

## Standard Summary Project Fiche – IPA centralised programmes

### Project number 27: Control of State Aids

#### 1. Basic information

- 1.1 CRIS Number: [2008/020-406](#)
- 1.2 Title: **Control of State Aids**
- 1.3 ELARG statistical code: 03.08
- 1.4 Location: Republic of Serbia

#### Implementing arrangements:

- 1.5 Contracting Authority EC Delegation to the Republic of Serbia
- 1.6 Implementing Agency: EC Delegation to the Republic of Serbia
- 1.7 Beneficiary (including details of Project Manager):

Project Manager for the Project is :

Mr Igor Momčilović  
Assistant Minister of Finance  
Sector for economy and Public Undertakings/State Aid Department  
Kneza Miloša 20, Belgrade, Serbia

A Project Steering Committee (PSC) will be established to provide strategic guidance to the project and provide opinions and recommendations upon request of the PMG. The PSC will ensure overall coordination of the project, discuss and approve the main outputs of the project, ensure access to the necessary information and will review project progress reports.

The PSC will contain representatives of key stakeholders, including relevant departments within the Ministry of Finance and representatives of those ministries who are significant providers of state aid. The EC will also participate in these PSC meetings. The PSC will meet every six months, and ad hoc as required, and will be chaired by the Assistant to the Minister.

A Project Management Unit (PMU) will be established within the Department for Competitiveness and Quality Infrastructure. The project will be working closely with the State Aid Department and to establish day to day operation with the State Aid Department. The PMU shall be established at the operational level to ensure that all programme activities are carried out according to the agreed work plans and to promptly identify and resolve any outstanding issues. Regular meetings with the technical assistance and other relevant beneficiary (ies) will be held.

- 1.8 Overall cost: **1,500,000 EUR**
- 1.9 EU contribution: **1,500,000 EUR**
- 1.10 Final date for contracting: 3 years after signature of the Financing Agreement

**1.11 Final date for execution of contracts:** 5 years after signature of the Financing Agreement

**1.12 Final date for disbursements:** 6 years after signature of the Financing Agreement

## **2. Overall Objective and Project Purpose**

### **2.1 Overall Objective**

To reduce disparities in regional growth rates in Serbia through more efficient allocation of resources and market competition, by improving the Serbian State aid system.

### **2.2 Project purpose:**

- To strengthen the institutional and administrative capacity of the Serbian State Aid Department, independent Commission and other relevant authorities, in line with EU acquis and European good practice in the field of state aid;
- To support the establishment of a functioning State Aid monitoring, notification and control system;
- To promote public awareness and new state aid culture among all levels of government, the court system and market economy actors.

### **2.3 Link with AP/NPAA / EP/ SAA**

According to Communication from the Commission to the European Parliament and the Council on Enlargement Strategy and main challenges, Serbia has registered success in ensuring macroeconomic stability in pursuing privatisation, as well as in attracting foreign direct investment. Economic integration with the EU has advanced. Serbia has also made further progress with administrative reform. In negotiations with the EU on the Stabilisation and Association Agreement (SAA), the Serbian administration demonstrated its considerable institutional capacity. This augurs well for Serbia's ability to catch up with the other countries of the region on the way to EU accession, once Serbia has met the conditions for resuming SAA negotiations.

In line with the priorities of the European partnership for competition, it is necessary to establish antitrust regimes applicable to all anti-competition influences. To this end administrative capacities should be built which would efficiently and independently implement these rules. In addition, it is imperative to reinforce units for state aid coordination, and to ensure absolute transparency of state aid as a first step towards setting up the state aid control system.

The following is the key legislation that must be implemented in the field of state aid during the SAA process: EC Treaty, Annex 1, Articles 87 (ex Article 92), 88 (ex Article 93), 89 (ex Article 94); Council Regulation (EC) No 659/99, of 22 March 1999.

#### *Article 78 (SAA) Competition and other economic provisions*

1. *The following are incompatible with the proper functioning of the Agreement, in so far as they may affect trade between the Community and respectively Montenegro and Serbia:*

- (i) *all Agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition;*
  - (ii) *abuse by one or more undertakings of a dominant position in the territories of the Community, Montenegro or Serbia as a whole or in a substantial part thereof;*
  - (iii) *any State aid which distorts or threatens to distort competition by favouring certain undertakings or certain products.*
2. *Montenegro and Serbia shall each establish an operationally independent authority which is entrusted with the powers necessary for the full application of paragraph 1 (iii) of this Article within 1 year from the date of entry into force of this Agreement. This authority shall have, inter alia, the powers to authorise State aid schemes and individual aid grants in conformity with paragraph 2 of this Article, as well as the powers to order the recovery of State aid that has been unlawfully granted.*
  3. *The Community on one side and respectively Montenegro and Serbia on the other side shall ensure transparency in the area of State aid, 'inter alia' by providing to the other Parties a regular annual report, or equivalent, following the methodology and the presentation of the Community survey on State aid. Upon request by one Party, the other Party shall provide information on particular individual cases of public aid.*
  4. *Montenegro and Serbia shall establish a comprehensive inventory of aid schemes instituted before the establishment of the authority referred to in paragraph 4 and shall align such aid schemes with the criteria referred to in paragraph 2 of this Article within a period of no more than **4 years** from the entry into force of this Agreement.*
  5. (a) *For the purposes of applying the provisions of paragraph 1(iii), the Parties recognise that during the first **5 years** after the entry into force of this Agreement, any public aid granted by Montenegro and Serbia shall be assessed taking into account the fact that Montenegro and Serbia shall be regarded as areas identical to those areas of the Community described in Article 87(3) (a) of the Treaty establishing the European Community.*

This project addresses the above by supporting the development of the independent authority, which will be established prior to project initiation, and by supporting this authority in establishing effective state aid policies and reviewing existing aid schemes and revising these appropriate to conform to EU regulations.

