



# Questionnaire

Information requested by the European Commission to the  
Government of Serbia for the preparation of the Opinion  
on the application of Serbia for membership of the  
European Union

November 2010

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## INTRODUCTORY REMARKS

On 22 December 2009 Serbia presented its application for accession to the European Union. On 25 October 2010 the Council decided to implement the procedure laid down in Article 49 of the Treaty on European Union. Accordingly, the Commission was requested to submit to the Council its Opinion on this application.

The European Council of Copenhagen in 1993 defined the criteria for EU membership as follows:

“Accession will take place as soon as a country is able to assume the obligations of membership by satisfying the economic and political conditions. Membership requires:

that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;

the existence of a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the Union;

the ability to take on the obligations of membership, including adherence to the aim of political, economic and monetary union.”

On 29 April 1997 the Council defined conditionality for the countries of the Western Balkans in the framework of the Stabilisation and Association Process, including full cooperation with the International Criminal Tribunal for the former Yugoslavia and regional cooperation. These conditions are integrated into the Interim agreement on trade and trade related matters which entered into force on 1 February 2010 and the Stabilisation and Association Agreement (SAA) between the EU and Serbia, which was signed on 29 April 2008.

In its Opinion, therefore, the Commission will analyse Serbia’s application on the basis of the country’s capacity to meet the criteria set by the Copenhagen European Council of 1993 and the conditions set for the Stabilisation and Association process.

In order to provide the Commission with the necessary information to conduct this analysis, a comprehensive list of questions is hereby handed-over to Serbia.

The following Guidelines are provided to assist the Government of Serbia in preparing its reply:

- The Government of Serbia is invited to explain the country’s capacity to apply and enforce legislation in all areas of the *acquis*, and to specify, where relevant, measures taken to implement obligations arising from the Stabilisation and Association Agreement.
- The Government of Serbia is asked to present the replies in a concise, transparent and clear form, covering all essential aspects of the subject. If a reference is made to supplementary documents (publications, reports, action plans, etc.), a summary of their content and a copy of the document should be provided.
- As was the case with the SAA, Kosovo\* is not covered by the questionnaire.

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\* under UNSCR 1244/1999

- In case translations of laws or documents requested in the questionnaire have already been provided during meetings of bodies under the Stabilisation and Association Agreement, the Government of Serbia may wish to provide a copy of the official information making reference to the date when the document was submitted to the Commission. In case an earlier version of a draft law has already been provided to the Commission, the changes in the latest version should be clearly indicated. If available, translations of laws or draft laws should be presented with a table of correspondence.
- In some cases similar or complementary questions are included in related chapters of the questionnaire. In such cases, the Government of Serbia may wish to explain that full information is made available in another context, indicating the cross-reference.
- Statistical information should be provided in the format requested in the attached tables. If the Government of Serbia has problems in providing statistical information in the format requested, it should contact the Commission in order to agree on a satisfactory solution. Additional tables may be provided at a later stage to facilitate the collection of statistics.
- The replies should be sent in one of the official EU languages. Where a translation of one of the requested pieces of legislation is not yet available at the time of transmission, a note on that should be included and the text provided as soon as it is available. Where possible, it would be useful to have the information in English.

The Commission is at the disposal of the Government of Serbia to give supplementary explanations and clarifications of the Questionnaire. Meetings to review progress and resolve possible problems related to replying to the Questionnaire can be organised on an 'ad hoc' basis. The main contact point in this regard is the Head of the EU Delegation in Belgrade to whom specific questions or requests for technical contacts should be addressed.

The replies of the Government of Serbia should be addressed to the Commissioner responsible for Enlargement. A copy of the replies and related official communications should be addressed to the Director-General of DG Enlargement.

The Commission would appreciate receiving the replies to the Questionnaire at the end of January 2011. However, this is an indicative timeframe. For the purpose of preparing the Opinion, the quality of the replies will be more important than the speed of delivery. Before the Opinion is finalised, the Commission will invite the Government of Serbia to update its replies, so as to ensure that the Opinion is based on the latest available information at the time of finalisation of the document. The Commission may request additional information, statistics or clarifications, if the need arises, in the course of the preparation of the Opinion.<sup>1</sup>

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<sup>1</sup> The Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon, 13 December 2007, has entered into force on 1 December 2009. In accordance with Article 5 of the said Treaty, the articles, sections, chapters, titles and parts of the Treaty on European Union and of the Treaty establishing the European Community, as amended by the said Treaty, are renumbered in accordance with the tables of equivalences set out in the Annex to the said Treaty, and which form an integral part of it.

When the title of an act of secondary law is cited, which contains the old numbering of the Treaty (e.g. "Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty"), as in all literal quotations, the old numbering of the Articles is maintained.

# POLITICAL CRITERIA

## *I Democracy and the rule of law*

### *Constitution*

1. Please provide a brief description of the constitutional and institutional situation in Serbia. How is the constitutional system of check and balances between the three powers realised?
2. How is the implementation of the Constitution coordinated? Which are the bodies involved and which are their respective competences in relation to the implementation of the Constitution? Are there any weaknesses of the Constitution identified and are there any plans to amend the Constitution? Please explain.
3. Do you have a Constitutional Court? What is its legal basis, how are its members appointed and how do you guarantee its independence and respect for its decisions? Who has the right to seize the Constitutional Court and how is the scope of its competences regulated in relation to other courts? Please provide recent examples of rulings by the Constitutional Court.
4. How many laws have been invalidated by the Constitutional Court in the last 3 years? Give concrete examples including on their content.
5. How are the decisions of the Constitutional Court implemented? Are there cases of decisions of the Constitutional Court that have not been implemented or have not been taken into consideration? Please give examples.
6. What are the constitutional guarantees that ensure the independence of the constitutional institutions vis-à-vis the political power?
7. Please specify/clarify the role of the Ministry of Justice in checking draft-laws on their constitutionality, and the procedure in practice.

### *The Parliament*

8. Please provide a description of the structure and functioning of the Parliament including the competences of the Parliamentary Committees and the speaker of the Parliament, the prerogatives and competences of the Parliament with respect to control of the executive power, and of the procedures for the adoption of legislation (including an explanation of existing fast track procedures and their applicability to the adoption of *acquis*-related legislation, if any).
9. Please describe in detail the Parliament's rules of procedure and your experience from their implementation.
10. How is the Parliament exercising its legislative functions?

*Is there a system of verifying, at Parliament level, the compatibility of new legislation with the 'acquis'? Explain.*

*Is there an obligation to analyse the fiscal impact of new legislation before it is adopted? How is this process working in practice? Explain.*

11. Please specify competences of the committees. How much time is dedicated to scrutiny of legislation by the committees?
12. How many political parties are registered in your country? How many of these are represented in Parliament? What percentage of parliamentarians are (a) women and (b) from ethnic and national minorities?
13. Please describe the legal provisions and the institutional arrangements in place for the election of members of Parliament and the rules applying to their replacement in the course of their mandate. Please indicate if and when you plan to review or repeal existing legislation on blank resignations of holders of parliamentary mandates.
14. Please describe the provisions in place defining the persons having the right to vote in parliamentary, presidential and local elections and the arrangements regarding voters' registers.
15. Please describe the overall framework for party and campaign financing, the rules guaranteeing its transparency and provide details on the monitoring of its implementation. How are addressed the 2009 GRECO recommendations on "Transparency of Party Funding". Do the existing reporting obligations under the Electoral Code for public funding of political parties during elections also cover private funding sources? Please explain what mechanisms are in place for reporting private and public party financing funding.
16. Please describe progress achieved to date in addressing the recommendations of the Office for Democratic Institutions and Human Rights in terms of depoliticising the the administration responsible for organising elections, improving its functioning, establishment of rules for media coverage of campaigns and improving transparency in vote counting procedures.
17. Please describe how parliamentary immunity is defined and applied.

#### *Government*

18. Please provide a description of the structure and functioning of the government. Which is the legal basis for the structure and functioning of the government?
19. Please provide a description of arrangements within the government for strategic planning and monitoring. Is there a government programme? How is it prepared, what is the time-line for its implementation and how is its implementation monitored?
20. How is the legislative programme of the government prepared and monitored?
21. What types of legal acts exist? How and by whom are they adopted? How are they prepared? What forms of consultation are used, both inside the government (inter-ministerial coordination) and outside (stakeholders)? What mechanisms exist to monitor the effective implementation of legal acts by public bodies (e.g. reporting requirements, inspections)?

22. What mechanisms exist for inter-ministerial coordination? Specifically, what mechanisms exist to link strategic planning and budgeting, in each Ministry, at governmental level?
23. What structures exist to ensure the coordination of European Integration issues? How is the compatibility of planned legislation with the EU *acquis* and with international obligations been verified and monitored? Which body is responsible for such verification? Please explain.
24. Please provide a summary description of your preparations for decentralised implementation and for conferral of management accreditation under the IPA instrument including the institutional set-up. *(Please take note of specific questions on components III, IV and V in chapters 11 and 22).*
25. What systems are in place to monitor implementation of policies and laws and to receive feedback?
26. What is the current structure of local government? Please describe the local electoral system.
27. Is there an association of municipalities and which are its functions and its administrative capacity?
28. Is there a clear delimitation of powers between the central and the local government level? Explain.
29. Which administrative and/or judicial structures at national level are responsible for supervising the local government? Has there been any strengthening of these structures recently?
30. Is there a detailed plan for transfer of powers to local governments? Please provide a description of the situation to date and plans for further decentralisation, where appropriate.
31. Please elaborate on the issue of fiscal decentralisation. How are fiscal competences shared between central and local government in terms of ensuring that local governments have the funds needed to fulfil their responsibilities? Have measures been taken to strengthen the financial management capacity of the municipalities? Explain. *(Please see also question under Economic criteria.)*
32. When the fiscal impact of the implementation of new legislation is prepared, is the impact on the budget of municipalities identified and taken into account? Explain how.
33. How are the political boundaries of the municipalities regulated and defined? Explain.
34. How is the state property, including real estate, distributed between central and local government? Which structures are responsible for the management of state property?  
*(Please refer to questions in chapter 4 on the state capital.)*
35. Which administrative structures are responsible to carry out local-self government reform?

36. Are municipalities consulted in any formal way in the context of preparation of legislation which will either affect them or in which they will be involved in the implementation?

*Public Administration*

37. Please provide a description of the structures and bodies of the state administration of Serbia including independent agencies, specifying the source of their financing (state budget or other), their mission, an organisation chart, the number of their statutory positions and the number of current employees and their functions.
38. Is there a Strategy and an Action Plan for the reform of the Public Administration in place? If so, when was it adopted, what are the main objectives and what is the state of play of their implementation? How progress is measured (indicators)? What were the shortcomings noticed in the implementation process and how were they overcome?
39. Which bodies/institutions are involved in the definition, coordination, implementation and monitoring of the Public Administration Reform Strategy? Is there a central body or ministry in charge of public administration reform?
40. What is the capacity of the administration to handle EU integration issues and to which extent have recent staff cuts had an impact on it?
41. What is the legal basis for the status of civil servants and other public employees? Is there a public administration law or regulation defining the status of civil servants, including independence, recruitment, promotion and career structures and remuneration? Are the principles of a European Public administration as identified by SIGMA<sup>2</sup> embedded within the legal framework? What are the different categories of state employees (i.e. civil servants versus other public employees)? What are the distinctions between these different categories (in terms of legal regime, rights and obligation)? Please indicate the number of employees in each category.
42. How are civil servants and public employees recruited (on national, regional and local level)? Are recruitment and promotion based on merit and competence? What is the status of public employees? Is there legal framework regulating their status, job classification system, career promotion system, accountability and salaries of civil servants and public employees?
43. Are there training institutions for civil servants? Please provide statistics on training provided in the last three years. What percentage of civil servants are (a) women and (b) from ethnic and national minorities (please provide details of grade and seniority if available).
44. What are their conditions of service? Is there a Code of Ethics applicable to Civil Servants? If so, how is its application monitored? Are there specific rules applicable to specific categories of civil servants? How is the career development (promotion, transfers,

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<sup>2</sup> According to the SIGMA paper no. 27 "European Principles for Public Administration (1999)", these principles refer to: the separation of public administration of politics, the legal certainty and the proportionality of administrative decisions, the openness and transparency of administrative acts, the accountability of administrative bodies, the efficiency and effectiveness of public administration in achieving its goals.



etc.) organised for the civil servants? How is the legal framework regulating these aspects implemented (e.g. indications about the number of people being promoted each year)?

45. Please indicate if there are temporary staff employments in the public administration? What is the procedure for recruitment of these categories? What is the legal status of these categories – are they considered civil servants and if not, what procedure applies for them becoming civil servants? Please provide data on annual employments of such categories (indicate also the percentage of these recruitments against the recruitments based on open competitions).
46. How are the management and middle management recruited and for how long? Who would be politically appointed? Do you have a delimitation between political and expert/management appointments in the public administration? Are there safeguards against the politicisation of the civil service?
47. Is there a transparent and regulated system of defining the functions and the authority of middle management staff within the administration? Please describe.
48. Is there a transparent legal or regulatory basis for actions taken by civil servants? In particular, how is impartiality and non-discrimination of actions by civil servants ensured?
49. How is accountability of administrative bodies ensured (e.g. are administrative bodies accountable or answerable for their actions to other administrative, legislative or judicial authorities, and subject to scrutiny by others)? Name structures involved. Does the legal framework comprise regulations concerning disciplinary measures against civil servants? Explain.
50. Please describe the role of the Ombudsman in the oversight of administrative bodies. Please indicate if judicial proceedings could be initiated in case the Ombudsman's recommendations are not followed by the administration.
51. What guarantees exist for the independence of the Ombudsman? Please specify in particular the procedures for its appointment, end of mandate and the allocated financial and human resources.
52. Is access to all official documents granted to the Ombudsman? Is he entitled to suspend the execution of an administrative act if he determines that the act may result in irreparable prejudice to the rights of a person? If so, how is this implemented in practice? Does the Ombudsman have the right to contest the conformity of laws with the Constitution and, if so, how is this implemented in practice?
53. Are there decentralised offices of the Ombudsman?
54. Please provide concrete data regarding complaints to the Ombudsman and how they were followed up for the last few years. Please provide data regarding how the government takes on board recommendations of bodies in charge of administrative control. Please provide a detailed table indicating the activity of the Ombudsman per year since 2008 (number of received complains, number of cases solved, number of recommendations, number of followed recommendations).
55. Please specify the number of actions undertaken by the Ombudsman *ex officio*.

56. What systems are in place to monitor implementation of policies and laws and to receive feedback? Is there an inspection of the public administration and how does it function?
57. What is done to ensure that the public service is open and transparent? Can any citizen affected by an administrative action find out the basis for the action?
58. What are the procedures to guarantee citizens' rights of recourse against public service actions? Describe these (e.g. parliamentary committees, ombudsman's office, internal and external audit, inspectorates, standard-setting authorities). To what extent are the recommendations formulated by these bodies (particularly the ombudsman's office) taken into account by the Government? Please provide concrete data. Do special administrative courts exist?

*The judicial system*

*- General*

59. Please provide brief description of legislation or other rules governing the structure and functioning of the judicial system. Are there any tribunals outside the ordinary judicial system (such as military tribunals)?
60. Please describe the organisational framework of the court system and indicate any planned changes. How are judges appointed and what is their status? Is there any immunity system for judges?
61. Please provide a description of your prosecutorial system. How are prosecutors appointed and what is their status? Is there any immunity system for prosecutors? What are the respective roles of prosecutors and deputy prosecutors and what is the hierarchical system between them?
62. Please indicate:
  - a) The number of courts (by type of court);
  - b) The main competencies and functions of each type of court;
  - c) The number of judges, prosecutors and defence lawyers;
  - d) The number and the exact roles / competencies of bailiffs and public notaries ;
  - e) The proportion of female judges and of judges belonging to ethnic minorities and, if data are available, the proportion of women and persons belonging to ethnic minorities for the other legal professions mentioned under c).
63. Please describe in detail the re-appointment procedure carried out for judges and prosecutors: constitutional and legal basis, exact procedure, competent bodies, criteria applied, and legal remedies.
64. Explain in detail your plans to remedy the shortcomings identified in the re-appointment procedure.
65. Explain in detail your plans to remedy shortcomings identified in the nomination procedure for judges and prosecutors.

66. Independence of the judiciary: Is independence guaranteed by the Constitution? How are the rights of the judiciary protected? How is the autonomy of prosecutors protected? How are the independence of courts and the autonomy of the prosecution service ensured from a financial point of view?
67. High Judicial Council / State Prosecutorial Council: Describe their composition, role, premises and budget. How is their independence guaranteed? How are members appointed? How long is their mandate?
68. Impartiality of the judiciary: Please provide information on the legal provisions and the institutional arrangements in place providing for the impartiality of the courts and the prosecution service. Are there provisions to prevent the conflict of interest for judges and prosecutors and how are they implemented? Are there ethics provisions in place for judges and prosecutors and what is their exact role? Explain.
69. How do you ensure that natural and legal persons from EU Member States have access to Serbian courts free of discrimination compared to Serbian nationals?
70. Detention: Please describe in detail the rules and procedures governing pre-trial detention and, in particular, the rules on its extension. Please also describe the rules governing detention during the trial phase and imprisonment after conviction. How are human and secure conditions for detainees (in respect of international human rights standards) ensured by the police, justice, prosecution and penitentiary systems? What measures are taken if such standards are not respected?
71. Training: How is initial and continuous training for judges and prosecutors provided? What are the exact role and status of the Judicial Academy?
72. Clerical staff: Please give the number of clerical staff. How does this compare with the number of judges and prosecutors? What are their roles / competencies and their legal status?
73. Accountability and discipline: Is there a code of ethics for members of the judiciary and prosecutors? If so, who has adopted the code? What is its legal status? How is it being implemented?
74. Who is in charge of deciding when to carry out inspections in courts and prosecutors offices? Is it the Ministry of Justice or the High Judicial Council / State Prosecutorial Council? Please give examples of inspections carried out.
75. How is co-operation between actors (judges, prosecutors, investigators, clerks, judicial police etc) in the criminal justice system ensured to facilitate the functioning of the system? Are there agreements / memoranda of understanding in place and what is their role? Please give examples.
76. Do the different actors have clear roles and responsibilities? How is it ensured that an overlap of responsibilities is avoided? How is efficient communication between the different actors ensured?
77. Please describe the system of appeal procedures.

