2011, available at: <http://www.blic.rs/Vesti/Politika/287022/Zene-funkcionera-nasle-posao-u-drzavnoj-upravi>).

#### References:

Verica Barac, President of the Anti-Corruption Council, interview held on 7 September 2011, Belgrade, Serbia.

"Transparency" Sued Serbian Government, Politika, Nemanja Nenadic, 6 June 2011, available at: <http://www.politika.rs/rubrike/Politika/Transparentnost-tuzila-srpsku-Vladu.lt.html>.

Srdjan Korac, Research Fellow, Center for Security Studies, Belgrade, interview held on 24 August 2011, Belgrade, Serbia.

Serbian Public Administration Reform: Issue of Integrity (Reforma javne uprave u Srbiji: Pitanje integriteta), Srdjan Korac, Executive Editor Revija za bezbednost, Revija za bezbednost, year III, no. 8, August 2009, pp. 5–25.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

Officials' Wives employed in the Public Administration (Zene funkcionera nasle posao u drzavnoj upravi), Blic Online, 2 November 2011, available at: <http://www.blic.rs/Vesti/Politika/287022/Zene-funkcionera-nasle-posao-u-drzavnoj-upravi>, accessed 12 November 2011.

**100:** Nepotism (favorable treatment of family members), cronyism (favorable treatment of friends and colleagues), and patronage (favorable treatment of those who reward their superiors) are actively discouraged at all levels of the civil service. Hirings, firings, and promotions are based on merit and performance.

**75:**

**50:** Nepotism, cronyism, and patronage are discouraged, but exceptions exist. Political leaders or senior officials sometimes appoint family member or friends to favorable positions in the civil service, or lend other favorable treatment.

**25:**

**0:** Nepotism, cronyism, and patronage are commonly accepted principles in hiring, firing and promotions of civil servants.

45d. In practice, civil servants have clear job descriptions.

100 | 75 | 50 | 25 | 0

**Comments:**

The Law on Civil Servants regulates establishment and systematization of job positions within the public administration institutions. Regulations consists of job descriptions for civil servants and are in most cases available online.

Furthermore, public administration authorities either at the central or local level have endorsed bylaws on systematization of jobs. These bylaws contain descriptions of the duties and responsibilities of the employed civil servants, and they also contain information on the job type, number of job types and requirements necessary to hold the job. Besides systematization acts, state authorities in a majority of cases publish job descriptions in their information booklets. Although systematization acts in majority of cases includes all relevant job description data, job descriptions in the systematization acts still are overly general and do not contain compensation data.

**References:**

Srdjan Korac, Research Fellow, Center for Security Studies, Belgrade, Interview held on 24 August 2011

Verica Barac, President of the Anti-Corruption Council, interview held on 7 September 2011, Belgrade, Serbia.

Serbian Public Administration Reform: Issue of Integrity (Reforma javne uprave u Srbiji: Pitanje integriteta), Srdjan Korac, Executive Editor Revija za bezbednost, Revija za bezbednost, year III, no. 8, August 2009, pp. 5–25.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

Dimenzioniranje drzavne uprave u skladu sa potrebama, Transparency Serbia, Belgrade, April 2010.

Action Plan for Serbian Public Administration Reform Implementation 2009-2012, available at: [http://coe.org.rs/REPOSITORY/1414\\_action\\_plan\\_for\\_serbian\\_public\\_administration\\_reform\\_2009\\_2012.pdf](http://coe.org.rs/REPOSITORY/1414_action_plan_for_serbian_public_administration_reform_2009_2012.pdf), accessed 13 November 2011.

Information Booklet of the Ministry of Finance of the Republic of Serbia, 2007-2011, available at: [http://mfin.gov.rs/UserFiles/File/o%20ministarstvu/INFORMATOR%20O%20RADU%20MFIN%204\\_03\\_2011%20\\_2\\_.pdf](http://mfin.gov.rs/UserFiles/File/o%20ministarstvu/INFORMATOR%20O%20RADU%20MFIN%204_03_2011%20_2_.pdf), accessed 13 November 2011.

Systematization Act of the Protector of Citizens, available at: <http://www.ombudsman.rs/index.php/lang-en/o-nama/normativni-okvir-za-rad/142-2008-06-04-15-44-40>, accessed 13 November 2011.

**100:** Civil servants almost always have formal job descriptions establishing levels of seniority, assigned functions, and compensation. Job descriptions are a reliable representation of positions in terms of a person's authority, responsibility and base pay.

**75:**

**50:** Civil servants often have formal job descriptions, but exceptions exist. Some civil servants may not be part of the formal assignment of duties and compensations. Some job descriptions may not map clearly to pay or responsibilities in some cases.

**25:**

**0:** Civil servants do not have formal roles or job descriptions. If they do, such job descriptions have little or nothing to do with the position's responsibilities, authority, or pay.

45e. In practice, civil servant bonuses constitute only a small fraction of total pay.

100 | 75 | 50 | 25 | 0

**Comments:**

Bonuses usually constitute a small fraction of pay. However, there is some evidence that certain public administration institutions such as Tax Administration received during 2010 much higher bonuses than other public administration institutions. Tax Administration officials, though, stated that their salaries and bonuses are not higher than in other public institutions.

**References:**

Srdjan Korac, Research Fellow, Center for Security Studies, Belgrade, interview held on 24 August 2011, Belgrade, Serbia.

Verica Barac, President of the Anti-Corruption Council, interview held on 7 September 2011, Belgrade, Serbia.

**100:** Civil servant bonuses constitute no more than 10% of total pay and do not represent a major element of take-home pay.

**75:**

**50:** Civil servant bonuses are generally a small percentage of total take-home pay for most civil servants though exceptions exist where some civil servants' bonuses represent a significant part of total pay.

**25:**

**0:** Most civil servants receive bonuses that represent a significant amount of total take-home pay. In some cases bonuses represent the majority of total pay to civil servants.

45f. In practice, the government publishes the number of authorized civil service positions along with the number of positions actually filled.

100 | 75 | **50** | 25 | 0

**Comments:**

The list of number of civil service-filled positions exists and is managed by the Government Human Resource Management Service. The list is not available online, but is published in the Official Gazette of the Republic of Serbia 30 days after adoption of the Law on Budget of the Republic of Serbia.

Apart from the comprehensive list of government positions, some ministries, agencies and other government institutions publish the authorized positions and filled positions within these institutions.

**References:**

Srdjan Korac, Research Fellow, Center for Security Studies, Belgrade, interview held on 24 August 2011, Belgrade, Serbia.

Verica Barac, President of the Anti-Corruption Council, interview held on 7 September 2011, Belgrade, Serbia.

Dimenzioniranje drzavne uprave u skladu sa potrebama (Dimensioning of Public Administration according to real needs), Transparency Serbia, April 2010, available at: [http://www.transparentnost.org.rs/index.php?option=com\\_content&view=category&id=1%3Areforma-javne-uprave-dimenzioniranje-kapaciteta-&Itemid=16&lang=sr](http://www.transparentnost.org.rs/index.php?option=com_content&view=category&id=1%3Areforma-javne-uprave-dimenzioniranje-kapaciteta-&Itemid=16&lang=sr), accessed 28 August 2011.

Manje zaposlenih u drzavnoj upravi (Decreased Number of Employed in Public Administration), 6 January 2011, B92 info, Available at: [http://www.b92.net/biz/vesti/srbija.php?yyyy=2011&mm=01&dd=06&nav\\_id=484034](http://www.b92.net/biz/vesti/srbija.php?yyyy=2011&mm=01&dd=06&nav_id=484034), accessed 28 August 2011.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

**100:** The government publishes such a list on a regular basis.

**75:**

**50:** The government publishes such a list but it is often delayed or incomplete. There may be multiple years in between each successive publication.

**25:**

**0:** The government rarely or never publishes such a list, or when it does it is wholly incomplete.

45g. In practice, the independent redress mechanism for the civil service is effective.

**Comments:**

According to the Human Resource Management Service in 2010 the Appeal Commission processed 2,322 appeals and 326 appeals proceeded to Administrative Court. However, the effectiveness of the redress mechanism can not be assessed as effective since its independence is questionable.

**References:**

Verica Barac, President of the Anti-Corruption Council, interview held on 7 September 2011, Belgrade, Serbia.

Informator o radu Sluzbe za upravljanje kadrovima, (Annual Report of the Government Human Resource Management Service), Belgrade, December 2010, p.17, available at: [http://www.suk.gov.rs/sr\\_lat/pocetna/](http://www.suk.gov.rs/sr_lat/pocetna/), accessed 28 August 2011.

Srdjan Korac, Research Fellow, Center for Security Studies, Belgrade, interview held on 24 August 2011, Belgrade, Serbia.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

**100:** The independent redress mechanism for the civil service can control the timing and pace of its investigations without any input from the bodies that manage civil servants on a day-to-day basis.

**75:**

**50:** The independent civil service redress mechanism can generally decide what to investigate and when but is sometimes subject to pressure from the executive or the bodies that manage civil servants on a day-to-day basis on politically sensitive issues.

**25:**

**0:** The civil service redress mechanism must rely on approval from the executive or the bodies that manage civil servants on a day-to-day basis before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

45h. In practice, in the past year, the government has paid civil servants on time.

**Comments:**

According to interviews, the government in the past year has paid civil servants on time.

However, there were some examples where government has not paid civil servants on time. For instance, employees in the Ministry of Interior, according to media reports, have not been paid per diems, travel expenses and overtime hours on time in the past year.

**References:**

Srdjan Korac, Research Fellow, Center for Security Studies, Belgrade, interview held on 24 August 2011, Belgrade, Serbia.

Verica Barac, President of the Anti-Corruption Council, interview held on 7 September 2011, Belgrade, Serbia.

Police Union talked with Dacic, announcement for striking remains (Policijski sindikat razgovarao sa Dacicem, najava strajka ostaje), Blic Online, 7 June 2011, available at: <http://www.blic.rs/Vesti/Drustvo/258533/Policijski-sindikati-razgovarali-sa-Dacicem-najava-strajka-ostaje>

**100:** In the past year, no civil servants have been paid late.

**75:**

**50:** In the past year, some civil servants have been paid late.

**25:**

**0:** In the past year, civil servants have frequently been denied due pay.

45i. In practice, civil servants convicted of corruption are prohibited from future government employment.

100 | 75 | 50 | 25 | 0

**Comments:**

There were no examples or cases available showing that civil servants convicted of corruption are prohibited from future employment in the public administration.

**References:**

Srdjan Korac, Research Fellow, Center for Security Studies, Belgrade, Interview held on 24 August 2011, Belgrade, Serbia.

Serbian Public Administration Reform: Issue of Integrity (Reforma javne uprave u Srbiji: Pitanje integriteta), Srdjan Korac, Executive Editor Revija za bezbednost, Revija za bezbednost, year III, no. 8, August 2009, pp. 11 – 14.

Annex Report on the Implementation of the National Anti-Corruption Strategy and the Action Plan for the Implementation of the National Anti-Corruption Strategy, March 2011, page 41, available at: [http://acas.rs/images/stories/Annex\\_Report\\_I\\_for\\_2010.pdf](http://acas.rs/images/stories/Annex_Report_I_for_2010.pdf), accessed 30 August 2011.

Verica Barac, President of the Anti-Corruption Council, interview held on 7 September 2011, Belgrade, Serbia.

**100:** A system of formal blacklists and cooling off periods is in place for civil servants convicted of corruption. All civil servants are subject to this system.

**75:**

**50:** A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some civil servants may not be affected by the system, or the prohibitions are sometimes not effective. Some bans are only temporary.

**25:**

**0:** There is no such system, or the system is consistently ineffective in prohibiting future employment of convicted civil servants.

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## 46. Are there regulations addressing conflicts of interest for civil servants?

56

46a. In law, senior members of the civil service are required to file an asset disclosure form.

Yes | No

**Comments:**

Civil servants appointed by the government as defined in the Article 34 of the Law on Civil Servants are required to file an asset disclosure form. According to the Anti-Corruption Agency Law, civil servants in senior-level positions are not considered officials, but the provisions of this law are applied to them.

According to Article 45 of the Anti-corruption Agency Law: Officials Not Required to File the Report: an official who is a council member and/or member of the managing or supervisory board of a public enterprise, institution and other organisation founded by a municipality or town; an official who is a member of the managing or supervisory board of a public enterprise, institution and other organization founded by the Republic, autonomous province or the City of Belgrade, if he/she is not entitled to remuneration arising from membership. The Agency may demand the official or categories of officials specified in paragraphs 1 and 2 of this Article to file the Report.

**References:**

Law on Anti-Corruption Agency, Official Gazette of RS, No. 97/2008, 53/2010, Article 43. Available at: <http://www.acas.rs/en/zakoni-i-drugi-propisi/the-mayor/law-on-agency.html>, accessed 28 August 2011.

**Yes:** A YES score is earned if senior members of the civil service are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

**No:** A NO score is earned if any senior member of the civil service is not required to disclose assets.

46b. In law, there are requirements for civil servants to recuse themselves from policy decisions where their personal interests may be affected.

Yes | No

**Comments:**

Articles 25 of the Civil Servants Law stipulates:

A civil servant cannot receive presents in regard to the performance of his or her tasks, except protocol presents and occasional presents of smaller value, or any other services or other benefits for himself or herself or for other persons.

A civil servant may not use his or her status as a state authority in order to influence the exercise of his or her rights or rights of people related to him.

Legislation that regulates the prevention of conflict of interest in the discharge of public function shall be applied accordingly in regard to determination of the circle of people related to a civil servant and receipt of presents.

**References:**

Civil Servants Law, Official Gazette of RS, No. 79/2005, 81/2005, 83/2005, 64/2007 and 67/2007, Articles 25 to 30. Available at: [http://www.mpravde.gov.rs/images/33\\_law\\_on\\_civil\\_servants.pdf](http://www.mpravde.gov.rs/images/33_law_on_civil_servants.pdf), accessed 28 August 2011

**Yes:** A YES score is earned if there are requirements for civil servants to recuse themselves from policy decisions where their personal interests, including personal financial interests as well as those of their family and friends, are affected.

**No:** A NO score exists if no such requirements exist in regulation or law.

46c. In law, there are restrictions for civil servants entering the private sector after leaving the government.

Yes | No

**Comments:**

Civil servants that are appointed by the government are required to follow restrictions relating to entering private sector after leaving the government. However, this provision is not applied to civil servants.

**References:**

Law on Anti-Corruption Agency, Official Gazette of RS, No. 97/2008, 53/2010  
Article 38. Available at: <http://www.acas.rs/en/zakoni-i-drugi-propisi/the-mayor/law-on-agency.html>, accessed 22 August 2011.

**Yes:** A YES score is earned if there are regulations restricting civil servants' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

**No:** A NO score is earned if no such restrictions exist.

46d. In law, there are regulations governing gifts and hospitality offered to civil servants.

Yes | No

**Comments:**

Regulations governing gifts and hospitality offered to civil servants are prescribed by both the Law on Civil Servants and the Law on Anti-Corruption Agency. The latter law regulates gifts and hospitality for civil servants appointed by the government only.

**References:**

Civil Servants Law, Official Gazette of RS, No. 79/2005, 81/2005, 83/2005, 64/2007 and 67/2007, Article 25. Available at: [http://www.mpravde.gov.rs/images/33\\_law\\_on\\_civil\\_servants.pdf](http://www.mpravde.gov.rs/images/33_law_on_civil_servants.pdf), accessed 28 August 2011.

Law on Anti-Corruption Agency, Official Gazette of RS, No. 97/2008, 53/2010 Article 39, 40, 41 and 42. Available at: <http://www.acas.rs/en/zakoni-i-drugi-propisi/the-mayor/law-on-agency.html>, accessed 22 August 2011.

**Yes:** A YES score is earned if there are formal guidelines regarding gifts and hospitality given to civil servants.

**No:** A NO score is earned if there are no such guidelines or regulations.

46e. In law, there are requirements for the independent auditing of the asset disclosure forms of senior members of the civil service.

Yes | No

**Comments:**

The Law on Anti-Corruption Agency, which started as of Jan. 1, 2010, does not strictly specify the issue of independent auditing if irregularities in asset disclosure forms are revealed.

**References:**

There is no defined legal ground.

**Yes:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of civil service asset disclosures. The auditing is performed by an impartial third-party.

**No:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of civil service asset disclosures or if such requirements exist but allow for self-auditing.

46f. In practice, the regulations restricting post-government private sector employment for civil servants are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

Regulations restricting post-government private sector employment are prescribed by the Law on the Anti-Corruption Agency and are related only to senior civil servants. Since the law doesn't cover lower-rank civil servants, their engagement in the private sector after being engaged in public administration cannot be tracked.

According to Report on the Implementation of the National Anticorruption Strategy and the Action Plan for the Implementation of the National Anticorruption Strategy "...the Law on the Anticorruption Agency poses a two-year restriction on former senior officials' employment in or business cooperation with a legal person, entrepreneur or international organization engaged in activities related to the office s/he held without the Agency's consent. The Agency shall decide on the former official's request for consent within 15 days. This prohibition does not apply to a former senior official elected to office at direct elections. There is no general regime prohibiting or limiting transfer of public sector staff to the private sector, but such restrictions may be imposed by employment contracts (e.g. where public company staff are at issues take) or by by-laws."

According to interviews held, Agency received requests from senior civil servants for giving consent for taking employment in private sector after leaving position within the government. However, the exact number is not known.

**References:**

Natasa Bojic, Adviser, Department for Prevention, Conflict of Interest Sub-department, Anti-Corruption Agency, Belgrade, interview held on 7 September 2011, Belgrade, Serbia.

Dejan Damnjanovic, Adviser, Department of Registers, Anti-Corruption Agency, interview held on 7 September 2011, Belgrade, Serbia.

Annual Report of the Anti-Corruption Agency for 2010, available at: [http://acas.rs/images/stories/Annual\\_Report\\_for\\_2010.p](http://acas.rs/images/stories/Annual_Report_for_2010.p)

**100:** The regulations restricting post-government private sector employment for civil servants are uniformly enforced. There are no cases or few cases of civil servants taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate "cooling off" period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain sectors, civil servants are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Civil servants routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

46g. In practice, the regulations governing gifts and hospitality offered to civil servants are effective.

100 | 75 | **50** | 25 | 0

**Comments:**

In 2010, the effectiveness of regulations governing gifts has increased compared to previous periods. The registry of gifts is publicly available at the website of the Anti-Corruption Agency. However, there is no control mechanism established to determine whether civil servants reported all gifts as obligated by the law.

**References:**

Dejan Damnjanovic, Adviser, Department of Registers, Anti-Corruption Agency, interview held on 7 September 2011, Belgrade, Serbia.

Annual Report of the Anti-Corruption Agency for 2010, p. 37, available at: [http://acas.rs/images/stories/Annual\\_Report\\_for\\_2010.pdf](http://acas.rs/images/stories/Annual_Report_for_2010.pdf), accessed 9 September 2010.

Register of Gifts, available at: <http://acas.rs/images/stories/KatalogPoklona.pdf>, accessed 9 September 2011.

**100:** The regulations governing gifts and hospitality to civil servants are regularly enforced. Civil servants never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to civil servants are generally applied though exceptions exist. Some civil servants in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations governing gifts and hospitality to the civil service are routinely ignored and unenforced. Civil servants routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

46h. In practice, the requirements for civil service recusal from policy decisions affecting personal interests are effective.

**Comments:**

The effectiveness of this issue is in general at the very low level in Serbia. Recusal from policy decisions of civil servants affecting their personal interests is not recognized as good governance practice. However, according to various media reports and public debates the practice is in a number of cases the opposite. Namely, a high-ranking government official engaged a son of a business partner and friend to a post within the state administration after that person's engagement as an adviser of the above-stated government official ended (for more details please refer to <http://www.vesti-online.com/Vesti/Srbija/126532/Cvetkovic-casti-sa-sest-funkcija>).

Also, there was speculation in the media that a private company of a certain minister in the government was doing business with 70 budget institutions (for more information please refer to the following link: <http://www.vreme.com/cms/view.php?id=966031>).

Another example is the case of the director of the Spatial Planning Agency. According to [pistaljka.rs](http://pistaljka.rs) website, the agency director appointed himself head of two consultancy teams for spatial planning of the cities Leskovac and Belgrade and decided on his salary in both teams (for more information please refer to the link: <http://www.pistaljka.rs/home/read/161>).

**References:**

Dejan Damnjanovic, Adviser, Department of Registers, Anti-Corruption Agency, interview held on 7 September 2011, Belgrade, Serbia.

Natasa Bojic, Adviser, Department for Prevention, Conflict of Interest Sub-department, Anti-Corruption Agency, Belgrade, interview held on 7 September 2011, Belgrade, Serbia.

Verica Barac, President of the Anti-Corruption Council, interview held on 7 September 2011, Belgrade, Serbia.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

Cvetkovic Plies with six Functions (Cvetkovic casti sa sest funkcija), Vesti Online, 27 March 2011, available at: <http://www.vesti-online.com/Vesti/Srbija/126532/Cvetkovic-casti-sa-sest-funkcija>, accessed 14 November 2011.

Privatization: Gnawed Serbia (Privatizacija: Oglodana Srbija), B92, source NIN, Tanja Nikolic Djakovic, 22 May 2011, available at: [http://www.b92.net/biz/fokus/analiza.php?yyyy=2011&mm=05&nav\\_id=513647](http://www.b92.net/biz/fokus/analiza.php?yyyy=2011&mm=05&nav_id=513647), accessed 14 November 2011.

Minister Dulic's Firm does Business with 70 Budget Institutions (Firma Ministra Dulica posluje sa 70 budzetskih institucija), weekly Vreme, 9 December 2010, available at: <http://www.vreme.com/cms/view.php?id=966031>, accessed 14 November 2011.

**100:** The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are routinely followed by most or all civil servants.

**75:**

**50:** The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are followed by most civil servants though exceptions exist. In certain sectors, civil servants are known to routinely participate in policy decisions where their personal interests are affected.

**25:**

**0:** Most civil servants routinely ignore recusal requirements and continue to participate in policy decisions where their personal interests are affected.

46i. In practice, civil service asset disclosures are audited.

**Comments:**

Asset disclosure of civil servants were not subject to audits so far.

**References:**

Dejan Damnjanovic, Adviser, Department of Registers, Anti-Corruption Agency, interview held on 7 September 2011, Belgrade, Serbia.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, 22 August, BIRODI, Belgrade, Serbia

Miroslava Milenovic, fraud examiner, Office Milenovic, Belgrade, Serbia, interview held on 17 August 2011, Belgrade, Serbia.

**100:** Civil service asset disclosures are regularly audited using generally accepted auditing practices.

**75:**

**50:** Civil service asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

**25:**

**0:** Civil service asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

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#### 47. Can citizens access the asset disclosure records of senior civil servants?

81

47a. In law, citizens can access the asset disclosure records of senior civil servants.

Yes | No

**Comments:**

The Anti-Corruption Agency is mandated to keep a register of the government's property. This register is public and available at the agency's website.

**References:**

Law on Anti-Corruption Agency, Official Gazette of RS, No. 97/2008, 53/2010 Article 47. Available at: <http://www.acas.rs/en/zakoni-i-drugi-propisi/the-mayor/law-on-agency.html>, accessed 20 August 2011.

**Yes:** A YES score is earned if laws or regulations guarantee that citizens can access the asset records of senior civil servants.

**No:** A NO score is earned if senior civil servants do not file an asset disclosure. A NO score is earned if senior civil servants file an asset disclosure, but it is not available to the public.

47b. In practice, citizens can access the asset disclosure records of senior civil servants within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The Anti-Corruption Agency is mandated to keep a register on government official property. Citizens can access the general data on official property at the agency's website, however full access to files is not possible since it is considered by law to be confidential information.

**References:**

Dejan Damnjanovic, Adviser, Department of Registers, Anti-Corruption Agency, interview held on 7 September 2011, Belgrade, Serbia.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, 22 August, BIRODI, Belgrade, Serbia.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

47c. In practice, citizens can access the asset disclosure records of senior civil servants at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The Anti-Corruption Agency is mandated to keep a register of government property. This register is public and available at the agency's website.

**References:**

Dejan Damnjanovic, Adviser, Department of Registers, Anti-Corruption Agency, interview held on 7 September 2011, Belgrade, Serbia.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, 22 August, BIRODI, Belgrade, Serbia.

Annual Report on Anti-Corruption Agency for 2010, March 2011, available at: [http://www.acas.rs/images/stories/Annual\\_Report\\_for\\_2010.pdf](http://www.acas.rs/images/stories/Annual_Report_for_2010.pdf), accessed 25 August 2011.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records' costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

47d. In practice, the asset disclosure records of senior civil servants are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the Anti-Corruption Agency, there were a number of reports submitted by the officials that were technically and substantially incomplete in hard-copy format.

**References:**

Dejan Damnjanovic, Adviser, Department of Registers, Anti-Corruption Agency, interview held on 7 September 2011, Belgrade, Serbia.

Annual Report on Anti-Corruption Agency for 2010, March 2011, available at: [http://www.acas.rs/images/stories/Annual\\_Report\\_for\\_2010.pdf](http://www.acas.rs/images/stories/Annual_Report_for_2010.pdf), accessed 25 August 2011

**100:** The asset disclosure records of senior civil servants are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

**75:**

**50:** The asset disclosure records of senior civil servants contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

**25:**

**0:** The asset disclosure records of senior civil servants are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

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## 4.2. Whistle-blowing Protections

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48. Are employees protected from recrimination or other negative consequences when reporting corruption (i.e. whistle-blowing)?