## **2.4 Link with MIPD**

This project addresses a number of priorities identified in the MIPD:

### **2.2.2 Socio-economic Requirements 2.2.2.1 Main priorities and objectives**

Enhancing the investment climate and providing support to small and medium size enterprises (SMEs) through a favourable legislative and policy framework, economic environment, access to services, capital and know-how, and support to competitiveness, including investment and import/export promotion. Support to jobcreation potential in specific branches and activities related to tourism. Develop national institutional capacities for the implementation of anti-trust policy, a competitive Serbian business environment and industry capable of sustaining the competitive pressure of the European market. Develop Serbia's capacity to benefit from the knowledge based society. Further develop local/regional business support

structures (clusters, incubators, business/technology parks, etc.) in order to promote business, research and innovation related activities and public services. Development and implementation of Serbia's industrial, innovation and FDI strategies and action plans. Promotion of FDI and export-oriented companies. Assist SME and Regional Economic Development Support institutions.

#### MIPD 2.2.2.2. Expected results and time frame

European Social Fund type actions on employment and grant schemes for fighting youth unemployment and unemployment groups) have been designed and prepared for piloting. Enhanced investments in environmental infrastructures

#### MIPD 2.2.2.2. Expected results and time frame

Investment climate and the business environment in general will be improved through the support to SME and regional economic development. Improved investment climate in respect to continuous increase direct investments and SME development.

#### 2.2.2.3 Programmes to be implemented in pursuit of these objectives

Tailored employment support measures for the territories in severe industrial decline and vulnerable groups including those laid off from public sector enterprises due to restructuring and privatisation.

Actions on employment, economic development and social inclusion with particular focus on the unemployed and disadvantaged groups.

Assist SME and Regional Economic Development Support institutions. Support implementation of the European Charter for Small Enterprise.

### 2.2.3 European Standards

#### 2.2.3.1 Main priorities and objectives

Supporting State Aid and the Competition Protection authorities to meet EU antitrust and state-aid standards

Support the alignment of Serbian legislation and institutions in key SAA sectors.

Capacity building for State Aid and the Competition authorities to meet anti-trust and state-aid standards

## **2.5 Link with National Development Plan (where applicable)**

Not applicable

## **2.6 Link with national/ sectoral investment plans(where applicable)**

In conformity with the Serbian National Strategy for EU Accession:

The state aid control system in the EU does not prohibit all forms of state aid. It is unconditionally allowed when the aid is of social nature and is granted to individual consumers and in the event of natural disasters and extraordinary circumstances, as well as to public institutions that are not economic entities (hospitals, educational institutions, etc). In

other cases, the European Commission approves granting of the state aid in line with the adopted regulations, decrees and directives.

Primarily, such cases include: spurring the regional development, enterprises restructuring, research and development, environmental protection, support to SMEs and assistance to sensitive sectors.

Those countries that are in the process of EU accession have the right to maintain a certain volume of state aid, but are still expected to decrease it gradually. Being an underdeveloped country, Serbia will be able to maintain a certain volume of state aid in the forthcoming period, but it is of paramount importance that the creators of economic policy decide on the necessary forms of state aid in time, since impromptu approvals will not be possible. Also, it will be essential to decrease the amount so that it is within the percentage range of GDP limits as required in the EU.

In this respect, Serbia so far drew up two annual State Aid reports - 2003/2004 and for 2005. The draft report for 2006 is under procedure for the adoption by the Government.

In line with the Serbian Action Plan for implementing the priorities of the European Partnership (adopted by the Government on April 7, 2006):

“Short-term priority: to reinforce the units for the state aid coordination and ensure absolute transparency of state aid as the first step towards the state aid control;

In line with the Action Plan for institutional capacity building for assuming commitments within the process of European integration (adopted by the Government on July 27, 2006); in the field of internal market and trade, and especially in the area of competition policy and state aid it is essential to implement institutional priorities, among which:

1. Capacity building of the Treasury Administration, an institution which conducts the record keeping and monitoring of state aid, in conformity with the Law on Amendments of the Budget System Law (“Official Gazette of RS”, No. 66/05). The capacity building in terms of human resources, equipment and premises is a priority given the significance of state aid control in the EU, as well as the fact that the state aid control is subject to continuous monitoring by the European Commission. In light of the above, one must be aware of the scope and importance of this work in the process of SAA talks and observance of commitments within the agreed time limits.

2. Establishment of a body that will be responsible for state aid control (both ex ante and ex post control) and operationally independent in its work.

3. Organizing all types of training and professional upgrading of the Treasury Administration staff in order to be able to competently conduct record keeping and monitoring of state aid (seminars, workshops, study visits), as well as hiring international and domestic consultants to participate in the preparation of Draft Law on State Aid Control and relevant by-laws.

### **3. Description of project**

#### **3.1 Background and justification**

The issue of state aid is undoubtedly one of the central matters in the course of the SAA talks. The volume of state aid in Serbia shows a downward trend as it moved from 3.1% in 2003, to 2.8% 2004 and 1.5% in 2006. The figure did though go up slightly in 2006 to 1.75%. The average percentage permissible in the EU is 0.5%.

Since 2005, the State Aid Department has been located within the Treasury Department. According to the new Budget System Law, which is currently in the Parliament procedure, these activities will be relocated to the Sector for economy and Public Undertakings in the Ministry of Finance.

The Republic of Serbia is currently in the process of introducing a legal framework to cover the field of state aid control. The Law requires the establishment of a separate body that will monitor and control the state aid system and the development of a plan for rationalization of state subsidies in order to maximize the optimal utilization of limited resources according to economic criteria, for the benefit of industrial branch and enterprises

The draft Law on State Aid Control has already passed public discussion procedure and according to legal procedure the next step is submission to the Government. It is anticipated that the Government will submit final Draft Law to the Parliament for adoption by the end of 2008.

By adopting the Law on State Aid Control and the relevant by-laws, the procedures and general conditions for this type of control will be regulated for the very first time in Serbia. The primary objective in this process has been the preservation of free market competition and the stimulation of economic development by means of applying market economy principles and equality among economic entities, in line with the internationally committed obligations.