78. Please describe the situation as regards war crime proceedings in Serbia: Which courts / prosecution offices are competent? Describe their financial and human resources situation. What specialised trainings have been provided to judges, prosecutors and defence lawyers? Please indicate the state of play of the proceedings. How many proceedings have been finalised and how many are ongoing? Have there been extradition requests? Please elaborate.

*- Domestic trials for war crimes*

79. Please explain what is the status of the domestic legislation on war crimes and provide a copy of relevant Laws.

80. Does Serbia accept the notion of command responsibility, as defined by the ICTY Statute (Art. 7.3) and the Rome Statute of ICC (Art 28)?

81. Do the necessary trained judicial personal (prosecutors, lawyers, judges) to process domestic war crimes trials exist? What kind of training activities have been done, are ongoing and planned?

82. How many persons are indicted for war crimes by Serbian Courts? Is this list public? Please attach a copy of it. How many additional indictments in total are foreseen?

83. How many such cases have been processed? How many verdicts were reached? Can you provide a list? Do you have any forecast on how long time it will take to process all foreseen war crime cases?

84. Is Serbia prepared to fully cooperate with ICTY on domestic war crimes trials, including by accepting evidence and other supporting material from ICTY? Is evidence coming from the ICTY acceptable, in theory and in practice, in national court proceedings?

85. Is Serbia prepared to accept full and transparent international monitoring of war crimes trials?

86. Is Serbia ready to conclude extradition agreements covering war crimes with neighbouring countries?

*(For more detailed questions please see chapter 23).*

*Anti-corruption measures*

87. Please provide any analysis or research made by your authorities or other bodies (e.g. international organisations and NGOs) on the problems of corruption faced by your country.

88. Please give an overview of the efforts geared towards tackling corruption (i.e. adoption of legislation, international conventions, adoption of strategies and action plans to implement legislation, reinforcement of institutional and human resources capacities to deal with corruption). Which are the main priorities in this field? Which are the bodies responsible for the fight against corruption? How is coordination between different services ensured?

89. Was the anti-corruption strategy the subject of broad consultation at all levels (e.g. inter-departmental at national, regional and local levels, consultations with stakeholders in the private sector, civil society and the media etc)?
90. Please describe efforts to strengthen implementation of the above and provide concrete results related to the fight against corruption.

*(For detailed questions please see Chapter 23)*

### *Internal security*

91. Please describe the status and the structure of the security forces, both civil and military, and their respective competences concerning internal security. Please provide – where available - organisation charts and indications about the number of employees.
92. Is there civilian control over the security forces, including intelligence services, and how is it exercised? Please describe the relevant arrangements in place for parliamentary control of security forces.
93. What percentage of police officers/members of the security forces are from ethnic minorities? If available, please provide a breakdown of such figures by rank and seniority.
94. What are or were the main elements of the reform of the security forces?
95. How is police primacy ensured in dealing with internal security? What is the legal framework and how is it implemented? What arrangements exist for calling upon military resources under police command in specific crisis situations? How is the police primacy over military ensured in managing the Administrative Boundary Line with Kosovo?
96. Is there or was there a Strategy and an Action Plan for the reform of the Police, including proper budgetary allocations? What is its stage of implementation?
97. What measures have been taken to ensure an increased awareness within the security forces of issues such as human rights, non-discrimination and community policing methods?
98. Are there any arrangements in place for coordination between local government structures and local/national police forces in the respective municipalities? Please describe how coordination between municipalities and the local heads of police is carried out. Are there any problems of coordination in practice?
99. What percentage of the police force has received further training over the last 5 years and on what subjects? Is such training obligatory? What is the average amount of training and where and by whom is it offered and on what subjects?
100. Please detail the inspection and internal control systems to ensure fairness, transparency and accountability in the security forces, at all levels, including at the central level and among senior officers.

101. What actions have been taken by the Internal Affairs unit in the Police dealing with Professional Standards and with police misconduct? What results have been achieved (including statistics on number of cases, sanctions applied etc.) over the past 5 years?

## ***II Human rights***

102. Observance of international human rights law Please provide succinct information on your constitutional order, your legislation or other rules governing the area of fundamental rights, and their compatibility with the relevant international conventions.

103. Provide a list of human rights instruments and related protocols ratified by Serbia along with the date of signature and ratification. Include details of any reservations which have been made to those treaties and any declarations recognising the right of individuals to petition committees established by the conventions. In addition, please specify what national legislation and provisions have been adopted to ensure compliance with the obligations flowing from these conventions. How are these implemented and monitored?

104. What is the rank of these conventions in your domestic legal system including your constitution? Have you introduced the direct applicability of international conventions in domestic law in all cases?

105. What steps have been taken to cooperate with UN bodies dealing with human rights issues, including visits by UN special mechanisms (such as special rapporteurs), reporting to Treaty bodies and responding to Treaty body recommendations?

106. What are the competences of the Ombudsman in the field of human rights, the rights of women, rights of children and protection of minorities?

107. Provide statistics on cases received in those fields by the Ombudsman in the five last years, the number of recommendations he has made, and the number of his recommendations which have been implemented by the relevant authorities.

108. What other independent bodies, supported by the State budget, exist in Serbia for the protection and promotion of fundamental rights? What are the tasks and powers of these bodies?

*(For more detailed questions please see chapter 23).*

### *Civil and political rights*

109. Please provide an overview of legislation or case law relevant to the right to life (Art. 2 of the Charter of Fundamental Rights of the EU and Art. 2 of the European Convention on Human Rights).

110. Please specify how human dignity and the right to integrity of the person are guaranteed, both within the legal framework and in practice.

111. Please provide information on specific national legislative as well as administrative measures designed to prevent the occurrence of torture, inhuman or degrading treatment

or punishment in state institutions, prisons or police stations. In this respect, what measures are in place for the inspections of detention centres or police stations? Is legal redress foreseen for victims?

112. What is the average length of time a person may be detained without being brought before a competent legal authority? What is the average length of time between the lawful arrest and detention of a person and his trial? Please provide statistics.
113. What actions have been taken to ensure effective investigation of ill-treatment allegations by law enforcement officers, and strengthening internal control services dealing with ill-treatment allegations, including cases targeting members of minorities?
114. To what extent is support to victims provided?
115. What guarantees are in place to ensure a public hearing in court? Give details of the circumstances in which limitations may be applied and the extent to which this occurs.
116. Is the presumption of innocence a central part of your criminal justice system and, if so, how is it applied in practice? How are the rights of defence guaranteed?
117. What measures are there in place to prevent a person from being removed, expelled or extradited to a State where there is a serious risk that s/he would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment? Which bodies are responsible for fact-finding in such cases and do they have an adequate institutional framework to facilitate effective action? Please provide details.
118. Please provide information on any legislative measures designed to protect and uphold respect for private and family life, home and communications. In which circumstances can these rights be set aside?
119. Elaborate on the legislative structures in place to ensure protection of the right to freedom of thought, conscience and religion. Please give details and explain any limitations to this freedom which are permitted.
120. Are the freedoms of assembly and association assured?
  - a) Provide statistics regarding the number of non-governmental organisations and associations or foundations active in your country.
  - b) What is the legal status of non-governmental organisations and associations or foundations, including as regards financing, taxes, and restrictions on membership or on activities?
  - c) Which, if any, justifications are permitted as regards possible restrictions placed on the exercise of these freedoms? Which body may impose such restrictions?
121. Freedom of expression and freedom of the media: Provide information concerning the elaboration and implementation of legislation regarding the promotion of the freedom of expression and information in general and, specifically, freedom and pluralism of the media. Please detail measures designed to prevent interference with these freedoms.
122. Have recommendations of experts from the Council of Europe and OSCE been taken into consideration when drafting legislation establishing the broadcasting regulatory body,

in particular Recommendation Rec (2000)23 to Member States of the Council of Europe on the independence and functions of regulatory authorities for the broadcasting sector and its annex contain guidelines on independence and functions of regulatory authorities for the broadcasting sector?

*(Please refer to related questions in chapter 10 and 23).*

*Economic, social and cultural rights*

123. How is the right to property assured?
124. What steps have been taken to prevent discrimination based on membership of a national minority, ethnic or social origin, sex, race, colour, genetic features, language, religion or belief, political or any other opinion, property, birth, disability, age or sexual orientation? Has Serbia established specialised services to combat discrimination? If so, which legislative framework, institutional context, composition, functions and powers pertain to these services?
125. Is the right to join or not to join trade unions legislated for?
126. How is the freedom of association (set-up of trade-unions, professional associations) implemented in the public administration in general and in the Army, the Police and in the Judiciary in particular?
127. Please provide information on how, and to what extent, the right to education is guaranteed in legislative and practical terms. Please comment on the allocation of resources and institutional framework in place to facilitate the exercise of this right.
128. Elaborate on the legislative and administrative structures in place to ensure effective protection of the rights of the child.
129. Please provide information on the existence / extent of child labour and on measures taken to address this issue.
130. Please provide details on legislative measures which ensure equality between men and women. Has Serbia ratified the relevant international conventions? Please clarify when, for each convention.
131. Are there any other practical measures and mechanisms supporting gender equality? Please provide statistics on women's representation in political life, judiciary, law enforcement bodies and public administration, especially concerning management positions.
132. Does specific legislative protection for the rights of persons with disabilities exist? Are there measures designed to ensure their independence and social and occupational integration? Please explain.
133. Has Serbia ratified relevant international conventions and agreements regarding the rights of persons with disabilities?
134. Please indicate what steps have been taken to implement the European Social Charter since its ratification by Serbia.



135. Are there legal uncertainties in relation to property restitution and what are your plans to solve them?

*(For more detailed questions please see chapter 23).*

*Protection of minorities*

136. Please provide statistics concerning the number of people belonging to ethnic, religious and linguistic minority groups in your country. Please indicate the source of these figures (census or other).

137. Has the Framework Convention for the Protection of National Minorities and other relevant international instruments been ratified? How are they implemented and monitored? Have recommendations by the Council of Europe and other relevant organisations been implemented?

138. Please give an overview on the constitutional and legislative provisions to this effect as well as on the strategic and policy tools adopted for the implementation. To what extent are the rights of persons belonging to minorities respected, protected and monitored?

139. How does the Republican Council for National Minorities function? How many members does it have and how are its members appointed? Please describe the frequency of meetings and the scope of its activities.

140. What measures have been taken to ensure proper representation of minorities? Please specify any budgetary allocations to this end.

141. How is the Law on National Minority Councils being implemented? Have all the Councils foreseen by the Law been constituted following the June 2010 elections? Have they become operational? Please describe the competencies, the functioning and the funding of the National Minority Councils.

142. How is the cooperation between the various National Minority Councils and the Government ensured?

143. Do all citizens, including persons belonging to minorities have access to identity documents and how is this right guaranteed? What measures have been taken to improve the civil registration for the Roma minority, including birth certificate and identification documents? Is the ethnic origin registered in the birth certificate? How many such certificates have been delivered?

144. What is the legal basis providing for information and education in minority languages? How are those rights ensured and monitored? Please provide a detailed explanation for each national minority.

145. Provide a description of existing arrangements on education in the language of minority communities and the right to have history and culture of the persons belonging to such communities included in the curricula.

146. What are the measures taken to improve inter-ethnic relations? What is the methodology used to identify ethnically motivated incidents? How are such cases investigated and

prosecuted by the law enforcement bodies and the judiciary? Please provide updated figures on the number of ethnically motivated complaints.

147. In the context of implementation of the Constitutional provisions on the protection of national identity of a person belonging to a minority, what measures have been taken to ensure participation of minorities in the political and public life, namely the representation of such persons in elected bodies, the administration (both central and local), police and judiciary? Please provide statistics if available, including their source.

*(For more detailed questions please see chapter 23).*

### ***III Regional issues and international obligations***

#### *Regional cooperation and good neighbourly relations*

148. Please provide a list of all regional initiatives in which Serbia participates. Please specify which regional agreements have been signed or ratified.

149. What steps have been taken to ratify, integrate into domestic law, and implement the Rome Statute on the International Criminal Court?

150. Please provide an overview of your relations with Kosovo and your efforts to ensure effective cooperation on EU related matters and inclusive regional cooperation?

151. Please provide an overview of your relations with neighbouring countries, and countries of the Western Balkan Region. Explain outstanding bilateral issues, including border issues, and prospects for solutions.

152. How has the SFRY Succession Agreement been implemented? Are there any remaining difficulties? When and how has Serbia been included in the process?

153. Have all pending issues following the dissolution of the State Union of Serbia and Montenegro been solved? Please provide details.

#### *International obligations: obligations in relation to Council of Europe, the International Criminal Court*

154. Please describe your obligations and commitments deriving from membership to the Council of Europe, the measures taken to date to honour these obligations and the envisaged actions for any pending obligations.

155. What steps have been taken to ratify and implement into domestic law the Rome Statute on the International Criminal Court? Are there any exceptions to the Rome Statute applied by Serbia including any bilateral immunity agreements granting exemptions from the jurisdiction of the International Criminal Court? Please provide examples.

156. Please provide an overview of your contribution to the implementation of peace agreements and to the promotion of reconciliation in the region.

*Cooperation with International Criminal Tribunal for the former Yugoslavia (ICTY)\**

- *General*

157. How the cooperation with ICTY is organised both at political and operational level? Is there a specific legal framework? What is the procedure followed when the government receives requests for assistance (RFAs) from the ICTY? Which is the ministry/body in charge?

158. How much time is needed as an average to respond positively to a RFA? How many RFAs were answered positively in 2008-2010? How many since June 2010? Of these RFAs, how many summonses for witnesses? How many RFAs are still to be answered? What issues are they related to? Are there delays in answering them and if so, for what reasons? Are specific problems regarding the following encountered:

i) banking and financial information;

ii) military documents, including archives and regular reports covering certain periods;

iii) any statistical data

159. How many cases have been transferred from ICTY to Serbia and could you specify how many of these cases were still in the investigative phase, how many were ready for prosecution and how many were ready for court hearings. In which stage of the proceedings are these cases now?

160. Do you have legislation and mechanisms to protect witnesses?

161. What judicial cooperation and extradition mechanisms exist with the other countries which belonged to the former Yugoslavia?

- *Fugitives*

162. Please explain which institutions are operationally in charge of locating and arresting Ratko Mladic and Goran Hadzic?

163. What steps have been taken to enforce the indictments against Ratko Mladic and Goran Hadzic?

164. What measures have been taken to follow-up on Brammertz' remarks/recommendations in his report to UNSC 18 June 2010 to invest further resources on the investigation on the whereabouts of Mladic and Hadzic and to expand the investigation and to follow-up on several different leads simultaneously?

165. Is Serbia taking measures against persons/groups protecting or supporting fugitives? What are the measures in place to identify support network? Is there applicable legislation in this connection (aiding and abetting)?

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\* *NB: in case of need for confidentiality, a specific channel of communication can be devised for transmission of replies on ICTY cooperation*

- *Indictments*

166. How many indictments were issued by ICTY for Serbian citizens and how many indictees were transferred to ICTY by the government (please provide date of indictment and transfer)?
167. How many were voluntary surrenders?
168. Please describe these problems and explain what is being done to overcome them.

# **ECONOMIC CRITERIA**

## ***I Macroeconomic data***

1. Please briefly comment on the main macroeconomic trends during the period 2000-2009<sup>3</sup>, based on the data requested in the attached tables 1-7<sup>4</sup>:
  - a) real GDP growth and its breakdown by expenditures;
  - b) inflation (including core inflation);
  - c) general government deficit and debt and its breakdown by government level;
  - d) general government expenditure and revenue and its breakdown by categories;
  - e) selection of monetary and financial indicators;
  - f) evolution of the real and nominal effective exchange rates;
  - g) balance of payments, including trade and current account, capital and financial account and the external financing requirements.

Please provide the last year's official report on the macro-economic developments in English.

## ***II Socio-economic data***

2. Please provide and briefly comment on the following data for the period 2000-2009:
  - a) GDP per capita in Power Purchasing Standards (PPS, in % of the EU27 average);
  - b) population by sex, age and regional distribution;
  - c) labour market indicators: economic activity rates, employment rates and unemployment rates, long-term unemployment rate, training by education, sex, age, also in terms of regional divergences.

## ***III Structural indicators***

3. Please provide and briefly comment on the following indicators for the period 2000-2009:
  - a) sectoral economic structure (as a share of GDP and employment);
  - b) structure of enterprise ownership including an estimate of the capital stock, distinguishing between public and private capital;

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<sup>3</sup> To the extent that data are available, otherwise up to the most recent year for which data, even if estimates, are available. Please ensure consistency of the data in the tables with the data used in the text, when referring to the relevant indicators.

<sup>4</sup> To the extent that data are available, otherwise up to the most recent year for which data, even if estimates, are available. Please ensure consistency of the data in the tables with the data used in the text, when referring to the relevant indicators.

- c) national research capacity (in terms of research infrastructure and human resources funding of national research in terms of gross domestic expenditure on research and development and relative to GDP (*see also chapter 26 – Education and culture*));
- d) labour productivity; evolution by economic sectors;
- e) unit labour costs, including indicators of international competitiveness (changes in relative unit labour costs, level and changes in average gross earnings, etc.);
- f) percentage of the working population which received higher secondary education;
- g) number of pupils in primary, lower secondary, higher secondary and tertiary education;
- h) percentage of employed persons receiving training; total number having received training and their share in the total number of employees, if possible by branch of activity; number of companies having provided training of their employees and their share in the total number of companies. Please also explain the methodology used to collect/elaborate the data;
- h) past and present number of students abroad.