25

48a. In law, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

Yes | No

**Comments:**

In Serbia there is no specific law on whistle-blowing protection. The protection of whistle-blowers is only regulated by the Anti-Corruption Agency Law and recently by the Rule of Procedure on Whistle-blowers' Protection adopted by the agency in July 2011. Also, the Serbian Criminal Procedure Code's Article 9 to some extent regulates protection of whistle-blowers (Official Gazette, No. 72/2009) Available at: <http://legislationline.org/documents/section/criminal-codes/country/5>.

However, specific laws that address recrimination against public sector whistle-blowers do not exist.

**References:**

Law on Anti-Corruption Agency, Official Gazette of RS, No. 97/2008 and 53/2010, Article 56. Available at: <http://www.acas.rs/en/zakoni-i-drugi-propisi/the-mayor/law-on-agency.html>, accessed 15 August 2011

The Rulebook on the Protection of Whistle-blowers, adopted by the Anti-Corruption Agency, 26 July 2011. available at: <http://www.acas.rs/en/zakoni-i-drugi-propisi/ostali-propisi/pravilnici.html>, accessed 15 August 2011.

Law on Civil Servants, Official Gazette, No. 116/2008, Article 18:  
Article 18. Available at: [http://www.mpravde.gov.rs/images/33\\_law\\_on\\_civil\\_servants.pdf](http://www.mpravde.gov.rs/images/33_law_on_civil_servants.pdf), accessed 15 August 2011

**Yes:** A YES score is earned if there are specific laws against recrimination against public sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

**No:** A NO score is earned if there are no legal protections for public-sector whistleblowers.

48b. In practice, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | 50 | 25 | 0

**Comments:**

In general, civil servants are not protected from negative consequences when reporting corruption cases. In most cases they are fired. There are a number of examples for this. For more information please refer to <http://www.pistaljka.rs/home/read/127>.

**References:**

Miodrag Skundric, Analytical Operational Department, Division for Complaints, interview held on 6 September 2011, Belgrade, Serbia.

Damir Milutinovic, Chief of the Group for Researches, Public Relations and Civil Society, Anti-Corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Verica Barac, President of the Anti-Corruption Council, interview held on 7 September 2011, Belgrade, Serbia.

Serbia Needs a Comprehensive Law on Whistle-blower Protection, Pistaljka portal, 8 June 2011, available at: <http://www.pistaljka.rs/home/read/114>, accessed 30 August 2011.

Laid-off instead of Rewarded, Pistaljka portal, 27 June 2011, available at: <http://www.pistaljka.rs/home/read/127>, accessed 30 August 2011.

Professor at the Faculty of Political Science, University of Belgrade who wishes to remain anonymous, interview held 15 August 2011, Belgrade, Serbia.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

**100:** Public sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

**75:**

**50:** Public sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

**25:**

**0:** Public sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

48c. In law, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

Yes | **No**

**Comments:**

The issue of protection from negative consequences when reporting cases of corruption, graft, abuse of power or abuse of resources in the private sector is not regulated by Serbia's laws.

**References:**

There is no legal ground.

**Yes:** A YES score is earned if there are specific laws against recrimination against private sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

**No:** A NO score is earned if there are no legal protections for private-sector whistleblowers.

48d. In practice, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

**Comments:**

In general, private sector employees are not protected from negative consequences when reporting corruption cases. In most cases they get fired. There are a number of examples for this. For more information please refer to <http://www.pistaljka.rs/home/read/127>.

**References:**

Damir Milutinovic, Chief of the Group for Researches, Public Relations and Civil Society, Anti-Corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Miodrag Skundric, Analytical Operational Department, Division for Complaints, interview held on 6 September 2011, Belgrade, Serbia.

Verica Barac, President of the Anti-Corruption Council, interview held on 7 September 2011, Belgrade, Serbia.

Laid-off instead of Rewarded, Pistaljka portal, 27 June 2011, available at: <http://www.pistaljka.rs/home/read/127>, accessed 15 August 2011.

Professor at the Faculty of Political Science, University of Belgrade who wishes to remain anonymous, interview held 15 August 2011, Belgrade, Serbia.

Whistle-blowers should be Protected in Private Companies, Pistaljka portal, 27 June 2011, available at: <http://www.pistaljka.rs/home/read/124>, accessed 15 August 2011.

**100:** Private sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

**75:**

**50:** Private sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

**25:**

**0:** Private sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

49. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

100

49a. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

Yes | No

**Comments:**

Civil servants can report corruption to the Anti-Corruption Agency by filling out form. According to Whistleblowing CEE.org, Country Study – Serbia: "Various government agencies are running such hotlines. Basically, there is no specific hotline regulation, and such services are usually part of regular jobs of various oversight bodies within the government agencies. ... Where special hotlines are established, the basic difference is that they are operating with toll-free numbers. Such services were established for various purposes during the past years at the police, customs service, tax administration, Ministry of Education, Ministry of Trade and elsewhere.

The hotlines are operating by civil servants of relevant agencies. It is possible to report anonymously by telephone.

Other internal mechanisms that are not specifically regulated by law (hotlines in some institutions) that enable civil servants to report corruption in that particular institution.

**References:**

Law on Anti-Corruption Agency, Official Gazette of RS, No. 97/2008 and 53/2010, Article 56, paragraph 5:

Rule of Procedures on Whistle-blowing Protection, adopted by the Anti-Corruption Agency, 26 July 2011. available at: <http://www.acas.rs/en/zakoni-i-drugi-propisi/ostali-propisi/pravilnici.html>. accessed 15 August 2011.

**Yes:** A YES score is earned if there is a mechanism, or multiple mechanisms for multiple national government agencies, through which civil servants can report cases of graft, misuse of public funds, or corruption.

**No:** A NO score is earned if no such mechanism (or equivalent series of mechanisms) exists.

50. In practice, is the internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption effective?

50

50a. In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

The Anti-Corruption Agency has just recently started the practice of protecting whistle-blowers, therefore, there are no results available of its effectiveness and staff professionalism. But the agency has a full-time staff that will deal with this issue although there is evident lack of staff in general.

**References:**

Damir Milutinovic, Chief of the Group for Researchers, Public Relations and Civil Society, Anti-Corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Miodrag Skundric, Analytical Operational Department, Division for Complaints, interview held on 6 September 2011, Belgrade, Serbia.

Professor at the Faculty of Political Science, University of Belgrade who wishes to remain anonymous, interview held 15 August 2011, Belgrade, Serbia.

Whistler-blowers Protected and Anonymous, Dnevnik, 3 August 2011, [http://webklip.kliping.rs/stream/pdf?id\\_user=2085&id\\_article=2645341](http://webklip.kliping.rs/stream/pdf?id_user=2085&id_article=2645341), accessed 15 August 2011

Agency Protects Whistle-blowers (Agencija stiti one koji prijave korupciju), Blic, 1 August 2011, available at: <http://www.blic.rs/Vesti/Drustvo/269106/Agencija-stiti-one-koji-prijave-korupciju>. accessed 15 August 2011.

**100:** The agency/entity has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency/entity has limited staff, a fact that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency/entity has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

50b. In practice, the internal reporting mechanism for public sector corruption receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

The Anti-Corruption Agency is funded from the budget of the Republic of Serbia. Therefore, the department dealing with whistle-

blower protection receives regular funds, but faces lack of staff.

**References:**

Background Information about Serbia's Independent Agencies, USAID, Serbia  
<http://serbia.usaid.gov/upload/documents/jrga/Background%20information%20about%20Independent%20Agencies.pdf>

Damir Milutinovic, Chief of the Group for Researchers, Public Relations and Civil Society, Anti-Corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Miodrag Skundric, Analytical Operational Department, Division for Complaints, interview held on 6 September 2011, Belgrade, Serbia.

Government of Serbia Adopted 2011 Budget (Vlada Srbije usvojila predlog budzeta za 2011) <http://www.naslovi.net/2010-12-16/beta/vlada-srbije-usvojila-predlog-budzeta-za-2011/2195884>, accessed 1 September 2011.

**100:** The agency/entity has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency/entity has a regular source of funding but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

50c. In practice, the internal reporting mechanism for public sector corruption acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The practice of protecting whistle-blowers is not established yet. However, as indicated in the Rule Book on the Protection of Whistle-blowers, Article 6, the action shall be urgent. Also, there is no specified time-frame for resolving the complaints.

**References:**

Damir Milutinovic, Chief of the Group for Researchers, Public Relations and Civil Society, Anti-Corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Miodrag Skundric, Analytical Operational Department, Division for Complaints, interview held on 6 September 2011, Belgrade, Serbia.

The Rulebook on the Protection of Whistle-blowers, adopted by the Anti-Corruption Agency, 26 July 2011. available at: <http://www.acas.rs/en/zakoni-i-drugi-propisi/ostali-propisi/pravilnici.html>, accessed 15 August 2011.

Professor at the Faculty of Political Science, University of Belgrade who wishes to remain anonymous, interview held 15 August 2011, Belgrade, Serbia.

Whistler-blowers Protected and Anonymous, Dnevnik, 3 August 2011, available at: [http://webklip.klipping.rs/stream/pdf?id\\_user=2085&id\\_article=26453](http://webklip.klipping.rs/stream/pdf?id_user=2085&id_article=26453), accessed 1 September 2011.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011

**100:** The agency/entity acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency/entity acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

0: The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

50d. In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

The practice of protecting whistle-blowers has not been established yet because the Rulebook on the Protection of Whistle-blowers was adopted in August 2011. The Anti-Corruption Agency, however, is mandated to request the director of the body of public authority in which the whistle-blower works to provide information and documents relevant for deciding whether or not the protection should be given. Also, if there are reasons that suggest that the reported case could possibly be a criminal act, the agency shall report the issue to the appropriate authorities first. The agency shall notify, in writing, the whistle-blower of its decision.

**References:**

Damir Milutinovic, Chief of the Group for Researchers, Public Relations and Civil Society, Anti-Corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Miodrag Skundric, Analytical Operational Department, Division for Complaints, interview held on 6 September 2011, Belgrade, Serbia.

The Rulebook on the Protection of Whistle-blowers, adopted by the Anti-Corruption Agency, 26 July 2011. available at: <http://www.acas.rs/en/zakoni-i-drugi-propisi/ostali-propisi/pravilnici.html>, accessed 15 August 2011.

Professor at the Faculty of Political Science, University of Belgrade who wishes to remain anonymous, interview held 15 August 2011, Belgrade, Serbia.

Whistler-blowers Protected and Anonymous, Dnevnik, 3 August 2011, [http://webklip.kliping.rs/stream/pdf?id\\_user=2085&id\\_article=26453](http://webklip.kliping.rs/stream/pdf?id_user=2085&id_article=26453), accessed 1 September 2011.

100: When irregularities are discovered, the agency/entity is aggressive in investigating the government or in cooperating with other agencies' investigations.

75:

50: The agency/entity starts investigations, but is limited in its effectiveness. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other investigative agencies, or occasionally unable to enforce its judgments.

25:

0: The agency/entity does not effectively investigate. The agency/entity may start investigations but not complete them, may refuse to cooperate with other investigative agencies, or may fail to detect offenders. The agency/entity may be partisan in its application of power.

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58

### 4.3. Government Procurement: Transparency, Fairness, and Conflicts of Interest Safeguards

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51. Is the public procurement process effective?

53

51a. In law, there are regulations addressing conflicts of interest for public procurement officials.

Yes | No

**Comments:**

There is no legal ground specifically relating to the issue of conflict of interest of procurement officials.

However, the Public Procurement Law, Official Gazette of the Republic of Serbia, No. 116/2008, Article 102, addresses the issue of conflicts of interest of officials of the Republic Commission for the Protection of Rights in Public Procurement Procedures: The Chairman and members of the Republic Commission ... may not perform any other public function in accordance with the law regulating the conflict of interest, may not hold any office in a political party nor hold or perform any other office, post, job, duty or activity that could affect their independence in the work and actions or that would diminish their reputation or the reputation of the office.

**References:**

There is no legal ground.

**Yes:** A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for public procurement officials. A YES score is earned if such regulations cover all civil servants, including procurement officials.

**No:** A NO score is earned if no such rules exist.

51b. In law, there is mandatory professional training for public procurement officials.

Yes | No

**Comments:**

The 2008 Law on Public Procurement included the Council of Europe's Group of States against Corruption (GRECO) recommendations on mandatory training of public procurement officials.

**References:**

Public Procurement Law, Official Gazette of the Republic of Serbia, No. 116/2008, Article 97. Available at: <http://www.ujn.gov.rs/en/propisi/zakon>, accessed 13 August 2011.

Regulation on Procedure for Awarding a Certificate for Public Procurement Officials, Article 4. Available at: <http://www.ujn.gov.rs/en/propisi/podzakoni>, accessed 13 August 2011.

**Yes:** A YES score is earned if public procurement officials receive regular mandatory training to ensure professional standards in supervising the tendering process. A YES score is earned if such training is mandated for portions of the broader civil service, to include procurement officials.

**No:** A NO score is earned if there is no regular required training of public procurement officials or if training is sporadic, inconsistent, unrelated to procurement processes, or voluntary.

51c. In practice, the conflicts of interest regulations for public procurement officials are enforced.

100 | 75 | 50 | 25 | 0

**Comments:**

The Anti-Corruption Agency's Department for Solving Conflicts of Interest makes decisions on requests of officials for approval to simultaneously perform several public functions and to perform other work or another activity along with their public function. The agency assesses these public functions from the perspective of competency and conflict of interest.

Regulation relating to public procurement officials is not addressed by the Law on Anti-Corruption Agency or the Law on Public Procurement. Therefore, there were no cases initiated, since no regulations exist.

The Law on Public Procurement addresses the issues of conflicts of interest of the Chair and a members of Republic Commission for Protection of Rights in Public Procurement Procedures (Article 102, para 4).

According to sources available, there was a case of a member of the Republic Commission for Protection of Rights in Public Procurement Procedures who had a conflict of interest investigation initiated and resolved by the Anti-Corruption Agency. For more details on the above case, please refer to: [http://acas.rs/images/stories/07-434\\_Maleti\\_objavlj\\_povrede\\_38-1.pdf](http://acas.rs/images/stories/07-434_Maleti_objavlj_povrede_38-1.pdf).

**References:**

Miroslava Milenovic, financial forensic, office Milenovic, Belgrade, Serbia, interview held on 17 August 2011, Belgrade, Serbia.

Case of Maletic Milica, available at: [http://acas.rs/images/stories/07-434\\_Maleti\\_objavlj\\_povrede\\_38-1.pdf](http://acas.rs/images/stories/07-434_Maleti_objavlj_povrede_38-1.pdf), accessed 10 August 2011.

Verica Barac, President of the Anti-Corruption Council, interview held on 7 September 2011, Belgrade, Serbia.

Monitoring of Public Procurement System in Serbia, Second Assessment (June – September 2010), Transparency Serbia, Belgrade, March 2011.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

**100:** Regulations regarding conflicts of interest for procurement officials are aggressively enforced.

**75:**

**50:** Conflict-of-interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from regulations.

**25:**

**0:** Conflict-of-interest regulations do not exist, or are consistently ineffective.

51d. In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.

Yes | **No**

**Comments:**

In Serbia there is no legal mechanism that enables the monitoring of public procurement officials' lifestyles.

**References:**

There is no legal ground.

**Yes:** A YES score is earned if there is a formal mandate to some agency to monitor the assets, incomes and spending habits of public procurement officials, such as an inspector general, or ombudsman.

**No:** A NO score is earned if no such mandate exists.

51e. In law, major procurements require competitive bidding.

**Yes** | No

**Comments:**

The Law on Public Procurement indicates the principle of ensuring competition among the bidders:

"A procuring entity may not limit competition among the bidders; in particular, a procuring entity may not prevent any bidder from participating in public procurement by unjustified use of the negotiated procedure or by using discriminatory requirements or criteria. Persons who have been engaged in preparing tender documents or parts thereof may not appear as bidders or subcontractors, nor may they cooperate with the bidders in the course of bid preparation."

Furthermore, Article 26, Low-Value Public Procurement Procedure, stipulates that the minister in charge of financial activities shall regulate the procedure for low-value public procurement.

**References:**

Law on Public Procurement, Official Gazette of RS, No. 116/2008, Articles 9 and 26. Available at: <http://www.ujn.gov.rs/en/propisi/zakon>.

Republic of Serbia 2011 Budget Law, Official Gazette of RS, No. 26/2011, Article 31, available at: <http://www.crmps.org.rs/wp-content/uploads/Zakon-o-budzetu-RS-za-2011.pdf>.

**Yes:** A YES score is earned if all major procurements (defined as those greater than 0.5% of GDP) require competitive bidding.

**No:** A NO score is earned if competitive bidding is not required by law or regulation for major procurement (greater than 0.5% OF GDP).

51f. In law, strict formal requirements limit the extent of sole sourcing.

Yes | No

**Comments:**

The Law on Public Procurement regulates sole-sourcing limits, although the provision seems to be unclear.

**References:**

Public Procurement Law, Official Gazette of the Republic of Serbia, No. 116/2008, Articles 23 and 24. Available at: <http://www.ujn.gov.rs/en/propisi/zakon>, accessed 13 August 2011.

**Yes:** A YES score is earned if sole sourcing is limited to specific, tightly defined conditions, such as when a supplier is the only source of a skill or technology.

**No:** A NO score is earned if there are no prohibitions on sole sourcing. A NO score is earned if the prohibitions on sole sourcing are general and unspecific.

51g. In law, unsuccessful bidders can instigate an official review of procurement decisions.

Yes | No

**Comments:**

The administrative appeal process is regulated by the Law on Public Procurement. The administrative appeal process instigating an official review of procurement decisions is a two-instance process. Namely, unsuccessful bidders in the first instance submit the request in writing for the protection of bidders' rights to the procuring entity and in the second instance to the Republic Commission for the Protection of Rights in Public Procurement Procedures.

In the first instance, the procuring entity may decide to accept fully or partly the request for protection of bidder's rights and to call off fully or partly the procurement procedure. If the procuring entity decides to refuse the request, the claimant may continue the process before the Republic Commission.

**References:**

Public Procurement Law, Official Gazette of the Republic of Serbia, No. 116/2008, Articles 106 to 118. Available at: <http://www.ujn.gov.rs/en/propisi/zakon>, accessed 13 August 2011.

Rules of Procedures on the Work of Republic Commission for Protection of Rights in Public Procurement Procedures, Official Gazette of RS, No. 14/2010, available at: [http://www.kjn.gov.rs/o\\_nama/poslovnik\\_o\\_radu.html](http://www.kjn.gov.rs/o_nama/poslovnik_o_radu.html), accessed 13 August 2011.

**Yes:** A YES score is earned if there is a formal appeal process for unsuccessful bidders.

**No:** A NO score is earned if no such process exists.

51h. In law, unsuccessful bidders can challenge procurement decisions in a court of law.

Yes | No

**Comments:**

An administrative dispute may be initiated against the decision of the Republic Commission.

**References:**

Public Procurement Law, Official Gazette of the Republic of Serbia, No. 116/2008, Article 118, paragraphs 5, 6 and 7. Available at: <http://www.ujn.gov.rs/en/propisi/zakon>, accessed 13 August 2011.

**Yes:** A YES score is earned if unsuccessful bidders can use the courts to appeal a procurement decision.

**No:** A NO score is earned if no such process exists.

51i. In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

Yes | No

**Comments:**

The Law on Public Procurement defines the Anti-Corruption Rule as follows:

A procuring entity shall reject a bid if it has indisputable proof that a bidder has given, offered or alluded to, directly or indirectly, a gift or some other benefit to a member of the Public Procurement Committee, a person who participated in the preparation of the tender documents, a person participating in planning the public procurement or some other person in order to influence them in order to discover confidential information or influence the procuring entity's action or decision making in any phase of the public procurement procedure. A procuring entity shall also reject a bid if it has indisputable proof that a bidder has threatened, directly or indirectly, a member of the Public Procurement Committee, a person who participated in the preparation of the tender documents, a person participating in planning the public procurement or some other person in order to influence them in order to discover confidential information or influence the procuring entity's action or decision making in any phase of the public procurement procedure. And in either of the cases mentioned above, a procuring entity shall immediately notify the appropriate bodies, which will take legal measures against such entities.

However, there is no provision banning companies that violated rules of procurement regulations previously to participate in future procurement bids.

**References:**

There is no legal ground.

**Yes:** A YES score is earned if there are formal procurement blacklists, designed to prevent convicted companies from doing business with the government.

**No:** A NO score is earned if no such process exists.

51j. In practice, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

100 | 75 | 50 | 25 | 0

**Comments:**

Although the Public Procurement Office officials stated publicly that black-listing of the companies that violated major procurement regulations would be done, there were no developments in that regard so far. In addition the new law on public procurement is in the drafting phase which envisaged for abolishing the Public Procurement Office which was charged with control of tenders for public procurement and will be replaced by the centralized body to oversee public procurement processes. This change will allow for greater irregularities and corruption in public procurement.

**References:**

Public Procurement Issue Indispensable for EU Candidacy, Radio-Television of Serbia, 15 October 2010, available at: <http://www.rts.rs/page/stories/sr/story/13/Ekonomija/784618/Javne+nabavke+ključne+za+članstvo+u+EU.html>, accessed 13 August 2011.

Verica Barac, President of the Anti-Corruption Council, interview held on 7 September 2011, Belgrade, Serbia.

Blacklisting for Bad Contractors, Argus portal, October 2007, <http://www.portalargus.org/paragraf/7801.html>.

Miroslava Milenovic, fraud examiner, Office Milenovic, Belgrade, Serbia, interview held on 17 August 2011, Belgrade, Serbia.

Miodrag Cvorovic, journalist and producer "Insajder" documentary, B92 TV, interview held on 30 August 2011, Belgrade, Serbia.

There is no Control Over Public Procurement in Serbia (Javne nabavke bez kontrole u Srbiji), B92, 12 September 2011, available at: [http://www.b92.net/biz/vesti/srbija.php?yyyy=2011&mm=09&dd=12&nav\\_id=541462](http://www.b92.net/biz/vesti/srbija.php?yyyy=2011&mm=09&dd=12&nav_id=541462), accessed 15 September 2011

**100:** A system of formal blacklists and cooling off periods is in place for companies convicted of corruption. All companies are subject to this system.

**75:**

**50:** A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some procurements or companies may not be affected by the system, or the prohibitions are sometimes not effective.

**25:**

**0:** There is no such system, or the system is consistently ineffective in prohibiting future hiring of blacklisted companies.

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## 52. Can citizens access the public procurement process?

92

52a. In law, citizens can access public procurement regulations.

Yes | No

**Comments:**

The public procurement regulations are available to the public in the Republic Official Gazette and are also available at the website of the Public Procurement Office at [www.ujn.gov.rs](http://www.ujn.gov.rs).

**References:**

Public Procurement Law, Official Gazette of the Republic of Serbia, No. 116/2008, Article 10. Available at: <http://www.ujn.gov.rs/en/propisi/zakon>, accessed 13 August 2011.

**Yes:** A YES score is earned if procurement rules are, by law, open to the public. These regulations are defined here as the rules governing the competitive procurement process.

**No:** A NO score is earned if procurement rules are officially secret for any reason or if there are no procurement rules.

52b. In law, the government is required to publicly announce the results of procurement decisions.

Yes | No

**Comments:**

Article 74 of the Law on Public Procurement stipulates the following:  
“A procuring entity shall publish the notice on public procurement contract conclusion in the “Official Gazette of the Republic of Serbia” within three days from the contract conclusion, as well as post that notice on the Public Procurement Portal within the same time limit.”

**References:**

Public Procurement Law, Official Gazette of the Republic of Serbia, No. 116/2008, Article 74. Available at: <http://www.ujn.gov.rs/en/propisi/zakon>, accessed 13 August 2011.

**Yes:** A YES score is earned if the government is required to publicly post or announce the results of the public procurement process. This can be done through major media outlets or on a publicly-accessible government register or log.

**No:** A NO score is earned if there is no requirement for the government to publicly announce the results of the public procurement process.

52c. In practice, citizens can access public procurement regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Public procurement regulations are publicly available at the Public Procurement Office’s website.

**References:**

Website of the Public Procurement Office, available at <http://www.ujn.gov.rs/ci/propisi/zakon.html> and <http://www.ujn.gov.rs/ci/documents/models.html>, accessed 17 August 2011.

Monitoring Results for II Quarter 2010, Nemanja Nenadic, UNDP Serbia, <http://www.undp.org.rs/index.cfm?event=public.newsDetails&revid=E59896FE-BC8F-D76B-7175772DAB910502>, accessed 17 August 2011.

Monitoring of Public Procurement System in Serbia, Second Assessment (June – September 2010), Transparency Serbia, Belgrade, March 2011.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information. These records are defined here as the rules governing the competitive procurement process.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

52d. In practice, citizens can access public procurement regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Public procurement regulations are publicly available at the Public Procurement Office's website, therefore the costs are minimal (for the use of Internet). Other than that, regulations can be obtained from the Public Procurement Office for the cost of photocopying.

**References:**

Monitoring of Public Procurement System in Serbia, Second Assessment (June – September 2010), Transparency Serbia, Belgrade, March 2011

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line. These records are defined here as the rules governing the competitive procurement process.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

52e. In practice, major public procurements are effectively advertised.

100 | 75 | 50 | 25 | 0

**Comments:**

The website of the Public Procurement Office advertises contracted procurements according to the Law on Public Procurement. Likewise, the notices of public procurements are published in the Official Gazette of the Republic of Serbia, available at: <http://www.slglasnik.com/aktuelno/javne-nabavke/javna-nabavka-34-op-d11>.

**References:**

Public Procurement Office website, <http://portal.ujn.gov.rs/search.aspx>, accessed 13 August

Review of Published Reports of Major Contracted Procurements, available at: <http://portal.ujn.gov.rs/lzvestaji.aspx>, accessed 17 August 2011.