The said draft law, inter alia, stipulates the following:

- Conformity with Article 87, par. 1 of the EC Treaty – each state aid that distorts or threatens to distort the market competition, save for the cases set out in the law, or is contrary to international agreements shall not be allowed;
- Conformity with Article 87, par. 2 – state aid that shall be allowed;
- Conformity with Article 87, par. 3 – state aid that may be allowed;
- Establishment of the Commission for state aid control appointed by the Government and independent in its work. This Commission shall perform ex ante and ex post control, and shall have the authority to order the recovery of state aid that is granted or is being utilized contrary to the provisions of the above-mentioned law. Also, the Commission is obliged to provide the Government with annual reports on the state aid that was granted in the Republic of Serbia in the course of the previous year;
- Ministry of Finance is to conduct professional, administrative and technical operations for the Commission (collect state aid notifications and other data from the state aid providers, prepares the Commission's decision in the course of ex ante and ex post control, keep record on state aid, draw up the annual reports which are submitted to the Government, participate in the preparation of draft laws and by laws that regulate the state aid monitoring and control);
- Obligatory notification of state aid to the Commission prior to the granting, as well as compulsory notification of each modification of the state aid already granted;
- Ban on granting state aid before the Commission has made the relevant decision;
- Procedure of ex ante and ex post control;
- The Government is to pass by laws that more closely regulate the application of certain provisions of the law, particularly the rules for the preparation of the state aid scheme and the individual state aid, terms and procedure for notification and determination on the conformity of a state aid with the said law;
- The law comes into effect on the eighth day from the day when it has been published in the "Official Gazette of RS"

The above law has a tremendous significance in terms of the preservation of market competition and stimulation of overall economic growth. This is to be achieved through

enabling a more balanced regional development which will be accompanied by special support extended for the improvement of SMEs, employment, environmental protection and research and development.

Upon signing SAA the Republic of Serbia will, among other obligations, assume those relating to state aid control. The Law on State Aid Control should be passed by the end of 2008, its application beginning in 2009, and by that time all the necessary technical and technological preparations must be made. Apart from that, the State Aid Department staff should be appropriately trained, as well as all the stakeholders – state aid providers and beneficiaries, together with the members of the Commission for State Aid Control.

Passing the Law on State Aid Control is of paramount importance. It shall impose the control of grant and utilization of funds that the Republic of Serbia allocates from all government levels. The establishment of this system is particularly significant due to its key role for the preservation of market competition, which is to be accomplished by introducing rules for state aid granting, but primarily by introducing the obligatory notification of each planned granting. Thus, the planning and spending of budget funds will be done more properly, i.e. the funds will be directed where most needed.

A more appropriate granting of state aid leads to a more balanced regional development. Furthermore, investment in SMEs, employment, environmental protection and R&D is encouraged, which is all in compliance with the European Council's Lisbon Strategy.

The primary obstacle in accomplishing any of the said priorities lies in the insufficient capacity, above all, in terms of human resources. Since the founding of the Treasury Administration (August 1, 2005) the record keeping and monitoring of state aid, the activities prescribed in the Budget System Law, have been performed in the State Aid Department.

Apart from this, the responsibilities that were assigned to a Project group for the preparation of the Draft Law on State Aid were also performed by the said Department. The Project Group was founded by a Decree of the Ministry of Finance in May 2005, and its assignment ended in July the same year. All the above responsibilities, together with heavy engagement on the activities within the European Partnership, SAA talks, and overall European integration, are conducted by only two employees and the Head of the Department who is directly involved in the realization of all tasks, particularly the most complex ones.

The situation is aggravated by the fact that the staff does not possess any previous experience in the field of state aid, especially when it comes to preparing relevant legislation. The issue of state aid is extremely complex and requires that highly competent staff is engaged in every segment of work. It is also fundamental to achieve a better coordination between the State Aid Department, as the primary operator of record keeping and monitoring, and other units within the Ministry of Finance, especially in the part of work inherited from the Project Group (preparation of the Draft Law on State Aid Control). This is identified in the Serbian Action Plan for adoption of the European Partnership:

“A major obstacle to implementation of effective state aid policies given the current and impending volume of work, is the insufficient number of employees in the State Aid Department (the Head of the Department + 2 employees). All kinds of trainings are required: seminars, workshops, study visits. Consulting support is necessary with regards to the preparation of by laws for the enforcement of the Law on State Aid Control.”

The two employees of the State Aid Department, who have been employed since October 1, 2005, have so far attended two seminars in the Serbian Chamber of Commerce and took

part in one study visit to Slovenia, to their Ministry of Finance, Department for State Aid Monitoring.

In addition, a higher level of coordination needs to be achieved with other bodies and organizations of the Republic of Serbia, given that the state aid issue bears direct and indirect implications for the economy and the society as a whole.

Another obstacle for the realization of the set priorities is the fact that quite a sizeable legislation which exists in the field of state aid has not been translated; i.e. only a small portion of it is translated into Serbian. The lack of official translations of EU legislation hinders the proper understanding of relevant regulations. This may result in incorrect interpretation which could raise suspicion whether the national state aid legislation is properly harmonized with the EU *acquis communautaire*. However, it is expected that through CARDS funded project, that will start in coming months, the Serbian Government will ensure translation of *Acquis communautaire* in the area of state aid. It is important to mention that Serbia will share the translation of the *Acquis communautaire* with interested partners from the region.

The Draft Law on State Aid Control shall be proposed by the Ministry of Finance, which is also to provide the professional, administrative and technical support.

The stakeholders of this complex system are providers of state aid, on one side. The providers can be on any level of government, the Republican level (ministries), the level of the autonomous province, or the municipality level, but the provider can also be any legal entity that manages and/or utilizes public funds. On the other side, the stakeholders are the state aid users- each legal entity or an individual that uses any form of state aid in the course of its business operations.

The implementation of the project proposed herewith should provide the necessary technical assistance with the actual application of the Law on State Aid Control and the relevant by laws. The above primarily incorporates the training of the State Aid Department staff, providers and users of the state aid, as well as the members of the Commission for the State Aid Control who bear a significant responsibility due to their decision making role in the *ex ante* and *ex post* control.