#### ***IV The wage bargaining process and the social security system***

*(see also chapter 19 – Social Policy and Employment - for detailed questions)*

4. Please provide quantitative and/or qualitative information for the period 2000-2009 on the following:
  - a) development of the average gross and net wages in the public and private sector, respectively;
  - b) formation of public sector wages and employment;
  - c) formation of public administration wages and employment;d) share of taxes in the total wage bill, including social contributions paid by employers and employees, and the bracket structure of income taxes.

#### ***V Economic and structural developments and reforms***

Please briefly describe and/or provide explanations in the following areas:

5. How has domestic consensus on the fundamentals of economic policies been secured? Please provide comprehensive information about the adoption of economic policy in the country. Please provide an English translation of Serbia's national strategy for economic policy in the medium term.
6. What are in your view the particular challenges/priorities for Serbia's economic policy, including in the context of the global post-crisis recovery, and how do you intend to tackle them?
7. How has a co-ordination between various stakeholders (e.g. line ministries, the Ministry of Finance and/or the Central Bank for the formulation of economic policies and their implementation been carried out? Which are the consultative bodies involved in the decision-making process? To what extent are social partners involved? If relevant, what is the time given to social partners and other consultative bodies to provide their opinion?

8. How is the co-ordination of the main producers of statistical data (Statistical office, Central Bank, Ministry of Finance, etc.) carried out? What are the plans to enhance the reliability, regularity and mutual compliance of statistical data? Does the public finances statistics comply with ESA methodology? (*detailed information is required in chapter 18 – Statistics*)
9. Public finances: What is the scope of public finances system? How was it conceived? How have government revenue and expenditure developed as a share of GDP during 2000-2009, as an aggregate as well as in terms of categories?
10. Extra-budgetary funds: Please list and provide information on extra-budgetary funds. What is the relationship between the budget and the extra-budgetary funds? Which are the implemented/planned steps to integrate the extra-budgetary funds in the government budget? Please provide balance sheet indicators for these funds. Please describe major activities to improve the management of extra-budgetary funds.
11. Budgetary system: Please describe the features of the planning, programming and execution process of the government budget. Please indicate policy objectives, developments and achievements as regards budgetary policy. Are the social partners consulted at the planning/programming stage of the budget cycle? How is the efficiency and effectiveness of government spending ensured? What are the implemented/imminent (in 2011) systemic reforms to enhance the long-term fiscal sustainability?
12. Tax policy: Which are the tax authorities in central government, and possibly other levels of government (local governments, public institutions -if any- collecting taxes)? Which fiscal responsibilities do these various authorities have (nature of the taxes collected)? How has the tax regime changed over the last five years (amendments of tax rates, introduction of new taxes and contributions etc)? Is there an adequate flow of revenue for municipalities in order to finance their competences? Is there a mechanism of redistribution of sources among municipalities? Is the central budget expected to finance municipalities? (*detailed information is required in chapter 16 – Taxation*)
13. Public debt: How was budgetary financing secured since 2000 (main instruments etc.)? Please provide detailed information on the present stock of public debt (foreign/domestic creditors, currency, instruments, etc.), guarantees and arrears.
14. Labour Market (*detailed information is required in chapter 19 – Social Policy and Employment*):
  - a) Unemployment: How has unemployment developed over time and sectors? What are the main causes of unemployment? What are the main categories concerned? What is the percentage of long term unemployment?
  - b) Employment: How is the division of employment between the public, the privatised and the private sector? What have been the main sectors of job creation? How do you assess the relationship between economic growth and employment?
  - c) Describe the government policy concerning the labour market. What are the main steps taken/to be taken to improve the unemployment situation and/or the mismatch between labour supply and demand?
15. Price regime: How has the price control regime been liberalised since 2000? In what sectors are prices still administered (i.e. set explicitly by government) or regulated (i.e.

subject to approval by independent regulator? Please indicate the broad categories of prices which are administered/regulated and the share of administered/regulated prices in total, including quantitative indicators. What is the strategy for completing price liberalisation, in particular in the energy sector?

16. Privatisation: (*detailed information is required in chapters 4 – Free movement of capital and 20 – Enterprise and industrial policy*):
  - a) Please provide an overview of the privatisation process since year 2000 for state-owned and socially owned companies, respectively. What have been the main methods of privatisation? How many enterprises have been privatised/liquidated/sent into bankruptcy procedures? Please provide information on the size, employment and activity of these enterprises. In which cases have the sales contracts been revoked? Please explain the factors and the process. Have any enterprises been re-nationalised after their initial privatisation? Is the government considering potential cases for re-nationalisation given the impact of the global economic crisis? What activities are necessary to finalise the privatisation process? What is the current status and portfolio of the agency in charge of privatisation? What are the prospects for the further disinvestment and termination of activities of the same agency?
  - b) Please quantify privatisation in terms of sales revenues and fees since 2000. How did the authorities use privatisation receipts? How will the future funds resulting from privatisation be used?
  - c) Has corporate governance improved as a consequence of privatisation?
17. Public sector: What is the public sector's share in the economy? What sectors are still controlled and/or owned by the state and to what extent? Please outline the government plans as regards the state-owned enterprises.
18. Protected sectors (utilities, transport, housing...): Which sectors are subject to specific protection (market entry, price setting...). Please describe recent developments in this respect, such as specific measures of liberalisation or deregulation. Which sectors are to remain under special protection? Are there provisions of preferred treatment as regards former state-owned enterprises? (*detailed information is required in chapter 8 – Competition policy*)
19. Enterprise restructuring: How many state-owned (or formerly state-owned) and socially owned enterprises have been restructured so far? How many enterprises are currently being restructured or envisaged to be restructured? Please identify the remaining sectors and state-owned enterprises in need of restructuring. (*detailed information is required in chapter 20 – Enterprise and industrial policy*) Please provide information about annual aggregate profits/loss of state-owned enterprises in the period 2000-2009. To the extent relevant, please describe briefly the privatisation strategy for the main state-owned and the remaining socially owned enterprises.
20. Please describe the basic features of market entry in the corporate sector (business register, licensing procedures, number of separate administrative procedures, average amount of time for corporation) and of market exit (bankruptcy procedures)? How many companies declared bankruptcy over the last five/ten years? How many companies are currently under bankruptcy proceedings? (*detailed information is required in chapter 20 – Enterprise and industrial policy*)



21. State aid: What is the legal framework for awarding state aid? What are the main features of this framework? How have subsidies and public guarantees developed over the past five years? According to what economic criteria is state aid granted? Please provide data on direct subsidies awarded since 2003. Please provide also information on the size and structure of all schemes for government guarantees on bank loans to the private sector. Is there a medium-term target on scaling down public guarantees? Please provide available annual reports on state aid. *(detailed information is required in chapter 8 – Competition policy)*
22. Please indicate what you consider to be the main priorities of structural/microeconomic reform agenda.
23. How has the sectoral economic structure changed since 2000 (in terms of value added to GDP and employment)? What sectors have been the most dynamic in terms of growth and/or job creation?
24. Please provide information on the number of companies grouped by size since 2000/2005. Please describe the main impediments to growth and job creation for local companies. ? *(detailed information is required in chapter 20 – Enterprise and industrial policy)*
25. Please describe how the level (in % of GDP), structure (type per economic sector) and sources (public/private) of gross fixed capital formation has developed in the last five years. Please indicate the share related to infrastructure investment including changes in roads, rail and telephony lines. Please also make a particular reference to R&D expenditure. Please provide a synthetic assessment on the quality of major infrastructures (transport, telecommunication, energy), indicating areas where investment needs are important.
26. Please describe the initiatives taken to enhance the business environment and the results achieved so far. Please provide focussed information on the main obstacles for doing business.
27. Trade:
  - a) Please provide information on the main trading partners (for both merchandise imports and exports) and the overall structure of trade by sector.
  - b) How has the trade integration with the EU developed over time? What are the main EU trading partners and products? How has the export structure changed? Are there indications of a shift from resource- or labour-intensive to capital- or technology-intensive products?

## ***VI Financial markets***

### ***A. General***

28. Please indicate how interest rates are determined? Are any rates administratively set? If so, which ones?
29. Do quantitative ceilings exist on credit expansion? What instruments are available to prevent excessive credit growth and potential exchange rate volatility from eroding the quality of lenders' portfolios?

30. Provide an assessment of access to the international financial markets by the state and by the private sector. On what financial terms? Please give examples.
31. If relevant, what are the legal arrangements concerning central bank credit to the private sector? If so, please quantify.
32. What are the main characteristics of the interbank clearing and settlement system? Please assess the functioning of these systems. Are there changes envisaged in the payments' system?

***B. The banking sector***

*(detailed information is required in chapter 3 – Right of establishment and freedom to provide services)*

33. Please describe the evolution of the banking sector (size, share in the economy) in the past five years.
34. What is the number of banks and other credit institutions in Serbia (if possible, by type of credit institution – banks, savings banks, mortgage credit institutions, other)? Please provide the following information:
  - a) total number;
  - b) domestic;
  - c) non-domestic -EU, of which:
    - i) subsidiaries and
    - ii) branches.
  - d) non-domestic non-EU, of which:
    - i) subsidiaries and
    - ii) branches.

Changes in (a) to (d) since 2003.

35. Assets of the banking system (if possible, by type of credit institution – banks, savings banks, mortgage credit institutions, other):
  - a) total assets of the banking system;
  - b) assets owned by domestic credit institutions (in volume and share of total);
  - c) assets owned by non-domestic EU credit institutions (in volume and share of total), of which:
    - i) by subsidiaries of non-domestic EU credit institutions (in volume and share of total);
    - ii) by branches of non-domestic EU credit institutions (in volume and share of total).
  - d) total assets owned by non-domestic non-EU credit institutions (in volume and share of total), of which:
    - i) by subsidiaries of non-domestic non-EU credit institutions (in volume and share of total);

ii) by branches of non-domestic non-EU credit institutions (in volume and share of total).

Changes in (a) to (d) since 2003.

36. Total deposits (if possible, by type of credit institution – banks, savings banks, mortgage credit institutions, other):

a) total deposits;

b) deposits held by domestic credit institutions (in volume and share of total);

c) deposits held by non-domestic EU credit institutions (in volume and share of total), of which:

i) by subsidiaries of such credit institutions (in volume and share of total);

ii) by branches of such credit institutions (in volume and share of total);

d) total deposits held by non-domestic non-EU credit institutions (in volume and share of total), of which:

i) by subsidiaries of such credit institutions (in volume and share of total);

ii) by branches of such credit institutions (in volume and share of total).

Changes in (a) to (d) since 2003.

37. Concentration of the market (respectively as a share of total assets, of loans and of total deposits held by the largest institutions), indicating whether they are:

a) domestic;

b) non-domestic EU;

c) non-domestic non-EU.

Changes in (a) to (c) since 2003.

38. Importance of the public sector in the banking industry:

a) number of banks owned by public institutions and the amount of their assets and deposits;

b) timetable, objectives and scope of the privatisation;

c) Do public banks benefit from special treatment? Do banks directed by public or political party officials benefit from special treatment and how? Do public utilities/companies keep their accounts with commercial banks?

d) Is there policy in place/envisaged to recapitalise them?

e) Indicate the percentage of bank capital held by public entities on a bank by bank basis.

f) Is the government considering or engaged in any bank re-nationalisation? If yes, please explain the objectives and scope of such operation.

39. Please describe the current situation concerning access of private companies to bank credit and the trend compared to previous years. To what extent have issues relating to property registration and bankruptcy hindered access to credit?

40. Please evaluate the degree of competition in the banking system (price competition, new products, changes in market share, and other indicators). Are there any particular concerns about the market share of the largest banks?
41. What is the average interest rate spread (lending/deposit rates in domestic and foreign currency respectively) in banking over the past five years? Please supply data on the profitability of banks during recent years and comment on developments.
42. What is the average maturity of bank loans to the private sector over the past five years? What is the share of loans with maturity of up to one year?
43. Please provide data on foreign currency denominated and foreign currency indexed deposits and loans.
44. How do you assess the stability of the banking sector? What is the current situation and trend concerning capitalisation, structure of capital, regulatory capital, risk weighted assets? How has the banking sector been influenced by the global financial crisis?
45. Please provide an analysis and an estimate (as an absolute amount, as a % of total assets) of non-performing loans (NPLs) in banks.
46. What has been the NPLs development over the past five years? Has the past rapid credit growth in any way affected the average quality of the loan portfolio?
47. Please provide an analysis of the historical data on the asset and liability structure of the banking sector with analysis.
48. Have there been changes to the bankruptcy legislation? Are any (further) adjustments envisaged? Please comment on the practice as well as the legal framework. How easily can banks mobilise their claims through such proceedings?

### ***C. Capital market***

*(see also chapter 4 – Free Movement of Capital)*

49. What is the structure of the capital market? Is the stock exchange operational? How many companies are listed on the stock exchange? Please describe the evolution of the turnover on the stock exchange in the past five years? What percentage of transactions is carried outside the stock exchange? What are plans for the future? In practice, does capital market provide an alternative source of finance for enterprises? Please quantify?
50. To what extent did choices on the early methods of privatisation of state-owned companies affect the development of the stock market? Do limitations on certain investment in real estate and prudential rules on investment in securities of one issuer, etc. mean that the assets of institutional investors are channelled into government bonds?
51. How developed is the equity market? Does it provide, in practice, an alternative source of finance for enterprises? How much was raised on the market in recent years?
52. How developed is the bond market? Who are the main participants in the market and which are main financial instruments used? Are there private issues? Is there a secondary market? Please supply detailed information on the size, activity and structure of the bond market, including average maturity of the most important securities.

#### ***D. Money market***

53. How developed is the market for short-term financial instruments? Who are the main participants in the market and which are the main financial instruments used? Is there a secondary market? Please supply detailed information on the size, activity and structure of the money market.
54. What changes are considered necessary in order to improve market organisation and efficiency?

#### ***E. Non-bank financial institutions***

*(see also chapter 3 – Right of establishment and freedom to provide services)*

55. What is the number of insurance institutions operating in Serbia?
- a) total number;
  - b) domestic;
  - c) non-domestic EU, of which:
    - i) subsidiaries and
    - ii) branches
  - d) non-domestic non-EU, of which:
    - i) subsidiaries and
    - ii) branches.
- Changes in (a) to (d) since 2003.
56. Concentration of respectively the life and non-life markets (in terms of gross premiums held by the largest undertakings), indicating whether they are
- a) domestic;
  - b) non-domestic EU;
  - c) non-domestic non-EU.
- Changes in (a) to (c) since 2003.
57. Please assess the degree of competition in the sector.
58. What is the situation regarding new financial markets and instruments, for example venture capital companies, factoring, leasing, etc.? Is the legal framework in place for such operations? Please provide any available information on market developments.
59. Please provide information on the establishment of a capitalised pension system. What are the main challenges for its development? What are the planned steps?

# CHAPTERS OF THE *ACQUIS* – ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP

## *Chapter 1: Free movement of goods*

The **general principle** of the free movement of goods implies that products must be traded freely from one part of the Union to another. This principle is enshrined in the Treaty on the Functioning of the European Union, in particular Articles 34 to 36, 114(4) to 114(9), 346 to 348, as interpreted in the case law of the European Court of Justice as well as Commission Directive 70/50/EEC and interpretative communications. Measures having equivalent effect to a quantitative restriction are prohibited subject to a limited and restrictive set of exceptions. This notably implies the elimination of technical barriers to trade and the compliance with the principle of mutual recognition. Adequate administrative arrangements should be put in place to apply the Regulation (EC) 764/2008 of the European Parliament and of the Council of 9 July 2008 laying down procedures relating to the application of certain national technical rules to products lawfully marketed in another Member State and repealing Decision 3052/95/EC and the “strawberry” Regulation (EC) 2679/98.

In a number of sectors the general principle is complemented by a harmonised regulatory framework. **Horizontal measures** define the quality infrastructure which Member States should put in place in areas such as standardisation, conformity assessment, accreditation, metrology and market surveillance.

The harmonised European product legislation, which needs to be transposed by each Member State, represents the largest part of the *acquis* under this chapter. It is based on the “old approach” (imposing precise product specifications) or the “new and global approach” (imposing general product requirements). The New Legislative Framework (Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC, together with Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93) is a review of the New Approach and lays down common rules on the marketing of products.

**Old Approach product legislation** covers the areas of motor vehicles, emissions of gaseous and particulate pollutants from non-road mobile machinery engines, chemicals, pharmaceuticals, cosmetics, legal metrology and pre-packaging, textiles, footwear labelling, fertilisers, crystal glass and aerosol dispensers.

**New and Global Approach product legislation** covers the areas of non-automatic weighing instruments and measuring instruments, low voltage equipment (LVD), electromagnetic compatibility (EMC), toys, machinery, lifts, noise emissions by outdoors equipment, personal protective equipment (PPE), equipment and protective systems intended for use in explosive atmospheres (ATEX), medical devices, gas appliances, pressure equipment, simple pressure vessels, cableway installations, construction products, recreational craft, eco-design requirements for energy-related products, and radio and telecommunications terminal equipment (R&TTE).

A series of **procedural measures** also require sufficient administrative capacity in order to be properly applied. These include a notification procedure in the field of technical standards and regulations laid down in Directive 98/34/EC as amended, provisions on external border checks as provided in Regulation (EC) 765/2008, Directive 91/477/EEC on the control of the acquisition and possession of weapons and Directive 93/7/EEC on cultural goods.

The Stabilisation and Association Agreement already lays down specific obligations in the areas covered by this Chapter. When answering the questions below, please make reference to the state of implementation of such obligations.