Monitoring of Public Procurement System in Serbia, Second Assessment (June – September 2010), Transparency Serbia, Belgrade, March 2011.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

**100:** There is a formal process of advertising public procurements. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

**75:**

**50:** There is a formal process of advertisement but it is flawed. Some major procurements may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

**25:**

**0:** There is no formal process of advertising major public procurements or the process is superficial and ineffective.

52f. In practice, citizens can access the results of major public procurement bids.

**Comments:**

Information on results of selected major public procurement bidders are in the majority of cases available at the Public Procurement Office's website (<http://portal.ujn.gov.rs/>). In cases where some information on major public procurement bids are missing, citizens can use the free access to information request. However, as stipulated in the monitoring results of public procurement by Transparency Serbia, "Information about execution of contracts are only occasionally published and only if preferable for procuring entities."

**References:**

Monitoring Results for II Quarter 2010, Nemanja Nenadic, Transparency International Serbia, UNDP Serbia, available at: <http://www.undp.org.rs/index.cfm?event=public.newsDetails&revid=E59896FE-BC8F-D76B-7175772DAB910502>, accessed 13 August 2011.

Search and Review of Results of Contracted Procurements, Public Procurement Office website, available at: <http://portal.ujn.gov.rs/lzvestaji.aspx>, accessed 13 August 2011.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

**100:** Records of public procurement results are publicly available through a formal process.

**75:**

**50:** Records of public procurements are available, but there are exceptions to this practice. Some information may not be available, or some citizens may not be able to access information.

**25:**

**0:** This information is not available to the public through an official process.

#### 4.4. Privatization of Public Administrative Functions: Transparency, Fairness, and Conflicts of Interest Safeguards

##### 53. Is the privatization process effective?

75

53a. In law, all businesses are eligible to compete for privatized state assets.

Yes | No

**Comments:**

Article 12 of the Law on Privatization stipulates that:  
"The purchasers of capital or property may be domestic or foreign legal entities or individuals, in accordance with the law."

**References:**

Law on Privatization, Official Gazette of RS, No. 38/2001, 18/2003, 45/2005 and 123/2007, Article 12. Available at: [http://lexinter.net/LOTWVers4/serbia\\_law\\_on\\_privatization.htm](http://lexinter.net/LOTWVers4/serbia_law_on_privatization.htm), accessed 25 August 2011.

**Yes:** A YES score is earned if all businesses are equally eligible to compete for privatized assets. A YES score is still earned if the government did not privatize any state-owned assets during the study period.

**No:** A NO score is earned if any group of businesses (other than those blacklisted due to corruption charges) is excluded by law.

53b. In law, there are regulations addressing conflicts of interest for government officials involved in privatization.

Yes | No

**Comments:**

Article 36 of the Law on Anti-Corruption Agency provides the following:

“A legal entity in which an official owns more than 20 percent shares of stock that is taking part in privatization, public procurement or other procedure whose outcome is conclusion of contract with an organ of the Republic, territorial autonomy, local government, other budget spending unit and/or other legal entity founded by an organ of the Republic, territorial autonomy or local government or a legal entity wherein more than 20 percent of the capital is in public ownership is obliged to accordingly notify the agency within three days from the day of undertaking the first actions in the procedure, as well as on the final outcome of the procedure within three days of learning of its conclusion. The agency shall keep records of the legal entities specified in paragraph 1 of this Article. These records are public.

As an exception to paragraph 5 of this Article an act whose passing involved the official who reported conflict of interest in accordance with this Act shall not be null and void if it was not possible to appoint another person to participate in passing of the act.”

**References:**

Law on Anti-Corruption Agency, Official Gazette of RS, No. 97/2008 and 53/2010, Article 36. Available at: <http://www.acas.rs/en/zakoni-i-drugi-propisi/the-mayor/law-on-agency.html>, accessed 25 August 2011

**Yes:** A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for privatization officials. A YES score is earned if such regulations cover all civil servants, including privatization officials.

**No:** A NO score is earned if there are no such formal regulations.

53c. In practice, conflicts of interest regulations for government officials involved in privatization are enforced.

100 | 75 | 50 | 25 | 0

**Comments:**

Conflict of interest regulations exists. The Anti-Corruption Agency is mandated to apply rules concerning prevention of conflict of interest in discharge of public office, however there are no cases of prevention of conflict of interest of the government officials involved in privatization publicly available.

**References:**

Miroslava Milenovic, fraud examiner, Office Milenovic, Belgrade, Serbia, interview held on 17 August 2011, Belgrade, Serbia.

Verica Barac, President of the Anti-Corruption Council, interview held on 7 September 2011, Belgrade, Serbia.

Privatization Model in Serbia Enables Corruption (Model privatizacije u Srbiji omogućava korupciju), Glas javnosti, 23 June 2011, available at: <http://www.glas-javnosti.rs/clanak/drustvo/glas-javnosti-23-06-2011/model-privatizacije-u-srbiji-omogućava-korupciju>, accessed 15 September 2011

There is nobody to Investigate on Misconducts (nema nikoga da proverí miljanje), B92, 20 June 2011, available at: [http://www.b92.net/biz/vesti/srbija.php?yyyy=2011&mm=06&dd=20&nav\\_id=520179](http://www.b92.net/biz/vesti/srbija.php?yyyy=2011&mm=06&dd=20&nav_id=520179), accessed 15 September 2011.

Barac: There will be no Investigation on Privatization (Baraceva: Nista od provere spornih privatizacija), Blic, 20 June 2011, available at: <http://www.blic.rs/Vesti/Ekonomija/261126/Baraceva-Nista-od-provere-spornih-privatizacija>, accessed 15 September 2011.

**100:** Regulations regarding conflicts of interest for privatization officials are aggressively enforced.

**75:**

50: Conflict-of-interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from the regulations.

25:

0: Conflict of interest regulations do not exist, or are consistently ineffective.

## 54. Can citizens access the terms and conditions of privatization bids?

75

54a. In law, citizens can access privatization regulations.

Yes | No

### Comments:

Citizens' access to privatization regulations is regulated by the law. Article 7 of the Law on Privatization Agency states, "Within the privatization promotion activities, the Agency shall:

1. Inform the public on the subjects of privatization.
2. Educate the public about privatization.
3. Provide information about potential buyers, capital, goods, services and labor force in the local market.
4. Engage in other activities in accordance with the law and its statute."

Article 2 of the Law on Privatization was established on a principle of transparency. Articles 7 and 8 detail a database that the agency must maintain and make accessible by citizens.

### References:

Law on Privatization, Official Gazette of RS, No. 38/2001, 18/2003, 45/2005 and 123/2007, Articles 2, 7, 8. Available at: <http://www.priv.rs/Zakoni/321/Zakon+o+privatizaciji.shtml>, accessed 17 August 2011.

Law on Privatization Agency, Official Gazette, No. 38/2001, 135/2004 and 30/2010, Article 7. Available at: [http://www.invest-in-serbia.com/laws/english/law\\_on\\_privatization\\_agency.htm#ACTIVITIES%20OF%20THE%20AGENCY](http://www.invest-in-serbia.com/laws/english/law_on_privatization_agency.htm#ACTIVITIES%20OF%20THE%20AGENCY), accessed 17 August 2011

**Yes:** A YES score is earned if privatization rules (defined here as the rules governing the competitive privatization process) are, by law, open to the public. Even if privatization is infrequent or rare, the most recent privatization should be used as the basis for scoring this indicator.

**No:** A NO score is earned if privatization rules are officially secret for any reason or if there are no privatization rules.

54b. In practice, privatizations are effectively advertised.

100 | 75 | 50 | 25 | 0

### Comments:

Privatization results are advertised at the Agency for Privatization website: <http://www.priv.rs/Agencija+za+privatizaciju/101/Preduzeca.shtml>.

### References:

Miroslava Milenovic, fraud examiner, Office Milenovic, Belgrade, Serbia, interview held on 17 August 2011, Belgrade, Serbia.

Privatization Agency, announcements on privatizations, available at: [http://www.priv.rs/Vesti/190/Privatizacija.shtml?nav\\_start=0&nav\\_start2=0](http://www.priv.rs/Vesti/190/Privatizacija.shtml?nav_start=0&nav_start2=0), accessed 17 August 2011.

**100:** There is a formal process of advertising privatizations. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

75:

50: There is a formal process of advertisement but it is flawed. Some privatizations may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

25:

0: There is no formal process of advertising privatizations or the process is superficial and ineffective.

54c. In law, the government is required to publicly announce the results of privatization decisions.

Yes | **No**

**Comments:**

The legal framework for the processes of privatization do not strictly specify the obligation of public announcement of the results of privatization decisions. However, privatization decisions could be found at the website of the Privatization Agency. Since there is no specific legal provision, the answer to this question is "No."

**References:**

Law on Privatization, Official Gazette of RS, No. 38/2001, 18/2003, 45/2005 and 123/2007.

Law on the Privatization Agency, Official Gazette of RS, No. 38/2001, 135/2004 and 30/2010.

**Yes:** A YES score is earned if the government is required to publicly post or announce the results of the privatization process. This can be done through major media outlets or on a publicly-accessible government register or log.

**No:** A NO score is earned if there is no requirement for the government to publicly announce the results of the privatization process.

54d. In practice, citizens can access privatization regulations within a reasonable time period.

**100** | 75 | 50 | 25 | 0

**Comments:**

Information on privatization regulations can be obtained at the website of the Privatization Agency.

**References:**

Miroslava Milenovic, fraud examiner, Office Milenovic, Belgrade, Serbia, interview held on 17 August 2011, Belgrade, Serbia.

Privatization Agency, Documents, available at: [http://www.priv.rs/Dokumenta/325/Opste.shtml/nav\\_start=0](http://www.priv.rs/Dokumenta/325/Opste.shtml/nav_start=0), accessed 17 August 2011.

**100:** Records (defined here as the rules governing the competitive privatization process) are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

54e. In practice, citizens can access privatization regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The cost of access to privatization regulations is equal to Internet access cost since the regulation can be found at the website of the Agency for Privatization.

**References:**

Miroslava Milenovic, fraud examiner, Office Milenovic, Belgrade, Serbia, interview held on 17 August 2011, Belgrade, Serbia.

Privatization Agency, Documents, available at: [http://www.priv.rs/Dokumenta/325/Opste.shtml/nav\\_start=0](http://www.priv.rs/Dokumenta/325/Opste.shtml/nav_start=0), accessed 17 August 2011.

**100:** Records (defined here as the rules governing the competitive privatization process) are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

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## Category 5. Government Oversight and Controls

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### 5.1. National Ombudsman

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55. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

100

55a. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

Yes | No

**Comments:**

The Office of the Ombudsman started its work in 2005, after the Law on Ombudsman has been adopted, and confirmed by the 2006 Constitution.

Article 138 of the Constitution of the Republic of Serbia stipulates: "The Civic Defender shall be independent state body who shall protect citizens' rights and monitor the work of public administration bodies, body in charge of legal protection of proprietary rights and interests of the Republic of Serbia, as well as other bodies and organizations, companies and institutions to which public powers have been delegated.

The Civic Defender shall not be authorised to monitor the work of the National Assembly, President of the Republic, Government, Constitutional Court, courts and Public Prosecutor's Offices. The Civic Defender shall be elected and dismissed by the National Assembly, in accordance with the Constitution and Law. The Civic Defender shall account for his/her work to the National

Assembly. The Civic Defender shall enjoy immunity as a deputy. The National Assembly shall decide on the immunity of the Civic Defender.”

**References:**

Constitution of the Republic of Serbia Official Gazette of RS, No. 83/2006,  
Article 138, Available at: <http://www.predsednik.rs/mwc/epic/doc/ConstitutionofSerbia.pdf>, accessed 4th August 2011.

Law on Ombudsman Official Gazette of RS, No. 79/2005 and 54/2007.  
available at: <http://www.zastitnik.gov.rs/index.php/lang-en/o-nama/normativni-okvir-za-rad/643-2009-10-27-16-01-21>, accessed 4 August 2011.

**Yes:** A YES score is earned if there is a specific agency or set of agencies whose primary mandate is to investigate the actions of government on the behalf of common citizens. This agency or set of agencies should be specifically charged with seeking out and documenting abuses of power.

**No:** A NO score is earned if no such agency or set of agencies exists, or that function is a secondary concern of a larger body, such as the legislature.

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## 56. Is the national ombudsman effective?

68

56a. In law, the ombudsman is protected from political interference.

Yes | No

**Comments:**

Law on Ombudsman, Article 2:

The Protector of Citizens is independent and autonomous in performance of his/her duties established under this Law and no one has the right to influence the work and actions of the Protector of Citizens. In performance of duties within his/her competence the Protector of citizens shall act in accordance with the Constitution, law and other regulations and general acts, as well as the ratified international treaties and generally accepted rules of international law.

Law on Ombudsman, Article 9:

The Protector of Citizens, i.e. his/her Deputies, shall not hold other public office, perform another professional activity, or any duty or task that might influence their independence and autonomy. The Protector of Citizens and his/her Deputies shall not be members of political parties. The Protector of Citizens and his/her Deputies shall have the status of officials pursuant to the law regulating the conflict of interests in performing public functions, and the provisions of this Law shall fully apply to them. All public, professional and other functions of the Protector of Citizens and/or Deputies, i.e. the duties or tasks they have been performing, which are opposite to the provisions of this Law, as well as membership in a political party, shall cease on the day of taking office.

**References:**

Constitution of the Republic of Serbia Official Gazette of RS, no.83/2006,  
Article 138, paragraph 1. Available at: <http://www.predsednik.rs/mwc/epic/doc/ConstitutionofSerbia.pdf>, accessed 4th August 2011.

Law on Ombudsman, Official Gazette RS no. 79/2005 and 54/2007, Articles 2 and 9. Available  
at: <http://www.zastitnik.gov.rs/index.php/lang-en/o-nama/normativni-okvir-za-rad/643-2009-10-27-16-01-21>, accessed 4 August 2011.

**Yes:** A YES score is earned only if the agency (or set of agencies) has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

**No:** A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

56b. In practice, the ombudsman is protected from political interference.

**Comments:**

The Protector of Citizens is independent in its work, however sometimes indirect influence may be recognized. As stipulated in 2010 Regular Annual Report of the Protector of Citizens "... In 2010, the Government of the Republic of Serbia proposed to rebalance the budget, without prior notice or prior approval of the Protector of Citizens, by which the resources for the employees' salaries were reduced. Thus, the government, on one hand, provided a space for the expert services of the Protector of Citizens, while, on the other, it took the funds for the salaries from the ones who were yet to be employed in it, even though these funds had been stipulated by the original Budget Law. Normally, the law does not allow the Government to propose or even reduce the budget of the Protector of Citizens, without its consent, however this time it was overlooked. The error subsequently had to be corrected by the new budget revision.

The government has also refused to allow budget reserve funds to be used for procurement of the equipment stolen by the burglar from the temporary premises of the Protector of Citizens in Novi Beograd. Previously, the Protector of Citizens had officially and publicly alerted that his working premises had not met the requirements for operations of a state authority. The Ministry of Internal Affairs refused to provide security services for the premises since it was not covered by the appropriate government regulation, although the police security was stipulated in the Protector of Citizens' Expert Services Act, approved by the National Assembly. It was only after the president of the republic visited the Protector of Citizens in the office space and publicly expressed the view that the Protector of Citizens and other independent bodies had to be provided space for normal functioning, that the government started to deal with the issue, at least as far as the Protector of Citizens is concerned."

**References:**

Gordana Stevanovic, Deputy of Secretary General of the Protector of Citizens, Department for Dealing with Complaints, interview held on 8 September 2011, Belgrade, Serbia.

2010 Regular Annual Report of the Protector of Citizens, p. 47, available at: <http://www.ombudsman.rs/images/dokumenta/Annual%20Report%202010.pdf>, accessed 7 September 2011

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

Serbia 2010 Progress Report, accompanying Communication from the Commission to the European Parliament and the Council, Enlargement Strategy and Main Challenges 2010-2011, Brussels November 2010, available at: <http://www.ombudsman.rs/images/dokumenta/Annual%20Report%202010.pdf>, accessed 8 September 2011

I was not appointed to cooperate with the powerful ones but to control the work of the state administration and to protect rights and freedoms (Nisam izabran da bih poveljivao uticajnima, vec da bih kontrolisao rad organa vlasti i stitio zagarantovana prava i slobode), 21 February 2011, Press Release, Ombudsman, available at: <http://www.ombudsman.rs/index.php/lang-en/aktivnosti/saopstenja/1274-2011-02-21-10-06-20>, accessed 8 September 2011.

There is a Need for Depolitization of Public Administration, 23 July 2011, available at: [http://www.ombudsman.rs/index.php/lang-sr\\_YU/aktivnosti/iz-medija/1442-2011-07-26-12-32-02](http://www.ombudsman.rs/index.php/lang-sr_YU/aktivnosti/iz-medija/1442-2011-07-26-12-32-02), accessed 8 September 2011

**100:** This agency (or set of agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

**75:**

**50:** This agency (or set of agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include public criticism or praise by the government. The ombudsman may not be provided with some information needed to carry out its investigations.

**25:**

**0:** This agency (or set of agencies) is commonly influenced by political or personal incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The ombudsman cannot compel the government to reveal sensitive information.

56c. In practice, the head of the ombudsman agency/entity is protected from removal without relevant justification.

**Comments:**

According to the EC Progress Report, Consultations with the European Commission 2011, 'the Protector of Citizens' (the Ombudsman) could be dismissed by the Parliament on a cause. However, the controversial provisions that allowed the ombudsman to be dismissed by the relevant parliamentary committee on the basis of "non-acceptance" of its annual report were removed from the parliamentary rules of procedure in February 2011.

**References:**

Gordana Stevanovic, Deputy of Secretary General of the Protector of Citizens, Department for Dealing with Complaints, interview held on 8 September 2011, Belgrade, Serbia.

2010 Regular Annual Report of the Protector of Citizens, p. 47, available at: <http://www.ombudsman.rs/images/dokumenta/Annual%20Report%202010.pdf>, accessed 7 September 2011

Professor at the Faculty of Political Science, University of Belgrade who wishes to remain anonymous, interview held 15 August 2011, Belgrade, Serbia.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

**100:** The director of the ombudsman (or directors of multiple agencies) serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

**75:**

**50:** The director of the ombudsman (or directors of multiple agencies) serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

**25:**

**0:** The director of the ombudsman (or directors of multiple agencies) can be removed at the will of political leadership.

56d. In practice, the ombudsman agency (or agencies) has a professional, full-time staff.

100 | 75 | **50** | 25 | 0

**Comments:**

The number of employees within the Office of the Ombudsman is not sufficient to efficiently fulfill its mandate. Currently, there is an initiative to amend the systematization act of the Ombudsman that will allow for a greater number of staff. The necessity to enlarge the staff is recognized since the current number of employees hinders the results of the institution.

For instance there are 25 employees working on the complaints of citizens, and in 2010 there were 2,800 complaints delegated to 25 employees which considerably adversely affected the employees' ability to act on the complaints.

**References:**

Gordana Stevanovic, Deputy of Secretary General of the Protector of Citizens, Department for Dealing with Complaints, interview held on 8 September 2011, Belgrade, Serbia.

2010 Regular Annual Report of the Protector of Citizens, p. 47, available at: <http://www.ombudsman.rs/images/dokumenta/Annual%20Report%202010.pdf>, accessed 7 September 2011.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

**100:** The ombudsman agency (or agencies) has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The ombudsman agency (or agencies) has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The ombudsman agency (or agencies) has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

56e. In practice, agency appointments support the independence of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

**Comments:**

The Protector of Citizens approves appointments in the departments of the institution. This logically means that if the Protector of Citizens is protected from political interference the appointments to the Ombudsman greatly supports the principle of independence from political interference.

**References:**

Gordana Stevanovic, Deputy of Secretary General of the Protector of Citizens, Department for Dealing with Complaints, interview held on 8 September 2011, Belgrade, Serbia.

2010 Regular Annual Report of the Protector of Citizens, p. 40, available at: <http://www.ombudsman.rs/images/dokumenta/Annual%20Report%202010.pdf>, accessed 7 September 2011

**100:** Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

56f. In practice, the ombudsman agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

The Ombudsman receives regular funding, however some cuts due to rebalancing the budget occurred in 2010.

**References:**

Gordana Stevanovic, Deputy of Secretary General of the Protector of Citizens, Department for Dealing with Complaints, interview held on 8 September 2011, Belgrade, Serbia.

2010 Regular Annual Report of the Protector of Citizens, p. 47, available at: <http://www.ombudsman.rs/images/dokumenta/Annual%20Report%202010.pdf>, accessed 7 September 2011

**100:** The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

56g. In practice, the ombudsman agency (or agencies) makes publicly available reports.

100 | 75 | 50 | 25 | 0

**Comments:**

A number of reports are available at the Ombudsman's website at: <http://www.ombudsman.rs/index.php/lang-sr/misljenja-preporuke-i-stavovi>.

**References:**

Gordana Stevanovic, Deputy of Secretary General of the Protector of Citizens, Department for Dealing with Complaints, interview held on 8 September 2011, Belgrade, Serbia.

2010 Regular Annual Report of the Protector of Citizens, p. 40, available at: <http://www.ombudsman.rs/images/dokumenta/Annual%20Report%202010.pdf>, accessed 7 September 2011.

**100:** The agency (or agencies) makes regular, publicly available, substantial reports either to the legislature or directly to the public outlining the full scope of its work.

**75:**

**50:** The agency (or agencies) makes publicly available reports to the legislature and/or directly to the public that are sometimes delayed or incomplete.

**25:**

**0:** The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

56h. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

The Ombudsman initiates investigation upon citizens complaints or on its own initiative when some irregularities from the domain of the Ombudsman's authority emerges. However, when citizens complaint to the Ombudsman are on an issue outside of the Ombudsman's authority the Ombudsman helps the citizens by giving them instructions where to fill the complaint.

**References:**

Gordana Stevanovic, Deputy of Secretary General of the Protector of Citizens, Department for Dealing with Complaints, interview held on 8 September 2011, Belgrade, Serbia.

2010 Regular Annual Report of the Protector of Citizens, available at: <http://www.ombudsman.rs/images/dokumenta/Annual%20Report%202010.pdf>, accessed 7 September 2011.

**100:** The agency aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The agency is fair in its application of this power.

**75:**

**50:** The agency will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

**25:**

**0:** The agency rarely investigates on its own or cooperates in other agencies' investigations, or the agency is partisan in its application of this power.

56i. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) imposes penalties on offenders.

**Comments:**

The Ombudsman is mandated to publicly recommend dismissal of officials and civil servants responsible for the violation of citizens' rights or for non-cooperation with the Ombudsman. This recommendation constitutes a formal ground for dismissal or other disciplinary sanction. The Ombudsman may also submit criminal or misdemeanor charges, should he/she find elements of a criminal/misdemeanor act in actions of administration. Therefore, the Ombudsman is not mandated to directly impose penalties on offenders. However, according to an interview held for this report, some disciplinary proceedings took place in the period researched for the purpose of this report.

**References:**

Gordana Stevanovic, Deputy of Secretary General of the Protector of Citizens, Department for Dealing with Complaints, interview held on 8 September 2011, Belgrade, Serbia.

2010 Regular Annual Report of the Protector of Citizens, available at: <http://www.ombudsman.rs/images/dokumenta/Annual%20Report%202010.pdf>, accessed 7 September 2011.

Jankovic: Two misconducts Obvious, (Jankovic: Izvesna dva propusta Ciplicevog Ministarstva), 26 August 2010, Press online, available at: [http://pressonline.rs/sr/vesti/vesti\\_dana/story/130834/Jankovic%3A+Izvesna+dva+propusta+Čiplićevo+ministarstva.html](http://pressonline.rs/sr/vesti/vesti_dana/story/130834/Jankovic%3A+Izvesna+dva+propusta+Čiplićevo+ministarstva.html), accessed 8 September 2011.

**100:** When rules violations are discovered, the agency is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

**75:**

**50:** The agency enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency does not effectively penalize offenders. The agency may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

56j. In practice, the government acts on the findings of the ombudsman agency (or agencies).

**Comments:**

The government usually acts on findings of the Ombudsman, although there are cases where government action is incomplete or simply missing.

For instance, according to the Protector of Citizen's 2010 Annual Report, the Protector of Citizens received 178 complaints from participants of the competition for the general (re)election of judges, which the High Judicial Council had conducted in 2009. The Protector of Citizens has detected a number of omissions. Decisions on election or non-election of judges whose term of office has been discontinued, but for whom existed a legal presumption that they would be re-elected, were not elaborated; candidates were not informed about the facts due to which their eligibility for the position was refuted, nor could they state their opinions thereof; the election criteria were not transparently applied; it was not possible to confirm that measures had been undertaken to ensure the representation of persons belonging to national minorities among the elected judges.

The Commissioner for Information of Public Importance findings were not consistently implemented, in order to ensure the exercise of the right of the general public to be informed about the election procedure. In accordance with statutory obligation, the High Judicial Council has informed the Protector of Citizens about the implementation of recommendations. The Protector of Citizens informed the general public, the National Assembly and the Government of the Republic of Serbia about that, in accordance with the law, but nothing changed.

The assessments of independent supervisory bodies, however, was not accepted well by the High Judicial Council, unlike the assessments of European institutions received afterward. The Commissioner's decision was not completely implemented. The Constitutional Court received individual opinions of the Council members about his excess of authority, while the conclusion of the Ombudsman was strongly rejected as "late, superfluous and unnecessary." For more details please refer to: <http://www.ombudsman.rs/index.php/lang-en/izvestaji/godisnji-izvestaji>.