The project will also develop an appropriate IT base, and provide technical and technological assistance by means of procuring the proper software for record keeping (drawing up the state aid inventories) and the procurement of computers and other equipment for the State Aid Department and the Commission for State Aid Control. Apart from that, a link is to be made between the state aid providers and the Ministry of Finance in order to ensure a mutual electronic communication, primarily in terms of submission of the state aid notification.

### **3.2 Assessment of project impact, catalytic effect, sustainability and cross border impact (where applicable)**

#### ***Project Impact***

This project has the potential for significant project impact. Firstly it is a key requirement for EU Accession. Successful implementation will result in compliance with the *Acquis Communautaire* in the field of State Aid control providing comprehensive implementation of EU rules in State Aid area.

An effective state aid policy and programme will also support the wider efforts related to regional development, increasing competitiveness of Serbian businesses, introducing more environmentally sustainable practices and creating employment. This will be done in a way

which ensures that those areas and groups of society which struggle to identify or take advantage of social and economic opportunities receive greater levels of support.

Establishment of State Aid control system is recognized as one of priority areas in the SAA agreement. According to the SAA, 1 year from the date of enforcement of this agreement is the deadline for the establishment of an independent authority for State Aid control. In Serbia, this area has never been regulated before.

### ***Catalytic effect***

The regulations established and analyses completed can be used for the continued monitoring and control of state aid programmes. Greater transparency in state aid programmes should trigger greater public confidence in public spending as well as increasing the quality of state aid programmes and those applying for support as recipients of state aid.

### ***Sustainability***

The software and hardware procured under the project will be maintained by the Ministry of Finance on completion of the project. The project will also develop systems in relation to the reporting and approval of state aid which will be consistent with Serbian legislation and will continue to be followed on project completion.

Training will be delivered to existing staff within the State Aid Department, Independent Commission, providers of state aid and the users of state aid. The skills and expertise developed through the training will continue to be used after project completion and training materials will be prepared in electronic form so that courses can be repeated in the future. The project should explore the potential for a training programme to be developed and delivered through the Human Resource Management Service.

### **3.3 Results and measurable indicators:**

1. Effective and transparent procedures in the granting of State Aid are established

Indicator 1: State Aid department is fully operational by project completion

Indicator 2: State Aid providers are communicating and reporting effectively to the State Aid department

2. Increased capacity of the State Aid Department and the Independent Commission to control state aid granting and to support state aid providers in the development of effective programmes

Indicator 1: all staff within the State Aid Department undergoes a comprehensive training programme in State Aid and in generic skills

Indicator 2: Hardware and software to assist the State Aid Department and other key stakeholders in the monitoring, reporting and data management systems procured and put into operational functioning under the project.

3. Increased capacity of state aid providers to develop and implement effective state aid policies and programmes

Indicator 1: At least one member of staff from each Line Ministry or other agency which provides state aid to receive training in the new state aid procedures, regulations and legislation

4. Analysis of existing regulations and state aid is completed with necessary corrective actions taken.

Indicator 1: analysis of existing national regulations is completed and approved by the PSC

Indicator 2: revisions to existing state aid programmes are proposed, approved and introduced

Indicator 3: national regulations relating to State Aid control are harmonised with the EU Acquis communautaire

5. Increased awareness among state aid providers and state aid users regarding changes in state aid provision.

Indicator 1: State aid users have greater understanding of how to apply for state aid and the basis of the provision of state aid

Indicator 2: increased positive appearances of state aid programmes in the media

### **3.4 Activities**

1. Effective and transparent procedures in the granting of State Aid are established

Operating procedures and associated manuals and guidelines should be prepared for the complete range of responsibilities of the State Aid Department and the Independent Authority. This will include procedures for monitoring, categorisation of state aid, available instruments, recovery of state aid and the implementation of the Commissions decisions.

The State Aid Department is required to prepare regular and annual reports regarding the provision and usage of state aid. Specific support should be provided to improve the quality of this reporting so that it better informs related decision making.

2. Increased capacity of the State Aid Department and the Independent Commission to control state aid granting and to support state aid providers in the development of effective programmes

The State Aid department and the Independent Commission will contain newly recruited staff as well as more experienced personnel so capacity building activities will need to be based on a comprehensive needs analysis and linked to an organisational development strategy. Activities should provide training in technical areas and in generic skills such as communication and reporting. Such activities should include both formal training and more informal mentoring. Study visits should also be considered to counterpart organisations in the EU.

The relationship between the State Aid Department, Independent Commission and the State Aid providers should also be clarified so that roles, responsibilities and reporting requirements are clearly understood by both sides.

Hardware and software to assist the State Aid Department and other key stakeholders in the monitoring, reporting and data management systems will be procured under the project. It is a responsibility under the service contract that the technical specification and tender documentation for this be prepared.

3. Increased capacity of state aid providers to develop and implement effective state aid policies and programmes

Training should be based on a training needs analysis of all state aid providers and this, in turn, should be based on an initial stakeholder analysis. Training should be designed to strengthen linkages between the State Aid providers and the State Aid Department. Training might include formal workshops, conferences and seminars and more informal mentoring and discussion.

The project should also produce manuals and guidelines in accordance with newly adopted legislation to support State Aid providers in the implementation of state aid programmes.

4. Analysis of existing regulations and state aid is completed with necessary corrective actions taken.

This result should be initiated through the completion of an inventory of all existing state aid schemes. All existing regulations and state aid should be reviewed but the inventory should be prioritised so that the larger schemes undergo a more thorough analysis.

A series of recommendations should then be made to the PSC for corrective action. Approval of the PSC will then lead to submission of these recommendations to government. It is important here that the Ministry of Finance remains committed to implementing change and works actively to embed changes.

5. Increased awareness among state aid providers and state aid users regarding changes in state aid provision.

The changes in legislation, regulations and procedures result in fairer, more effective and more transparent provision of State Aid. This is in itself an important message for the taxpayer to be aware of. The changes will affect eligibility for existing and for future state aid programmes and these changes need to be clearly communicated to those who apply for and/or receive state aid.

This information can be provided through a range of mechanisms depending on an analysis of state aid users, available media and existing networks and communication channels. Mechanisms could include seminars, poster campaigns, national press conferences, road shows and/or web-site development.