### ***GENERAL PRINCIPLES***

*These questions are of a general nature and do not refer to the industrial sectors specified in Chapter 15.*

#### ***A. Legislative alignment***

1. What is the basis for product conformity regulation and to what extent has your legislation moved towards the principles applied in European harmonised legislation, i.e. minimum requirements, absence of mandatory standards, self certification and the presumption of conformity?
2. Please specify whether you have a general strategy on Quality Infrastructure.
3. Please assess the overall compliance of your legislation with the general framework provided by the EU *acquis*. What is still missing and what are your plans for rectifying the situation?
4. Please specify how the self-certification principle is addressed in your legislation.

#### ***B. Implementation capacity, including administrative capacity***

5. What is the legal basis and administrative structure for technical regulations, standards, conformity assessment, accreditation, certification, metrology and market surveillance?
6. How are these functions organised, implemented and co-ordinated?
7. Do the relevant ministries and technical organisations have sufficient numbers of adequately trained staff to master the technicalities of law-making and to ensure adequate co-ordination and enforcement of the law? Please specify.
8. Please indicate in details your resources and systems to contribute to elaboration and implementation of law.

### ***HORIZONTAL MEASURES***

These questions are of a general nature and do not refer to the industrial sectors specified in Chapter 15.

9. What mutual recognition or co-operation agreements in the field of standards, testing, certification and conformity assessment has your country signed? Do such agreements use international standards as a basis? Please provide translated copies (in English) of the relevant agreements.

### ***A. Standardisation***

10. Is the Standardisation Institute able to implement European and international standards? Has the Standardisation Institute made a needs assessment for investment and technical expertise required to participate in the European standards system? Please explain.
11. Are staff numbers and financing adequate? Please provide figures.
12. What percentage of your standards is in conformity with European standards (give separate percentages for CEN, CENELEC and ETSI standards)?
13. Please indicate if you are a member (or working towards membership) of any European and international standards organisations (CEN, CENELEC, ETSI, others). Is there a timetable for achievement of full membership of CEN and CENELEC? What is the relationship with the international (IEC and ISO) standards bodies?

### ***B. Conformity assessment***

14. Please describe the legal framework (laws, bylaws etc) for conformity assessment and report on the current implementation.
15. Are procedures applying to conformity assessment in line with Decision No 768/2008/EC?
16. Are foreign test reports recognised? If yes, in which conditions?
17. Who is responsible for designating conformity assessment bodies (CABs) and are the criteria for ascertaining their competences defined in the sectoral legislation? Are ISO standards used in this respect? If yes, which ones?
18. How many CABs are active at present in the Country per EU Directive transposed?
19. Has the enquiry point for technical regulations been appointed? Is it already operational? Which is its endowment with material and human resources?
20. Has the register for technical regulation been established?
21. How many, and which, technical regulations have been adopted/registered up to date?
22. Please describe your marking system and perspective for the introduction of the CE marking.
23. Does the legislation contain a safeguard clause foreseeing the withdrawal of compliant products that are nonetheless found to endanger health and safety?
24. Please describe how your legislation defines the manufacturer's and importer's responsibilities and the manufacturer's general product liability.



### ***C. Accreditation***

Please provide detailed information on the questions below:

25. Does your country have an accreditation system and an accreditation body? Is the accreditation system aligned to the rules in Regulation (EC) 765/2008? Please describe the legal framework (laws, bylaws etc) for accreditation and report on the current implementation.
26. Does the accreditation body fulfil the requirements of Regulation (EC) 765/2008? Is it independent? Is it a non-commercial body? Does it have the full range of technical and administrative competencies necessary for the purpose of accrediting conformity assessment bodies in line with the European system?
27. Does it have agreements with European or other international organisations?
28. Is it a member or working towards membership of any such organisations?
29. How many conformity assessment bodies have been accredited so far and how many have applied for accreditation?

### ***D. Metrology***

30. What is the present metrology structure in your country?
31. Is there a national programme for the development of the metrology structure? Please provide details.
32. How is traceability to international measurement standards ensured?

### ***E. Market surveillance***

33. How does your country ensure that products on the market throughout the country meet standard requirements? (Alternatively, do you have a reliable and standardised system of pre-marketing authorisation?) What are the available resources, infrastructure (e.g. alert the users, follow up of complaints/accidents etc.) and general principles (e.g. risk assessment) allowing to take the appropriate corrective actions? What penalties apply to infringements? How is coordination ensured between sectors? How is market surveillance coordinated between market surveillance authorities and customs as regards product conformity and safety checks at external borders? Does your country have a national programme on market surveillance? What information exchange network exists between the various authorities? In which way independence and impartiality of market surveillance authorities are ensured? How often testing is done? Please provide statistics for the last year.
34. Please describe how coordination is ensured between the product sectors and between the market surveillance authorities and the customs authorities.

## **OLD APPROACH PRODUCT LEGISLATION**

For each sector and sub-sector as listed below, please provide the following information:

### **A. Harmonisation of laws including technical regulations**

35. Please provide information regarding the:

- a) present status, including a description of the present type of approval system for each sub-sector as listed below;
- b) forecast (date of adoption and implementation of the EU directives and regulations).

### **B. Calibration, standards, testing, certification, conformity assessment, accreditation and market surveillance**

36. Please provide information on the relevant regimes for the products:

- a) short description and
- b) further evolution.

The answers to these two questions above should cover the following sectors and sub-sectors:

#### Motor vehicles

#### Chemicals

- *Limitations, classification, packaging and labelling (REACH, CLP)*
- *Detergents*
- *Fertilisers*
- *Drug precursors*
- *Explosives for civil uses (New Approach Directive)*
- *Pyrotechnics (New Approach Directive)*
- *Good laboratory practice (GLP)*

#### Pharmaceuticals

- *Provisions relating to the authorisation of medicinal products for human use and veterinary use to be placed on the market (marketing authorisations)*
- *Provisions relating to advertising, manufacture, importation, labelling, whole sale distribution, advertising, pharmacovigilance and supervision of medicinal products as well as sanctions related to medicinal products as laid down in Directives 2001/83/EC and 2001/82/EC, as amended*
- *Provisions relating to good manufacturing practices as laid down in Directives 2003/94/EC and 91/412/EEC*
- *Provisions relating to good clinical practices in respect of medicinal products as laid down in Directives 2001/20/EC and 2005/28/EC*
- *Transparency in relation to pricing and reimbursement of medicinal products*

#### Cosmetics

#### Legal metrology, pre-packaging and units of measurement (Old Approach directive)

*Emissions of gaseous and particulate pollutants from non-road mobile machinery engines*

*Aerosol dispensers (ADD)*

*Crystal glass*

*Textiles*

*Footwear*

## **NEW AND GLOBAL APPROACH PRODUCT LEGISLATION**

For each sector and sub-sector as listed below, please provide the following information:

### ***A. Harmonisation of laws including technical regulations***

37. Please provide information regarding the:

- a) present status, including a description of the present type approval system for each sub-sector as listed below
- b) forecast (date of adoption and implementation of the EU directives).

### ***B. Calibration, standards, testing, certification, conformity assessment, accreditation and market surveillance***

38. Please provide information on the relevant regimes for the products:

- a) short description and
- b) further evolution.

The answers to these two questions above should cover the following sectors and sub-sectors:

- *Legal metrology: non-automatic weighing instruments (NAWI); measuring instruments (MID)*
- *Low-voltage equipment (LVD)*
- *Electromagnetic compatibility (EMC)*
- *Toys*
- *Machinery*
- *Noise emissions by outdoors equipment (Global Approach directive based on New Approach elements)*
- *Lifts*
- *Personal protective equipment (PPE)*
- *Equipment and protective systems intended for use in potentially explosive atmospheres (ATEX)*
- *Medical devices*
- *Gas appliances (GAD)*
- *Pressure equipment (PED)*
- *Simple pressure vessels (SPVD)*

- *Cableway installations*
- *Construction products*
- *Recreational craft*
- *Eco-design requirements for energy-related products*
- *Radio and telecommunications terminal equipment (R&TTE)*

## ***PROCEDURAL MEASURES***

### ***A. Measures having an equivalent effect to quantitative restrictions***

39. Do measures exist in the laws, regulations or administrative provisions adopted at national or local level on the production, distribution and marketing of food or industrial products:
- a) Relating to the price of such products (e. g. fixing the prices above or below which the importation or marketing of a product is prohibited or restricted, laying down profit margins or other price components etc.)?
  - b) Which require automatic or non-automatic import licences or permits for imported goods (e.g. licence for import of automobiles)?
  - c) Which ban certain specific products (foodstuffs, including vitamins and other food supplements, and chemical substances)?
  - d) Which restrict or prohibit distant selling (mail order, internet sales) of certain products (pharmaceuticals, alcoholic beverages and others)?
  - e) Which make access to the domestic market conditional upon having an agent or representative in the territory of your country (e.g. legislation which provides for the sale of certain goods in your country subject to authorisation that may be obtained only by a person established there)?
  - f) Which oblige importers to have storage facilities in the territory of your country (e.g. legislation applying only to imported goods which require these imported goods to be stored for some time before being marketed)?
  - g) Which impose on the marketing of imported products conditions (relating in particular to shape, size, weight, composition, presentation, identification and packaging, labelling) that are different from those imposed on domestic products or which require or encourage the use of certain type of packaging (shape, size, composition) for the marketing of a certain product, whether domestic or imported (e.g. requirement that some goods may only be sold in a package with special form)?
  - h) Which oblige economic operators to label their product with the “Made in ...” marking (obligatory origin marking)?
  - i) Which encourage or authorise the purchase (by individuals or public authorities) of domestic products alone or give preference to the purchase of such products in advertising campaigns (e.g. promotion actions with the participation of public authorities applying only to goods produced by producers in your country or from domestic raw materials)?

- j) Which exclude imported products alone, in full or in part, from the possibility of using domestic facilities or equipment or which reserve the use of such facilities or equipment, in full or in part, for domestic products alone?
  - k) Which subject imported products to controls, other than those inherent in customs clearance procedures, which are not carried out on domestic products (e.g. veterinary, sanitary, phytosanitary and other controls)?
  - l) Which allow only traders holding a production licence or wholesale licence to import some goods (e.g. licensing system for the production and wholesale of some goods, which allow only the licence holder to import these goods)?
  - m) Which create monopolies of sale of some goods (e.g. tobacco products, alcohol products etc)?
  - n) Which reserve certain trade names for domestic products alone and, if so, on what conditions (e.g. rules which reserve the use of a certain description to products prepared in your country from domestic raw materials)?
40. Do you have any information on the number of times your authorities intervened to prohibit the marketing of products or withdraw products from the market for any reason over the last 2 years, e.g. health risk, incomplete labelling, inadequate consumer information, failure to comply with compulsory standards etc?
41. What are the general rules applicable in your country to non-food products? For example, is the marketing of products with a label and instructions written in a foreign language allowed? What particulars must be mentioned on the label of any industrial product intended for sale to consumers?

***B. Return of unlawfully removed cultural objects***

42. Do you have legislation providing for the return of cultural objects unlawfully removed from the territory of an EU Member State?
43. What are the legal provisions ensuring the return of cultural goods in your country?
44. If such legislation exists, what categories of cultural goods are covered?
45. Which is the central authority, if any, responsible for dealing with the return of cultural goods?
46. Do you have any plans to modify the existing legislation? Please give details and timetables.

***C. Control of the acquisition and possession of weapons***

47. Do you have legislation providing for the control of the acquisition and possession of weapons? Please explain and summarise.
48. Is there a legislation laying down the categories of firearms the acquisition and possession of which by private persons is either prohibited or subject to authorisation or declaration?
49. If the legislation is in force:

- a) Which categories of firearms are covered? Do you make distinctions between “civil” firearms and “military” firearms?
  - b) Which are the conditions necessary to be fulfilled in order to obtain the authorisation?
  - c) What kind of information must be given in the declaration?
50. Are there any special rules for collectors and bodies concerned with the cultural and historical aspects of weapons? If so must these collectors and bodies be recognised by the local authorities?
  51. Does the legislation, if any, exclude from its scope weapons and ammunition used for hunting or target shooting? If so, what rules are applied?
  52. Do you have any plans to modify the existing legislation? Please give details and timetables.
  53. Do you have an overall obligation to mark firearms at the time of manufacturing? What kind of marking do you apply?
  54. Do you have record-keeping obligations to trace transfers of firearms when manufactured or sold by dealers? Who has this obligation (the State, the dealers)? For how many years?
  55. How are the firearms tested at the time of manufacturing? Do you have state proofhouses?
  56. What are your main requirements to “desactivate/neutralise” a firearm? What techniques do you use?
  57. Have you statistics about legal holders of firearms in your country (hunters, marksmen, private persons or companies)?

***D. Checks for conformity with the rules on product safety in the case of products imported from third countries***

58. Do you have legislation providing for conformity with the rules on product safety in the case of imported products? If so:
  - a) Since when has it been in force?
  - b) Please describe its broad outlines (which service is responsible for border controls and co-ordination regarding imported products, what is the procedure provided for etc?).

## ***Chapter 2: Freedom of movement for workers***

Freedom of movement for workers is one of the fundamental freedoms guaranteed by European Union (EU) law. Pursuant to Article 45 TFEU (ex. Article 39 ECT), every EU citizen has the right to move freely, to stay and to work, with some exceptions in the public sector, in another Member State without being discriminated against on grounds of nationality. EU rules on free movement of workers also apply to the European Economic Area (Iceland, Liechtenstein and Norway). As regards the **general principles related to access to labour market**, the *acquis* under this chapter provides for non-discriminatory treatment (on the basis of nationality, residence and language) of workers who are legally employed in a country other than their country of origin. This includes in particular equal treatment as regards employment-related aspects such as conditions of employment and work, remuneration and dismissal but also the receipt of social advantages (all advantages whether linked to a contract of employment or not that are generally granted to national workers primarily because of their objective status as workers or by virtue of the mere fact of their residence on the national territory).

Furthermore, certain rights are also extended to family members of the worker. The concept and implications of the freedom of movement for workers have been interpreted and developed by the case-law of the ECJ, including the notion of worker itself. In addition, the general principles of freedom of movement for workers include provisions related to supplementary pension rights of employed and self-employed persons moving within the EU. Candidate countries also need to prepare to participate in the **EURES** system (European Employment Services) aimed at promoting the freedom of movement for workers within the EU notably by close cooperation between national employment services to exchange information on employment opportunities. At the operational level, relevant databases of job vacancies need to be integrated with the EURES vacancy exchange mechanism, and general information on the labour market and on living and working conditions needs to be exchanged.

The right to free movement of workers is complemented by a system for the **co-ordination of social security systems**, i.e. the right for migrant workers and their dependents to acquire, cumulate or transfer social security benefits as well as to obtain payment of these benefits. This is based on Regulations that do not harmonise but co-ordinate the social security systems of Member States, and thus requires administrative cooperation between Member States. Moreover, in the health care field, medical expenses will need to be reimbursed for all necessary treatment of nationals falling ill or having an accident during a temporary stay in another Member State, e.g. as tourists. To this end, a **European Health Insurance Card** has to be issued to all nationals.

The Stabilisation and Association Agreement already lays down specific obligations in the areas covered by this Chapter. When answering the questions below, please make reference to the state of implementation of such obligations.

### ***I. ACCESS TO LABOUR MARKET (GENERAL PRINCIPLES)***

#### ***A. General***

1. Do work permit requirements or similar restrictions for EU migrant workers exist, and if so, what are they? Please explain how many types of different work permits there are.

2. Do provisions exist to prevent discrimination on grounds of nationality (direct or indirect) against EU migrant workers as well as their family members (regardless of nationality) in employment, pay and working conditions and if so, what are they?
3. What nationality conditions (if any) apply to employment in the public sector?

***B. Freedom of movement for workers within the EU (Regulation (EEC) 1612/68)***

4. Do EU migrant workers have access to available employment under the same conditions as Serbian nationals?
5. Are EU migrant workers protected against discrimination on the basis of nationality as regards conditions of employment and work, dismissal and pay?
6. Are there any language requirements for specific jobs and, if yes, which ones?
7. Do EU migrant workers receive assistance (other than financial assistance) from employment offices?
8. What rights to "tax and social advantages" and vocational training do EU workers have?
9. What trade union rights do EU workers have?
10. What housing rights do EU workers have?
11. What rights to education do the children of EU migrant workers have?

***C. Right of citizens of the Union and their family members to move and reside freely within the territory of the Member States (Directive 2004/38/EC)***

*(N.B.: these questions only relate to the specific provisions for EU citizens exercising an economic activity as salaried workers; please note that all other provisions of the Directive are dealt with under Chapter 23)*

12. What documents do EU migrant workers and their family members (including those who are not EU nationals) need in order to enter Serbia?
13. What are the residence formalities for EU citizens exercising an economic activity as salaried workers?
14. Do EU migrant workers in Serbia have the right to bring their family members with them?
15. Are non-EU national family members of an EU migrant worker in Serbia granted a residence permit of the same length of validity as the EU citizen?
16. Do work permit requirements or similar restrictions exist for the family members (including those who are not EU nationals) of an EU migrant worker in Serbia, and if so what are they?



17. Can an EU migrant worker's right to reside be revoked on grounds of involuntary unemployment, illness or accident?
18. Do the spouse and children under 21 (regardless of nationality) of an EU migrant worker have the right to employment in your country without a work permit?
19. Are there rules providing for a right to remain for an EU citizen
  - a) who has worked in your country and then reaches retirement age;
  - b) who has worked in your country, who has resided continuously for at least 2 years in your country and then becomes permanently incapable of work;
  - c) who has worked in your country and then becomes incapable of work because of an accident at work or an occupational disease?
20. What are the residence rights of the family members of EU citizens in the above categories?