**References:**

Gordana Stevanovic, Deputy of Secretary General of the Protector of Citizens, Department for Dealing with Complaints, interview

held on 8 September 2011, Belgrade, Serbia.

2010 Regular Annual Report of the Protector of Citizens, available at: <http://www.ombudsman.rs/images/dokumental/Annual%20Report%202010.pdf>, accessed 7 September 2011

**100:** Ombudsman's reports are taken seriously, with negative findings drawing prompt corrective action.

**75:**

**50:** In most cases, ombudsman's reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

**25:**

**0:** Ombudsman's reports are often ignored, or given superficial attention. Ombudsman's reports do not lead to policy changes.

56k. In practice, the ombudsman agency (or agencies) acts on citizen complaints within a reasonable time period.

100 | 75 | **50** | 25 | 0

**Comments:**

According to the 2010 Regular Annual Report of the Protector of Citizens "...The Protector of Citizens notifies the complainant and the authority concerned on the launching and closing the procedure. The administration authority concerned is legally obliged to respond to all requests submitted by the Protector of Citizens and to submit to him all requested information and documents within 15 to 60 days. In 2010, the Protector of Citizens acted upon 2,545 cases launched by complaints or at own initiative, where he also acted in 1,559 cases related to complaints from previous periods. There were no activities up to Dec. 31, 2010, upon 44 complaints received during December 2010. In 2010, out of 2,545 cases, the Protector of Citizens closed 1,929. In most cases (952) complaints were rejected due to lack of grounds for initiating a procedure, while in the remaining cases (977), procedures were completed in an appropriate manner."

**References:**

Gordana Stevanovic, Deputy of Secretary General of the Protector of Citizens, Department for Dealing with Complaints, interview held on 8 September 2011, Belgrade, Serbia.

2010 Regular Annual Report of the Protector of Citizens, available at: <http://www.ombudsman.rs/images/dokumental/Annual%20Report%202010.pdf>, accessed 7 September 2011

**100:** The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

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## 57. Can citizens access the reports of the ombudsman?

83

57a. In law, citizens can access reports of the ombudsman(s).

Yes | No

**Comments:**

The law covering the Protector of Citizens stipulates public availability of its reports. The reports are also available at the Ombudsman's website, although this is not prescribed by the Law.

Article 33 of the above law stipulates that:

"The Protector of Citizens shall submit a regular annual report to the Assembly that shall include information on activities in the preceding year, noted irregularities in the work of administrative authorities and recommendations to improve the status of citizens in relation to administrative authorities. The report shall be submitted not later than 15 March of the following year and shall be published in the "Official Gazette of the Republic of Serbia," and on the Internet page of the Protector of Citizens and shall also be delivered to public media. The Protector of Citizens may submit special reports during the year, if necessary."

**References:**

Law on Ombudsman Official Gazette of RS, No. 79/2005 and 54/2007, Article 33. Available at: <http://www.zastitnik.gov.rs/index.php/lang-en/o-nama/normativni-okvir-za-rad/643-2009-10-27-16-01-21>, accessed 4 August 2011.

**Yes:** A YES score is earned if all ombudsman reports are publicly available.

**No:** A NO score is earned if any ombudsman reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute the reports.

57b. In practice, citizens can access the reports of the ombudsman(s) within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Reports, records, recommendations, opinions and stances are available at the Ombudsman website. Also, complaint forms are available in all minority languages at the Ombudsman's website. For those who do not have Internet access, the time necessary to access reports is equal to the time to reach the Office of the Ombudsman to ask for the relevant documentation directly at the office. Depending on the case, this could take a couple of days.

**References:**

Professor at the Faculty of Political Science, University of Belgrade who wishes to remain anonymous, interview held 15 August 2011, Belgrade, Serbia.

2010 Regular Annual report of the Protector of Citizens, Belgrade 2011, p. 108, available

at: <http://www.ombudsman.rs/index.php/lang-en/izvestaji/godisnji-izvestaji/1420-annual-report-2010>, accessed 16 August 2011.

Gordana Stevanovic, Deputy of Secretary General of the Protector of Citizens, Department for Dealing with Complaints, interview held on 8 September 2011, Belgrade, Serbia.

**100:** Reports are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Reports take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Reports take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

57c. In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.

**Comments:**

In most cases, citizens can access Ombudsman reports online. However, they are available only in the Serbian language.

**References:**

Professor at the Faculty of Political Science, University of Belgrade who wishes to remain anonymous, interview held 15 August 2011, Belgrade, Serbia.

2010 Regular Annual report of the Protector of Citizens, Belgrade 2011, p. 108, available at: <http://www.ombudsman.rs/index.php/lang-en/izvestaji/godisnji-izvestaji/1420-annual-report-2010>, accessed 16 August 2011.

Gordana Stevanovic, Deputy of Secretary General of the Protector of Citizens, Department for Dealing with Complaints, interview held on 8 September 2011, Belgrade, Serbia.

**100:** Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Reports impose a financial burden on citizens, journalists or NGOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving reports imposes a major financial burden on citizens. Reports costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

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## 5.2. Supreme Audit Institution

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58. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

100

58a. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

Yes | No

**Comments:**

The national supreme audit institution is the State Audit Institution, established in 2005. Article 96 of the Constitution of Serbia stipulates that: "The State Audit Institution shall be the supreme state body for auditing public finances in the Republic of Serbia, independent and subject to supervision by the National Assembly to which it accounts for its work."

**References:**

Constitution of the Republic of Serbia, Official Gazette of RS, No. 83/2006, Article 96. Available at: <http://www.predsednik.rs/mwc/epic/doc/ConstitutionofSerbia.pdf>, accessed 6 August 2011.

The Law on State Audit Institution, Official Gazette of the RS, No. 101/2005, 54/2007 and 36/2010 Available at: [http://www.dri.rs/images/pdf/eng/LAW\\_ON\\_STATE\\_AUDIT\\_INSTITUTION.pdf](http://www.dri.rs/images/pdf/eng/LAW_ON_STATE_AUDIT_INSTITUTION.pdf), accessed 6 August 2011

**Yes:** A YES score is earned if there is a specific agency whose primary mandate is to audit and track the movement of money through the government. This agency should be specifically charged to investigate and document the misuse of funds. A system of agencies located in each department is equivalent.

**No:** A NO score is earned if no such agency exists, or that function is a secondary concern of a larger body, such as the executive.

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## 59. Is the supreme audit institution effective?

56

59a. In law, the supreme audit institution is protected from political interference.

Yes | No

**Comments:**

According to the Law on State Audit Institution, Article 3, Paragraph 2: "The institution is an autonomous and independent state body."

**References:**

The Law on State Audit Institution, Official Gazette of the Republic of Serbia, No. 101/2005, 54/2007 and 36/2010, Article 3. Available at: [http://www.dri.rs/images/pdf/eng/LAW\\_ON\\_STATE\\_AUDIT\\_INSTITUTION.pdf](http://www.dri.rs/images/pdf/eng/LAW_ON_STATE_AUDIT_INSTITUTION.pdf), accessed 6 August 2011.

Ethical Codex for State Auditors and other State Audit Institution's Officials, Official Gazette of the Republic of Serbia, no. 44/2009, Article 9, Available at: <http://www.dri.rs/dokumenti/eticki-kodeks.html>, accessed 6 August 2011.

**Yes:** A YES score is earned only if the agency has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

**No:** A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

59b. In practice, the head of the audit agency is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

**Comments:**

In practice there was no procedure initiated so far for the removal of the director of the State Audit Institution. However, dismissal from the office can be initiated by both official and unofficial pressure mechanisms.

**References:**

Law on State Audit Institution, Official Gazette of the Republic of Serbia, No. 101/2005, 54/2007 and 36/2010, Articles 21 to 24. Available at: [http://www.dri.rs/images/pdf/eng/LAW\\_ON\\_STATE\\_AUDIT\\_INSTITUTION.pdf](http://www.dri.rs/images/pdf/eng/LAW_ON_STATE_AUDIT_INSTITUTION.pdf), accessed 9 September 2011

Verica Barac, President of the Anti-corruption Council, interview held on 7 September 2011, Belgrade, Serbia.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011

**100:** The director of the agency serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

**75:**

**50:** The director of the agency serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

**25:**

**0:** The director of the agency can be removed at the will of political leadership.

59c. In practice, the audit agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

The State Audit Institution has limited staff which significantly hinders its ability to fulfill its mandate. The State Audit Institution has 75 staff members, which is less than half of systematized posts of the Institution. The systematization act envisaged 164 employees.

**References:**

Verica Barac, President of the Anti-Corruption Council, interview held on 7 September 2011, Belgrade, Serbia.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, interview held on 22 August 2011, BIRODI, Belgrade, Serbia.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

Serbia 2010 Progress Report, accompanying Communication from the Commission to the European Parliament and the Council, Enlargement Strategy and Main Challenges 2010-2011, Brussels November 2010, available at: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2010/package/sr\\_rapport\\_2010\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/sr_rapport_2010_en.pdf), accessed 8 September 2011.

Information book on the Work of the State Audit Institution, 2009 – 2011, available at: [http://www.dri.rs/images/pdf/informator\\_o\\_radu\\_2011\\_cir.pdf](http://www.dri.rs/images/pdf/informator_o_radu_2011_cir.pdf), accessed 9 September 2011

**100:** The agency has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

59d. In practice, audit agency appointments support the independence of the agency.

100 | 75 | 50 | 25 | 0

**Comments:**

Appointments of senior-level officials are made in line with political affiliations, but candidates are nominated by political parties. Thus, appointments to the Council of State Audit Institution are based on both professional qualifications and political considerations since senior-level officials of the SAI are nominated by political parties. For instance, the president of the SAI is nominated by DSS party, two members of the SAI Council are nominated by DS, one by G-17 now URS and one by the NS. However, according to SAI's Ethical Codex, the official of SAI must apply the principle of political neutrality in his/her work. In sum, although the appointments are based on political considerations, the principle of professional qualifications also is taken into account.

**References:**

Verica Barac, President of the Anti-Corruption Council, interview held on 7 September 2011, Belgrade, Serbia.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, interview held on 22 August 2011, BIRODI, Belgrade, Serbia

State Audit Jeopardized, Politika, Slobodan Kostic, 23 January 2011, available at: <http://www.politika.rs/rubrike/Ekonomija/Ugrozena-nezavisnost-drzavne-revizije.lt.html>, accessed 9 September 2011

There will be no Auditing of Financial Records of the Political Parties, BETA, 8 September 2011, available at: <http://www.beta.rs/?tip=article&kategorija=vestidana&ida=2567078&id=&ime=>, accessed 9 September 2011

President of State Audit Institution (Predsednik Drzavne revizorske institucije), Vreme, 25 February 2010, available at: <http://www.vreme.com/cms/view.php?i>, accessed 7 September 2011.

SAI Ethical Codex. Official Gazette of RS, No. 44/2009, available at: <http://www.dri.rs/cir/dokumenti/eticki-kodeks.html>

**100:** Appointments to the agency are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

59e. In practice, the audit agency receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

In practice the State Audit Institution is regularly funded from the state budget, however some cuts in the awarded budget took place during 2010 due to a rebalancing of the budget.

**References:**

Annual Report on the Work of State Audit Institution, 2010, available at: <http://www.dri.rs/images/pdf/gi2010.pdf>, accessed 28 August 2011.

Annual Report on the Work of State Audit Institution, 2009, available at: <http://www.dri.rs/images/pdf/gi2009.pdf>, accessed 28 August 2011.

**100:** The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

59f. In practice, the audit agency makes regular public reports.

100 | 75 | 50 | 25 | 0

**Comments:**

A certain number of the State Audit Institution's audit reports are available on-line at SAI's website. However, since SAI's website is newly established, not all audit reports are publicly available. But there is a positive trend toward making the reports public.

Moreover, audit reports can be obtained through the process of free access to information (within 15 days as prescribed by the Law on Free Access to Information). Finally, SAI submits reports to the Parliament once a year that are available at SAI's website.

**References:**

Annual Report on the Work of State Audit Institution, 2010, available at: <http://www.dri.rs/images/pdf/gi2010.pdf>, accessed 28 August 2011.

Annual Report on the Work of State Audit Institution, 2009, available at: <http://www.dri.rs/images/pdf/gi2009.pdf>, accessed 28 August 2011.

Audit Report on Annual Financial Report of the Ministry of Finance, available at: <http://www.dri.rs/images/pdf/revizija/izvestaj2009-2.pdf>, accessed 28 August 2011.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

**100:** The agency makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

**75:**

**50:** The agency makes publicly available reports to the legislature and/or to the public directly that are sometimes delayed or incomplete.

**25:**

**0:** The agency makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

59g. In practice, the government acts on the findings of the audit agency.

100 | 75 | 50 | **25** | 0

**Comments:**

Action of the government on the reports of the State Audit Institution are incomplete since audit reports do not provoke any policy changes. For instance, state auditor reports on misconduct of certain ministries ended up with misdemeanor charges against them, but the real effect of the charges on the systematic level is insignificant. Also, the status of the charges is not known to the public yet.

**References:**

Political Parties Much Stronger than the Parliament and the State Auditor (Partije neuporedivo jace od Skupstine i revizora), Blic, 17 June 2010, available at: <http://www.blic.rs/Vesti/Tema-Dana/194264/Partije-neuporedivo-jace-od-Skupstine-i-revizora>, accessed 9 September 2011

Verica Barac, President of the Anti-Corruption Council, interview held on 7 September 2011, Belgrade, Serbia.

Ministries: We are not Responsible for Misconducts, B92, 9 February 2011, available at: [http://www.b92.net/biz/vesti/srbija.php?yyyy=2011&mm=02&dd=09&nav\\_id=491727](http://www.b92.net/biz/vesti/srbija.php?yyyy=2011&mm=02&dd=09&nav_id=491727), accessed 9 September 2011

Possible Charges for Dragin, Obradovic, Ljajic and Mrkonjic, Politika, 10 February 2011, available at: <http://www.politika.rs/rubrike/tema-dana/Moguće-kazne-za-Dragina-Ljajica-Obradovica-i-Mrkonjica-po-milijon-dinara.lt.html>, accessed 9 September 2011.

Spending State Budget is not Equal to Wrong Car Parking, Politika, 23 February 2010, available at: <http://www.politika.rs/rubrike/Ekonomija/Archenje-budzeta-nije-shto-i-pogreshno-parkiranje.lt.html>, accessed 9 September 2011.

**100:** Audit agency reports are taken seriously, with negative findings drawing prompt corrective action.

**75:**

**50:** In most cases, audit agency reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

**25:**

**0:** Audit reports are often ignored, or given superficial attention. Audit reports do not lead to policy changes.

59h. In practice, the audit agency is able to initiate its own investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

During 2010 and 2011, the State Audit Institution initiated audits in several public enterprises. Audit reports are available at the SAI's website: <http://www.dri.rs/revizije-o-reviziji/obavljene-revizije/29.html>

However, SAI is not specifically charged to investigate misbehavior but to report identified or suspected misbehaviour.

**References:**

Verica Barac, President of the Anti-Corruption Council, interview held on 7 September 2011, Belgrade, Serbia.

Annual Report on the Work of State Audit Institution, 2010, available at: <http://www.dri.rs/images/pdf/gi2010.pdf>, accessed 28 August 2011

Rules of Procedure of State Audit Institution, Official Gazette, No. 9/2009, available at: [http://www.dri.rs/images/pdf/eng/RULES\\_OF\\_PROCEDURE.pdf](http://www.dri.rs/images/pdf/eng/RULES_OF_PROCEDURE.pdf), accessed 9 September 2011.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

Serbia 2010 Progress Report, accompanying communication from the Commission to the European Parliament and the Council, Enlargement Strategy and Main Challenges 2010-2011, Brussels, November 2010, available at: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2010/package/sr\\_rapport\\_2010\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/sr_rapport_2010_en.pdf), accessed 8 September 2011.

Ministries: We are not Responsible for Misconducts, B92, 9 February 2011, available at: [http://www.b92.net/biz/vesti/srbija.php?yyyy=2011&mm=02&dd=09&nav\\_id=491727](http://www.b92.net/biz/vesti/srbija.php?yyyy=2011&mm=02&dd=09&nav_id=491727), accessed 9 September 2011.

**100:** The supreme audit institution can control the timing and pace of its investigations without any input from the executive or legislature.

**75:**

**50:** The supreme audit institution can generally decide what to investigate, and when, but is subject to pressure from the executive or legislature on politically sensitive issues.

**25:**

**0:** The supreme audit institution must rely on approval from the executive or legislature before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

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## 60. Can citizens access reports of the supreme audit institution?

50

60a. In law, citizens can access reports of the audit agency.

Yes | No

**Comments:**

Reports on the work of the State Audit Institution are public and are available at the institution's website. However, as stipulated by the law, not all audit data are available for the public.

Article 42 of the Law on State Audit Institution stipulates that:  
"Council members, employed in the Institution and the engaged external experts shall keep all data and documents that they obtain as evidence during auditing and which are labeled as confidential or secret, in accordance with the law. Such data shall be deemed official secrets and may be used only during the report drafting.

An exception exists such that the data ... may be removed from public availability, pursuant to the order of the competent court and in accordance with the law. The data and documents labeled as confidential or secret shall be kept by the institution in a

secure place, in accordance with the Rules of Procedure. The facts and findings representing business secrets shall be omitted by the Institution's report on realized auditing, which is accessible to public."

**References:**

The Law on State Audit Institution, Official Gazette of the Republic of Serbia, No. 101/2005, 54/2007 and 36/2010, Article 42. Available at: <http://www.dri.rs/dokumenti/eticki-kodeks.html>, accessed 6 August 2011.

**Yes:** A YES score is earned if all supreme auditor reports are available to the general public.

**No:** A NO score is earned if any auditor reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute.

60b. In practice, citizens can access audit reports within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Reports that are public are available online at the website of the State Audit Institution. For instance, the latest two audit reports have been finalized at the beginning of October 2011 and were available shortly thereafter online at: <http://www.dri.rs/lat/revizije-o-reviziji/poslednji-revizorski-izvesta.html>. However, in the past a couple of months were needed before reports were posted online.

**References:**

Annual Report on the Work of State Audit Institution, 2010, available at: <http://www.dri.rs/images/pdf/gj2010.pdf>, accessed 28 August 2011.

Annual Report on the Work of State Audit Institution, 2009, available at: <http://www.dri.rs/images/pdf/gj2009.pdf>, accessed 28 August 2011.

Audit Report on Financial Records of the Public Enterprise for Coal Exploitation Resavica, available at: <http://www.dri.rs/images/pdf/revizija/izvestaj-resavica-2010.pdf>, accessed 13 November 2011.

Audit Report on Annual Financial Report of the Ministry of Finance, available at: <http://www.dri.rs/images/pdf/revizija/izvestaj2009-2.pdf>, accessed 28 August 2011.

**100:** Reports are available on-line, or records can be obtained within two days. Reports are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Reports take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Reports take more than a month to acquire. In some cases, most reports may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

60c. In practice, citizens can access the audit reports at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Reports that are public are available online at the website of the SAI.

**References:**

Annual Report on the Work of State Audit Institution, 2010, available at: <http://www.dri.rs/images/pdf/gj2010.pdf>, accessed 28

August 2011.

Annual Report on the Work of State Audit Institution, 2009, available at: <http://www.dri.rs/images/pdf/gj2009.pdf>, accessed 28 August 2011.

Audit Report on Annual Financial Report of the Ministry of Finance, available at: <http://www.dri.rs/images/pdf/revizija/izvestaj2009-2.pdf>, accessed 28 August 2011.

**100:** Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Reports impose a financial burden on citizens, journalists or NGOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving reports imposes a major financial burden on citizens. Report costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

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## 69 5.3. Taxes and Customs: Fairness and Capacity

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61. In law, is there a national tax collection agency?

100

61a. In law, is there a national tax collection agency?

**Yes** | No

**Comments:**

Yes, it's the Tax Administration (Poreska uprava) at <http://www.poreskauprava.gov.rs/>

**References:**

Law on Tax Procedure and Tax Administration, Official Gazette of RS, No. 80/02, 70/03, 55/04, 61/05, 20/09.

**Yes:** A YES score is earned if there is a national agency formally mandated to collect taxes.

**No:** A NO score is earned if that function is spread over several agencies, or does not exist. A NO score is earned if national government ministries can collect taxes independently.

---

62. Is the tax collection agency effective?

75

62a. In practice, the tax collection agency has a professional, full-time staff.

**Comments:**

The Tax Administration agency improved its capacities in 2010 and the first half of 2011, however, further progress is required in this respect in order to fully comply with European Union and international standards.

**References:**

Miroslava Milenovic, fraud examiner, Office Milenovic, Belgrade, Serbia, interview held on 17 August 2011, Belgrade, Serbia.

Serbia Country Profile, Tax Administration, Business Anti-Corruption Portal, available at: <http://www.business-anti-corruption.com/country-profiles/europe-central-asia/serbia/corruption-levels/tax-administration/>, accessed 17 August 2011.

EU Commission Serbia 2010 Progress Report, accompanying the communication from the Commission to the European Parliament and the Council, Enlargement Strategy and Main Challenges 2010-2011, page 33. Available at: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2010/package/sr\\_rapport\\_2010\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/sr_rapport_2010_en.pdf), accessed 17 August 2011.

**100:** The agency has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

62b. In practice, the tax agency receives regular funding.

**Comments:**

In 2010 and 2011, the Tax Administration agency received regular funds from the state budget and had a positive balance in 2010 and in the first two trimesters of 2011.

**References:**

Information Book on Work of Tax Administration Agency 2010 (Informator o radu Poreske uprave za 2010), available at: <http://www.poreskauprava.gov.rs/>, accessed 1 September 2011.

Law on the Budget of the Republic of Serbia 2011, available at: <http://www.mfin.gov.rs/pages/article.php?id=7521>, accessed 30 August 2011

**100:** The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

---

63. In practice, are tax laws enforced uniformly and without discrimination?

63a. In practice, are tax laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

**Comments:**

In practice, there are some groups that tend to evade paying taxes in Serbia. For instance, employers usually evade paying obligatory salary contributions for their employees such as pension contributions. According to media reports, some taxpayers have over 100,000 euro duties. The Tax Administration, according to media reports, does not have the answer on how one can evade to pay taxes in order to reach such a debt. Also, according to the same sources, the newest research results of the Employers Union of Serbia shows that only 26 percent of enterprises regularly pay taxes in Serbia. The main reasons for tax-paying delays are increases in taxes and the economic crisis in general.

**References:**

Miroslava Milenovic, fraud examiner, Office Milenovic, Belgrade, Serbia, interview held on 17 August 2011, Belgrade, Serbia.

Info Uvra, Bulletin of the Accounting Agency Union, January, February, March 2011, No. 1, available at: <http://www.uvra.net/bilten/1/InfoUvra.pdf>, accessed 18 August 2011.

Tax Avoiding is Cost-effective? (Izbegavanje poreza se isplati), Daily Politika, M. Avakumovic, A. Nikolic, 10 December 2010, available at: <http://www.politika.rs/rubrike/Ekonomija/Izbegavanje-poreza-se-isplati.lt.html>, accessed 13 November 2011.

No Secret for the Biggest Debtors (Najveci duznici bez tajne), Daily Politika, J. Petrovic, 8 October 2011, available at: <http://www.politika.rs/rubrike/Ekonomija/Najveci-duznici-bez-tajne.lt.html>, accessed 13 November 2011.

Pension Fund Warns Employees (Penzijski fond opominje poslodavce), Daily Politika, J. Petrovic, 10 October 2011, available at: <http://www.politika.rs/rubrike/Ekonomija/Penzijski-fond-opominje-poslodavce.lt.html>, accessed 13 November 2011.

**100:** Tax laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade tax law than another.

**75:**

**50:** Tax laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade tax law. Some arbitrary and discriminatory tax rules exist.

**25:**

**0:** Tax law is unequally applied. Some groups of citizens are consistently more or less likely to evade tax law than others. Tax regulations are, as a rule, written to be discriminatory and/or arbitrary.

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64. In law, is there a national customs and excise agency?

100

64a. In law, is there a national customs and excise agency?

Yes | No

**Comments:**

Article 5, Paragraph 3, of the Law on Customs stipulates that: "Customs authority shall mean the Customs Administration of the Republic of Serbia, any of its organizational units responsible for implementation of customs and other regulations and any authorized officer of the Customs Administration."

The Customs Law has been in effect since May 3, 2010. Although it is a positive step, elaboration through bylaws, and proper application and interpretation is a much more important and demanding task for the Serbian Customs Administration. Therefore, it remains to be seen how they will tackle this.

**References:**

Law on Customs, Official Gazette of RS, No. 18/2010,

**Yes:** A YES score is earned if there is an agency formally mandated to collect excises and inspect customs.

**No:** A NO score is earned if that function is spread over several agencies, or does not exist.

## 65. Is the customs and excise agency effective?

88

65a. In practice, the customs and excise agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

### Comments:

According to the European Union's 2010 Serbia Progress Report, the Serbian customs administration further progressed in its professionalization of staff.

### References:

Miroslava Milenovic, fraud examiner, Office Milenovic, Belgrade, Serbia, interview held on 17 August 2011, Belgrade, Serbia.

EU Commission Serbia 2010 Progress Report, accompanying the communication from the Commission to the European Parliament and the Council, Enlargement Strategy and Main Challenges 2010-2011, page 32 and 33. Available at: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2010/package/sr\\_rapport\\_2010\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/sr_rapport_2010_en.pdf), accessed 17 August 2011

**100:** The agency has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

65b. In practice, the customs and excise agency receives regular funding.

100 | 75 | 50 | 25 | 0

### Comments:

In practice, the customs administration received regular funding during 2010 and the first half of 2011.