**Contracting Arrangement:**

The activities will be delivered through one service contract and one supply contract (see Section 3.5. for issues of sequencing). The service contract will be implemented through technical assistance.

**3.5 Conditionality and sequencing:**

There are three significant conditions which impact on the project:

- The State Aid control Law should be adopted by the Parliament and all relevant by-laws should be adopted by the Government. It is anticipated that the Government will submit the final Draft Law to the Parliament for adoption by the end of 2008.
- Subsequent to the ratification of the legislation, the Commission for State Aid control should be established prior to the initiation of the project.

- Increased personnel should be recruited to work in the State Aid Department prior to the initiation of the project. These personnel will be the main recipients of the capacity building activities. The Ministry of Finance must also therefore commit to further expansion of the Department based on the recommendations of the various analyses.

The project includes two contracts: one service and one supply. The service contract will be initiated first and the appointed technical assistance will be required to prepare the technical specification for the necessary hardware and software. Development of this specification and the associated tender documentation is a priority in the early stages of the project and the tender must be launched within 5 months of the project start date.

### **3.6 Linked activities**

The Policy and Legal Advice Centre was set up in 2001 and has been providing technical assistance to Serbia in order to support its efforts in the Sap and WTO accession processes. Apart from support in the field of state aid control, PLAC has also rendered consulting services regarding competition, and public procurement. PLAC has advised on the formulation, development and drafting of EU harmonized legislation, performed compatibility checks of legislation in order to ensure that the EU *acquis communautaire* is adopted and implemented in areas covered by the Stabilization and Association process as described in the European Partnership, including internal market and trade. It has also performed concrete sector studies and impact analysis of further trade liberalisation setting out operational conclusions, provided specialized training for civil servants from the beneficiary country pertaining the issues above. Since July 2007. PLAC 3 program is in implementation.

The Serbian Chamber of Commerce has so far organized two seminars (in November 2005 and November 2006) on the subject of state aid control. At the last seminar, in 2006, the working material of the Draft Law on State Aid Control was presented. Also, in January 2007, the Treasury Administration held a workshop where the said working material was discussed. The workshop was attended by representatives of several ministries-the greatest providers of state aid, the Commission for Protection of Competition, Chamber of Commerce, Serbian EU Integration Office, and PLAC consultants.

The key role in the process of donor coordination is given to the Ministry of Finance. This Ministry is assigned by the Government of the Republic of Serbia to coordinate donor activities by increasing the level of transparency and efficient utilization of international assistance, concurrently aiming to meet the requirements defined by donor programs.

The consulting support provided by PLAC within the establishment of the state aid control system is directed towards the preparation of the legal framework – that is the preparation of the Draft Law on State Aid Control, as well as the relevant by laws.

The project proposed herewith is expected to provide vital support for the enforcement of the above-mentioned law and by laws, but above all, to give assistance with the training of all stakeholders and to provide IT support. We would like to highlight that there will not be an overlapping of the two described projects, but the proposed one would draw on the PLAC project that is due to be finalized by May 2009.

### **3.7 Lessons learned**

The State Aid control system is to be established for the first time in the Republic of Serbia. That means that there are no previous experiences in this field. The Draft on State Aid control Law is mostly based on the experience of the Republic of Slovenia, which appeared to be the most adequate model for the Republic of Serbia, and gave the best results in the implementation.

The experience of neighbouring countries, primarily Slovenia, which has already become an EU Member State, as well as Croatia, which has the status of a Candidate Country, reveals that the said type of assistance, as well as other forms of help (Twinning), was rendered continually.

#### 4. Indicative Budget (amounts in €)

|                      |           |            | TOTAL EXP.RE           | SOURCES OF FUNDING         |            |                                 |          |                       |                                  |                    |                      |       |
|----------------------|-----------|------------|------------------------|----------------------------|------------|---------------------------------|----------|-----------------------|----------------------------------|--------------------|----------------------|-------|
|                      |           |            |                        | IPA COMMUNITY CONTRIBUTION |            | NATIONAL CONTRIBUTION           |          |                       |                                  |                    | PRIVATE CONTRIBUTION |       |
| ACTIVITIES           | IB<br>(1) | INV<br>(1) | EUR<br>(a)=(b)+(c)+(d) | EUR<br>(b)                 | %(2)       | Total<br>EUR<br>(c)=(x)+(y)+(z) | %<br>(2) | Central<br>EUR<br>(x) | Regional/<br>Local<br>EUR<br>(y) | IFIs<br>EUR<br>(z) | EUR<br>(d)           | % (2) |
| Activity 1           |           |            |                        |                            |            |                                 |          |                       |                                  |                    |                      |       |
| contract 1.1         | x         |            | 1.000.000              | 1.000.000                  | 100        |                                 |          |                       |                                  |                    |                      | -     |
| Activity 2           |           |            |                        |                            |            |                                 |          |                       |                                  |                    |                      |       |
| contract 1.2         |           | x          | 500.000                | 500.000                    | 100        |                                 |          |                       |                                  |                    |                      | -     |
| .....                |           |            |                        |                            |            |                                 |          |                       |                                  |                    |                      |       |
| TOTAL IB             |           |            | 1.000.000              | 1.000.000                  | 100        |                                 |          |                       |                                  |                    |                      |       |
| TOTAL INV            |           |            | 500.000                | 500.000                    | 100        |                                 |          |                       |                                  |                    |                      |       |
| <b>TOTAL PROJECT</b> |           |            | <b>1.500.000</b>       | <b>1.500.000</b>           | <b>100</b> |                                 |          |                       |                                  |                    |                      |       |

Amounts net of VAT

(1) In the Activity row use "X" to identify whether IB or INV

(2) Expressed in % of the **Total** Expenditure (column (a))

**5. Indicative Implementation Schedule (periods broken down per quarter)**

| Contracts    | Start of Tendering | Signature of contract | Project Completion |
|--------------|--------------------|-----------------------|--------------------|
| Contract 1.1 | T+1Q               | T+4Q                  | T+12Q              |
| Contract 2.1 | T+6Q               | T+8Q                  | T+12Q              |

**6. Cross cutting issues (where applicable)**

**6.1. Equal Opportunities**

Equal opportunities for men and women will be guaranteed as to participation in this Project. This relates to the training opportunities for men and women who are currently working within the MoF, state aid providers and state aid users. All state aid programmes will need to demonstrate that they provide equal opportunities for men and women to participate.