***D. Safeguarding the supplementary pension rights of employed and self-employed persons moving within the EU (Directive 98/49/EC)***

Please provide details on the following:

21. Does your country have any supplementary (or private) pension schemes?
22. What happens if a member of a supplementary pension scheme moves to an EU Member State?
23. Can payments from a supplementary pension scheme be made to a scheme member residing in an EU Member State?
24. Can workers who are temporarily posted from your country to an EU Member State continue to make contributions to their supplementary pension scheme?
25. Do supplementary pension schemes provide adequate information to members about their pension rights if they move to an EU Member State?

***II. EURES***

Please provide details on the following:

26. Is there a national vacancy database? Is there a National website for those vacancies? How are vacancies displayed on this website?
27. Is mobility of workers promoted by the Public Employment Service? How?

### **III. CO-ORDINATION OF SOCIAL SECURITY SYSTEMS**

#### **A. Scope of co-ordination<sup>5</sup>**

28. Material scope:

- a) Regulation 883/2004 will apply to the social security branches mentioned in Article 43: are all these branches covered by your legislation?
- b) As regards Article 9, please list the legislation and social security schemes covered by the Regulation.
- c) Please explain the distinction between social security benefits and social assistance as provided for by the Regulation.
- d) Are there special schemes for war victims? Please explain.
- e) Please provide a list of your bilateral social security conventions.

#### **B. The main principles of co-ordination**

29. Equal treatment:

- a) Are there any examples in your social security legislation where non-nationals are treated less favourable than nationals?

30. Determination of the applicable legislation:

- a) Are your social security schemes based on the principle of *lex loci laboris* or are they based on residence?
- b) Do you have rules and administrative structures applicable in the case of posting of workers?

31. Aggregation of periods:

- a) Do you have any experience with applying the principle of aggregation of periods in your relations with other countries? Which administrative structures are responsible for this?
- b) What are the waiting periods for entitlement to benefits equivalent to those covered by the scope of the EU Regulation?

32. Export of benefits:

Please provide details on the following:

- a) Do you have any experience in applying the principle of export of benefits in your relations with other countries? Which administrative structures are responsible for this? Does your legislation include residence clauses?

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<sup>5</sup> Ref. Council Regulation 883/2004 and its Implementing Regulation

***C. Co-ordination of different categories of benefits***

33. Do you expect to encounter any difficulties in applying the provisions of the various chapters of the Regulation (sickness and maternity, invalidity, old age and death, unemployment, family benefits, etc.)?

***D. Administrative capacity***

34. Which administrative structures will be responsible for applying the co-ordination rules for the various chapters of the Regulation (sickness and maternity, invalidity, old-age and death, unemployment, family benefits, etc.)?
35. How do the social security institutions of Serbia exchange the information internally?
36. How do the social security institutions of Serbia exchange information with the institutions of the countries with which Serbia has signed social security agreements?

***IV. EUROPEAN HEALTH INSURANCE CARD***

37. Do you have an electronic national health insurance card? If not, do you have any plans to introduce it and what is the timeframe? Please provide information.

### ***Chapter 3: Right of establishment and freedom to provide services***

The *acquis* under this chapter is of a horizontal nature covering a large variety of fields and professions and involving many public and/or semi-public institutions and bodies.

Member States must ensure that the **right of establishment** of EU nationals and legal persons in any Member State and the freedom to provide cross-border services, as laid down in the Articles 49 and 56 of the Treaty on the Functioning of the European Union are not hampered by national legislation, subject to the exceptions set out in the Treaty.

The core piece of *acquis* in this area is the **Directive 2006/123 on services in the internal market ('Services Directive')** which is to a large extent based on the case law of the European Court of Justice. The objective of the Services Directive which is based on caselaw of the ECJ is to achieve a genuine Internal Market in services by removing legal and administrative barriers to the development of service activities between Member States. This requires a comprehensive examination of the Member States' current and future legal order with the aim of identifying legal or administrative obstacles on national, regional or local level not compatible with EU law.

The implementation of the Services Directive requires Member States to take a combination of legislative and non-legislative, i.e. organisational or practical, measures. The Directive is a horizontal instrument which covers a broad range of different services and which affects a significant number of national laws and regulations.

#### **Implementing Legislation**

Member States have to provide for national provisions of a binding nature, so that service providers and recipients can rely on the rights granted to them by the Services Directive. Certain of these articles could be implemented by amendments to existing legislation, for example those in the area of authorisation schemes, could in some Member States be implemented by amending national legislation dealing with administrative procedures. In other cases, notably in relation to articles setting out general principles such as its Article 16 or 20, a new horizontal framework law should be considered.

Member States may also need to adapt existing specific legislation containing requirements which the Directive explicitly requires to be modified or abolished. Particular attention needs to be paid to legislation which contains specific rules for service providers established in other Member States. In so far as such rules are incompatible with the Directive, and are not based on other EU instruments, they need to be abolished by amending the legislation concerned.

#### **Non-Legislative Implementing Measures**

Some provisions of the Directive require implementation by putting in place appropriate administrative arrangements and procedures. This is, for instance, the case of the setting-up of points of single contact and electronic procedures. This also concerns the organisation of the identification and assessment of legislation that Member States will have to undertake prior to deciding whether legislation needs to be amended or abolished (for instance to check whether their authorisation schemes are justified or to screen their legislation and identify relevant requirements).

Furthermore, there are provisions in the Directive obliging Member States to encourage actions by private parties. Finally, the entire chapter on "Administrative Cooperation" requires putting in place the practical arrangements necessary for the competent authorities in Member States to effectively cooperate with each other.

## Follow-up Measures

The Services Directive also requires Member States to take measures in connection with the review of legislation and mutual assessment process set out in Article 39 of the Directive. The *acquis* in this chapter also provides for rules concerning **regulated professions** to ensure the mutual recognition of qualifications between Member States; for certain regulated professions a common minimum training curriculum must be followed in order to have the qualification automatically recognised in an EU Member State. Directive 2005/36/EC, adopted on 7 September 2005, is the key piece of legislation in this field. This Directive replaced fifteen existing Directives in the field of the recognition of professional qualifications.

As regards **postal services**, the *acquis* aims at opening up the postal services sector to competition in a gradual and controlled way, within a regulatory framework which ensures the provision of universal postal service and establishment of an Internal Market for postal services. The main piece of *acquis* is the Postal Services Directive (Directive 97/67/EC as amended by Directive 2002/39/EC and by Directive 2008/6/EC). Under the 3<sup>rd</sup> Postal Directive (Directive 2008/06/EC), which represents the final legislative step of EU postal reform, full market opening will be accomplished at the latest by 31 December 2010 for the majority of Member States. At the same time 11 Member States notified according to the 3<sup>rd</sup> Postal Directive that they may apply derogation and abolish reserved area in the postal sector at the latest by 31 December 2012. The establishment of an independent National Regulatory Authority (NRA) in this field is one crucial point for the proper implementation of the EU legislation and well functioning national postal markets and subsequently Internal Postal Market.

The Stabilisation and Association Agreement already lays down specific obligations in the areas covered by this Chapter. When answering the questions below, please make reference to the state of implementation of such obligations.

## ***I&II RIGHT OF ESTABLISHMENT AND FREEDOM TO PROVIDE CROSS BORDER SERVICES***

### **A. General**

1. Please analyse the differences between:

- a) the treatment that you offer to third countries in terms of establishment of subsidiaries of companies and the rights of establishment within the EU;
- b) the treatment you give to subsidiaries of foreign companies established in your territory and the treatment the EU gives to subsidiaries of foreign companies established on its territory;

Please provide the findings of these comparisons.

2. Is the exercise or access to a service activity subject to any of the following requirements (be it through an authorisation procedure (see below) or separately)?

- requirements based directly or indirectly on nationality or, in the case of companies, the location of the registered office, including in particular: (a) nationality requirements for the provider, his staff, persons holding the share capital or members of the provider's management or supervisory bodies; (b) a requirement that the provider, his staff, persons holding the share capital or members of the provider's management or supervisory bodies be resident within the territory;
- a prohibition on having an establishment in a state different than Serbia or on being entered in the registers or enrolled with professional bodies or associations of other States;
- restrictions on the freedom of a provider to choose between a principal or a secondary establishment, in particular an obligation on the provider to have its principal establishment in Serbia, or restrictions on the freedom to choose between establishment in the form of an agency, branch or subsidiary;
- the case-by-case application of an economic test making the granting of authorisation subject to proof of the existence of an economic need or market demand, an assessment of the potential or current economic effects of the activity or an assessment of the appropriateness of the activity in relation to the economic planning objectives set by the competent authority;
- the direct or indirect involvement of competing operators, including within consultative bodies, in the granting of authorisations or in the adoption of other decisions of the competent authorities, with the exception of professional bodies and associations or other organisations acting as the competent authority; this prohibition shall not concern the consultation of organisations, such as chambers of commerce or social partners, on matters other than individual applications for authorisation, or a consultation of the public at large;
- an obligation to provide or participate in a financial guarantee or to take out insurance from a provider or body established in Serbia (*meaning that financial*

*guarantees or insurances subscribed in a body established in another country – but offering a coverage for activities in Serbia – would not be accepted).*

- an obligation to have been pre-registered, for a given period, in the registers held in their territory or to have previously exercised the activity for a given period in Serbia.
3. Please identify whether your legal system makes access to a service activity or the exercise of it subject to compliance with any of the following non-discriminatory requirements and explain the justification behind each of the requirements:
    - (a) quantitative or territorial restrictions, in particular in the form of limits fixed according to population or of a minimum geographical distance between providers;
    - (b) an obligation on a provider to take a specific legal form;
    - (c) requirements which relate to the shareholding of a company;
    - (d) requirements, other than those concerning matters covered by Directive 2005/36/EC or provided for in other EU instruments, which reserve access to the service activity in question to particular providers by virtue of the specific nature of the activity;
    - (e) a ban on having more than one establishment in the territory of Serbia;
    - (f) requirements fixing a minimum number of employees;
    - (g) fixed minimum and/or maximum tariffs with which the provider must comply;
    - (h) an obligation on the provider to supply other specific services jointly with his service.
  4. What comparisons has your country drawn between its laws governing the entry and employment of third country nationals as "key personnel" and the laws in force in the EU?
  5. On the regime applicable to cross-border service providers: Is it possible for an individual or company established in an EU Member State to provide services on the territory of your country without establishing a subsidiary there? Does your legislation distinguish between the requirements applicable to EU companies wishing to provide services from an establishment in your country and those who wish to provide cross-border services there from an establishment in an EU Member State? If it does, what is the distinction? Please provide examples by sectors.
  6. PSCs: Is there a point of single contact (PSC), where the information on requirements applicable to companies who wish to provide services is available electronically? If yes, does information on requirements applicable which is available in your PSC make a difference between requirements applicable to service providers established in Serbia and those providing cross-border services from an establishment in a different State (see question 126 above) ?
  7. Are service providers able to complete by electronic means any procedures that may be deemed necessary for the provision of a service?

## **B. Authorisation schemes**

8. "Authorisation scheme" means any procedure under which a provider or recipient is in effect required to take steps in order to obtain from a competent authority a formal decision, or an implied decision, concerning access to a service activity or the exercise thereof. What are the main horizontal or sector-specific authorisation schemes which apply to all businesses wishing to trade in, or with, your country? If yes, for each of the authorisation schemes please specify the following:
  - a) What is the justification in policy terms for each of the authorisation schemes?
  - b) For these authorisation schemes, describe in detail the procedure for obtaining the authorisations in question. How long does it take to obtain each of the identified authorisations? Is there a fee for the authorisations? If so, please provide information on its amount. Is the licensing requirement combined with mandatory membership of a chamber of commerce, trade association or other body? If this membership involves a fee, please provide information on its amount.
  - c) What are the requirements which have to be met to obtain a licence or authorisation? To what extent are requirements which the business has already fulfilled in its state of establishment taken into account?

## **III. POSTAL SERVICES**

### **A. General legal framework**

9. To what extent is your legal framework regarding postal services aligned with the relevant EU *acquis* (Directive 97/67/EC as amended by Directive 2002/39/EC and Directive 2008/06/EC)? Please provide details about the license regime; universal service provision; reserved area; requirements for tariff principles; transparency and separation of accounts for service providers; quality of service standards for postal services (e.g. EN 13850); establishment of an independent National Regulatory Authority for the postal sector.
10. Do you have any plans to modify the existing legislation and/or to restructure the postal services? Please give details and timetables.

### **B. Universal Service Obligations (USO)**

11. What is the scope of universal postal service in your country?
12. What are the access and delivery conditions?
13. Are postal services exempted from VAT, and what is the scope of the exemption?
14. What are your standards of quality of service (target objectives for transit time performance)?
15. Are there exceptions to the USO? Please specify.

### **C. Licensing and authorisations regime**



16. How is the licensing regime applied in your country, in particular the granting, supervision and withdrawal of general authorisations and individual licenses (please refer to Article 9 of the Postal Directive)?

#### **D. Reserved area**

17. Are reserved services operated as a *de facto* monopoly or defined through your postal services legislation?
18. In case of the latter situation, how are the relevant requirements defined in national legislation?

#### **E. Universal Service Provider (USP)**

19. How are the obligations of the USP defined in your country? When was the relevant legal framework adopted and what form does it take?
20. How is the provision of the universal service by USP supervised, in particular regarding the granting of any exceptions or derogations from the universal service requirements? Is this supervision exerted by an NRA (National Regulatory Authority) or other supervising national authorities?
21. Is partial or full privatisation of the USP envisaged?

#### **F. Tariffs for Universal Service**

22. Describe the tariff structure for the Universal Service and the way in which this is defined, including any relevant legal provisions.

#### **G. Accounting**

23. Are systems for the supervision and control of accounting requirements for universal service providers (systems for cost accounting and accounting separation) already in place? If not, what are the time schedules for their implementation?

#### **H. Quality of Service**

24. Who sets the quality standards for service providers and supervises them?
25. Is the performance of the universal service providers (measuring quality of service against the standards set for domestic and cross-border mail and ensuring corrective action is taken when necessary) periodically monitored? If not by the National Regulatory Authority (NRA), by whom?

#### **I. Complaints procedures**

26. What main measures have been taken to establish complaint procedures? Who has to establish a complaint procedure scheme (e.g. only USP, USP and other postal services providers, etc.)?

#### **J. National Regulatory Authority**

27. Has a National Regulatory Authority for the postal sector been established? If yes, is it an autonomous body? To what extent is it independent from universal services providers? How and to what extent is its operational independence ensured?

28. Please provide information on the organisation of the Authority, including the number of its staff. Do you have any plans to strengthen the human resources (in terms of full-time equivalent) dealing with postal services available to this body?
29. Has the NRA been assigned responsibilities similar to those defined in the postal *acquis* in respect to European NRAs?
30. What are the nomination procedures and terms of office of the NRA's head? What are the NRA's powers?
31. Are there several regulatory bodies dealing with different aspects of postal services, e.g. specific regulatory issues, tariff regimes and prices, market competition, etc.?

#### ***IV. MUTUAL RECOGNITION OF PROFESSIONAL QUALIFICATIONS***

##### **A. Training**

32. What is the duration and the content (curricula) of the training leading to access to the profession and/or the professional activities of doctor, nurse responsible for general care, dentist, midwife, veterinary surgeon, pharmacist and architect, given the requirements set out for the mentioned professions in Title III Chapter 3 (articles 24, 25, 28, 31, 34, 35, 38, 40, 44 and 46) of Directive 2005/36/EC on the recognition of professional qualifications?
33. Are the dental profession and the medical profession two legally distinct professions? Please provide details.
34. Does the profession of midwife exist as a specific profession, legally distinct from nurses and doctors? Please provide details.

##### **B. Practice of the profession/professional activity**

35. Which professions/professional activities are regulated by your legislation (see definition of regulated professions in Article 3(1)(a) of Directive 2005/36/EC)? What is the scope of the professional field of activities?
36. Is there any differentiation in your legislation between recognition of professional and academic qualifications?
37. What are your plans for the alignment of your national legislation with the EU Directives on lawyers (Directives 77/249/EEC and 98/5/EC)?
38. What are your plans for the alignment of your national legislation with the EU Directive on commercial agents (Directive 86/653/EEC)?
39. What are your plans for the alignment of your national legislation with the EU Directives on toxic products 74/556/EEC and 74/557/EEC?
40. Which bodies oversee regulated professions: professional orders, Ministries (which), other?

##### **C. Administrative structures**

41. Please describe the administrative structures and procedures for granting recognition of foreign professional qualifications in your country.
42. To what extent is it possible to complete administrative procedures electronically?

#### **Chapter 4: Free movement of capital**

Member States must remove, with some exceptions, all restrictions on movement of capital both within the EU and between Member States and third countries. The *acquis* is based on the Treaty on the Functioning of the European Union, in particular Articles 63-66. The definition of the different types of capital movements relies on Annex I of Directive 88/361/EEC. Relevant case-law of the European Court of Justice and Commission Communications 97/C220/06 and 2005/C293/02 provide additional interpretation of the above Articles.

The *acquis* also includes rules concerning payments. Directive 2007/64/EC on payment services in the Internal Market (PSD) is the legal foundation for the creation of an EU-wide single market for payments. The PSD establishes a modern and comprehensive set of rules applicable to all payment services, national and cross-border, in the European Union. The target is to make cross-border payments as easy, efficient and secure as 'national' payments within a Member State, while at the same time enhancing rights of the payment service users. The PSD also seeks to improve competition by opening up payment markets to new entrants, thus fostering greater efficiency and cost-reduction. At the same time the Directive provides the necessary legal platform for the Single Euro Payments Area (SEPA).

Regulation (EC) No 924/2009 on cross-border payments in the EU eliminates the differences in charges for cross-border and national payments in euro up to the amount of EUR 50.000. It applies to all electronic payments (credit transfers, direct debits, payments by means of debit and credit cards and cash withdrawals at cash dispensers). It guarantees that, when a consumer makes a cross-border electronic payment in euro, it costs him the same as making a corresponding payment in euro within his own Member State.