### References:

Class with the Head Down (Klasa pognute glave), Novosti, 30 April 2011, available at: <http://www.novosti.rs/vesti/naslovn/aktuelno.290.html:328889-Klasa-pognute-glave>, accessed 11 November 2011.

Information Book on Work of the Customs Agency 2010 (Informator o radu Uprave carina, 2010) available at: <http://www.carina.rs/cyr/Informacije/Stranice/Informator.aspx>, accessed 1 September 2011

**100:** The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

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## 66. In practice, are customs and excise laws enforced uniformly and without discrimination?

75

66a. In practice, are customs and excise laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

### Comments:

According to the Republic of Serbia: Report on Observance of Standards and Codes — Fiscal Transparency Module “... Efforts have been made to limit the room for discretion of tax and customs officials and to ensure the appropriate application of tax laws. Measures include organizing the administrations along functional lines, which has established an arms-length relationship between officials and taxpayers. In addition, taxpayers have access to administrative appeal procedures and telephone hotlines for complaints and reporting of corruption and fraud. The tax and customs administrations have internal control and audit units, but their activities are not well defined and lack coordination with the Ministry of Finance’s Budget Inspection and Audit Department. Corruption in tax and customs administration remains of concern to businesses, and there is mixed evidence on whether the situation is improving in practice.”

### References:

Foreign Investors Council White Book, page 82, available at: <http://www.fic.org.rs/admin/download/files/cms/attach?id=218>, accessed 18 August 2011.

Miroslava Milenovic, fraud examiner, Office Milenovic, Belgrade, Serbia, interview held on 17 August 2011, Belgrade, Serbia.

**100:** Customs and excise laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade customs than another.

**75:**

**50:** Customs and excise laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade customs requirements.

**25:**

**0:** Customs and excise laws are unequally applied. Some groups of citizens are consistently more or less likely to evade customs and excise laws than others.

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## 5.4. Oversight of State-Owned Enterprises

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### 67. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

100

67a. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

Yes | No

**Comments:**

The work of public enterprises is controlled internally and externally. Internal control is performed by an Oversight Board, while external control is performed by independent agencies such as the State Audit Institution and Anti-Corruption Agency, but predominately by the government and ministries.

Oversight boards are also appointed by the government and are predominantly in charge of the legality of operations within a particular state-owned enterprise; moreover, they present a report to the government.

**References:**

Internal control of state-owned companies is defined by the Law on Public Enterprises and Activities of General Interest, Official Gazette of RS, No. 25/2000, 25/2002, 107/2005, 108/2005 and 123/2007, Article 16b. Available at: <http://www.podaci.net/z1/8122806/Z-jpodoi03v0025-05A7.html>, accessed 1 September 2011.

External control over the Public Enterprises: Law on State Audit Institution, Official Gazette, Article 10. Available at: <http://www.osce.org/serbia/35101>, accessed 1 September 2011.

The Law on Anti-Corruption Agency, Official Gazette of the RS, No. 97/2008 and 53/2010, available at: <http://acas.rs/en/zakoni-i-drugi-propisi/the-mayor/law-on-agency.html>, accessed 1 September 2011.

Curbing the Politicization of Public Enterprises in Serbia, Centre for Applied European Studies, Belgrade, available at: [http://igi.osi.hu/cimg/0/1/3/0/1/Curbing\\_the\\_Politicization\\_of\\_Public\\_Enterprises\\_ENG.pdf](http://igi.osi.hu/cimg/0/1/3/0/1/Curbing_the_Politicization_of_Public_Enterprises_ENG.pdf)

**Yes:** A YES score is earned if there is an agency, series of agencies, or equivalent mechanism tasked with overseeing the conduct and performance of state-owned companies on behalf of the public. A YES score can be earned if several government agencies or ministries oversee different state-owned enterprises. State-owned companies are defined as companies owned in whole or in part by the government.

**No:** A NO score is earned if this function does not exist, or if some state-owned companies are free from government oversight.

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## 68. Is the agency, series of agencies, or equivalent mechanism overseeing state-owned companies effective?

60

68a. In law, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies is protected from political interference.

Yes | No

**Comments:**

The Supervisory Boards, which maintain Internal control of state-owned enterprises, are not protected from political interference by law. The senior managing structure of the public enterprises is appointed by the government, thus there is evident political interference on the work of the state-owned enterprises.

However, the State Audit Institution, which maintains external control (performed by SAI) is protected from political interference. Political independence in the work of SAI is stipulated by the Law on State Audit Institution, Official Gazette of RS, No. 101/2005, 54/2007 and 36/2010, Article 3, Paragraph 2, which states: "The institution is an autonomous and independent state body."

**References:**

Law on Public Enterprises and Activities of General Interest, Official Gazette of RS, No. 25/2000, 25/2002, 107/2005, 108/2005 and 123/2007.

Law on State Audit Institution, Official Gazette of RS, No. 101/2005, 54/2007 and 36/2010, Article 3, available at: <http://www.dri.rs/en/dokumenti.html>.

Curbing the Politicization of Public Enterprises in Serbia, Centre for Applied European Studies, Belgrade, available at: [http://igi.osi.hu/cimg/0/1/3/0/1/Curbing\\_the\\_Politicization\\_of\\_Public\\_Enterprises\\_ENG.pdf](http://igi.osi.hu/cimg/0/1/3/0/1/Curbing_the_Politicization_of_Public_Enterprises_ENG.pdf)

**Yes:** A YES score is earned only if the agency, series of agencies, or equivalent mechanism has some formal operational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

**No:** A NO score is earned if the agency, series of agencies, or equivalent mechanism is a subordinate part of any government ministry or agency.

68b. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

The audit of state-owned enterprises is performed internally by the staff of the enterprise in question or externally by State Audit Institution (SAI) or Anti-Corruption Agency. As for internal audits, the staff that performs the audits is appointed by the government. They are not full-time employees. The external control agencies (e.g. SAI) have their own full-time staff that are employed to perform audits over a number of enterprises. However, SAI is understaffed with only 71 staff (of 159 as outlined by SAI's Systematization Act).

The government of Serbia has announced recently that it will establish a commission that will be mandated to perform overall control over state-owned enterprises.

**References:**

Miroslava Milenovic, fraud examiner, Office Milenovic, Belgrade, Serbia, interview held on 17 August 2011, Belgrade, Serbia.

Fight for Liberation of Public Enterprises (Borba za oslobodjanje javnih preduzeca) available at: <http://www.novimagazin.rs/ekonomija/borba-za-oslobodjenje-javnih-preduzeca>, accessed 20 August 2011.

Verica Barac, President of the Anti-Corruption Council, Interview held on 7 September 2011, Belgrade, Serbia.

SAI's 2010 Report. <http://www.dri.rs/images/pdf/gj2010.pdf>

Curbing the Politicization of Public Enterprises in Serbia, Centre for Applied European Studies, Belgrade, available at: [http://igi.osi.hu/cimg/0/1/3/0/1/Curbing\\_the\\_Politicization\\_of\\_Public\\_Enterprises\\_ENG.pdf](http://igi.osi.hu/cimg/0/1/3/0/1/Curbing_the_Politicization_of_Public_Enterprises_ENG.pdf)

**100:** The agency, series of agencies, or equivalent mechanism has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency, series of agencies, or equivalent mechanism has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency, series of agencies, or equivalent mechanism has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

68c. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

Internal control mechanisms of state-owned companies are funded from the company's budget, while independent agencies receive regular funding from the state budget. SAI, as the external control institution that oversees the work of state-owned enterprises, receives regular funding from the state budget.

**References:**

Miroslava Milenovic, fraud examiner, Office Milenovic, Belgrade, Serbia, interview held on 17 August 2011, Belgrade, Serbia.

**100:** The agency, series of agencies, or equivalent mechanism has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency, series of agencies, or equivalent mechanism has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

68d. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies independently initiates investigations.

100 | 75 | 50 | **25** | 0

**Comments:**

There is an evident lack of systematic control of and investigation initiation within state-owned enterprises. Likewise, external control is also non-systematic and rather minimal. The State Audit Institution audits financial reports of the public enterprises; however it has no capacity to control all public enterprises. In addition, investigations are not initiated since none of the bodies that oversee the work of state-owned enterprises do not have the mandate to investigate but to control.

However, the Commission for the Control of the Work and Results of the Work of State-owned Enterprises as a centralized body within the Ministry of Finance has been recently established but the results of the commission's work are not known to the public yet.

**References:**

Miroslava Milenovic, fraud examiner, Office Milenovic, Belgrade, Serbia, interview held on 17 August 2011, Belgrade, Serbia.

Nenadic: Abolition of Steering Boards will not Lead to Effective Control of State-owned Enterprises (Nenadic: Ukidanje UO ne vodi efikasnoj kontroli preduzeca), Press Online, 14 August 2011, available at: [http://pressonline.rs/sr/vesti/vesti\\_dana/story/171835/Nenadic%3AUkidanje+UO+ne+vodi+efikasnijoj+kontroli+preduzeća.html](http://pressonline.rs/sr/vesti/vesti_dana/story/171835/Nenadic%3AUkidanje+UO+ne+vodi+efikasnijoj+kontroli+preduzeća.html), accessed 1 September 2011.

With or Without Steering Boards, enterprises are inefficace (Sa ili bez Upravnih odbora, preduzeca neefikasna), B92, 14 August 2011, available at: [http://www.b92.net/biz/vesti/srbija.php?yyyy=2011&mm=08&dd=14&nav\\_id=531812](http://www.b92.net/biz/vesti/srbija.php?yyyy=2011&mm=08&dd=14&nav_id=531812), accessed 1 September 2011

State-owned Enterprises will be Better Controlled (Uvodimo red u javna preduzeca), B92, 9 September 2011, available at: [http://www.b92.net/biz/vesti/srbija.php?yyyy=2011&mm=09&dd=09&nav\\_id=540820](http://www.b92.net/biz/vesti/srbija.php?yyyy=2011&mm=09&dd=09&nav_id=540820), accessed 15 September 2011.

**100:** When irregularities are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in investigating and/or in cooperating with other investigative bodies.

**75:**

**50:** The agency, series of agencies, or equivalent mechanism starts investigations, but is limited in its effectiveness or in its cooperation with other investigative agencies. The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency, series of agencies, or equivalent mechanism does not effectively investigate financial irregularities or cooperate with other investigative agencies. The agency, series of agencies, or equivalent mechanism may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

68e. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies imposes penalties on offenders.

**Comments:**

The State Audit Institution performed control over financial reports of several state-owned enterprises in 2010 and 2011 and has initiated in a few cases criminal and misdemeanor proceedings in front of the relevant courts.

**References:**

Annual Report of the State Audit Institution 2010, available at: <http://www.dri.rs/images/pdf/gi2010.pdf>, accessed 1 September 2011.

The Last Audit Report, State Audit Institution, available at: <http://www.dri.rs/dokumenti/51.html>, accessed 1 September 2011.

Curbing the Politicization of Public Enterprises in Serbia, Centre for Applied European Studies, Belgrade, available at: [http://gji.osi.hu/cimg/0/1/3/0/1/Curbing\\_the\\_Politicization\\_of\\_Public\\_Enterprises\\_ENG.pdf](http://gji.osi.hu/cimg/0/1/3/0/1/Curbing_the_Politicization_of_Public_Enterprises_ENG.pdf), accessed 1 September 2011

State-owned Enterprises will be Better Controlled (Uvodimo red u javna preduzeca), B92, 9 September 2011, available at: [http://www.b92.net/biz/vesti/srbija.php?yyyy=2011&mm=09&dd=09&nav\\_id=540820](http://www.b92.net/biz/vesti/srbija.php?yyyy=2011&mm=09&dd=09&nav_id=540820), accessed 15 September 2011.

**100:** When rules violations are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in penalizing offenders and/or in cooperating with other agencies that impose penalties.

**75:**

**50:** The agency, series of agencies, or equivalent mechanism enforces rules, but is limited in its effectiveness or reluctant to cooperate with other agencies. The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency, series of agencies, or equivalent mechanism does not effectively penalize offenders or refuses to cooperate with other agencies that enforce penalties. The agency, series of agencies, or equivalent mechanism may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency, series of agencies, or equivalent mechanism may be partisan in its application of power.

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## 69. Can citizens access the financial records of state-owned companies?

60

69a. In law, citizens can access the financial records of state-owned companies.

Yes | No

**Comments:**

Citizen can access financial records of state-owned enterprises through the Serbian Business Register Agency at the agency's website: <http://www.apr.gov.rs/eng/Home.aspx>

Article 33 of the Law on Accounting stipulates, "The agency shall process and publish data from the received financial statements."

**References:**

Law on Accounting, Official Gazette of RS, No. 46/2006,

Article 33. Available at: [armicpartners.com/doc/LAW-ON-ACCOUNTING-AND-AUDITING.docx](http://armicpartners.com/doc/LAW-ON-ACCOUNTING-AND-AUDITING.docx), accessed 17 August 2011.

**Yes:** A YES score is earned if the financial information of all state-owned companies is required by law to be public. State-owned companies are defined as companies owned in whole or in part by the government.

**No:** A NO score is earned if any category of state-owned company is exempt from this rule, or no such rules exist.

69b. In practice, the financial records of state-owned companies are regularly updated.

100 | 75 | 50 | 25 | 0

**Comments:**

There is evident selection of the financial reports that state enterprises publish at their websites. Usually if the enterprise makes a positive financial year the financial report will be published and released to the public, however if there was a negative financial balance the reports are usually not published.

**References:**

Miodrag Cvorovic, journalist and producer, "Insajder" documentary, B92 TV, interview held on 30 August 2011, Belgrade, Serbia.

Public Enterprises Skip Auditing (Javna preduzeca beze od stroge revizije), Danas, 24 April 2010, available at: [http://www.danas.rs/danasrs/ekonomija/javna\\_preduzeca\\_beze\\_od\\_stroge\\_revizije.4.html?news\\_id=188710](http://www.danas.rs/danasrs/ekonomija/javna_preduzeca_beze_od_stroge_revizije.4.html?news_id=188710), accessed 1 September 2011.

Access to Information about Privatization of Big State-owned Enterprises, Nemanja Nenadic, Transparency Serbia, available at: [http://www.transparentnost.org.rs/aktivnosti/monitoring\\_fh/materijali/javna%20preduzeca.doc](http://www.transparentnost.org.rs/aktivnosti/monitoring_fh/materijali/javna%20preduzeca.doc), accessed 1 September 2011.

**100:** State-owned companies always publicly disclose financial data, which is generally accurate and up to date.

**75:**

**50:** State-owned companies disclose financial data, but it is flawed. Some companies may misstate financial data, file the information behind schedule, or not publicly disclose certain data.

**25:**

**0:** Financial data is not publicly available, or is consistently superficial or otherwise of no value.

69c. In practice, the financial records of state-owned companies are audited according to international accounting standards.

100 | 75 | 50 | 25 | 0

**Comments:**

Some enterprises disclose comprehensive audit reports made according to international auditing standards, while others have overgeneralized audit reports that are not fully in line with international accounting standards.

For instance, Serbian Railways' latest audit report that is available for the public is from 2008. The audit report was made by independent auditor on one page and is overly general and not in line with international accounting standards. For more details please refer to [http://zeleznicesrbije.com/active/sr-latin/home/glavna\\_navigacija/o\\_preduzecu/bilansi\\_i\\_izvestaj\\_revizora.html](http://zeleznicesrbije.com/active/sr-latin/home/glavna_navigacija/o_preduzecu/bilansi_i_izvestaj_revizora.html).

In addition, public enterprise "Putevi Srbije" (Roads of Serbia) did not make public their 2010 financial report nor their audit report. (for more details please refer to <http://www.putevi-srbije.rs/finansijski-izvetaj>).

On the other hand, audits of the financial reports of the state-owned enterprises done by the State Audit Institution are in line with international accounting standards and of high quality. The SAI's audit report may be found at: <http://www.dri.rs/cir/revizije-organizacijiposlednji-revizorski-izvesta.html>.

**References:**

Miroslava Milenovic, fraud examiner, Office Milenovic, Belgrade, Serbia, interview held on 17 August 2011, Belgrade, Serbia.

Miodrag Cvorovic, journalist and producer, "Insajder" documentary, B92 TV, interview held on 30 August 2011, Belgrade, Serbia.

Public Enterprises Skip Auditing (Javna preduzeca beze od stroge revizije), Danas, 24 April 2010, available at: [http://www.danas.rs/danasrs/ekonomija/javna\\_preduzeca\\_beze\\_od\\_stroge\\_revizije.4.html?news\\_id=188710](http://www.danas.rs/danasrs/ekonomija/javna_preduzeca_beze_od_stroge_revizije.4.html?news_id=188710), accessed 1 September 2011.

**100:** Financial records of all state-owned companies are regularly audited by a trained third party auditor using accepted international standards.

**75:**

**50:** Financial records of state-owned companies are regularly audited, but exceptions may exist. Some companies may use flawed or deceptive accounting procedures, or some companies may be exempted from this requirement.

**25:**

**0:** State-owned companies are not audited, or the audits have no functional value. The auditors may collude with the companies in providing misleading or false information to the public.

69d. In practice, citizens can access the financial records of state-owned companies within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Some state-owned companies publish their annual financial reports on their websites while others do not. However, citizens can request information on financial reports of state-owned enterprises at the National Bank of Serbia.

**References:**

Miroslava Milenovic, fraud examiner, Office Milenovic, Belgrade, Serbia, interview held on 17 August 2011, Belgrade, Serbia.

Miodrag Cvorovic, journalist and producer, "Insajder" documentary, B92 TV, interview held on 30 August 2011, Belgrade, Serbia.

Curbing the Politicization of Public Enterprises in Serbia, Centre for Applied European Studies, Belgrade, available at: [http://lgi.osi.hu/cimg/0/1/3/0/1/Curbing\\_the\\_Politicization\\_of\\_Public\\_Enterprises\\_ENG.pdf](http://lgi.osi.hu/cimg/0/1/3/0/1/Curbing_the_Politicization_of_Public_Enterprises_ENG.pdf), accessed 1 September 2011

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

69e. In practice, citizens can access the financial records of state-owned companies at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

According to Curbing the Politicization of Public Enterprises in Serbia, published by the Centre for Applied European Studies, the Secretariat General of the Government "... charged approximately 200 euros for access to information regarding the four enterprises." This represents a significant financial burden to the citizens in Serbia. On the other hand, there are a number of publicly available financial records of the state-owned enterprises at their websites, which, therefore, does not represent any financial burden to the citizens.

**References:**

Miroslava Milenovic, fraud examiner, Office Milenovic, Belgrade, Serbia, interview held on 17 August 2011, Belgrade, Serbia.

Miodrag Cvorovic, journalist and producer, "Insajder documentary," B92 TV, interview held on 30 August 2011, Belgrade, Serbia.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

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## 73 5.5. Business Licensing and Regulation

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### 70. Are business licenses available to all citizens?

88

70a. In law, anyone may apply for a business license.

**Yes** | No

**Comments:**

Articles 82 to 85 of the Constitution of the Republic of Serbia govern. Article 84 is the most applicable: Everyone shall have equal legal status on the market. Thus, anyone can apply for a business license.

**References:**

Constitution of the Republic of Serbia Official Gazette of RS, No. 83/2006, Articles 82-85. Available at: <http://www.predsednik.rs/mwc/epic/doc/ConstitutionofSerbia.pdf>, accessed 20 August 2011.

World Bank's Doing Business Survey Serbia 2011, Making a Difference for Entrepreneurs, available at: <http://www.doingbusiness.org/~media/FPDKM/Doing%20Business/Documents/Profiles/Country/DB11/SRB.pdf>

**Yes:** A YES score is earned if no particular group or category of citizens is excluded from applying for a business license, when required. A YES score is also earned if basic business licenses are not required.

**No:** A NO score is earned if any group of citizens are categorically excluded from applying for a business license, when required.

70b. In law, a complaint mechanism exists if a business license request is denied.

**Yes** | No

**Comments:**

Every citizen has a right to appeal through the Serbian Business Registers Agency if their request to register a business entity is denied.

**References:**

Law on the Registration of Business Entities, Official Gazette of RS, No. 55/2004, 61/2005, Article 27. Available at: [http://www.siepa.gov.rs/files/pdf2010/ENG\\_Law\\_on\\_Registration\\_of\\_Business\\_Entities.pdf](http://www.siepa.gov.rs/files/pdf2010/ENG_Law_on_Registration_of_Business_Entities.pdf), accessed 20 August 2011

Law on Business Licensing Agency, Official Gazette of RS, No. 55/2004 and 111/2009, available at: <http://www.apr.gov.rs/eng/LawsandByLaws.aspx>, accessed 20 August 2011.

The World Bank's Doing Business Survey Serbia 2011 Making a Difference for Entrepreneurs, available at: <http://www.doingbusiness.org/~media/FPDKM/Doing%20Business/Documents/Profiles/Country/DB11/SRB.pdf>

**Yes:** A YES score is earned if there is a formal process for appealing a rejected license.

**No:** A NO score is earned if no such mechanism exists.

70c. In practice, citizens can obtain any necessary business license (i.e. for a small import business) within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the Doing Business 2011 Report on Serbia, business registration takes 13 days. However, there are some indications that that period will be decreased to five days.

**References:**

Miroslava Milenovic, fraud examiner, Office Milenovic, Belgrade, Serbia, interview held on 17 August 2011, Belgrade, Serbia.

Doing Business 2011, Serbia, Making a Difference for Entrepreneurs, 2011 The International Bank for Reconstruction and Development / The World Bank available at: <http://www.doingbusiness.org/~media/FPDKM/Doing%20Business/Documents/Profiles/Country/DB11/SRB.pdf>, accessed 2 September 2011

**100:** Licenses are not required, or licenses can be obtained within roughly one week.

**75:**

**50:** Licensing is required and takes around one month. Some groups may be delayed up to a three months

**25:**

**0:** Licensing takes more than three months for most groups. Some groups may wait six months to one year to get necessary licenses.

70d. In practice, citizens can obtain any necessary business license (i.e. for a small import business) at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The cost of registration for a business is 7.9 percent of income per capita. This percentage is lower than the average for Eastern Europe & Central Asia (8.3%), yet higher than the average for OECD countries (4.7%).

**References:**

Miroslava Milenovic, financial forenzic, office Milenovic, Belgrade, Serbia, interview held on 17 August 2011, Belgrade, Serbia.

Doing Business 2011, Serbia, Making a Difference for Entrepreneurs, 2011 The International Bank for Reconstruction and Development / The World Bank available at: <http://www.doingbusiness.org/~media/FPDKM/Doing%20Business/Documents/Profiles/Country/DB11/SRB.pdf>, accessed 2 September 2011

**100:** Licenses are not required, or licenses are free. Licenses can be obtained at little cost to the organization, such as by mail, or on-line.

**75:**

**50:** Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

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## 71. Are there transparent business regulatory requirements for basic health, environmental, and safety standards?

100

71a. In law, basic business regulatory requirements for meeting public health standards are transparent and publicly available.

Yes | No

### Comments:

Article 60 of the Law on Workplace Safety and Health stipulates that:

“The Management shall carry out the activities as follows:

- 1) Prepare regulations in the field of safety and health at work, as well as opinions concerning its application.
- 2) Prepare professional basis for the design of national development program concerning safety and health at work and follow up its realization.
- 3) Follow up and evaluate condition of safety and health at work and prepare views for uniform governing safework and health health related measures subject to this Law and other regulations.
- 4) Carry out research and encourage development in the field of labor humanization.
- 5) Provide professional assistance in the field of safety and health of employees.
- 6) Prepare methodologies for carrying out of examinations and testing in the field of safety and health at work.
- 7) Study causes and occurrences, the consequences of which are injuries at work, occupational diseases and work-related diseases.
- 8) Organize taking of professional exams ... and maintain the records thereof.
- 9) Supervise work validity of legal persons and entrepreneurs as well as the certified Person-in-charges and prepare recommendations for decisions concerning issuing and revoking of certificates ... and maintain the records thereof.
- 10) Collect and analyze data on injuries at work, occupational diseases, work-related diseases and occurrences that affect employees' health.
- 11) Carry out information and documentation related activities in the field of safety and health of employees.
- 12) Organize counseling, carry out training for employees, employer, persons for safety and health at work, inspectors etc, publish various materials and inform the public about the condition in the field of safety and health at work.
- 13) Ensure implementation of international acts in the field of safety and health at work.
- 14) Encourage education and development of the work culture in the field of safety and health at work.
- 15) Carry out other activities laid down by the Law.”

### References:

The Law on Public Health, Official Gazette of RS, No. 72/2009, available at: <http://www.zakoni.rs/zakon-o-javnom-zdravlju.pdf>, accessed 2 September 2011.

Law on Workplace Safety and Health, Official Gazette of RS, No.

Article 60. Available at: <http://www.minrzs.gov.rs/cms/en/occupational-safety-and-health>, accessed 2 September 2011.

**Yes:** A YES score is earned if basic regulatory requirements for meeting public health standards are publicly accessible and transparent.

**No:** A NO score is earned if such requirements are not made public or are otherwise not transparent.

71b. In law, basic business regulatory requirements for meeting public environmental standards are transparent and publicly available.

Yes | No

**Comments:**

Article 9 of the Law on Environmental Protection stipulates principles of environmental protection, including 1) Integration principle; 2) Principle of prevention and precautionary; 3) Principle of natural value preservation; 4) Principle of sustainable development; 5) Principle of polluters' and legal successors' liability; 6) Principle "polluter pays"; 7) Principle "user pays"; 8) Principle of subsidiary liability; 9) Principle of incentives; 10) Principle of public information and participation; 11) Principle of protection of right to healthy environment and access to justice.