**6.2. Environment**

Environmental protection is one of the identified areas which will benefit from the development and improvement of state aid facilities. State aid programmes will provide incentives to businesses and others to adopt environmental good practice, reduce harmful emissions and reduce energy consumption.

The project itself will be implemented in a way which is as environmentally friendly as possible and this includes the use of re-cycled paper. It also includes the procurement of software and hardware which is designed to establish electronic reporting systems between the MoF and state aid providers. This will decrease paper use and the associated environmental costs.

**6.3. Minorities and vulnerable groups**

A key objective of the state aid programmes is to increase opportunities for economic and social development in regions which are currently suffering from a lack of investment. State aid will be designed to encourage foreign investment into these areas and also to stimulate the growth of SMEs and employment generation.

All state aid programmes will be reviewed to ensure that they do not discriminate against any specific groups within these less developed regions, on the basis of their religion, ethnicity, race or religion.

**ANNEXES**

- I- Log frame in Standard Format
- II- Amounts contracted and Disbursed per Quarter over the full duration of Programme
- III - Institutional Framework – legal responsibilities and statutes
- IV - Reference to laws, regulations and strategic documents:
  - Reference list of relevant laws and regulations
  - Reference to EP / SAA
  - Reference to MIPD
  - Reference to National Development Plan

Reference to national / sector investment plans  
V - Details per EU funded contract (\*) where applicable:

For *TA contracts*: account of tasks expected from the contractor

For *twinning covenants*: account of tasks expected from the team leader, resident twinning advisor and short term experts

For *grants schemes*: account of components of the schemes

For *investment contracts*: reference list of feasibility study as well as technical specifications and cost price schedule + section to be filled in on investment criteria (\*\*)

For *works contracts*: reference list of feasibility study for the *constructing works* part of the contract as well as a section on investment criteria (\*\*); account of services to be carried out for the *service part* of the contract

(\*) non standard aspects (in case of derogation to PRAG) also to be specified

(\*\*) section on investment criteria (applicable to all infrastructure contracts and constructing works):

- Rate of return
- Co financing
- compliance with state aids provisions
- Ownership of assets (current and after project completion)

**ANNEX I: Logical framework matrix in standard format**

| LOGFRAME PLANNING MATRIX<br>FOR Project Fiche   |   | Control of State Aids  |   |
|---|---|--|---|
|   |   | Contracting period expires 3 years after the signature of the Financing Agreement                      | Disbursement period expires 6 years after the signature of the Financing Agreement  |
|   |   | Total budget: 1,500,000  | IPA budget: 1,500,000   |
| <b>Overall objective</b>  | <b>Objectively verifiable indicators</b>  | <b>Sources of Verification</b>   |   |
| To reduce disparities in regional growth rates in Serbia through more efficient allocation of resources and market competition, by improving the Serbian State aid system   |   |  |   |
| <b>Project purpose</b>  | <b>Objectively verifiable indicators</b>  | <b>Sources of Verification</b>   | <b>Assumptions</b>  |
| <p>To strengthen the institutional and administrative capacity of the Serbian State Aid Department and other relevant authorities, in line with EU acquis and European good practice in the field;</p> <p>To support the establishment of a functioning State Aid monitoring, notification and control system;</p> <p>To promote public awareness and new state aid culture among all levels of government, the court system and market economy actors.</p> | <ul style="list-style-type: none"> <li>○ State Aid Department and Independent Commission are fully operational</li> <li>○ State Aid regulation and schemes comply with EU requirements</li> </ul> | <ul style="list-style-type: none"> <li>○ Project reports and</li> <li>○ EU Progress Reports</li> </ul> | The Ministry of Finance must also therefore commit to further expansion of the Department based on the recommendations of the various analyses. |
| <b>Results</b>  | <b>Objectively verifiable indicators</b>  | <b>Sources of Verification</b>   | <b>Assumptions</b>  |

|   |   |   |  |
|---|---|---|--|
| <p>1. Effective and transparent procedures in the granting of State Aid are established</p> <p>2. Increased capacity of the State Aid Department and the Independent Commission to control state aid granting and to support state aid providers in the development of effective programmes</p> <p>3. Increased capacity of state aid providers to develop and implement effective state aid policies and programmes</p> <p>4. Analysis of existing regulations and state aid is completed with necessary corrective actions taken.</p> <p>5. Increased awareness among state aid providers and state aid users regarding changes in state aid provision.</p> | <ul style="list-style-type: none"> <li>○ State Aid department is fully operational by project completion</li> <li>○ State Aid providers are communicating and reporting effectively to the State Aid department</li> <li>○ All staff within the State Aid Department undergo a comprehensive training programme in State Aid and in generic skills</li> <li>○ At least one member of staff from each Line Ministry or other agency which provides state aid to receive training in the new state aid procedures, regulations and legislation</li> <li>○ Analysis of existing national regulations is completed and approved by the PSC</li> <li>○ Revisions to existing state aid programmes are proposed, approved and introduced</li> <li>○ National regulations relating to State Aid control are harmonised with the EU Acquis communautaire</li> <li>○ State aid users have greater understanding of how to apply for state aid and the basis of the provision of state aid</li> </ul> | <ul style="list-style-type: none"> <li>○ Annual reports and project reports</li> <li>○ State Aid Department database</li> <li>○ Reports of the Independent Commission</li> <li>○ Trainer reports and feedback questionnaires</li> <li>○ Feedback from selected Line Ministries</li> <li>○ Trainer reports and feedback questionnaires</li> <li>○ Institutional analysis of key Line Ministries</li> <li>○ Analysis approved by PSC</li> <li>○ Project reports</li> <li>○ Regulations adopted</li> <li>○ Increased applications for state aid</li> </ul> | <p>The State Aid control Law should be adopted by the Parliament and all relevant by-laws should be adopted by the Government. This law has been submitted to Parliament and is awaiting approval.</p> |
|---|---|---|--|