Directive 2000/46/EC on the taking up, pursuit of and prudential supervision of the business of electronic money institutions enables the use of electronic money within the EU and sets the rules concerning operations of e-money institutions. E-money institutions are the third category of payment service providers, aside credit institutions (banks) and payment institutions (created by PSD). This law has been recently thoroughly reviewed and will be repealed by 30 April 2011, when a revised e-money Directive, 2009/110/EC, enters into force.

Directive 2005/60/EC<sup>6</sup> (which repeals Directive 91/308/EEC, as amended by Directive 2001/97/EC) requires entities subject to the Directive to apply customer due diligence and to report suspicious transactions, as well as to take relevant supporting measures, such as record keeping, training and establishing internal procedures. A key requirement to combat financial crime is the creation of effective administrative and enforcement capacity, including co-operation between supervisory, law enforcement and prosecutorial authorities. The new Directive aligns with and goes beyond the relevant 40 Recommendations on money laundering and nine Special Recommendations on terrorist financing of the Financial Action Task Force (FATF). The *acquis* in this area also comprises Commission Directive 2006/70/EC,<sup>7</sup> Regulation (EC) 1889/2005,<sup>8</sup> Regulation (EC) 1781/2006<sup>9</sup> as well as two

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<sup>6</sup> Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.

<sup>7</sup> Commission Directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of 'politically exposed

Council of Europe (CoE) Conventions (CETS 141 and 198<sup>10</sup>) and EU legislation on judicial and police cooperation (including the Joint Action 98/699/JHA of 3 December 1998, the Council Framework Decision 2001/500/JHA and the Protocol of 30 November 2000 extending Europol's competence to money laundering). In addition, Council Decision 2000/642/JHA of 17 October 2000 sets out arrangements for cooperation between Financial Intelligence Units (FIUs) of the Member States.

The Stabilisation and Association Agreement already lays down specific obligations in the areas covered by this Chapter. When answering the questions below, please make reference to the state of implementation of such obligations.

## ***I. CAPITAL MOVEMENTS AND PAYMENTS***

On the basis of the attached table, please indicate the situation for each type of capital transaction (whether the transaction has been liberalised, any conditions attached to the liberalisation, authorisation procedures, applicable domestic legislation, etc.):

1. What are the plans and timetables for complete liberalisation of medium and long-term capital movements? Please distinguish between decisions already adopted, measures programmed, and conditional measures.
2. Describe the key features of the current law on foreign exchange operations.
3. Please comment on the strategy for liberalisation of short-term capital movements. How is this strategy linked to other economic developments? How consistent is it with other policy objectives, in particular that of the exchange rate? Given experience elsewhere, are excessive inflows not considered more likely than initial outflows? Which instruments are available to manage inflows?
4. On current account convertibility, it is our understanding that Serbia has not yet accepted IMF Article VIII status. In this context, can Serbia provide information on what are the remaining technical issues?
5. What are the obligations of the State regarding bonds issued for payment of frozen foreign exchange deposits: principal/interest? What is the market value of these bonds (in percentage)? What can these bonds be used for?
6. What has been the contribution of foreign direct investment to the development of the economy? What was the size of FDI inflows (annual, cumulative and per capita) in recent years? What were the originating countries and into which sectors was it mainly

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person' and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis

<sup>8</sup> Regulation (EC) No 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the EU.

<sup>9</sup> Regulation (EC) No 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds.

<sup>10</sup> Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (so-called Strasbourg Convention; CETS 141); Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (Warsaw Convention; CETS 198).

channelled? What share has been brown-field (e.g. in the context of privatisation) and what share green-field investment?

7. Please comment on privatisations of state-owned enterprises in the past and those envisaged in the future. Which sectors are involved? Does the government maintain any special rights (e.g. 'special shares', representation on the board of directors, veto rights on important decisions) in privatised companies? How many residual shares does the State own in privatised companies? Who/which institution is in charge of their management? How is the State represented in companies where it owns shares? Is there a strategy or an action plan for the management of State capital?
8. Was there considerable inflow of capital other than FDI (portfolio investment, other)? If so, did it pose problems for the conduct of monetary policy or the exchange rate? How were such problems resolved? If such inflows have not yet taken place, how do the authorities envisage managing their impact in the future? (*c.f. economic chapter and chapter 20 – enterprise and industrial policy*)
9. Is the financial system sufficiently developed to cope with the greater freedom of capital movements? What are the implications for financial supervision? Is there a clear division of competencies among the authorities that are in charge of financial supervision? Please provide details.
10. Does a substantial inflow of capital provide the opportunity for a more balanced opening of the capital account, by allowing residents to invest abroad? In this context, what are the investment rules applied to institutional investors (e.g. pension funds) regarding investment in foreign securities?
11. Please explain in detail the nature and scope of restrictions on the acquisition of real estate by foreigners (i.e. natural and legal persons from the EU and third countries) in your country.
12. Please outline considerations involved in plans for the eventual liberalisation of inward investment in real estate in your country, distinguishing, if appropriate, between agricultural, forest, industrial, residential (urban, rural, coastal), security areas. In this context, what progress has been made on the establishment of a land register?
13. Are there investment agreements with third countries which provide for pre-establishment access of investments? With which countries have investment agreements been concluded? Please provide relevant information on dates of ratification, initial terms of agreements, automatic renewal procedures, and periods for which acquired rights exist. Do such agreements include a regional economic integration organisation clause? Which sectors are normally excluded (e.g. aviation, maritime transport, fishing, audiovisual, etc.) from such agreements? (*c.f. chapter 30 – external relations*)

## **II. PAYMENT SYSTEMS**

14. What are the general rules governing non-cash payments in Serbia?
15. What are the general conditions applicable for cross-border payments between Serbia and other countries, in particular EU Member States? Are they different from those concerning national payments? If yes, describe main differences.

16. Are banks the only authorised institutions to execute payment transactions? If not, what other institutions are authorised to perform them? Explain the process and requirements to be fulfilled to grant an authorisation to a non-bank institution, if applicable.
17. Is the information on the conditions governing the use of payment services fully transparent and easily available for payment service users? Are financial institutions required to inform their customers on these conditions? If yes, describe in detail the information that needs to be provided by financial institutions.
18. Are financial institutions required to supply their customers with information (a) prior, (b) subsequent to a payment transaction (either single transaction or a transaction covered by a framework contract)? If yes, describe the information that needs to be provided.
19. Are there any specific rules concerning charges for payment services? Are they regulated in any way? If yes, please describe.
20. What are the rules concerning the authorisation of the payment transaction? Are there specific rules concerning liability for an unauthorised payment transaction? Are there rules concerning the revocability of a payment order? Please describe them.
21. What are the rules in the case of non-execution of a payment or an execution differing from the instructions given by the customer? Are there different rules for national and cross-border payments? Is there any compensation foreseen for the customer?
22. Are there time limits and value dates for executing payment transactions? If yes, please describe them (for national and cross-border transactions). Is there compensation to the payment service user if the deadline limit, value date or the deadline agreed is not complied with?
23. Is there a complaint system in place for the settlement of disputes between the customers and the payment service providers? If yes, explain the system. Are the competent authorities appointed to ensure the compliance with the payments law and to deal with complaints? If yes, explain their competences.
24. Is there an out-of-court redress procedure available? If yes, explain it.

### ***III. FIGHT AGAINST MONEY LAUNDERING***

25. Regarding alignment with Directive 2005/60/EC of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, please respond to the following:
  - a) How has money laundering/financing of terrorism been criminalised, which criminal activities are covered by the law and how is money laundering/financing of terrorism defined?
  - b) Which institutions and professions are covered by your legislation and with regard to which activities?
  - c) How and by which competent authority is the integrity of the institutions and professions mentioned under b) checked?

- d) When/in which situations do customers and beneficial owners have to be identified and verified and which means of identification are accepted? Specify any special measures for non face-to-face account opening or transactions;
  - e) Specify if bearer passbooks or other bearer instruments are allowed in your country;
  - f) When and what do the institutions and professions mentioned under b) precisely have to report to your FIU (Financial Intelligence Unit) with regard to money laundering/financing of terrorism? Do supervisory or other competent authorities also have to report to the FIU in this respect? Are the reporting institutions forbidden to tip-off clients that information has been or will be reported to the FIU?
  - g) Are the institutions and professions mentioned under b) required to keep records? Specify the contents of that requirement (which documents, retention period etc.);
  - h) Are the institutions and professions mentioned under b) required to apply internal procedures and training of employees with regard to money laundering/financing of terrorism? Specify the measures;
  - i) Specify if the institutions and professions mentioned under b) are supervised with regard to the requirements mentioned under c) to h) and to what extent?
  - j) In what way do competent authorities have to give feedback to the institutions and professions mentioned under b) (specific/case-by-case feedback, general feedback, other)?
  - k) What penalties exist with regard to infringements of your anti-money laundering/financing of terrorism regulation?
26. Please elaborate on the functioning of the FIU, the supervisory authorities and the law enforcement authorities with regard to, inter alia, available resources (staff and budget), operational powers, independence, (inter-)national co-operation between competent authorities and the results achieved in terms of suspicious transactions reports received, supervisory investigations (including detected infringements, sanctions imposed), freezing/seizing orders, confiscations and prosecutions/indictments/convictions.
27. Specify to what extent you have implemented the FATF (Financial Action Task Force) 40 Recommendations on money laundering and the FATF 9 Special Recommendations on terrorist financing.
28. Is there a regulation preventing the use of the financial system for the purpose of money laundering/financing of terrorism? Describe the main elements of it.





Serbia  
 Arrangements applicable to Capital movements  
 Situation as of (month) 20010

Type of transaction	Legislation reference	Description of the current regime
I. DIRECT INVESTMENTS <sup>11</sup>		
A. Direct investments on national territory by non-residents		
B. Direct investments abroad by residents		

<sup>11</sup>

- 1) Establishment and extension of branches or new undertakings belonging solely to the person providing the capital, and the acquisition in full of existing undertakings.
- 2) Participation in new or existing undertaking with a view to establishing or maintaining lasting economic links.
- 3) Long-term loans with a view to establishing or maintaining lasting economic links.
- 4) Reinvestment of profits with a view to maintaining lasting economic links.

II. INVESTMENTS IN REAL ESTATE (not included under I)		
A. Investments in real estate on national territory by non-residents		
B. Investments in real estate abroad by residents		

III. OPERATIONS IN SECURITIES NORMALLY TRADED ON THE CAPITAL MARKET (not included under I, IV and V) <sup>12</sup>		
A. Transactions in securities on the capital market		
1. Acquisition by non-residents of domestic securities traded on a stock exchange		
2. Acquisition by residents of foreign securities traded on a stock exchange		
3. Acquisition by non-residents of domestic securities not traded on a stock exchange		
4. Acquisition by residents of foreign securities not traded on a stock exchange		
B. Admission of securities to the capital market		
1. Admission of domestic securities to a foreign capital market		
2. Admission of foreign securities to the domestic capital market		

<sup>12</sup>

- a) Shares and other securities of a participating nature.
- b) Bonds

IV. OPERATIONS IN UNITS OF COLLECTIVE INVESTMENT UNDERTAKINGS <sup>13</sup>		
A. Transactions in units of collective investment undertakings		
1. Acquisition by non-residents of units of national undertakings traded on a stock exchange		
2. Acquisition by residents of units of foreign undertakings traded on a stock exchange		
3. Acquisition by non-residents of units of national undertakings not traded on a stock exchange		
4. Acquisition by residents of units of foreign undertakings not traded on a stock exchange		

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<sup>13</sup>

- a) Units of undertakings for collective investment in securities normally traded on the capital market (shares, other equities and bonds).
- b) Units of undertakings for collective investment in securities or instruments normally traded on the money market.
- c) Units of undertakings for collective investment in other assets.

B. Admission of units of collective investment undertakings to the capital market		
1. Admission of units of national collective investment undertakings to a foreign capital market		
2. Admission of units of foreign collective investment undertakings to the domestic capital market		

V. OPERATIONS IN SECURITIES AND OTHER INSTRUMENTS NORMALLY TRADED ON THE MONEY MARKET		
A. Transactions in securities and other instruments on the money market		
1. Acquisition by non-residents of domestic money market securities and instruments		
2. Acquisition by residents of foreign money market securities and instruments		

B. Admission of securities and other instruments to the money market		
1. Admission of domestic securities and instruments to a foreign money market		
2. Admission of domestic securities and instruments to a foreign money market		

VI. OPERATIONS IN CURRENT AND DEPOSIT ACCOUNTS WITH FINANCIAL INSTITUTIONS		
A. Operations carried out by non-residents with domestic financial institutions		
B. Operations carried out by residents with foreign financial institutions		

VII. CREDITS RELATED TO COMMERCIAL TRANSACTIONS OR TO THE PROVISION OF SERVICES IN WHICH A RESIDENT IS PARTICIPATING		
A. Credits granted by non-residents to residents		
1. Short-term (less than one year)		
2. Medium-term (from one to five years)		
3. Long-term (five years or more)		
B. Credits granted by residents to non-residents		
1. Short-term (less than one year)		
2. Medium-term (from one to five years)		
3. Long-term (five years or more)		

VIII. FINANCIAL LOANS AND CREDITS		
A. Loans and credits granted by non-residents to residents		
1. Short-term (less than one year)		
2. Medium-term (from one to five years)		
3. Long-term (five years or more)		
B. Loans and credits granted by residents to non-residents		
1. Short-term (less than one year.		
2. Medium-term (from one to five years)		
3. Long-term (five years or more)		



IX. SURETIES, OTHER GUARANTEES AND RIGHTS OF PLEDGE		
A. Granted by non-residents to residents		
B. Granted by residents to non-residents		
X. TRANSFERS IN PERFORMANCE OF INSURANCE CONTRACTS		
A. Premiums and payments in respect to life insurance		
1. Contracts concluded between domestic life assurance companies and non-residents		
2. Contracts concluded between foreign life assurance companies and residents		

B. Premiums and payments in respect of credit insurance		
1. Contracts concluded between domestic credit insurance companies and non-residents		
2. Contracts concluded between foreign credit insurance companies and residents		
C. Other transfers of capital in respect of insurance contracts		

XI. PERSONAL CAPITAL MOVEMENTS	
A. Loans	
B. Gifts and endowments	
C. Dowries	
D. Inheritances and legacies	
E. Settlements of debts by immigrants in their previous country of residence	
F. Transfers of assets constituted by residents, in the event of emigration, at the time of their installation or during their period of stay abroad	
G. Transfers, during their period of stay, of immigrants' savings to their previous country of residence	

XII. PHYSICAL IMPORT AND EXPORT OF FINANCIAL ASSETS		
A. Securities		
B. Means of payment of every kind		
XIII. OTHER CAPITAL MOVEMENTS		
A. Death duties		
B. Damages (where these can be considered as capital)		
C. Refunds in the case of cancellation of contracts and refunds of uncalled-for payments (where these can be considered as capital)		
D. Authors' royalties: patents, designs, trade marks, etc.		
E. Transfer of the monies required for the provision of services (not included under VI)		
F. Miscellaneous		

## EXPLANATORY NOTES

For the purposes of this nomenclature the following expressions have the meanings assigned to them respectively:

### *Direct investments*

Investments of all kinds by natural persons or commercial, industrial or financial undertakings, and which serve to establish or to maintain lasting and direct links between the person providing the capital and the entrepreneur to whom or the undertaking to which the capital is made available in order to carry on an economic activity. This concept must therefore be understood in its widest sense. The undertakings mentioned under I-1 of the Nomenclature include legally independent undertakings (wholly-owned subsidiaries) and branches.

As regards those undertakings mentioned under I-2 of the Nomenclature which have the status of companies limited by shares, there is participation in the nature of direct investment, where the block of shares held by a natural person of another undertaking or any other holder enables the shareholder, either pursuant to the provisions of national laws relating to companies limited by shares or otherwise, to participate effectively in the management of the company or in its control. Long-term loans of a participating nature, mentioned under I-3 of the Nomenclature, means loans for a period of more than five years which are made for the purpose of establishing or maintaining lasting economic links. The main examples which may be cited are loans granted by a company to its subsidiaries or to companies in which it has a share and loans linked with a profit-sharing arrangement. Loans granted by financial institutions with a view to establishing or maintaining lasting economic links are also included under this heading.

### *Investments in real estate*

Purchases of buildings and land and the construction of buildings by private persons for gain or personal use. This category also includes rights of usufruct, easements and building rights.

### *Introduction on a stock exchange or on a recognised money market*

Access - in accordance with a specified procedure - for securities and other negotiable instruments to dealings, whether controlled officially or unofficially, on an officially recognised stock exchange or in an officially recognised segment of the money market.

### *Securities dealt in on a stock exchange (quoted or unquoted)*

Securities the dealings in which are controlled by regulations, the prices for which are regularly published, either by official stock exchanges (quoted securities) or by other bodies attached to a stock exchange - e.g. committees of banks (unquoted securities).

### *Issue of securities and other negotiable instruments*

Sale by way of an offer to the public.

### *Placing of securities and other negotiable instruments*

The direct sale of securities by the issuer or by the consortium which the issuer has instructed to sell them, with no offer being made to the public.

### *Domestic or foreign securities and other instruments*

Securities according to the country in which the issuer has his principal place of business. Acquisition by residents of domestic securities and other instruments issued on a foreign market ranks as the acquisition of foreign securities. Shares and other securities of a

participating nature, including rights to subscribe to new issues of shares and bonds. Negotiable securities with a maturity of two years or more from issue for which the interest rate and the terms for the repayment of the principal and the payment of interest are determined at the time of issue.