**References:**

The Law on Environmental Protection, Official Gazette of RS, No. 135/2004 and 36/2009, Article 9. Available at: <http://www.putevi-srbije.rs/strategijapdf/zzseng.pdf>, accessed 2 September 2011.

**Yes:** A YES score is earned if basic regulatory requirements for meeting public environmental standards are publicly accessible and transparent.

**No:** A NO score is earned if such requirements are not made public or are otherwise not transparent.

71c. In law, basic business regulatory requirements for meeting public safety standards are transparent and publicly available.

Yes | No

**Comments:**

A number of articles within the Consumer Protection Law regulate public safety transparency and public availability issues.

**References:**

The Law on Consumer Protection, Official Gazette of RS, No. 73/2010, available at: [http://www.paragraf.rs/propisi/zakon\\_o\\_zastiti\\_potrosaca.html](http://www.paragraf.rs/propisi/zakon_o_zastiti_potrosaca.html), accessed 2 September 2011.

**Yes:** A YES score is earned if basic regulatory requirements for meeting public safety standards are publicly accessible and transparent.

**No:** A NO score is earned if such requirements are not made public or are otherwise not transparent.

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## 72. Does government effectively enforce basic health, environmental, and safety standards on businesses?

25

72a. In practice, business inspections by government officials to ensure public health standards are being met and are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

**Comments:**

The inspection sector in Serbia needs considerable reform. The inspections in majority of cases are not handled in a uniform and even-handed manner. Corruption in a inspection sector is common and control of inspectors is very weak.

According to Vida Dzagic, deputy president of the Serbian Chamber of Commerce, inspection regulations are generally not available to businesses, making them vulnerable to arbitrary interpretations by inspection bodies. At the same time, penalty provisions are so draconian that almost every inspection control can lead to fines that cannot be afforded by businesses. (For more information please refer to <http://serbia.usaid.gov/program-updates/latest-news-and-events/serbia.966.html>.)

**References:**

New Anti-Corruption Strategy will be Drafted, (Pravi se nova strategija za borbu protiv korupcije), Politika, 23 February 2011, available at: <http://www.politika.rs/rubrike/Hronika/Pravi-se-nova-strategija-za-borbu-protiv-korupcije.lt.htm>, accessed 13 September 2011.

Miroslava Milenovic, financial forensic, office Milenovic, Belgrade, Serbia, interview held on 17 August 2011, Belgrade, Serbia.

Efficiency of the Inspection Cannot be Estimated by the Amount of Penalties Prescribed (Obim naplacenih kazni nije merilo efikasnosti inspekcije), Dnevni list Danas, 11 November 2011, available at: [http://www.danas.rs/dodaci/biznis/obim\\_naplacenih\\_kazni\\_nije\\_merilo\\_efikasnosti\\_inspekcije.27.html?news\\_id=224446](http://www.danas.rs/dodaci/biznis/obim_naplacenih_kazni_nije_merilo_efikasnosti_inspekcije.27.html?news_id=224446), accessed 11 November 2011.

**100:** Business inspections by the government to ensure that public health standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

**75:**

**50:** Business inspections by the government to ensure public health standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

**25:**

**0:** Business inspections to ensure that public health standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

72b. In practice, business inspections by government officials to ensure public environmental standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | **25** | 0

**Comments:**

The inspection sector in Serbia needs considerable reform. The inspections in a majority of cases are not handled in a uniform and even-handed manner. Corruption in the inspection sector is common and control of inspectors is very weak.

According to Vida Dzagic, deputy president of the Serbian Chamber of Commerce, inspection regulations are generally not available to businesses, making them vulnerable to arbitrary interpretations by inspection bodies. At the same time, penalty provisions are so draconian that almost every inspection control can lead to fines that cannot be afforded by businesses. (For more information please refer to <http://serbia.usaid.gov/program-updates/latest-news-and-events/serbia.966.html>.)

**References:**

Miroslava Milenovic, fraud examiner, Office Milenovic, Belgrade, Serbia, interview held on 17 August 2011, Belgrade, Serbia.

New Anti-Corruption Strategy will be Drafted, (Pravi se nova strategija za borbu protiv korupcije), Politika, 23 February 2011, available at: <http://www.politika.rs/rubrike/Hronika/Pravi-se-nova-strategija-za-borbu-protiv-korupcije.lt.htm>, accessed 13 September 2011.

Information Booklet on the Work of the Ministry of Environment, Mining and Spatial Planning, p. 16 and 17, available at: <http://www.ekoplan.gov.rs/sr/Informator-o-radu-ministarstva-1055-c24-content.htm>, accessed 13 September 2011.

Efficiency of the Inspection Cannot be Estimated by the Amount of Penalties Prescribed (Obim naplacenih kazni nije merilo efikasnosti inspekcije), Dnevni list Danas, 11 November 2011, available at: [http://www.danas.rs/dodaci/biznis/obim\\_naplacenih\\_kazni\\_nije\\_merilo\\_efikasnosti\\_inspekcije.27.html?news\\_id=224446](http://www.danas.rs/dodaci/biznis/obim_naplacenih_kazni_nije_merilo_efikasnosti_inspekcije.27.html?news_id=224446), accessed 11 November 2011.

**100:** Business inspections by the government to ensure that public environmental standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

**75:**

**50:** Business inspections by the government to ensure public environmental standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

**25:**

**0:** Business inspections to ensure that public environmental standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

72c. In practice, business inspections by government officials to ensure public safety standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

**Comments:**

The inspection sector in Serbia needs considerable reform. The inspections in the majority of cases are not handled in a uniform and even-handed manner. Corruption in a inspection sector is common and control of inspectors is very weak.

According to Vida Dzagic, deputy president of the Serbian Chamber of Commerce, inspection regulations are generally not available to businesses, making them vulnerable to arbitrary interpretations by inspection bodies. At the same time, penalty provisions are so draconian that almost every inspection control can lead to fines that cannot be afforded by businesses. (For more information please refer to <http://serbia.usaid.gov/program-updates/latest-news-and-events/serbia.966.html>.)

**References:**

Miroslava Milenovic, fraud examiner, Office Milenovic, Belgrade, Serbia, interview held on 17 August 2011, Belgrade, Serbia.

New Anti-corruption Strategy will be Drafted, (Pravi se nova strategija za borbu protiv korupcije), Politika, 23 February 2011, available at: <http://www.politika.rs/rubrike/Hronika/Pravi-se-nova-strategija-za-borbu-protiv-korupcije.lt.htm>, accessed 13 September 2011.

Efficiency of the Inspection Cannot be Estimated by the Amount of Penalties Prescribed (Obim naplacenih kazni nije merilo efikasnosti inspekcije), Dnevni list Danas, 11 November 2011, available at: [http://www.danas.rs/dodaci/biznis/obim\\_naplacenih\\_kazni\\_nije\\_merilo\\_efikasnosti\\_inspekcije.27.html?news\\_id=224446](http://www.danas.rs/dodaci/biznis/obim_naplacenih_kazni_nije_merilo_efikasnosti_inspekcije.27.html?news_id=224446), accessed 11 November 2011.

**100:** Business inspections by the government to ensure that public safety standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

**75:**

**50:** Business inspections by the government to ensure public safety standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

**25:**

**0:** Business inspections to ensure that public safety standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

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Category 6. Anti-Corruption Legal Framework, Judicial Impartiality, and Law Enforcement Professionalism

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## 6.1. <sup>75</sup>Anti-Corruption Law

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73. Is there legislation criminalizing corruption?

100

73a. In law, attempted corruption is illegal.

Yes | No

**Comments:**

Article 367 of the Serbian Criminal Code stipulates the following:

(1) An official who solicits or accepts a gift or other benefit, or promise of a gift or other benefit for himself or another to perform an official act within his competence that should not be performed or not to perform an official act that should be performed, shall be punished by imprisonment of two to 12 years.

(2) An official who solicits or accepts a gift or other benefit or a promise of a gift or benefit for himself or another to perform an official act within his competence that he is obliged to perform or not to perform an official act that should not be performed, shall be punished by imprisonment of two to eight years.

(3) An official who commits the offense specified in paragraphs 1 and 2 of this Article in respect of uncovering of a criminal offense, instigating or conducting criminal proceedings, pronouncement or enforcement of criminal sanction, shall be punished by imprisonment of three to 15 years.

(4) An official who after performing or failure to perform an official act specified in paragraphs 1, 2 and 3 of this Article solicits or accepts a gift or other benefit in relation thereto, shall be punished by imprisonment of three months to three years.

(5) A foreign official who commits the offense specified in paragraphs 1 through 4 of this Article shall be punished by the penalty prescribed for that offense.

(6) A responsible officer in an enterprise, institution or other entity who commits the offense specified in paragraphs 1, 2 and 4 of this Article shall be punished with penalty prescribed for that offense.

(7) The received gift or material gain shall be seized."

**References:**

Criminal Code of the Republic of Serbia, Official Gazette of RS, No. 85/2005, 72/2009, Article 367. Available at: <http://www.osce.org/serbia/18244>, accessed 25 August 2011.

**Yes:** A YES score is earned if corruption laws include attempted acts.

**No:** A NO score is earned if this is not illegal.

73b. In law, extortion is illegal.

Yes | No

**Comments:**

Article 214 of the Criminal Code of the Republic of Serbia stipulates that:

(1) Whoever with intent to acquire unlawful property gain for himself or another, by force or threat causes another person to act to the prejudice of his or the property of another, shall be punished with imprisonment of one to eight years.

(2) If by the offense specified in paragraph 1 of this Article material gain exceeding 450,000 dinars is acquired, the offender shall be punished with imprisonment of two to 10 years.

(3) If by the offense specified in paragraph 1 of this Article material gain exceeding 1,500,000 dinars is acquired, the offender shall be punished with imprisonment of two to 12 years.

(4) Whoever engages habitually in offenses specified in paragraphs 1 to 3 of this Article, or if the offense is committed by an organized group, shall be punished with imprisonment of three to 15 years."

**References:**

Criminal Code of the Republic of Serbia, Official Gazette of RS, No. 85/2005, 72/2009, Article 214. Available at: <http://www.osce.org/serbia/18244>, accessed 25 August 2011.

**Yes:** A YES score is earned if corruption laws include extortion. Extortion is defined as demanding favorable treatment (such as a bribe) to withhold a punishment.

**No:** A NO score is earned if this is not illegal.

73c. In law, offering a bribe (i.e. active corruption) is illegal.

Yes | No

**Comments:**

Active bribery is criminalized in Article 368 of the Criminal Code, which establishes two forms of the offense: (1) bribery to induce an official to perform an act s/he should not perform or to omit to perform an act s/he should or could perform within the bounds of his/her official rights (i.e. unlawful acts or omissions); (2) bribery to induce an official to perform an act s/he should or could perform or to omit to perform an act s/he is not authorized in any case to perform (i.e. lawful official acts or omissions).

**References:**

Criminal Code of the Republic of Serbia, Official Gazette of RS, No. 85/2005, 72/2009, Article 368. Available at: <http://www.osce.org/serbia/18244>, accessed 25 August 2011.

Third Evaluation Round, Evaluation Report on the Republic of Serbia  
Incriminations (ETS 173 and 191, GPC 2), Adopted by GRECO  
at its 48th Plenary Meeting.  
2010. [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3\(2010\)3\\_Serbia\\_One\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2010)3_Serbia_One_EN.pdf)

**Yes:** A YES score is earned if offering a bribe is illegal.

**No:** A NO score is earned if this is not illegal.

73d. In law, receiving a bribe (i.e. passive corruption) is illegal.

Yes | No

**Comments:**

Criminalization of passive bribery is provided for under Article 367 of the Criminal Code.  
The relevant provisions differentiate three types of conduct: if the bribe has been solicited or accepted before the performance of the official act: for an official to perform acts that s/he should not perform or to omit to perform an act s/he should or could perform within the scope of his/her official rights, i.e. unlawful acts or omissions; for an official to perform acts that s/he should perform or to omit to perform acts s/he should not in any case perform, i.e. lawful official acts or omissions; (3) if the bribe has been solicited or accepted after the performance, or non-performance, of the official act.

**References:**

Criminal Code of the Republic of Serbia, Official Gazette of RS, No. 85/2005, 72/2009, Article 367. Available at: <http://www.osce.org/serbia/18244>, accessed 25 August 2011.

Third Evaluation Round, Evaluation Report on the Republic of Serbia  
Incriminations (ETS 173 and 191, GPC 2), Adopted by GRECO  
at its 48th Plenary Meeting,  
(2010). [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3\(2010\)3\\_Serbia\\_One\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2010)3_Serbia_One_EN.pdf)

**Yes:** A YES score is earned if receiving a bribe is illegal.

**No:** A NO score is earned if this is not illegal.

73e. In law, bribing a foreign official is illegal.

Yes | No

**Comments:**

Criminal Code of the Republic of Serbia, Article 367-368, criminalizes when a bribe is made or offered to a foreign official.

**Passive bribery (Article 367)**

(5) A foreign official who commits the offense specified in paragraphs 1-4 of this Article shall be punished by the penalty prescribed for that offence.

**Active bribery (Article 368)**

(3) Provisions of paragraphs 1 and 2 of this Article shall apply also when a bribe is made, offered or promised to a foreign official.

**Definition of a foreign public official (Article 112)**

A foreign official is a person who is a member of a legislative, executive or judicial authority of a foreign state, public official or officer of an international organization or bodies thereof, judge or other official of an international tribunal.

There are no court decisions/case law concerning bribery of foreign public officials.

**References:**

Criminal Code of the Republic of Serbia, Official Gazette of RS, No. 85/2005, 72/2009, Article 368, paragraph 3. Available at: <http://www.osce.org/serbia/18244>, accessed 25 August 2011.

Third Evaluation Round, Evaluation Report on the Republic of Serbia  
Incriminations (ETS 173 and 191, GPC 2), Adopted by Groupe d'Etats Contre la Corruption (GRECO)  
at its 48th Plenary Meeting,  
2010. [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3\(2010\)3\\_Serbia\\_One\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2010)3_Serbia_One_EN.pdf)

**Yes:** A YES score is earned if bribing a foreign official is illegal.

**No:** A NO score is earned if this is not illegal.

73f. In law, using public resources for private gain is illegal.

Yes | No

**Comments:**

Criminal Code of the Republic of Serbia:

**Articles 364**

(1) Whoever with intent to acquire for himself or another unlawful material gain appropriates money, securities or other movables entrusted to him by virtue of office or position in a government authority, enterprise, institution or other entity or store, shall be punished by imprisonment of six months to five years.

(2) If the offense specified in paragraph 1 of this Article results in acquiring material gain exceeding 450,000 dinars, the offender shall be punished by imprisonment of one to eight years.

(3) If the offense specified in paragraph 1 of this Article results in acquiring material gain exceeding 1.5 million dinars, the offender shall be punished by imprisonment of two to 12 years.

**Article 365**

Whoever without authorization uses money, securities or other movables entrusted to him by virtue of his office or under terms of his position in a government authority, enterprise, institution, or other organization or store or without authorization gives such items to another for use, shall be punished by imprisonment of three months to five years.

**References:**

Criminal Code of the Republic of Serbia, Official Gazette of RS, No. 85/2005, 72/2009, Article 364 and 365. Available at: <http://www.osce.org/serbia/18244>, accessed 25 August 2011.

**Yes:** A YES score is earned if using public resources for private gain is illegal.

**No:** A NO score is earned if this is not illegal.

73g. In law, using confidential state information for private gain is illegal.

Yes | No

**Comments:**

Criminal Code of the Republic of Serbia:

**Article 369**

An official who without authorization communicates, conveys or otherwise makes available information representing an official secret or whoever obtains such information with intent to convey it to an unauthorized person, shall be punished by imprisonment of three months to five years.

**References:**

Criminal Code of the Republic of Serbia, Official Gazette of RS, No. 85/2005, 72/2009, Article 369. Available at: <http://www.osce.org/serbia/18244>, accessed 25 August 2011.

**Yes:** A YES score is earned if using confidential state information for private gain is illegal.

**No:** A NO score is earned if this is not illegal.

73h. In law, money laundering is illegal.

**Yes** | No

**Comments:**

Money laundering in Serbia is illegal. For more information on the Serbian Anti-money Laundering Law please visit: [http://www.nbs.rs/internet/english/55/55\\_7/55\\_7\\_2/index.html](http://www.nbs.rs/internet/english/55/55_7/55_7_2/index.html).

**References:**

The Law on Prevention of Money Laundering and Financing of Terrorism, Official Gazette of RS, No. 20/2009, 72/2009 and 91/2010  
Available at: [http://www.sec.gov.rs/index.php?option=com\\_content&task=view&id=999&Itemid=62&lang=8859-1](http://www.sec.gov.rs/index.php?option=com_content&task=view&id=999&Itemid=62&lang=8859-1), accessed 25 August 2011.

**Yes:** A YES score is earned if money laundering is illegal. Money laundering is defined as concealing the origin of funds to hide wrongdoing or avoid confiscation.

**No:** A NO score is earned if this is not illegal.

73i. In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

**Yes** | No

**Comments:**

For more information on National strategy to fight Organized Crime in Serbia please consult: <http://www.seio.gov.rs/upload/documents/ekspertske%20misije/organizovani%20kriminal/Stretery%20Organized%20Crime.pdf>

**References:**

The Law on the Organization and Jurisdiction of State Institutions in the Prevention of Organized Crime Corruption and other Exceptionally Severe Criminal Offenses, Official Gazette of RS, No. 42/2002, 27/2003, 30/2003, 67/2003, 29/2004, 58/2004, 45/2005, 61/2005 and 72/2009.  
Available at: <http://www.mpravde.gov.rs/images/ORGANIZED%20CRIME-AMENDMENTS.pdf>, accessed 25 August 2011 and [http://www.mpravde.gov.rs/images/17\\_law\\_on\\_organized\\_crime.pdf](http://www.mpravde.gov.rs/images/17_law_on_organized_crime.pdf), accessed 25 August 2011

**Yes:** A YES score is earned if organized crime is illegal.

**No:** A NO score is earned if this is not illegal.

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## 6.2. Anti-Corruption Agency or Equivalent Mechanisms

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74. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

100

74a. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

Yes | No

**Comments:**

The Law on Anti-Corruption Agency, endorsed in October 2008, and implemented January 1, 2010, is mandated to prevent corruption.

**References:**

Anti-corruption Agency Act, Official Gazette of RS, No. 97/2008 and 53/2010, available at: <http://www.acas.rs/en/zakoni-i-drugi-propisi/the-mayor/law-on-agency.html>, accessed 20 August 2011.

**Yes:** A YES score is earned if an agency is specifically mandated to address corruption. A YES score is earned if there are several agencies or entities with specific roles in fighting corruption, including special prosecutorial entities.

**No:** A NO score is earned if no agency (or group of agencies/entities) is specifically mandated to prevent or prosecute corruption.

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75. Is the anti-corruption agency effective?

81

75a. In law, the anti-corruption agency (or agencies) is protected from political interference.

Yes | No

**Comments:**

Article 3 of the Law on Anti-Corruption Agency stipulates that: "The Agency is an autonomous and independent state body. The Agency is accountable to the National Assembly of the Republic of Serbia for performance of duties from its purview. The Agency has the status of a legal entity.

Provisions of the law governing administrative procedure shall accordingly apply to procedure before the Agency not regulated hereunder. The funds for operation of the Agency shall be provided in the budget of the Republic of Serbia, at the proposal of the Agency, and from other sources, in accordance with law. The Agency autonomously disposes with funds specified in paragraph 5 of this Article, in accordance with law."

**References:**

Anti-Corruption Agency Act, Official Gazette of RS, No. 97/2008 and 53/2010, Article 3. Available at: <http://www.acas.rs/en/zakoni-i-drugi-propisi/the-mayor/law-on-agency.html>, accessed 20 August 2011.

**Yes:** A YES score is earned only if the agency (or agencies) has some formal organizational or operational independence from the government. A YES score is earned even if the agency/agencies is legally separate but in practice staffed by partisans.

**No:** A NO score is earned if the agency (or agencies) is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department, in such a way that limits its operational independence.

75b. In practice, the anti-corruption agency (or agencies) is protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

The Anti-Corruption Agency started its work in January 2010. Political interference on the work of the agency could not be fully identified so far.

On the other hand, in 2010, operations of the agency were to a great extent limited. The agency did not have enough staff to perform its mandate, nor relevant space. As of October 2011, the agency will be moved into a new building and will have greater possibilities to engage enough staff to fully perform its mandate.

The independent status of the Anti-Corruption Agency is fostered by the election mechanism of the agency's board and director. There are nine members of the board nominated by various institutions while five of them are independent from the government or parliamentary majority. The board is responsible for the election of the director of the agency.

**References:**

Marijana Obradovic, Assistant Director of the Department for Prevention, Anti-Corruption Agency, Interview held on 6 September 2011, Belgrade, Serbia.

Damir Milutinovic, Chief of the Group for Researchers, Public Relations and Civil Society, Anti-Corruption Agency, interview held on 6 September 2011, Belgrade, Belgrade, Serbia.

Miodrag Skundric, Analytical Operational Department, Division for Complaints, interview held on 6 September 2011, Belgrade, Serbia.

Institutions in Serbia – What needs to be Done in 2011?, Democratic Political Forum, Available at: <http://www.politickiforum.org/index.php?vrsta=tribina&kategorija=&tekst=43&naredba=prikaz#940>, accessed 20 August 2011.

EC Progress Report Consultations with the European Commission 2011, TRansparency Serbia, April 2011.

Anti-Corruption Agency's press release, 19 January 2011, available at: [http://www.acas.rs/sr\\_lat/aktuelnosti/210-saopstenje-djelic-2.html](http://www.acas.rs/sr_lat/aktuelnosti/210-saopstenje-djelic-2.html), accessed 9 September 2011.

EU Commission Serbia 2010 Progress Report, accompanying the communication from the Commission to the European Parliament and the Council, Enlargement Strategy and Main Challenges 2010-2011, page 10, Available at: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2010/package/sr\\_rapport\\_2010\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/sr_rapport_2010_en.pdf), accessed 5 September 2011.

1000 Police Officers Needed to Fight Corruption (Za borbu protiv korupcije potrebno 1000 policajaca) Blic, 25 September 2011, available at: <http://www.blic.rs/Vestii/Politika/279022/Za-borbu-protiv-korupcije-potrebno-hiljadu-policajaca>, accessed 25 September 2011.

**100:** This agency (or agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

**75:**

**50:** This agency (or agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government, political appointments, or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

**25:**

**0:** This agency (or agencies) is commonly influenced by political or personal incentives. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The agency (or agencies) cannot compel the government to reveal sensitive information.

75c. In practice, the head of the anti-corruption agency (or agencies) is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

**Comments:**

In practice there were no cases of removal of the director since the Anti-Corruption Agency has been operational as of January 2010. Legally, the director of the agency is protected from removal without relevant justification. The members of the board of the agency could be dismissed on a cause by the Parliament and the director and deputy director can be dismissed by the board on a cause.

**References:**

Marijana Obradovic, Assistant Director of the Department for Prevention, Anti-Corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Damir Milutinovic, Chief of the Group for Researchers, Public Relations and Civil Society, Anti-Corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Miodrag Skundric, Analytical Operational Department, Division for Complaints, interview held on 6 September 2011, Belgrade, Serbia.

EC Progress Report Consultations with the European Commission 2011, TRansparency Serbia, April 2011.

**100:** The director(s) cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

**75:**

**50:** The director(s) can in some cases be removed through a combination of official or unofficial pressure.

**25:**

**0:** The director(s) can be removed at the will of political leadership.

75d. In practice, appointments to the anti-corruption agency (or agencies) are based on professional criteria.

100 | 75 | 50 | 25 | 0

**Comments:**

The selection of the staff is based on professional criteria. However, the Anti-Corruption Agency faces a shortage in staff. Since starting its work the agency has had a number of vacancy announcements. Still not all systematized posts are filled. For more information refer to: 2010 Annual Report of the Anti-Corruption Agency available at: [http://acas.rs/images/stories/Annual\\_Report\\_for\\_2010.pdf](http://acas.rs/images/stories/Annual_Report_for_2010.pdf)

**References:**

Marijana Obradovic, Assistant Director of the Department for Prevention, Anti-Corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Damir Milutinovic, Chief of the Group for Researchers, Public Relations and Civil Society, Anti-Corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Miodrag Skundric, Analytical Operational Department, Division for Complaints, interview held on 6 September 2011, Belgrade, Serbia.

**100:** Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

75e. In practice, the anti-corruption agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

The selection of the staff is based on professional criteria. However, the Anti-Corruption Agency faces a shortage in staff. Since starting its work the agency has had a number of vacancy announcements. Still not all systematized posts are filled. For more information refer to: 2010 Annual Report of the Anti-Corruption Agency available at: [http://acas.rs/images/stories/Annual\\_Report\\_for\\_2010.pdf](http://acas.rs/images/stories/Annual_Report_for_2010.pdf)

**References:**

Marijana Obradovic, Assistant Director of the Department for Prevention, Anti-Corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Damir Milutinovic, Chief of the Group for Researches, Public Relations and Civil Society, Anti-Corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Miodrag Skundric, Analytical Operational Department, Division for Complaints, interview held on 6 September 2011, Belgrade, Serbia.

Annual Report on Anti-Corruption Agency for 2010, March 2011, available at: [http://www.acas.rs/images/stories/Annual\\_Report\\_for\\_2010.pdf](http://www.acas.rs/images/stories/Annual_Report_for_2010.pdf), accessed 25 August 2011

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

**100:** The agency (or agencies) has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency (or agencies) has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

**25:**

**0:** The agency (or agencies) has no staff, or a limited staff, that is clearly unqualified to fulfill its mandate.

75f. In practice, the anti-corruption agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

The Anti-Corruption Agency received regular funding in 2010 and 2011. Namely, the requested budget of the agency has been fully delegated.