|  | o Increased positive appearances of state aid programmes in the media | o Various media                                 |   |
|--|---|---|---|
| <b>Activities to achieve results</b>   | <b>Timeframe and Means for implementation of Activities</b>           | <b>Detailed Costs</b>                           | <b>Remarks on implementation</b>  |
| <p>1.1. Preparation of operating procedures and associated manuals and guidelines should be for the complete range of responsibilities of the State Aid Department and the Independent Authority.</p> <p>1.2. Provision of support to the State Aid Department to prepare regular and annual reports regarding the provision and usage of state aid.</p> <p>2.1. Comprehensive training needs analysis<br/> 2.2. Preparation of organisational development strategy.<br/> 2.3. Design, delivery and evaluation of training activities in technical and generic skills<br/> 2.4. Development of clear standards of performance for the State Aid Department, Independent Commission and the State Aid providers.<br/> 2.5. Preparation of technical specification and other tender documentation for the procurement of appropriate software and hardware.</p> <p>3.1. Stakeholder analysis<br/> 3.2. Training needs analysis of all state aid providers<br/> 3.3. Design, delivery and evaluation of</p> | <p>1 x Service contract<br/> 1 x Supply contract</p>                  | <p><b>1,000,000</b><br/><br/><b>500,000</b></p> | <p>Subsequent to the ratification of the legislation, the Commission for State Aid control should be established prior to the initiation of the project.</p> <p>Increased personnel should be recruited to work in the State Aid Department prior to the initiation of the project.</p> |

|   |  |  |  |
|---|--|--|--|
| <p>training activities.</p> <p>3.4. Production of manuals and guidelines in accordance with newly adopted legislation to support State Aid providers in the implementation of state aid programmes.</p> <p>4.1. Preparation of an inventory of all existing state aid schemes and all existing regulations.</p> <p>4.2. Development of a series of recommendations to the PSC for corrective action regarding existing schemes.</p> <p>5.1. Development and implementation of a public dissemination strategy regarding the improved procedures for state aid.</p> <p>5.2. Development and implementation of an information campaign for users of state aid</p> |  |  |  |
|---|--|--|--|

**Pre-conditions**

**ANNEX II: amounts (in €) Contracted and disbursed by quarter for the project (IPA contribution only)**

Firstly, please note that the table below is for the IPA contribution only. For Investment Projects therefore, a maximum of 75% of the contract should be entered into the table below depending on the actual co-financing rate. A maximum of 85% should be entered into the table for IB projects.

For each contract entered into the tables in Parts 4 and 5 of the fiche, a corresponding row should be completed below.

The information to be included in the 'Contracted' table should match the dates in Table 5 of this Fiche. The total value of the contract should be entered in the quarter when you expect to sign the contract.

The information to be included in the 'Disbursed' table depends on the payment schedule to be used for the various contracts. The payment schedule options are included in the general conditions for services, supplies and works which can be found in the relevant chapter of the PRAG.

**ANNEX II: amounts (in €) Contracted and disbursed by quarter for the project**

| <b>Contracted</b> | <b>Q1</b> | <b>Q2</b> | <b>Q3</b> | <b>Q4</b>        | <b>Q5</b> | <b>Q6</b>      | <b>Q7</b> | <b>Q8</b>        | <b>Q9</b> | <b>Q10</b>       | <b>Q11</b> | <b>Q12</b>       | <b>TOTAL</b>     |
|-------------------|-----------|-----------|-----------|------------------|-----------|----------------|-----------|------------------|-----------|------------------|------------|------------------|------------------|
| Contract 1.1      |           |           |           | 1,000,000        |           |                |           |                  |           |                  |            |                  | <b>1,000,000</b> |
| Contract 1.2      |           |           |           |                  |           |                |           | 500,000          |           |                  |            |                  | <b>500,000</b>   |
| <b>Cumulated</b>  |           |           |           | <b>1,000,000</b> |           |                |           | <b>1,500,000</b> |           |                  |            |                  | <b>1,500,000</b> |
| <b>Disbursed</b>  |           |           |           |                  |           |                |           |                  |           |                  |            |                  |                  |
| Contract 1.1      |           |           |           | 100,000          |           | 225,000        |           | 225,000          |           | 225,000          |            | 225,000          | <b>1,000,000</b> |
| Contract 1.2      |           |           |           |                  |           |                |           | 225,000          |           |                  | 225,000    | 50,000           | <b>500,000</b>   |
| <b>Cumulated</b>  |           |           |           | <b>100,000</b>   |           | <b>325,000</b> |           | <b>775,000</b>   |           | <b>1,000,000</b> |            | <b>1,500,000</b> | <b>1,500,000</b> |

## **Annex III - Institutional Framework – legal responsibilities and statutes**

### **Ministry of Finance**

#### **Specialist, Administrative and Technical Activities**

##### **Article 8**

Specialist, administrative and technical activities for the Commission shall be performed by the Ministry of Finance (hereinafter: the Ministry), and in particular:

- 1) Collect, from state aid grantors, the notifications and other data about state aid, process them and monitor;
- 2) Based on collected notifications, obtained information and other data about state aid, prepare the decision of the Commission in the procedures of ex ante and ex post control;
- 3) Keep records of state aids;
- 4) Prepare annual report on total granted state aid at all levels of government in the Republic, to be submitted by the Commission to the Government;
- 5) Prepare proposals for legislation governing the state aid control and proposals for amending this legislation;
- 6) Related to the state aid control, co-operate with the supreme audit institution, the authority, namely local body responsible for budget inspection, and with other domestic and international authorities, organisations, and institutions.

### **Independent Authority**

#### **Commission for State Aid Control**

##### **Article 6**

The Commission for state aid control shall be set up (hereinafter referred to as: the Commission).

The Commission shall be composed of five members, appointed by the Government, upon the proposal of: the ministry responsible for finances; the ministry responsible for economy and regional development; the ministry responsible for infrastructure; the ministry responsible for environmental protection; the Commission for Protection of Competition. The representative of the Ministry of Finance shall at the same time be the Chairperson of the Commission, and the representative of the Commission for Protection of Competition shall be the Deputy Chairperson.