#### *Collective investment undertakings*

Undertakings:

- the object of which is the collective investment in transferable securities or other assets of the capital they raise and which operate on the principle of risk-spreading, and
- the units of which are, at the request of holders, under the legal, contractual or statutory conditions governing them, repurchased or redeemed, directly or indirectly, out of those undertakings' assets. Action taken by a collective investment undertaking to ensure that the stock exchange value of its units does not significantly vary from their net asset value shall be regarded as equivalent to such repurchase or redemption. Such undertakings may be constituted according to law either under the law of contract (as common funds managed by management companies) or trust law (as unit trusts) or under statute (as investment companies). For the purposes of this nomenclature, 'common funds' shall also include unit trusts.

#### *Securities and other instruments normally dealt in on the money market*

Treasury bills and other negotiable bills, certificates of deposit, bankers' acceptances, commercial paper and other like instruments.

#### *Credits related to commercial transactions or to the provision of services*

Contractual trade credits (advances or payments by instalment in respect of work in progress or on order and extended payment terms, whether or not involving subscription to a commercial bill) and their financing by credits provided by credit institutions. This category also includes factoring operations.

#### *Financial loans and credits*

Financing of every kind granted by financial institutions, including financing related to commercial transactions or to the provision of services in which no resident is participating. This category also includes mortgage loans, consumer credit and financial leasing, as well as back-up facilities and other note-issuance facilities.

#### *Residents or non-residents*

Natural and legal persons according to the definitions laid down in the exchange control regulations in force in each Member State.

#### *Proceeds of liquidation (of investments, securities, etc.)*

Proceeds of sale including any capital appreciation, amount of repayments, proceeds of execution of judgements, etc.

#### *Natural or legal persons*

As defined by the national rules.

#### *Financial institutions*

Banks, savings banks and institutions specialising in the provision of short-term, medium-term and long-term credit, and insurance companies, building societies, investment companies and other institutions of like character.

*Credit institutions*

Banks, savings banks and institutions specialising in the provision of short-term, medium-term and long-term credit.

Arrangements applicable to Capital Movements

(Annex to main monitoring table section I.A.)

Restrictions on direct investment by non-residents under sector specific legislation

Sector	National legislation (reference number, date of entry into force)	Managing authority / competent ministry	Description of relevant provisions / legal citation (bans, ceilings, authorisation or licensing procedures ... regardless of possible justification)	Comments (e.g. possible justification for restriction in the light of the reservations set out in the annexes of the Agreement or legislation in the pipeline)
Example: Postal services	Post Law, law n°. / year, OJ p...., date of entry into force	Ministry of ...	Section x, § y of the Post Law provides for - a ceiling of x % of foreign participation,  - an authorisation procedure including the following criteria:...	A draft law providing for the following amendments ... is currently pending before Parliament...
Agriculture				
Alcohol				
Banking				

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Note: This is an indicative and not necessarily exhaustive list. Sectors which are not mentioned explicitly should be cited in the last row 'any other'.



<b>Betting</b> (see also gambling, lotteries)				
Broadcasting				
Brokerage				
Coffee products				
Construction services				
Energy and power production				
Fishing				
Forests				
<b>Gambling</b> (see also lotteries)				
Hotels				
Hunting				

Imported goods & services (e.g. agencies)				
<b>Insurance</b> companies				
<b>Investment</b> companies				
Land development				
Lotteries				
Legal / Notary services				
<b>Management</b> companies				
<b>Mass Media</b> (see also print media)				
Mining				
Narcotics				
National security & defence				

Natural reservations				
Natural resources				
Postal services				
<b>Print media</b> (see also mass media)				
Quarrying				
Security services				
Stock Exchange / Securities				
Tele-communication				
Tertiary education				
Tobacco				

<b>Transport</b> (air-, maritime-, railway- and other and related services)				
<b>Any other</b> (e.g. privatised companies/ special rights)				

## ***Chapter 5: Public Procurement***

The *acquis* on public procurement is based on the **general principles** deriving from the Treaties and from the jurisprudence of the European Court of Justice such as transparency, equal treatment, free competition and non-discrimination. These principles apply to all procurement procedures including those falling outside the scope of the EU procurement directives for example in view of their value (procurement below the EU thresholds) or subject matter (service concessions, Public private partnerships - PPP).

The **award of public contracts** (public works, public supply and public service contracts) is coordinated by two specific directives: Directive 2004/18/EC regarding the so-called "traditional contracting authorities" (the "classical sector") and Directive 2004/17/EC concerning the authorities and entities operating in the fields of water, energy, transport and postal services (the "utilities sector"). In addition Directive 2009/81/EC stipulates coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the field of defence and security.

The respective scope of application of the directives is defined in terms of the contracting authorities/entities and contracts covered, application thresholds and specific exclusions. Within this framework, specific requirements are laid down to guarantee full respect of the general principles in the course of the procurement process. In particular, specifications and contract documents, different types of procurement procedures, advertising and transparency, as well as the conduct of the procedure including qualitative selection and contract award are regulated. Specific requirements apply to design contests and - in the "classical sector" – for public works concessions as well.

The directives also provide a framework introduced in 2004 for electronic procurement including electronic means of communication, dynamic purchasing systems and electronic auctions. The rules on the contracts covered and on advertising are complemented by separate regulations on the Common Procurement Vocabulary (CPV) and on standard forms for publication.

Compliance with the procurement directives requires an adequate implementation capacity. In particular, there is need for appropriate administrative structures at central level to ensure the key functions of policy-making, drafting of primary and secondary legislation, provision of operational tools, help-desk, monitoring and statistics as well as controls in a coherent manner for all areas related to public procurement. Moreover, main purchasers at all levels have to possess the necessary administrative capacities to allow for an effective implementation of the procurement rules.

The effective application and enforcement of EU legislation depends on the existence of an appropriate administrative and judicial system. The procurement *acquis* entails two directives on **remedies**: Directive 89/665/EEC regarding the "classical sector" and Directive 92/13/EEC concerning the "utilities sector", recently modified by Directive 2007/66/EC. The remedies directives contain requirements for the establishment of effective review procedures against any action or inaction of contracting authorities/entities liable to produce legal effects in tenders covered by the directives. The procedures need to guarantee access to independent review, including the powers to adopt interim measures and award damages. Review bodies have to be equipped with the adequate capacity to guarantee the effectiveness of the system as a whole. Furthermore, in line with the principle of judicial protection deriving from the Treaties, the availability of remedies is also required outside the scope of application of the directives.

The Stabilisation and Association Agreement already lays down specific obligations in the areas covered by this Chapter. When answering the questions below, please make reference to the state of implementation of such obligations.

### ***I. General Principles***

1. How does the Serbian regulatory framework incorporate the general Treaties' principles of transparency, equal treatment, free competition and non-discrimination?

### ***II. Award of public contracts***

#### ***Legislation***

2. Please provide us with the definitions of public contract and the contracting authority/entity, following your procurement legislation.
3. Does your current legislation cover all types of contracts (good, services and works; concessions and Private Public Partnership PPP)? Please list the contracts excluded from the scope of the procurement legislation.
4. What are the legislative provisions preventing splitting of tenders in order to avoid more complicated procedures?
5. Please list the relevant thresholds stated in your legislation and explain what procedure shall be followed. Are all tenders above a certain threshold published before the launching of the procedure? What are the types of information that your legislation requires to be included in notices of invitation to tender?
6. Please provide a general description of your existing procurement, concession and PPP procedures. Are interested entities allowed to proceed to negotiations? If yes, under which conditions?
7. Please list qualification criteria which may be deployed in tender procedures.
8. What are the rules/possibilities for defining the technical specifications?
9. What are the award criteria used in tender procedures, are they dependent on the type of procedure used? Can you provide us with data?
10. Does your legislation require that award criteria, other than price, must be linked to the subject matter of the contract?
11. Does your legislation require a clear distinction between the qualification and award criteria?
12. Do you have any local, regional or national preferences schemes? What do they consist of?
13. Does your legislation include a specific regulatory framework for the utilities sector, including private undertakings with special or exclusive rights?
14. Do you have any plans to modify/integrate existing legislation? If so, please give all relevant details and timetables.

15. How are corruption/conflict of interest aspects and related questions taken into consideration by existing legislation? Please list the exclusion criteria in tender procedures and state whether they are mandatory or their deployment depends on the contracting authority.
16. In how many cases did contracting authorities reject a tender/cancel the procedure/withdraw from the conclusion of the contract for the reasons of corruptive practices over the last 5 years? Are there any statistical data or examples available? What are the most frequent reasons for the said actions?
17. In how many cases did public officials dealing with procurement signal the existence of a conflict of interest over the last 5 years? Are there any statistical data or examples available?
18. How does Serbia regulate the award of public contracts in the area of defence and security?

***Institutional set-up (Administrative capacity)***

19. Who is responsible for managing the various aspects of public procurement policy (at central and local level)?
20. What are the tasks and powers of this (these) body (bodies)? Please provide information on the organisation chart and the number of staff.
21. Could Serbia inform about the activities which the relevant authorities conducted in the area of guidance and training?

***Publication***

22. Where do entities publish tender notices? Is there an electronic portal where the procurement opportunities are published?
23. Please provide us with data, in particular the number and type of notices published.

***III. Remedies***

24. Please outline Serbian review and remedies system, including the appeal bodies. What review procedures are available in the event of an infringement of public procurement rules? When and to whom are they available?
25. What bodies are responsible for the review procedures in the field of public procurement? Are they of administrative or judicial character? Is their independence from the contracting authorities ensured, if so how?
26. What powers are conferred on these review bodies?

## ***Chapter 6: Company law***

The chapter includes harmonised rules in the field of company law, including financial reporting requirements, intended to facilitate the exercise of the right of establishment.

In the field of **company law**, the first company law directive includes safeguards providing for mandatory disclosure requirements, limiting the grounds for invalidity of the obligations entered into by companies, as well as limiting the grounds for nullity of public and private limited liability companies. The 11<sup>th</sup> Company Law Directive similarly provides for disclosure requirements in respect of branches. The 2nd Company Law Directive contains rules on the formation of public limited liability companies and the maintenance and alteration of their capital.

The 3rd and 6th Company Law Directives harmonise national rules for the protection of shareholders and of creditors in the context of domestic mergers and divisions of public limited liability companies. The so-called 10<sup>th</sup> Company Law Directive (directive on cross-border mergers of limited liability companies) provides for rules and procedures to facilitate cross-border mergers of public and private limited liability companies. The 13th Company Law Directive on takeover bids lays down harmonised rules to facilitate cross-border takeovers within the EU, as well as improving transparency and protecting minority shareholders in the context of such takeovers.

The *acquis* also provides for certain European legal forms, in particular the European Economic Interest Group (EEIG) and the European Company (*Societas Europaea* or SE), while leaving several aspects of their internal structure and operation to be regulated through the domestic law of Member States. The 12th Company Law Directive requires Member States to ensure that their domestic law recognises single-member limited liability companies.

Four Commission recommendations address corporate governance principles about the remuneration of directors and remuneration in financial institutions and about the independence of non-executive directors and board committees. The Shareholders' Rights Directive introduces minimum standards for the exercise of certain rights of shareholders in the listed companies.

In the field of **accounting and auditing**, the *acquis* includes valuation rules and layouts for balance sheets and profit & loss accounts for annual (4th Company Law Directive) and consolidated (7th Company Law Directive) accounts of public and private limited liability companies. These directives also set out audit requirements, as well as disclosure and publication obligations. In addition, a regulation requires EU companies with securities listed on a regulated market to draw-up their consolidated accounts in accordance with international accounting standards endorsed by the European Commission. Member States may extend the application of such international accounting standards to the annual accounts of listed companies and to the accounts of non-listed companies. Finally, the Statutory Audit Directive puts an end to the self-regulation of the audit profession and requires the establishment of independent public oversight systems for the audit profession. This Directive harmonises rules including *inter alia* the approval and registration of statutory auditors, external quality assurance, public oversight, auditor independence and the possible application of international standards of audit. Two Commission recommendations set out minimum standards for external quality assurance and auditor's liability.



## ***I. COMPANY LAW***

### ***A. Legal Framework***

**First Company Law Directive (2009/101/EC) on co-ordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 48 of the Treaty, with a view to making such safeguards equivalent**

1. To what extent is your legislation aligned with the First Company Law Directive?
2. Please indicate the transposing national legislation and provide the concordance table, if available.
3. What are the major discrepancies, if any, between the First Company Law Directive and the national legislation transposing the Directive? What are the reasons for these discrepancies?
4. If you have not aligned your legislation with the Directive, do you have plans to that extent?
5. Could you please detail the specific implementation of the following items:
  - To which company forms do you apply the rules of the Directive? (Article 1)
  - Please provide the list of documents and particulars that has to be disclosed under Article 2.
  - Is there one or more electronic business register(s) in your country? Is it a central register? If not, are there any plans in this respect? (Article 2)
  - Can companies file documents and particulars to the register by electronic means? (Article 2)
  - Are documents filed in paper form converted to electronic form by the register in accordance with Article 3(3)?
  - Is the content of the registers accessible by electronic means in accordance with Article 3(4)? Is everyone entitled to consult the register without having to prove a legitimate interest in the enquiry? Is there a fee for consultation?
  - Are any fees charged for issuing certain documents (certificates, copies, transcripts, attestations, notifications) contained in the register? If yes, are these fees limited to cover the administrative costs incurred in issuing such documents or are they set in a different way? What is the procedure for issuing these documents? (Article 3(4))
  - How is the disclosure of documents and particulars carried out? Is there a national gazette? (Article 3(5))
  - According to which rules can third parties rely on the disclosed information? (Article 3(6)-(7))

- Are companies in your country required to state in their letters and order forms the data prescribed in Article 5?
- Are there any penalties or fines imposed on companies if annual accounts are not deposited at the register? If so, what is the amount of such fines? (Article 7)
- Are there preventive, administrative or judicial controls at the time of company formation? Do the instrument of constitution and other documents have to be drawn up in a specific form? (Article 11)
- Can company formation be declared null and void? If so, under which conditions? (Articles 12-13)

**Second Company Law Directive (77/91/EEC) - formation of public limited liability companies and the maintenance and alteration of their capital, and its subsequent amendments (92/101/EEC, 2006/68/EC and 2009/109/EC)**

6. To what extent is your legislation aligned with the 2nd Company Law Directive (77/91/EEC) and its subsequent amendments (92/101/EEC, 2006/68/EC and 2009/109/EC)?
7. Please indicate the transposing national legislation and provide the concordance tables, if available.
8. What are the major discrepancies, if any, between the 2nd Company Law Directive and its subsequent amendments and the national legislation transposing the Directive? What are the reasons for these discrepancies?
9. If you have not aligned your legislation with the 2nd Company Law Directive, do you have plans to that extent?
10. Could you please detail the specific implementation of the following items:
  - Is there a minimum capital requirement for the companies? If so, what is it?
  - What safeguards are there to protect the company's capital (e.g. rules on contributions in kind, on distribution to shareholders, on acquisition by a company of its own shares, on providing financial assistance to third parties for the acquisition of a company's shares)?
  - What kind of protection is provided for the shareholders in the context of capital maintenance and alteration (e.g. decision-making power on fundamental issues such as increase and reduction of capital, pre-emption rights, and equal treatment of shareholders in the same position)?
  - What rules do you have for the protection of creditors?

**Third Company Law Directive (78/855/EEC) concerning mergers of public limited liability companies, and its subsequent amendments (2007/63/EC and 2009/109/EC)**

11. To what extent is your legislation aligned with the Third Company law Directive and its subsequent amendments?
12. Please indicate the transposing national legislation and provide the concordance table, if available.
13. What are the major discrepancies, if any, between the Third Company law Directive and the national legislation transposing the Directive? What are the reasons for these discrepancies?
14. If you have not aligned your legislation with the Directive, do you have plans to that extent?
15. Could you please detail the specific implementation of the following items:
  - To which company forms do you apply the provisions of the Directive? (Article 1)
  - How does your national law define "merger by acquisition" and "merger by the formation of a new company"? (Articles 2-4 and 30-31)
  - Do you require the merging companies to draw up the draft terms of merger in writing? What is the content of the draft terms? (Article 5)
  - What are the rules applicable to the disclosure, evaluation and the adoption of the draft terms of merger? (Articles 6-10)
  - How does your national law protect the creditors of the merging companies? (Article 13)
  - How is the legality of the merger controlled in your country? (Article 16)

**Sixth Company Law Directive (82/891/EEC) concerning the division of public limited liability companies, and its subsequent amendments (2007/63/EC and 2009/109/EC)**

16. To what extent is your legislation aligned with the Sixth Company law Directive and its subsequent amendments?
17. Please indicate the transposing national legislation and provide the concordance table, if available.
18. What are the major discrepancies, if any, between the Sixth Company law Directive and the national legislation transposing the Directive? What are the reasons for these discrepancies?
19. If you have not aligned your legislation with the Directive, do you have plans to that extent?
20. Could you please detail the specific implementation of the following items:

- Does your national law allow the division of companies? If so, for which company forms do you apply the provisions of the Directive? (Article 1)
- How does your national law define "division by acquisition" and "division by the formation of new companies"? (Articles 2, 21 and 24)
- Do you require the companies involved in the division to draw up the draft terms of division in writing? What is the content of the draft terms? (Article 3)
- What are the rules applicable to the disclosure, evaluation and the adoption of the draft terms of division? (Articles 4-10)
- How does your national law protect the creditors of companies involved in the division? (Article 12)
- How is the legality of the division controlled in your country? (Article 14)

**Cross-border mergers Directive (2005/56/EC) - on the cross-border mergers of limited-liability companies**

21. Have you undertaken any measures with the view of implementing the Cross-border mergers Directive?
22. If you have not taken any measures, do you have plans to that extent?