**References:**

Marijana Obradovic, Assistant Director of the Department for Prevention, Anti-Corruption Agency, Interview held on 6 September 2011, Belgrade, Serbia.

Damir Milutinovic, Chief of the Group for Researchers, Public Relations and Civil Society, Anti-Corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Miodrag Skundric, Analytical Operational Department, Division for Complaints, interview held on 6 September 2011, Belgrade, Serbia.

Annual Report on Anti-Corruption Agency for 2010, March 2011, available at: [http://www.acas.rs/images/stories/Annual\\_Report\\_for\\_2010.pdf](http://www.acas.rs/images/stories/Annual_Report_for_2010.pdf), accessed 25 August 2011.

Information Book on the Work of the Anti-Corruption Agency, available at: <http://acas.rs/en/o-agenciji/152.html>, accessed 10 September 2011.

**100:** The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** The agency's funding sources are unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

75g. In practice, the anti-corruption agency (or agencies) makes regular public reports.

100 | 75 | 50 | 25 | 0

**Comments:**

Reports of the Anti-Corruption Agency are regular and available publicly at the agency's website.

**References:**

Marijana Obradovic, Assistant Director of the Department for Prevention, Anti-Corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Damir Milutinovic, Chief of the Group for Researchers, Public Relations and Civil Society, Anti-Corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Miodrag Skundric, Analytical Operational Department, Division for Complaints, interview held on 6 September 2011, Belgrade, Serbia.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

Annual Report on Anti-Corruption Agency for 2010, March 2011, available at: [http://www.acas.rs/images/stories/Annual\\_Report\\_for\\_2010.pdf](http://www.acas.rs/images/stories/Annual_Report_for_2010.pdf), accessed 25 August 2011.

Information Book on the Work of the Anti-Corruption Agency, available at: <http://acas.rs/en/o-agenciji/152.html>, accessed 10 September 2011.

**100:** The agency (or agencies) makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

**75:**

**50:** The agency (or agencies) makes publicly available reports to the legislature that are sometimes delayed or incomplete.

**25:**

**0:** The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

75h. In practice, the anti-corruption agency (or agencies) has sufficient powers to carry out its mandate.

100 | 75 | 50 | 25 | 0

**Comments:**

The Anti-Corruption Agency has most of the powers needed to perform its mandate. One of the agency's challenges is the implementation of the incomplete transitory and final provisions of the Law on Anti-Corruption Agency, which was only partially resolved with the law's amendment.

These provisions do not fully regulate the agency's actions toward the acting officials who were performing their public functions on the day when the law was put into force in January 2010. Nevertheless, the law introduced a set of obligations that were

directly related to public officials, e.g. the obligation to ask for approval of simultaneously performing a public function and another job or activity, or transfer of managerial rights that were expanded to a wider range of officials in comparison to the previous law that regulated this field, obligation to report participation in public tenders, obligation to report suspicions in conflict of interest, etc.

Also, the Anti-Corruption Agency's Annual Report states that the agency in 2010 had sufficient powers to gather information about financing political parties and electoral campaigns and also in majority areas of its work. However, as per interviews held, the agency still lacks staff to carry out its mandate to the full extent. This is mostly due to lack of office space which prevents the agency from hiring more staff. In addition, better IT links need to be established and quicker exchanges of information are needed between the agency and the collaborating authorities, while observing the rules regarding the handling of confidential information.

**References:**

Marijana Obradovic, Assistant Director of the Department for Prevention, Anti-Corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Damir Milutinovic, Chief of the Group for Researchers, Public Relations and Civil Society, Anti-Corruption Agency, interview held on 6 September 2011, Belgrade, Serbia.

Miodrag Skundric, Analytical Operational Department, Division for Complaints, interview held on 6 September 2011, Belgrade, Serbia.

Dejan Damnjanovic, Adviser, Department of Registers, Anti-Corruption Agency, interview held on 7 September 2011, Belgrade, Serbia.

Annual Report on Anti-Corruption Agency for 2010, March 2011. [http://www.acas.rs/images/stories/Annual\\_Report\\_for\\_2010.pdf](http://www.acas.rs/images/stories/Annual_Report_for_2010.pdf), accessed 25 August 2011.

Information Book on the Work of the Anti-Corruption Agency, available at: <http://acas.rs/en/o-agenciji/152.html>, accessed 10 September 2011.

1,000 Police Officers Needed to Fight Corruption (Za borbu protiv korupcije potrebno 1000 policajaca) Blic, 25 September 2011, available at: <http://www.blic.rs/Vesti/Politika/279022/Za-borbu-protiv-korupcije-potrebno-hiljadu-policajaca>, accessed 25 September 2011.

**100:** The agency (or agencies) has powers to gather information, including politically sensitive information. The agency (or agencies) can question suspects, order arrests and bring suspects to trial (or rely on related agencies or law enforcement authorities to perform such functions).

**75:**

**50:** The agency (or agencies) has most of the powers needed to carry out its mandate with some exceptions.

**25:**

**0:** The agency (or agencies) lacks significant powers which limit its effectiveness.

75i. In practice, when necessary, the anti-corruption agency (or agencies) independently initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

The Anti-Corruption Agency does not have investigative authority. Its authority is related to a control and preventive function. However, when irregularities are discovered the agency initiates different legal procedures. The agency acts on complaints of the citizens and civil servants, gives opinions and directives for enforcement of the Law on Anti-Corruption Agency, and initiates disciplinary, misdemeanor or criminal procedures. In practice a number of procedures have been initiated. For more information refer to Agency's Information Book and Annual Report available at the <http://acas.rs/en/o-agenciji/152.html>.

**References:**

Miodrag Skundric, Analytical Operational Department, Division for Complaints, interview held on 6 September 2011, Belgrade, Serbia.

Dejan Damnjanovic, Adviser, Department of Registers, Anti-Corruption Agency, interview held on 7 September 2011, Belgrade, Serbia.

Annual Report on Anti-Corruption Agency for 2010, March 2011, available at: [http://www.acas.rs/images/stories/Annual\\_Report\\_for\\_2010.pdf](http://www.acas.rs/images/stories/Annual_Report_for_2010.pdf), accessed 25 August 2011.

Information Book on the Work of the Anti-Corruption Agency, available at: <http://acas.rs/en/o-agenciji/152.html>, accessed 10 September 2011.

EC Progress Report Consultations with the European Commission 2011, Transparency Serbia, April 2011.

1,000 Police Officers Needed to Fight Corruption (Za borbu protiv korupcije potrebno 1000 policajaca) Blic, 25 September 2011, available at: <http://www.blic.rs/Vesti/Politika/279022/Za-borbu-protiv-korupcije-potrebno-hiljadu-policajaca>, accessed 25 September 2011.

**100:** When irregularities are discovered, the agency (or agencies) is aggressive in investigating the government or in cooperating with other investigative agencies.

**75:**

**50:** The agency (or agencies) starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency (or agencies) may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency (or agencies) does not effectively investigate or does not cooperate with other investigative agencies. The agency (or agencies) may start investigations but not complete them, or may fail to detect offenders. The agency (or agencies) may be partisan in its application of power.

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## 76. Can citizens access the anti-corruption agency?

38

76a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

### Comments:

The Law on Anti-Corruption Agency does not provide a time-frame for acting and resolving citizens' complaints. Some complaints may be resolved quickly while others take considerable time to be resolved.

According to interviews, acting upon complaints differed in 2010. Taking into account that in 2010 only two employees were dealing with the citizens' complaints the time needed for acting on complaints was considerable. In 2010 the agency received and worked on 277 complaints.

### References:

Miodrag Skundric, Analytical Operational Department, Division for Complaints, interview held on 6 September 2011, Belgrade, Serbia.

Annual Report on Anti-Corruption Agency for 2010, March 2011, available at: [http://www.acas.rs/images/stories/Annual\\_Report\\_for\\_2010.pdf](http://www.acas.rs/images/stories/Annual_Report_for_2010.pdf), accessed 25 August 2011.

Information Book on the Work of the Anti-Corruption Agency, available at: <http://acas.rs/en/o-agenciji/152.html>, accessed 10 September 2011.

**100:** The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

76b. In practice, citizens can complain to the anti-corruption agency (or agencies) without fear of recrimination.

100 | 75 | 50 | 25 | 0

**Comments:**

Fear of recrimination for whistle-blowers who report corruption cases to the Anti-Corruption Agency exists since in practice there are no effective protection mechanisms. According to interviews, the bylaw on whistle-blower protection regulates protection mechanisms to a certain extent, but in practice the effectiveness of the protection of whistle-blowers is scarce. Namely, the agency is only mandated to warn the public authority in question that retaliates against the whistle-blower. The agency is not mandated to sanction the retaliations and recriminations. The citizens can only count on the agency's ability to bring the case to the public through the media to prevent recrimination by avoiding negative publicity for the organization or employer.

An example of recrimination and retaliation is the well-known case of Goran Milosevic from Smederevo, an employee of the public enterprise "Putevi Srbije" (Roads of Serbia), who due to reporting on enormous frauds in this public enterprise was dismissed from his job.

**References:**

Miodrag Skundric, Analytical Operational Department, Division for Complaints, interview held on 6 September 2011, Belgrade, Serbia.

Verica Barac, President of the Anti-Corruption Council, interview held on 7 September 2011, Belgrade, Serbia.

Bylaw on Whistle-blowers Needed but the Law is Indispensable too (Pravilnik o uzbunjivacima potreban, ali neophodan i zakon) Daily Kurir, Source Agency Tanjug, 13 July 2011, available at: <http://www.kurir-info.rs/vesti/drustvo/pravilnik-o-uzbunjivacima-potreban-ali-neophodan-i-zakon-101597.php>, accessed 13 November 2011.

Dismissals and Harassment of Whistle-blowers (Otkazi i sikaniranje zbog ukazivanja na malverzacije) Daily Danas, M.D. Milikic, 1 August 2011, available at: [http://www.danas.rs/danasrs/drustvo/otkazi\\_i\\_sikaniranje\\_zbog\\_ukazivanja\\_na\\_malverzacije.55.html?news\\_id=220712](http://www.danas.rs/danasrs/drustvo/otkazi_i_sikaniranje_zbog_ukazivanja_na_malverzacije.55.html?news_id=220712), accessed 13 November 2011.

**100:** Whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers, or may be due to a culture that encourages disclosure and accountability.

**75:**

**50:** Whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

**25:**

**0:** Whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

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73  
6.3. Judicial Independence, Fairness, and Citizen Access to Justice

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77. Is there an appeals mechanism for challenging criminal judgments?

67

77a. In law, there is a general right of appeal.

Yes | No

**Comments:**

Article 36 of the Constitution of the Republic of Serbia stipulates that:  
"Equal protection of rights before courts and other state bodies, entities exercising public powers and bodies of the autonomous province or local self-government shall be guaranteed.

Everyone shall have the right to an appeal or other legal remedy against any decision on his rights, obligations or lawful interests."

**References:**

Constitution of the Republic of Serbia Official Gazette of RS, No. 83/2006,  
Article 36, Available at: <http://www.predsednik.rs/mwc/epic/doc/ConstitutionofSerbia.pdf>, accessed 25 August 2011

**Yes:** A YES score is earned if there is a formal process of appeal for challenging criminal judgments.

**No:** A NO score is earned if there is no such process.

77b. In practice, appeals are resolved within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The overall efficiency of the judicial system in Serbia has been decreased due to the latest reforms, such as the reelection of judges and prosecutors. The number of judges and prosecutors decreased as well as the number of courts. It is not feasible to resolve appeals of second instance within the mandatory nine months, given the number of cases and number of judges. In addition, the norm of cases per judge has increased with no proportional time available for dealing with the cases.

For instance, the new draft Law on Civil Procedure has prescribed nine months at maximum for resolving appeals which in current circumstances is not an option when judges have such backlogs of cases.

According to interviews, judges in a Higher Court in Belgrade have approximately 2,200-3,400 cases while the norm is 30 per month. This shows that recent reforms did not have any positive effect on increasing the effectiveness of the judiciary.

First instance courts have however fewer cases and therefore cases are resolved faster.

The level of effectiveness and time needed for resolving the appeals is tightly related to number of cases per judge.

In addition, the new tool for measuring effectiveness of judges is percentage of case flow, meaning that if judge have five cases per month and resolve all of them he will be evaluated as successful but the one who has 60 and resolves, for instance, 10, he is not evaluated as effective. This mechanism is not adequate for measuring judges' effectiveness.

**References:**

EU Commission Serbia 2010 Progress Report, accompanying the communication from the Commission to the European Parliament and the Council, Enlargement Strategy and Main Challenges 2010-2011, page 10,  
Available at: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2010/package/sr\\_rapport\\_2010\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/sr_rapport_2010_en.pdf), accessed 5 September 2011

Dragana Boljevic, President of the Judges Association of Serbia, interview held on 19 September 2011, Belgrade, Serbia.

**100:** Appeals are acted upon quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

**75:**

**50:** Appeals are generally acted upon quickly but with some exceptions. Some appeals may not be acknowledged, and simple cases may take years to resolve.

**25:**

**0:** Most appeals are not resolved in a timely fashion. Appeals may go unacknowledged for months or years and simple cases may never be resolved.

77c. In practice, citizens can use the appeals mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The median monthly income in Serbia is approximately 300 euros. Moreover, the middle class is declining, and lawyers' daily tariff is high compared to citizens' income. Thus, the costs of the appeal mechanism to a certain extent prevents many citizens from using it. As a result, fewer citizens find it affordable to use appeals to challenge criminal judgements.

For instance, the appeal costs of the attorney's written action in criminal proceedings range from 15,000 RS Dinars (approximately 150 euros) for sentence of up to three years to 62,500 RS Dinars (approximately 625 euros) for sentences over 10 years. In addition, in 2010 the level of poverty has been increased compared to 2009.

For instance, the number of poor citizens in 2009 has increased comparing to that number in 2008 for 0.8 percent points (6.9 percent), while in 2010, compared to 2009 number of poor citizens has increased for 2.3 percent points (from 6.9 percent to 9.2 percent of Serbians are considered poor).

**References:**

Dragana Boljevic, President of the Judges Association of Serbia, interview held on 19 September 2011, Belgrade, Serbia.

Official Lawyer Tariff in Serbia, Official Gazette of RS, No. 53/2010.

Lawyers Tariffs. 2010. [http://www.advokatska-komora.rs/beograd/060810/K-tarifa\\_2010.pdf](http://www.advokatska-komora.rs/beograd/060810/K-tarifa_2010.pdf)

Poverty Statistics. [http://www.inkluzija.gov.rs/?page\\_id=1186](http://www.inkluzija.gov.rs/?page_id=1186)

**100:** In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge criminal judgments. Attorney fees are not a barrier to appeals.

**75:**

**50:** In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge criminal judgments. Attorney fees present somewhat of a barrier to pursuing appeal.

**25:**

**0:** The prohibitive cost of utilizing the appeals mechanism prevents middle class citizens from challenging criminal judgments. Attorney fees greatly discourage the use of the appeals process.

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## 78. In practice, do judgments in the criminal system follow written law?

75

78a. In practice, do judgments in the criminal system follow written law?

100 | 75 | 50 | 25 | 0

**Comments:**

Judgments in the criminal system follow written law although there is speculation that in some politically sensitive cases political interference on judges and/or prosecutors possibly occurred. The question of the judges' reappointment process is also a matter of concern as it is a non-transparent process and possibly subject to political interference.

According to the European Union Commission Progress 2010 Report for Serbia, "The reappointment procedure for judges and prosecutors was carried out in a non-transparent way, putting at risk the principle of the independence of the judiciary. The bodies responsible for this exercise, the High Judicial Council and the State Prosecutorial Council, acted in a transitory composition, which neglected adequate representation of the profession and created a high risk of political influence."

**References:**

Dragana Boljevic, President of the Judges Association of Serbia, interview held on 19 September 2011, Belgrade, Serbia.

Verica Barac, President of the Anti-Corruption Council, Interview held on 7 September 2011, Belgrade, Serbia.

Similar Loopholes in the Cases of Dada Vujasinovic and Slavko Curuvija Murders (Slicni propusti u istragama ubistva Dade Vujasinovic i Slavka Curuvije) Daily Danas, Ivana Pejic, 6 February 2011, available at: [http://www.danas.rs/danasrs/drustvo/slicni\\_propusti\\_u\\_istragama\\_ubistava\\_dade\\_vujasinovic\\_i\\_slavka\\_curuvije\\_.55.html?news\\_id=209158](http://www.danas.rs/danasrs/drustvo/slicni_propusti_u_istragama_ubistava_dade_vujasinovic_i_slavka_curuvije_.55.html?news_id=209158), accessed 13 November 2011.

**100:** Judgments in the criminal system are made according to established legal code and conduct. There are no exceptional cases in which individuals are treated by a separate process. Political interference, bribery, cronyism or other flaws are rarely factors in judicial outcomes.

**75:**

**50:** Judgments in the criminal system usually follow the protocols of written law. There are sometimes exceptions when political concerns, corruption or other flaws in the system decide outcomes.

**25:**

**0:** Judgments in the criminal system are often decided by factors other than written law. Bribery and corruption in the criminal judicial process are common elements affecting decisions.

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## 79. In practice, are judicial decisions enforced by the state?

25

79a. In practice, are judicial decisions enforced by the state?

100 | 75 | 50 | 25 | 0

### Comments:

According to EU Commission 2010 Serbia Progress Report, "The large backlog of pending cases remains a matter of concern, in particular as the recent reforms impacted negatively on the overall efficiency of the judicial system. The reduction of the number of judges and prosecutors was not based on a proper needs assessment. Under the new court system, courts which were closed continue to function as court units, in which civil cases are heard. This means that judges and judicial staff have to travel between courts and court units requiring significant resources and creating security concerns. A uniform system for organizing the work of the court seats and the new court units has not been established. Case registration and the IT system connecting all courts and court units and allowing access to files are not fully operational. The Constitutional court faces a backlog of some 7,000 pending cases, including the appeals filed by judges and prosecutors who have not been reappointed. The setting up of the Judicial Academy still is at an early stage and vocational trainings have not yet started."

### References:

Dragana Boljevic, President of the Judges Association of Serbia, interview held on 19 September 2011, Belgrade, Serbia.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, interview held on 22 August 2011, BIRODI, Belgrade, Serbia.

EU Commission Serbia 2010 Progress Report, accompanying the communication from the Commission to the European Parliament and the Council, Enlargement Strategy and Main Challenges 2010-2011, page 10, Available at: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2010/package/sr\\_rapport\\_2010\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/sr_rapport_2010_en.pdf), accessed 5 September 2011

**100:** Judicial decisions are enforced quickly regardless of what is being decided or who is appearing before the court. Failure to comply brings penalties enforced by the state.

**75:**

**50:** Judicial decisions are generally enforced by the state, with some exceptions. Certain areas of law may be ignored, or certain parties appearing before the courts may evade or delay enforcement.

**25:**

**0:** Judicial decisions are often ignored. The state lacks the will or capacity to consistently enforce these decisions.

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## 80. Is the judiciary able to act independently?

80a. In law, the independence of the judiciary is guaranteed.

Yes | No

**Comments:**

Article 149 of the Constitution of the Republic of Serbia stipulates that:  
 “In performing his/her judicial function, a judge shall be independent and responsible only to the Constitution and the Law. Any influence on a judge while performing his/her judicial function shall be prohibited.”

Also, Article 1 of the Law on Judges stipulates that:

“A judge is independent in his/her actions and decision taking. A judge shall adjudicate and render judgment on the basis of the Constitution, laws and other general acts, ratified international treaties, and generally accepted rules of international law.”

**References:**

Constitution of the Republic of Serbia Official Gazette of RS, No. 83/2006,  
 Article 149. Available at: <http://www.predsednik.rs/mwc/epic/doc/ConstitutionofSerbia.pdf>, accessed 25 August 2011.

Law on Judges, Official Gazette of RS, no. 116/2008, 58/2009, 104/2009 and 101/2010, Article 1. Available  
 at: [http://www.unhcr.org/refworld/publisher,NATLEGBOD,,SRB,4b5712672,0.html](http://www.unhcr.org/refworld/publisher/NATLEGBOD,,SRB,4b5712672,0.html), accessed 1 September 2011.

**Yes:** A YES score is earned if there are formal rules establishing that the judiciary is independent from political interference by the executive and legislative branches. Independence includes financial issues (drafting, allocation, and managing the budget of the courts).

**No:** A NO score is earned if there are no formal rules establishing an independent judiciary.

80b. In practice, national-level judges are protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

The criteria for reappointment of judges and prosecutors have not been adequately defined, the selection process is not transparent. The short deadline set of less than six months, by the end of 2009, raised serious concerns as to how an objective procedure can be carried out. This creates a risk of long-term politicization of the judiciary. These concerns are expressed in the Venice Commission opinion on the Constitution and opinion on the Criteria for the Election of Judges and Prosecutors, as well as in the newest European Commission Progress Report for Serbia.

**References:**

Dragana Boljevic, President of the Judges Association of Serbia, interview held on 19 September 2011, Belgrade, Serbia.

Zoran Gavrilovic, Director of Society against Corruption Programme, BIRODI, interview held on 22 August 2011, BIRODI, Belgrade, Serbia.

EU Commission Serbia 2010 Progress Report, accompanying the communication from the Commission to the European Parliament and the Council, Enlargement Strategy and Main Challenges 2010-2011, page 10, available at: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2010/package/sr\\_rapport\\_2010\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/sr_rapport_2010_en.pdf), accessed 5 September 2011

Documents: Appeal to the Public by Recognized Lawyers (Dokumenta: Apel javnosti uglednih pravnika), Vreme, 12 January 2011, available at: <http://www.vreme.com/cms/view.php?id=971232>, accessed 5 September 2011.

Reform Taken by the Unlawful Means (Reforma sprovedena nezakonitim postupcima), Vreme, 18 February 2010, available at: <http://www.vreme.com/cms/view.php?id=914137>, accessed 5 September 2011.

Interim Opinion on the Draft Decisions of High Judicial Council and of the State Prosecutorial Council on the Implementation of the Laws on the Amendments to the Laws Judges and on the Public Prosecution of Serbia, Adopted by the Venice Commission at its 87th Plenary Session (Venice, 17-18 June 2011) [http://www.venice.coe.int/docs/2011/CDL-AD\(2011\)015-e.pdf](http://www.venice.coe.int/docs/2011/CDL-AD(2011)015-e.pdf), accessed 4 September 2011.

**100:** National-level judges operate independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Judges never comment on political debates. Individual judgments are rarely praised or criticized by political figures.

**75:**

**50:** National-level judges are typically independent, yet are sometimes influenced in their judgments by negative or positive political incentives. This may include favorable or unfavorable treatment by the government or public criticism. Some judges may be demoted or relocated in retaliation for unfavorable decisions.

**25:**

**0:** National-level judges are commonly influenced by politics and personal biases or incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include demotion, pay cuts, relocation, threats or harassment.

80c. In law, there is a transparent and objective system for distributing cases to national-level judges.

Yes | No

**Comments:**

The system of distributing the cases is described by the Article 23 of the Law on Judges.

Article 23 of the Law on Judges stipulates the following:

“Cases are allocated to a judge according to a schedule that is independent of personality of parties and circumstances of the legal matter. Cases are entrusted to a judge on the basis of the court schedule of tasks, in accordance with the Court Rules, exclusively on the basis of designation and the number of the case file. No one has the right to establish a panel of judges and allocate cases by bypassing the work schedule and order of receiving of the cases.”

**References:**

Law on Judges, Official Gazette of RS, No. 116/2008, 58/2009, 104/2009 and 101/2010, Article 23. Available at: [http://www.mpravde.gov.rs/images/law\\_on\\_judges\\_eng\(1\).pdf](http://www.mpravde.gov.rs/images/law_on_judges_eng(1).pdf), accessed 25 August 2011.

**Yes:** A YES score is earned if there is an objective system that is transparent to the public that equitably or randomly assigns cases to individual judges. The executive branch does not control this process.

**No:** A NO score is earned if the case assignment system is non-transparent or subjective where judges themselves have influence over which cases they adjudicate. A NO score is also earned if the executive branch controls this process.

80d. In law, national-level judges are protected from removal without relevant justification.

Yes | No

**Comments:**

Article 148 of the Constitution of the Republic of Serbia stipulates that:

“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 this 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.”

**References:**

Constitution of the Republic of Serbia Official Gazette of RS, No. 83/2006, Article 148. Available at: <http://www.predsednik.rs/mwc/epic/doc/ConstitutionofSerbia.pdf>, accessed 24 August 2011.

**Yes:** A YES score is earned if there are specific, formal rules for removal of a justice. Removal must be related to abuse of power or other offenses related to job performance.

**No:** A NO score is earned if justices can be removed without justification, or for purely political reasons. A NO score is earned if the removal process is not transparent, or not based on written rules.

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## 81. Are judges safe when adjudicating corruption cases?

100

81a. In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.

Yes | No

### Comments:

In the period researched for the purpose of this report there were no documented cases of judges being assaulted because of adjudicating corruption cases.

### References:

Miodrag Cvorovic, journalist and producer, "Insajder" documentary, B92 TV, interview held on 30 August 2011, Belgrade, Serbia.

Dragana Boljevic, President of Judges Association of Serbia, interview held on 19 September 2011, Belgrade, Serbia.

**Yes:** A YES score is earned if there were no documented cases of judges being assaulted because of their involvement in a corruption case during the specific study period. YES is a positive score.

**No:** A NO score is earned if there were any documented cases of assault to a judge related to his/her participation in a corruption trial. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

81b. In practice, in the last year, no judges have been killed because of adjudicating corruption cases.