Members of the Commission referred to in paragraph 2 of this Article shall be appointed for a period of five years with the possibility of reappointment.

The Commission shall adopt its rules of procedure.

The Commission shall be independent in performance of its activities.

Funds for the activities of the Commission shall be provided from the budget of the Republic of Serbia.

### **Proposed role of Independent Body**

#### **Responsibilities of the Commission for State Aid Control**

##### **Article 7**

The Commission for State Aid Control shall be responsible for the following:

- 1) to decide whether notified state aid is compatible with the provisions of this Law (ex ante control);
- 2) to decide whether granted state aid is compatible with the provisions of this Law (ex post control);
- 3) to submit to the Government the annual report on granted state aid at all levels of government in the Republic;
- 4) in performance of its responsibilities to co-operate with the supreme audit institution, the authority, namely local body responsible for budget inspection, and with other domestic and international authorities, organisations, and institutions.

## **State Aid providers**

### **Meaning of Terms**

#### **Article 2**

The terms used in this Law shall have the following meaning:

**State aid** is any actual or potential public expenditure or underachievement in public revenues, which, in a selective manner, confers to State aid beneficiary economic advantage in respect to the competitors and as a result cause or threatens to cause distortion of the market competition.

**State aid grantor** is the Republic of Serbia, the autonomous region or a local self-government unit, through their competent bodies, or any legal person managing and/or having disposal over public funds and allocating the State aid in any form whatsoever.

**State aid beneficiary** is any legal or natural person which, in their business operations concerning production and/or trade of goods and/or providing of services, use state aid in any form whatsoever..

#### **Annex IV Reference to laws, regulations and strategic documents:**

##### 1) Reference list of relevant EU regulations and strategic documents:

1. EC Treaty;
2. Council Regulation (EC) No 659/1999 of 22 March 1999
3. Commission Regulation (EC) No 794/2004 of 21 April 2004;
4. Commission Regulation (EC) No 364/2004 of 25 February 2004 amending Regulation (EC) No 70/2001 as regards to extension of its scope to include aid for research and development;
5. Commission Regulation No 363/2004 of 25 February 2004 amending Regulation (EC) 68/2001 on the application of Articles 87 and 88 of the EC Treaty to training aid;
6. Commission Regulation No 2204/2002 of 12 December 2002 on the application Articles 87 and 88 of the EC Treaty to State aid for employment;
7. Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises;
8. Commission Regulation No 70/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises;
9. Guidelines on national regional aid for 2007-2013, C 54 of 4.3.2006;
10. Communication from the Commission – Multisectoral framework on regional aid for large investment projects, C 70 of 19.3.2002;
11. Communication from the Commission Rescue and restructuring aid and closure aid for the steel sector, C 70 of 19.3.2002;
12. Community Framework for State aid for Research and Development and Innovation, OJ C 323 of 30.12.2006;
13. Community Guidelines on State aid for environmental protection C 37 of 3.2.2001.
14. Community Guidelines on State aid to promote risk capital investments in small and medium-sized enterprises C 194 of 18.8.2006;
15. Community Guidelines on state aid for rescuing and restructuring firms in difficulty, C 244 of 1.10.2004;
16. Commission Notice on the application of Articles 87 and 88 of the EC Treaty to state aid in the form of guarantees, C 71 of 11.3.2000;
17. Commission Communication concerning aid elements in land sales by public authorities, C 209 of 10.7.1997.
18. Commission Communication pursuant to Article 93(1) of the EC Treaty applying Articles 92 and 93 of the Treaty to short-term export-credit insurance (2005/C 325/11)
19. Community Framework for State aid in the form of public service compensation, C 297 of 29.11.2005
20. Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to de minimis aid
21. Commission notice on the application of the State aid rules to measures relating to direct business taxation (98/C 384/03).

##### 2) Reference list of relevant domestic laws and regulations:

1. Budget system Law („Official Gazette RS“, 9/02 and 87/02),
2. Law on Supreme Audit Institution („Official Gazette RS, 101/05 and 54/07),
3. Fiscal Laws group: Corporate income Tax Law („Official Gazette RS, 25/01,80/02 and 84/04); Personal income Tax Law („Official Gazette RS, 24/01, 80/02 and 135/04); Law on tax procedure and tax administration („Official Gazette RS, 80/02);
4. Law on Public debt („Official Gazette RS“, 61/05,
5. Law on Development Fund of the Republic of Serbia („Official gazette RS“, 20/92 and 106/05)
6. Guarantee Fund Law („Official gazette RS“, 55/03, 43/04 and 61/05)
7. Law on Rep. of Serbia's Export Insurance and Financing Agency (Official gazette RS, 61/05)
8. Law on ministries („Official gazette RS“, 43/07
9. Annual Budget Law for every year

## **Annex V      Details per EU funded contract (\*) where applicable:**

### Contract 1 – Service contract

The following services will be designed and delivered under Contract 1:

#### ***Capacity building***

Completion of training need analyses

Design, delivery and evaluation of training activities – including seminars, workshops and mentoring

Organisation and management of study visits

Development of organizational standards of performance

Development of staff procedures

#### ***Preparation of strategic and legislative documentation***

Support in the implementation of draft legislation and regulations

Development of organisational strategy and action plan for the further development of state aid programmes

Carrying out surveys and analysis of existing state aid programmes

Financial planning and budget development

#### ***Hardware and software procurement***

Design of software systems

Provision of training in the use of software and/or hardware

Design of technical specifications for equipment procurement

Preparation of documentation for launch and management of supply tenders

Provision of training in the use of equipment

#### ***Communication and dissemination***

Development of EU networks

Development and implementation of dissemination strategy to state aid providers - this might include project brochures, preparation of press releases, final brochures and/or conferences

Design and organization of information campaigns

### Contract 2 – Supply contract

The technical specification for the supply contract will be prepared by the technical assistance selected under Contract 1. The equipment will be for use by the Ministry of Finance and the State Aid granters in order to provide appropriate information regarding the granting of state aid and in order to improve monitoring and reporting of state aid provision.