Yes | No

### Comments:

In the period researched for the purpose of this report there were no documented cases of judges being killed because of adjudicating corruption cases.

### References:

Miodrag Cvorovic, journalist and producer, "Insajder" documentary, B92 TV, interview held on 30 August 2011, Belgrade, Serbia.

Dragana Boljevic, President of Judges Association of Serbia, interview held on 19 September 2011, Belgrade, Serbia.

**Yes:** A YES score is earned if there were no documented cases of judges being killed related to their involvement in a corruption case during the study period. YES is a positive score.

**No:** A NO score is earned if there were any documented cases where a judge was killed because of his/her participation in a corruption trial. The relationship between a mysterious death and a judge's involvement in a case may not be clear, however the burden of proof here is low. If it is a reasonable assumption that a judge was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

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## 82. Do citizens have equal access to the justice system?

82a. In practice, judicial decisions are not affected by racial or ethnic bias.

100 | 75 | 50 | 25 | 0

**Comments:**

Judicial decisions are not affected by racial or ethnic bias. There were no such cases recorded during the period researched for the purpose of this report.

**References:**

Miodrag Cvorovic, journalist and producer, "Insajder" documentary, B92 TV, interview held on 30 August 2011, Belgrade, Serbia.

Dragana Boljevic, President of Judges Association of Serbia, interview held on 19 September 2011, Belgrade, Serbia.

**100:** Judicial decisions are not affected by racial or ethnic bias.

**75:**

**50:** Judicial decisions are generally not affected by racial or ethnic bias, with some exceptions. Some groups may be occasionally discriminated against, or some groups may occasionally receive favorable treatment.

**25:**

**0:** Judicial decisions are regularly distorted by racial or ethnic bias. Some groups consistently receive favorable or unfavorable treatment by the courts.

82b. In practice, women have full access to the judicial system.

100 | 75 | 50 | 25 | 0

**Comments:**

Women in Serbia do not face any kind of discrimination when it comes to access to the judicial system. Likewise, according to research conducted by the Belgrade Centre for Security Studies there is a majority of women employed in the judiciary, approximately two-thirds of all employees in the judiciary are women.

**References:**

Dragana Boljevic, President of Judges Association of Serbia, interview held on 19 September 2011, Belgrade, Serbia.

Lack of Women at Senior Management Positions in the Security Sector, (Zena malo na rukovodecim mestima u sistemu bezbednosti), Politika, 1 October 2010, available at: <http://www.politika.rs/rubrike/Drustvo/Zena-malo-na-rukovodecim-mestima-u-sistemu-bezbednosti.lt.html>, accessed 5 September 2011.

**100:** Women enjoy full and equal status in the eyes of the courts. There are no exceptions or practices in which women are treated differently by the judicial system. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

**75:**

**50:** Women generally have use of the judicial system, with some exceptions. In some cases, women may be limited in their access to courts, or gender biases may affect court outcomes. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

**25:**

**0:** Women generally have less access to the courts than men. Court decisions are commonly distorted by gender bias. Women may have to go through intermediaries to interact with the court, or are unable to present evidence. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

82c. In law, the state provides legal counsel for defendants in criminal cases who cannot afford it.

Yes | No

**Comments:**

Article 67 of the Constitution of the Republic of Serbia stipulates that: "Everyone shall be guaranteed the right to legal assistance under conditions stipulated by the law. Legal assistance shall be provided by legal professionals, as an independent and autonomous service, and legal assistance offices established in the units of local self-government in accordance with the law. The law shall stipulate conditions for providing free legal assistance."

Article 72 of the Criminal Procedure Code stipulates the following:

(1) When the conditions do not exist for an obligatory defense, and the proceeding is conducted for a criminal offense with a prescribed sentence of over three years of imprisonment and in other cases when this is in the interest of justice, a defense counsel shall be appointed upon the request of the defendant who is not able to bear the costs of his defense due to his financial status.

(2) The ruling on this request shall be rendered by the Investigative Judge, President of the Chamber, i.e. single judge and the defense counsel shall be appointed by the President of the Court. The provision stipulated in paragraph 5 Article 71 of the present code shall be applied when appointing the defense counsel."

**References:**

Constitution of the Republic of Serbia Official Gazette of RS, No. 83/2006, Article 67. Available at: <http://www.predsednik.rs/mwc/epic/doc/ConstitutionofSerbia.pdf>, accessed 25 August 2011

Criminal Procedure Code, Official Gazette of RS, No. 58/2004, 85/2005, 49/2007, 20/2009 and 72/2009, Article 72. Available at: <http://www.osce.org/serbia/24811>, accessed 25 August 2011.

**Yes:** A YES score is earned if the government is required by law to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

**No:** A NO score is earned if there is no legal requirement for the government to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

82d. In practice, the state provides adequate legal counsel for defendants in criminal cases who cannot afford it.

100 | 75 | 50 | 25 | 0

**Comments:**

In practice, primary and secondary legal aid is offered to defendants in criminal cases who cannot afford it as the law prescribes, and in general, the elements of discrimination toward impoverished defendants are not applied. Although in law, a legal counselor must be provided by the state, in Serbia the legal counselors in criminal cases face difficulties getting payed by the state. The honorarium are either late or missing, and that imposes the question of further quality of above stated services to defendants. In Serbia, this area requires further regulations.

**References:**

Dragana Boljevic, President of Judges Association of Serbia, interview held on 19 September, Belgrade, Serbia.

If you don't have a Lawyer the State will Give You One (Ako nemate advokata drzava ce vam ga dati), Vesti online, 9 October 2010, available at: <http://www.vesti-online.com/Vesti/Srbija/87955/Besplatna-pravna-pomoc-gradanima>, accessed 5 September 2011.

Malovic: Soon Law on Free Legal Aid (Malovic: Uskoro zakon o besplatnoj pravnoj pomoci), Glas javnosti, <http://www.glas-javnosti.rs/clanak/drustvo/glas-javnosti-10-10-2010/malovic-uskoro-zakon-o-besplatnoj-pravnoj-pomoci>

**100:** State-provided legal aid is basic, but well-trained and effective in representing the rights of impoverished defendants.

**75:**

**50:** State-provided legal aid is available, but flawed. Legal aid may be unavailable to some impoverished defendants. Legal aid/public defenders may be sometimes unable or unwilling to competently represent all defendants.

**25:**

**0:** State-provided legal aid is unavailable to most impoverished defendants. State legal aid/public defenders may be consistently incompetent or unwilling to fairly represent all defendants.

82e. In practice, citizens earning the median yearly income can afford to bring a legal suit.

100 | 75 | 50 | 25 | 0

**Comments:**

Considering that the median monthly income in Serbia is approximately 300 euros, that the middle class continues on a declining trend and that a lawyer's daily tariff is high compared to a citizen's income, the costs of bringing legal action is prohibitive to some citizens. Because poverty is increasing and Serbia's middle class is decreasing, fewer citizens find it affordable to file a lawsuit and seek legal action.

In addition, in 2010 the level of poverty has been increased compared to 2009. For instance, number of poor citizens in 2009 has increased comparing to that number in 2008 for 0.8 percent points (6.9 %), while in 2010 comparing to 2009 number of poor citizens has increased for 2.3 percent points (from 6.9% to 9.2% of poor population in Serbia – for more details please refer to: [http://www.inkluzija.gov.rs/?page\\_id=1186](http://www.inkluzija.gov.rs/?page_id=1186)). For more information on lawyers' tariff please refer to: [http://www.advokatsimic.rs/html/tarifa\\_-\\_cene.html](http://www.advokatsimic.rs/html/tarifa_-_cene.html).

**References:**

Dragana Boljevic, President of Judges Association of Serbia, interview held on 19 September 2011, Belgrade, Serbia.

Official Lawyer Tariff in Serbia, Official Gazette, No. 53/2010.

**100:** In most cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. Attorney fees do not represent a major cost to citizens.

**75:**

**50:** In some cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. In other cases, the cost is prohibitive. Attorney fees are a significant consideration in whether to bring a case.

**25:**

**0:** The cost of engaging the legal system prevents middle class citizens from filing suits. Attorney fees are high enough to discourage most citizens from bringing a case.

82f. In practice, a typical small retail business can afford to bring a legal suit.

100 | 75 | 50 | 25 | 0

**Comments:**

The ability to afford to bring legal suit for small retail businesses in Serbia is limited. The costs for legal entities are rather high and barely affordable for an average small retail business as stipulated during the interviews held for the purpose of this research. This, of course, does not mean that there are no cases, but rather that the number in 2010 compared to 2009 has decreased.

According to Statistical Overview of Serbian Commercial Courts in 2010 80,980 cases have been solved comparing to 179,701 in 2009 (for more details please refer to: [http://tpson.portal.sud.rs/libra\\_ps\\_statistika/default.cfm?action=1&choise=stats&pismo=cirilica](http://tpson.portal.sud.rs/libra_ps_statistika/default.cfm?action=1&choise=stats&pismo=cirilica)). Many factors influence the above result, including that fewer cases are brought to the court. The approximate average cost for bringing legal suit varies depending on the case (for more detail on costs of bringing legal suit, please refer to [http://www.advokatsimic.rs/html/tarifa\\_-\\_cene.html](http://www.advokatsimic.rs/html/tarifa_-_cene.html)).

**References:**

Dragana Boljevic, President of Judges Association of Serbia, interview held on 19 September 2011, Belgrade, Serbia.

Official Lawyer Tariff in Serbia, Official Gazette of RS, no. 53/2010.

**100:** In most cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. Attorneys fees do not represent a major cost to small businesses.

**75:**

**50:** In some cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. In other cases, the cost is prohibitive. Attorney fees are a significant consideration in whether to bring a case.

**25:**

**0:** The cost of engaging the legal system prevents small businesses from filing suits. Attorney fees are high enough to discourage most small businesses from bringing a case.

82g. In practice, all citizens have access to a court of law, regardless of geographic location.

100 | 75 | **50** | 25 | 0

**Comments:**

As stipulated by the EU Commission 2010 Progress Report on Serbia "a new structure of the court network was implemented as of January 2010. The 138 municipal courts were reorganized into 34 basic courts. In addition, there are 26 higher courts, four courts of appeal and the Supreme Court of Cassation. The organization of the prosecution service was changed accordingly. The service was divided into basic, higher and appellate prosecution offices. Special departments exist for war crimes and for organized crime. The new Administrative Court became operational in January 2010. In July 2010, the appointment of members of the Constitutional Court was completed."

The change in the network of courts directly affected their geographic accessibility. According to interviews, courts are no longer geographically accessible to all citizens, or not easily accessible concerning travel costs and time for an average citizen in the Serbian province. Some citizens need to travel over 100 kilometers to reach the closest court. Traveling 100 kilometers in Serbia by bus takes approximately one hour and 30 minutes and costs approximately 1000 RS Dinars one way. Therefore, geographic accessibility of courts to the citizens gradually decreased after the reorganization and change in the court network in Serbia.

**References:**

Dragana Boljevic, President of Judges Association of Serbia, interview held on 19 September 2011, Belgrade, Serbia.

EU Commission Serbia 2010 Progress Report, accompanying the communication from the Commission to the European Parliament and the Council, Enlargement Strategy and Main Challenges 2010-2011, page 10, Available at: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2010/package/sr\\_rapport\\_2010\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/sr_rapport_2010_en.pdf), accessed 5 September 2011.

Interactive Map of Courts in Serbia, available at: <http://www.portal.sud.rs/code/navigate.aspx?id=70><http://www.portal.sud.rs/code/navigate.aspx?id=70>, accessed 13 November 2011.

**100:** Courtrooms are always accessible to citizens at low cost, either through rural courthouses or through a system of traveling magistrates.

**75:**

**50:** Courts are available to most citizens. Some citizens may be unable to reach a courtroom at low cost due to location.

**25:**

**0:** Courts are unavailable to some regions without significant travel on the part of citizens.

## 6.4. Law Enforcement: Conflicts of Interest Safeguards and Professionalism

### 83. Is the law enforcement agency (i.e. the police) effective?

58

83a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

100 | 75 | 50 | 25 | 0

#### Comments:

According to the EU 2010 Serbia Progress Report: "Serbia has made some progress in the area of police reform. Capacity building has continued primarily within specialized services of the criminal police such as the services for combating organized crime, financial investigations and high-tech crime. Some measures have been taken to improve the methodology and standards of police work, including an information booklet explaining the regulatory framework. Training and education have continued on best practices in police work and on work in communities and with minorities.

However, at the level of the Interior Ministry, there is no effective strategic planning, and human resource management remains weak. This adversely affects prioritizing and budgeting. Intelligence-led policing and the criminal intelligence system need to be improved. The lack of openness and transparency of recruitment procedures and career development within the police remains of concern."

#### References:

Miodrag Cvorovic, journalist and producer, "Insajder" documentary, B92 TV, interview held on 30 August 2011, Belgrade, Serbia.

Srdjan Korac, Research Fellow, Center for Security Studies, Belgrade, Interview held on 24 August 2011, Belgrade, Serbia.

Serbia 2010 Progress Report, Communication from the Commission to the European Parliament and the Council, Enlargement Strategy and Main Challenges 2010-2011, Brussels, 9 November 2010, page 52, available at: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2010/package/sr\\_rapport\\_2010\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/sr_rapport_2010_en.pdf), accessed 30 August 2011

**100:** Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

83b. In practice, the law enforcement agency (or agencies) has a budget sufficient to carry out its mandate.

100 | 75 | 50 | 25 | 0

#### Comments:

In Serbia in 2010 and 2011 approximately 50 billion RS Dinars was allocated to the Ministry of Interior. In 2012 the budget that will be allocated to the Ministry of Interior will be increased to 54.6 billion RS Dinars (for more details please refer to: [http://www.b92.net/biz/vesti/srbija.php?yyyy=2011&mm=12&dd=29&nav\\_id=569705](http://www.b92.net/biz/vesti/srbija.php?yyyy=2011&mm=12&dd=29&nav_id=569705) and [http://www.mup.rs/cms\\_cir/sadrzaj.nsf/informator.h](http://www.mup.rs/cms_cir/sadrzaj.nsf/informator.h)).

The average monthly salary of a police officer in Serbia in 2010 according to media reports was 48,000 RS dinars (approximately 480 euros) in 2010 and 2011, and in 2012 the average salary will be increased to 56,000 RS Dinars (approximately 560 euros)

which is approximately 80 percent higher than the average salary in Serbia). As a result, police salaries are getting better.

However, in 2010 and 2011 several strikes were organized by the different fractions of the police unions in Serbia. The main rationale for strikes, as stated by the representatives of the police unions, was the poor work conditions, lack of adequate equipment and small salaries, disbursement of travel expenses and per diems, jubilee awards and application of specific collective agreements for police officers. In conclusion, the police was allocated the budget that is to a great extent sufficient to carry out its mandate although there were issues that were reasons for strikes that need to be addressed in the near future.

**References:**

Police gets another billion dinars according to budget rebalance (Rebalansom budzeta policija dobija jos milijardu dinara) Bilic, 18, November 2010, available at: <http://www.blic.rs/Vesti/Ekonomija/218207/Policiji-rebalansom-budzeta-jos-milijardu-dinara>, accessed 30 August 2011.

Dacic: We Hope that there will be no reasons for Police Strikes (Dacic: Nadamo se da nece biti razloga za strajk policije), Naslovi Net, 1 June 2011, available at: <http://www.naslovi.net/2011-06-01/emportal/dacic-nadamo-se-da-nece-biti-razloga-za-strajk-policije/2578551>, accessed 30 August 2011.

Law on the Budget of the Republic of Serbia 2011, available at: <http://www.mfin.gov.rs/pages/article.php?id=7521>, accessed 30 August 2011

100: The agency (or agencies) has a budget sufficient to fulfill its basic mandate.

75:

50: The agency (or agencies) has limited budget, generally considered somewhat insufficient to fulfill its basic mandate.

25:

0: The agency (or agencies) has no budget or an obviously insufficient budget that hinders the agency's ability to fulfill its mandate.

83c. In practice, the law enforcement agency is protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the European Commission Serbia 2010 Progress Report: The "lack of openness and transparency of recruitment procedures and career development within the police remains of concern."

In addition, reform of the police sector in Serbia is rather slow and politicization of the police is one of the factors that hinders reform efforts in Serbia. According to Jan Litavski, researcher of the Forum for Security and Democracy (Forum za bezbednost i demokratiju) "... Among the main obstacles for establishing a modern model of police in local communities are politicization of the police, police centralization, inefficient and a non-economical model of the managing of the police compared to modern principles of organizational management."

Also, according to a poll conducted by Strategic Marketing, "Public Opinion on Police Reforms" released in 2009, the great majority of citizens consider that politicians influenced the work of the police as well as that senior police officials are nominated in accordance with political decisions, not on the basis of professional qualifications.

**References:**

Miodrag Cvorovic, journalist and producer, "Insajder" documentary, B92 TV, interview held on 30 August 2011, Belgrade, Serbia.

Srdjan Korac, Research Fellow, Center for Security Studies, Belgrade, Interview held on 24 August 2011, Belgrade, Serbia.

Police Under Political Pressure (Policija pod politickim uticajem), Danijela Vukosavljevic, Politika, 21 February 2009, available at: <http://www.politika.rs/rubrike/Hronika/Policija-pod-politickim-pritiskom.lt.html>, accessed 21 September 2011.

European Commission 2010 Report. [http://ec.europa.eu/enlargement/pdf/key\\_documents/2010/package/sr\\_rapport\\_2010\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/sr_rapport_2010_en.pdf)

Police in Local Community in Serbia, Jan Litavski, p. 6, available at: [http://www.ccmr-bg.org/upload/document/zbirka\\_3\\_srp\\_final.pdf](http://www.ccmr-bg.org/upload/document/zbirka_3_srp_final.pdf)

Public Opinion on Police Reform at: [http://www.mup.rs/domino%5Cmup\\_nsf/Javno%20mnjenje%20o%20reformama%20policije.pdf](http://www.mup.rs/domino%5Cmup_nsf/Javno%20mnjenje%20o%20reformama%20policije.pdf).

**100:** The agency (or agencies) operates independently of the political process and has operational independence from the government. All laws can be enforced regardless of the status of suspects or the sensitivity of the investigation.

**75:**

**50:** The agency (or agencies) is typically independent, yet is sometimes influenced in its investigations or enforcement actions by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

**25:**

**0:** The investigative and enforcement work of the agency (or agencies) is commonly influenced by political actors or the government. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power by the government.

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## 84. Can law enforcement officials be held accountable for their actions?

54

84a. In law, there is an independent mechanism for citizens to complain about police action.

Yes | **No**

### Comments:

The Law on Police, Official Gazette of the RS, No. 101/2005, does not regulate the mechanism for citizens to complain about police action. However, within the Ministry of Interior there are bodies that are tasked to deal with citizens' complaints such as the Commission for Complaints Solving, as well as the Bureau for Complaints, which supports the work of the commission.

### References:

The Law on Police, Official Gazette of the RS, No. 101/2005.

**Yes:** A YES score is earned if there is a formal process or mechanism by which citizens can complain about police actions. A YES score is earned if a broader mechanism such as the national ombudsman, human rights commission, or anti-corruption agency has jurisdiction over the police.

**No:** A NO score is earned if there is no such mechanism

84b. In practice, the independent law enforcement complaint reporting mechanism responds to citizen's complaints within a reasonable time period.

100 | 75 | 50 | **25** | 0

### Comments:

The maximum period for solving the citizens' appeals by law is 45 days from the day of submission of the complaint.

During 2010, according to the Report on Complaints Solving of the Ministry of Interior, there were a great number of complaints resolved, however the period for resolving these complaints was not indicated in the report.

### References:

Srdjan Korac, Research Fellow, Center for Security Studies, Belgrade, Interview held on 24 August 2011, Belgrade, Serbia.

Announcement of Procedure for Solving the Complaints, Ministry of Interior of the Republic of Serbia, available at: <http://www.mup.rs/cms/resursi.nsf/prituzbe.pdf>, accessed 30 August 2011  
2010 Report on number of Complaints Solved, available at: [http://www.mup.rs/cms\\_lat/ministarstvo.nsf/izvestaj\\_Biro\\_za\\_prituzbe2010-lat.pdf](http://www.mup.rs/cms_lat/ministarstvo.nsf/izvestaj_Biro_za_prituzbe2010-lat.pdf), accessed 30 August 2011

**100:** The agency/entity responds to complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency/entity responds to complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take three to six months to resolve. Serious abuses are not investigated with any urgency.

84c. In law, there is an agency/entity to investigate and prosecute corruption committed by law enforcement officials.

Yes | No

**Comments:**

The Law on Police stipulates that internal police oversight shall be performed by the Division of Internal Affairs. The Division of Internal Affairs shall be managed by the head of the division. The head of the Division of Internal Affairs regularly and periodically reports to the minister on the work of the division.

**References:**

The Law on Police, Official Gazette of the RS, No. 101/2005

Article 171: Available at: [http://www.unhcr.org/refworld/type\\_LEGISLATION,,MNE,4b5d7ab32\\_0.html](http://www.unhcr.org/refworld/type_LEGISLATION,,MNE,4b5d7ab32_0.html), accessed 28 August 2011.

**Yes:** A YES score is earned if there is an agency/entity specifically mandated to investigate corruption-related activity within law enforcement. This agency/entity may be internal to the police department (provided it has a degree of independence, such as an internal affairs unit) or part of a broader national mechanism such as the national ombudsman, human rights commission, or anti-corruption agency.

**No:** A NO score is earned if no such agency/entity exists.

84d. In practice, when necessary, the agency/entity independently initiates investigations into allegations of corruption by law enforcement officials.

100 | 75 | 50 | 25 | 0

**Comments:**

According to EU 2010 Serbia Progress Report "...Further steps have been slow toward developing an efficient internal control system ensuring proactive investigations and monitoring of the legality and conformity with standards of police conduct. Between October 2009 and August 2010, 316 criminal charges were filed against police officers. Security of police officers needs to be improved in the light of the increased number of incidents and attacks on police officers."

**References:**

The Division of Internal Affairs Put Things in Order (Unutrasnja kontrola MUP-a Zavodi red) Politika, 26 September 2010, available at: <http://www.politika.rs/rubrike/Hronika/Unutrasnja-kontrola-zavodi-red-u-MUP-u.lt.html>, accessed 30 August 2011

Senior Management of the Ministry of Interior under Investigation by Division of Internal Affairs (Sefovi MUP-a pod palicom unutrasnje kontrole), Politika, 24 October 2010, available at: <http://www.politika.rs/rubrike/Hronika/Sefovi-pod-palicom-unutrasnje-kontrole.sr.html>, accessed 30 August 2011.

The Work of Police is not Controlled (Rad policije niko ne kontrolise), Blic, 7 June 2011, available at: <http://www.blic.rs/Vesti/Hronika/258450/Rad-policije—niko-ne-kontrolise>, accessed 30 August 2011.

Serbia 2010 Progress Report, Communication from the Commission to the European Parliament and the Council, Enlargement Strategy and Main Challenges 2010-2011, Brussels, 9 November 2010, page 52, available at: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2010/package/sr\\_rapport\\_2010\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/sr_rapport_2010_en.pdf), accessed 30 August 2011.

**100:** When irregularities are discovered, the agency/entity is aggressive in investigating government law enforcement officials or in cooperating with other investigative agencies.

**75:**

**50:** The agency/entity starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency/entity does not effectively investigate or does not cooperate with other investigative agencies. The agency may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

84e. In law, law enforcement officials are not immune from criminal proceedings.

Yes | No

**Comments:**

According to the law, there is no provision that makes police officers immune to criminal proceedings, thus anyone committing a crime is subject to criminal proceedings.

**References:**

Criminal Code of the Republic of Serbia, Official Gazette of RS, No. 85/2005, 72/2009, Article 6 paragraph 1, available at: <http://www.osce.org/serbia/18244>, accessed 30 August 2011.

**Yes:** A YES score is earned if law enforcement officers are fully accountable for their actions under the law and can be investigated and prosecuted for their actions.

**No:** A NO score is earned if law enforcement enjoys any special protection from criminal investigation or prosecution.

84f. In practice, law enforcement officials are not immune from criminal proceedings.

100 | 75 | 50 | 25 | 0

**Comments:**

In practice, police officers are subject to criminal proceedings, however exceptions exist. Some crimes may be overlooked by the police or treated as actions taken in the line of duty.

**References:**

Miodrag Cvorovic, journalist and producer, "Insajder" documentary, B92 TV, interview held on 30 August 2011, Belgrade, Serbia.

Srdjan Korac, Research Fellow, Center for Security Studies, Belgrade, Interview held on 24 August 2011, Belgrade, Serbia.

Policeman Sentenced to 13 Years (Policajac osudjen na 13 godina zatvora), Nezavisne novine, 31 May 2011, available at: <http://www.nezavisne.com/novosti/ex-yu/Policajac-osudjen-na-13-godina-zatvora-91694.html>, accessed 21 September 2011.

Policeman Sentenced for Forging (Policajac osudjen zbog falsifikovanja), Juzne vesti, 10 September 2010, available at: <http://www.juznevesti.com/Drushtvo/Policajac-osudjen-zbog-falsifikovanja.sr.html>, accessed 21 September 2011.

**100:** Law enforcement officers are subject to criminal investigation for official misconduct. No crimes are exempt from prosecution.

**75:**

**50:** Law enforcement is generally subject to criminal investigation but exceptions may exist where criminal actions are overlooked by the police or prosecutors. Some crimes may be exempt from prosecution, such as actions taken in the line of duty.

**25:**

**0:** Law enforcement enjoys a general protection from most criminal investigation. This may be due to a formal immunity or an informal understanding that the law enforcement community protects itself.

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