**Eleventh Company Law Directive (89/666/EEC) concerning disclosure requirements in respect of branches opened in a Member State by certain types of company governed by the law of another State**

23. To what extent is your legislation aligned with the Eleventh Company law Directive?
24. Please indicate the transposing national legislation and provide the concordance table, if available.
25. What are the major discrepancies, if any, between the Eleventh Company law Directive and the national legislation transposing the Directive? What are the reasons for these discrepancies?
26. If you have not aligned your legislation with the Directive, do you have plans to that extent?
27. Could you please detail the specific implementation of the following items:
  - Please provide the list of documents and particular that need to be disclosed when a branch of a foreign company is registered in your country (Articles 1-3).
  - Does your national law require the translation of the company's instruments of constitution/memorandum/articles of association and of the accounting documents? If so, do you require the translation to be certified? (Article 4)

- Does your national law require that branches of companies from outside the EU register their documents and particulars in accordance with Articles 7-9?
- Are branches of foreign companies in your country required to state in their letters and order forms the data prescribed in Articles 6 and 10?

**Twelfth Company Law Directive (2009/102/EC) on single-member private limited liability companies**

28. To what extent is your legislation aligned with the Twelfth Company Law Directive?
29. Please indicate the transposing national legislation and provide the concordance table, if available.
30. What are the major discrepancies, if any, between the 12th Company Law Directive and the national legislation transposing the Directive? What are the reasons for these discrepancies?
31. If you have not aligned your legislation with the Directive, do you have plans to that extent?
32. In case national rules allow an individual entrepreneur to set up an undertaking with the liability limited to a sum dedicated to a stated activity - instead of allowing for formation of single-member companies - are sufficient safeguards laid down in national rules, in line with Article 7?

**Thirteenth Company Law Directive (2004/25/EC) on takeover bids**

33. To what extent is your legislation aligned with the Takeover Bids Directive (2004/25/EC)
34. Please indicate the transposing national legislation and provide the concordance table, if available.
35. What are the major discrepancies, if any, between the Takeover Bids Directive and the national legislation transposing the Directive? What are the reasons for these discrepancies?
36. If you have not aligned your legislation with the Directive, do you have plans to that extent?
37. Could you please detail the specific implementation of the following items:
  - How is control of a company, in relation to the obligation to launch a mandatory bid, defined? Are there other conditions which trigger the mandatory bid?
  - Which derogations to the Directive have been provided, in accordance with article 4 section 5 of the Directive, in the national law and which derogatory powers have been given to the supervisory authority?
  - Have you transposed articles 9 and 11 of the Directive? Do you apply the reciprocity rule of article 12 section 3 of the Directive?

- What are the thresholds for squeeze-out (article 15) and sell-out (article 16) following a takeover bid?

**Shareholders' Rights Directive (2007/36/EC) - on the exercise of certain rights of shareholders in listed companies**

38. To what extent is your legislation aligned with the Shareholders' Rights Directive (2007/36/EC)
39. Please indicate the transposing national legislation and provide the concordance table, if available.
40. What are the major discrepancies, if any, between the Shareholders' Rights Directive and the national legislation transposing the Directive? What are the reasons for these discrepancies?
41. If you have not aligned your legislation with the Directive, do you have plans to that extent?
42. Could you please detail the specific implementation of the following items:
  - Minimum notice period of 21 days for most General Meetings (GMs), which can be reduced to 14 days where shareholders can vote by electronic means and the general meeting agrees to the shortened convocation period;
  - Internet publication of the convocation and of the documents to be submitted to the GM at least 21 days before the GM;
  - Abolition of share blocking and introduction of a record date in all Member States which may not be more than 30 days before the GM;
  - Abolition of obstacles on electronic participation to the GM, including electronic voting;
  - Right to ask questions and obligation on the part of the company to answer questions;
  - Abolition of existing constraints on the eligibility of people to act as proxy holder and of excessive formal requirements for the appointment of the proxy holder

**Council Regulation (EC) 2157/2001 on the Statute for a European company (SE) and Directive 2001/86/EC supplementing the Statute for a European company with regard to the involvement of employees**

43. Have you already taken any measures with the view of implementing the SE Regulation and Directive in your country?
44. Please indicate which options open in the SE Regulation you are planning to apply to an SE with its registered office in your territory.

**Council Regulation (EEC) 2137/85 on the European Economic Interest Grouping (EEIG)**

45. Have you already taken any measures with the view of implementing the EEIG Regulation in your country?
46. Please indicate which options open in the EEIG Regulation you are planning to apply to an EEIG registered at the registries in your country.

**Commission Recommendation C(2009) 3177 complementing Recommendations 2004/913/EC and 2005/162/EC as regards the regime for the remuneration of directors of listed companies**

**Commission Recommendation C(2009) 3159 on remuneration policies in the financial sector**

**Commission Recommendation on the role of non-executive or supervisory directors of listed companies and on the committees of the (supervisory) board**

**Commission Recommendation (2004/913/EC) fostering an appropriate regime for the remuneration of directors of listed companies**

47. Have you taken or are you planning to take any steps to promote application of the four above-mentioned Commission Recommendations?
48. Do you have, or are you planning to introduce, a Corporate Governance code? What is it based on (e.g. OECD standards)? How binding is the compliance with the code (e.g. voluntary; comply or explain) and how is the compliance monitored?

***B. Administrative Capacity***

49. Which ministry (or ministries) is responsible for Company law in Serbia? What is the size of the department(s) dealing with this issue?
50. What types of companies are recognised by your law? What is the total number of enterprises in each category?
51. What is the average time-scale between application for registration and effective registration of a company? What is the number of companies registered at this moment and in the last two years? What is the current staff of the register? Are there any plans to increase staff? When is this expected?
52. Please identify the administrative or judicial authority responsible for the incorporation of companies.
53. Is there a mechanism in place that allows coordination and cooperation with registers from Member States (e.g. in the context of a cross-border merger of companies)? Please explain.

***II. CORPORATE ACCOUNTING AND AUDIT***

***A. Accounting***

54. What legal instruments do you have in the accounting field? Are there any official instructions or recommendations by a standard-setting body?

55. Which enterprises fall within the scope of the general regulations? Are there special regulations for limited liability companies? Are there exceptions for small and medium sized companies?
56. Are consolidated accounts (the accounts of groups of companies) as well as the accounts of individual companies regulated? If so, are there exceptions for any groups of enterprises (e.g. size thresholds, legal forms) from the requirement to draw up consolidated accounts and do all consolidated accounts have to be prepared according to IFRS? Which IFRS standards are applied? Which accounting standards are applied for entities that do not apply IFRS?
57. What sanctions exist for not complying with financial reporting requirements?
58. Are any reforms of the legal instruments in the accounting area planned? If so, what is their content and when are they programmed for adoption?
59. Are the 4th (78/660) and/or the 7th Directives (83/349) taken into account in these reforms?
60. Are the Council Directives 86/635/EEC (bank accounts) and 91/674/EEC (insurance accounts) taken into account in these reforms?
61. Is the IAS (International Accounting Standards) Regulation 1606/2002 taken into account in these reforms?

***B. Statutory auditors***

62. What legal instruments do you have in the auditing field? Are annual or consolidated financial statements required to be audited? If yes, which audits of annual and consolidated accounts are considered as "statutory audits"?
63. Do statutory audits in your country comply with the principles and requirements set out in the 8th Company Law Directive and in the Commission Recommendations of 6 May 2008 (External quality assurance for statutory auditors and audit firms auditing public interest entities OJ L 120 of 7.5.2008) and of 5 June 2008 (limitation of the civil liability of statutory auditors and audit firms, OJ L 162 of 21.7.2008)?
64. What requirements must be fulfilled to be approved as a statutory auditor (educational qualifications, professional competence, training, experience, ethical rules)? Are statutory auditors and audit firms entered in a public register? If yes, how many auditors and audit firms were registered until 2009 (or the most recent year for which reliable data is available; please specify which year)?
65. Is there a public oversight system for auditors? If yes, is this public oversight system independent from the audit profession and set up taking into account the provisions of the 8th Directive (2006/43/EC)? What are the competences of this public oversight system?
66. Is there an external quality assurance system for auditors? If yes, is this external quality assurance system objective, independent from the audit profession and set up taking into account the provisions of the 8th Directive (2006/43/EC) as well the principles and



requirements set out in the Commission Recommendation of 6 May 2008 (External quality assurance for statutory auditors and audit firms auditing public interest entities OJ L 120 of 7.5.2008)?

67. Is there a system of investigation and penalties to detect, correct and prevent inadequate execution of statutory audits? If yes, what kinds of sanctions are applied to auditor's misconduct?

## **Chapter 7: Intellectual property law**

The *acquis* on intellectual property law specifies harmonised rules for protection of copyright and neighbouring rights, for industrial property rights and contains provisions on civil enforcement.

In the area of **copyrights and neighbouring rights**, the objectives of the Directive on the harmonisation of certain aspects of copyright and related rights in the information society (2001/29/EC) are to adapt legislation on copyright and related rights to reflect technological developments and to transpose into EU law the main international obligations arising from the two treaties on copyright and related rights adopted within the framework of the World Intellectual Property Organisation (WIPO). Directive 93/83/EEC aims at facilitating the cross border transmission of audiovisual programmes, particularly broadcasting via satellite and retransmission by cable. The objective of the Directive on the resale right for the benefit of the author of an original work of art (2001/84/CE) is to provide a balance between the economic situation of authors of graphics and plastic works of art and that of other creators who benefit from successive exploitations of their works. The protection of semiconductor's topographies is harmonised through Directive 87/54/EC. The Directive 96/9 EC on the legal protection of Databases creates a new sui-generis right for database producers, to protect their investment. Directive 2006/116/EC (the codified version of original Directive 93/98/EEC) harmonises the terms of protection of copyright and neighbouring rights for each type of work and each related right in the Member States. Directive 2006/115/EC (the codified version of original Directive 92/100/EEC) harmonises the provisions relating to rental and lending rights as well as on certain rights related to copyright. The Directive 2009/24/EC (the codified version of original Directive 91/250/EEC) harmonises Member States' legislation regarding the protection of computer programmes.

In the field of **industrial property rights**, the *acquis* sets out harmonised rules for the legal protection of trademarks and designs, as well as a partially harmonised regime for patents. The latter relates to the accession to the European Patent Convention; specific provisions on biotechnological inventions, supplementary protection certificates (SPCs) for medicinal and plant protection products and compulsory licences. The *acquis* also establishes a Community trademark and a Community design system.

The Directive 2004/48/EC on the **enforcement** of intellectual and industrial property rights such as copyright and related rights, trademarks, designs or patents requires all Member States to apply effective, dissuasive and proportionate civil remedies and penalties against those engaged in counterfeiting of goods and piracy and so create a level playing field for right holders in the EU. Customs Administrations play an important role in preventing entry into the EU of products infringing copyright or industrial property.

The Stabilisation and Association Agreement already lays down specific obligations in the areas covered by this chapter. When answering the questions below, please make reference to the state of implementation of such obligations.

### **A. Copyright and neighbouring rights**

1. Does your country provide for protection of semiconductors? If yes, do you consider this protection to be in conformity with Directive 87/54/EEC?

2. Does your country provide for a rental right, lending right and the provisions on certain related rights set out in Directive 2006/115/EC (the codified version of original Directive 92/100/EEC)?
  - a) If YES, please give full references and the principal contents of your legislation. Does the legislation notably provide for a right to equitable remuneration for rental where an author or performer has transferred or assigned his rental right concerning a phonogram or an original copy of a film to a phonogram or film producer? Does your legislation provide that at least authors obtain remuneration for public lending? Does it provide for derogation from the exclusive public lending right and if so, would this be in line with the Directive? Does your legislation provide that a single equitable remuneration is paid by the user to the relevant performers and phonogram producers every time a phonogram published for commercial purposes is used for broadcasting by wireless means or for any communication to the public?
  - b) If NO, do you plan to adopt legislation on the protection of rental rights, lending rights and related rights? Please give details and dates.
3. Is the term of protection of copyright and related rights in your country in conformity with Directive 2006/116/EC (the codified version of original Directive 93/98/EEC)? If NO, how and by when do you intend to align your legislation with this directive?
4. Does your copyright law provide for the legal protection of computer programs?
  - a) If YES, is it fully compatible with Directive 2009/24/EC 2006/116/EC (the codified version of original Directive 91/250/EC), including with the provisions of this directive on authorship, restricted acts, exceptions to the restricted acts, de-compilation and special measures of protection?
  - b) If NO, do you plan to adopt any legislation in this field? Please give details and dates.
5. Does your copyright law provide for the legal protection of databases?
  - a) If YES, is it fully compatible with Directive 96/9/EC, including on scope of protection, protection under copyright and sui generis protection?
  - b) If NO, do you plan to adopt legislation on the legal protection of databases (including sui generis protection)? Please give details and dates.
6. Does your copyright legislation provide for the legal protection of copyright and related rights in conformity with Directive 2001/29/EC?
7. If YES, is it fully compatible with the listed exclusive rights of authors and certain neighbouring right holders? Does your legislation provide, in particular, for a right of communication to the public of works and a right of making available to the public other subject-matter? Does it provide for the mandatory exception for “temporary copies” (Article 5.1)? Does it provide for other exceptions? If yes, please list them. Does your country provide for a system of fair compensation to right holders for the following: reprography, reproductions made by a natural person for private use, reproductions of broadcasts made by social institutions pursuing non-commercial purposes? Does your legislation provide for the legal protection of technological measures and rights management information? What sanctions and remedies does your legislation provide in respect of infringements of the rights and obligations set out in Directive 2001/29/EC?

8. Does your copyright law provide for a resale right for the benefit of the author of an original work of art?
  - a) If YES, is it fully compatible with Directive 2001/84/EC?
  - b) If NO, do you plan to adopt any legislation in this field? Please give details and dates.
9. Has your country adhered to the two WIPO Treaties of 1996 (WCT and WPPT)? To which other international treaties and agreements relevant to copyright and related rights is your country a party?
10. Does your copyright law provide for the protection of satellite broadcasting?
  - a) If YES, do you consider that it is in conformity with the provisions of Directive 93/83/EEC, in particular as regards the principle of acquisition of broadcasting rights in accordance with the terms of this directive? Do you have a definition of communication to the public by satellite?
  - b) If NO, do you plan to adopt any legislation in this field? Please give details and dates.
11. Does your copyright law provide for the protection of cable retransmission?
  - a) If YES, do you consider that it is in conformity with the provisions of Directive 93/83/EEC, in particular in relation to the following: principle of mandatory collective management extended to non-members of a collecting society; principle of good faith in the negotiations for cable retransmission and principle of mediation?
  - b) If NO, do you plan to adopt any legislation in this field? Please, give details and dates.
12. What is Serbia's administrative capacity in this area?

## ***B. Industrial property rights***

### ***Patents***

13. Please provide information on your country's accession to the European Patent Convention.
14. What are your plans for full alignment with the EU *acquis* on industrial property in the field of patents? Which provisions do you intend to amend in your existing legislation on this, and by when?
15. Has your country already modified its legislation in order to comply with the content of Directive 98/44/EC of the European Parliament and of the Council of 6 July 1998 on the legal protection of biotechnological inventions?
16. Are supplementary protection certificates (SPCs) for medicinal products and/or plant protection products available in your country?
  - a) If YES, since when?
  - b) If NO, please indicate when you envisage to introduce such certificates.

17. Do you have rules governing the grant of compulsory licences (Regulation (EC) No 816/2006 of the European Parliament and of the Council of 17 May 2006 on compulsory licensing of patents relating to the manufacture of pharmaceutical products for export to countries with public health problems in relation to the Doha Declaration/TRIPS and Public Health)?
18. What is Serbia's administrative capacity in this area (patent examiners etc.), and what are the future plans? How many patent applications did Serbia receive on an annual basis for the last 3 years, and how many patents were granted?

### ***Trademarks***

19. What are your plans for full alignment with the EU *acquis* on industrial property in the field of trade marks? Which provisions do you intend to amend in your existing legislation on this, and by when?
20. Has your country already modified its trademark law in order to comply with the content of Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 on the approximation of the laws relating to trademarks (codified version)?
  - a) If YES, is the law now fully in conformity or are further amendments required; if so, which and by when do you plan to adopt them?
  - b) If NO, give a target date by which your country will programme the appropriate amendments.
21. Are there specific provisions relating to the protection of trade marks with reputation/well-know trade marks?
22. What is Serbia's administrative capacity in this area (trade mark examiners, etc.), and what are the future plans? How many trade mark applications did Serbia receive on an annual basis for the last 3 years, and how many trade marks were registered?

### ***Models and Designs***

23. What are your plans for full alignment with the EU *acquis* on industrial property in the field of designs? Which provisions do you intend to amend in your existing legislation on this, and by when?
24. Has your country already modified its legislation in order to comply with the content of Directive 98/71/EC of the European Parliament and of the Council of 13 October 1998 on the legal protection of designs?
  - a) If YES, is the law now fully in conformity or are further amendments required; if so, which and by when do you plan to adopt them?
  - b) If NO, give a target date by which your country will programme the appropriate amendments.
25. Do you have (envisage to adopt) provisions relating to the protection of unregistered designs?
26. Are the registrability criteria for designs compliant with the public policy or morality principles?

27. Can a design protected by a registered design right be also eligible for protection under the law of copyright?
28. What is Serbia's administrative capacity in this area (designs examiners, etc.), and what are the future plans? How many design applications did Serbia receive on an annual basis for the last 3 years, and how many designs were registered?

### ***C. Enforcement***

29. Which area(s) of intellectual, industrial and commercial property would you identify as requiring further major changes/adaptations to fully comply with the Interim Agreement and the SAA and the *acquis* and for what reasons?
30. Does your country have plans to accede in the next five years to any international conventions relating to intellectual, industrial and commercial property of which it is not yet a member? If so, which convention(s) and when?
31. Do you have specialised courts or tribunals to hear intellectual or industrial and commercial property cases? How many such cases were the subjects of court rulings in the period 2008- to 2010?
32. Does your country provide for a specific border regime preventing importation, exportation and transit of counterfeited and pirated subject matter? Please explain how the prevention of import of counterfeited goods is ensured?
33. What is the exact number of counterfeited goods (please specify subcategories) and copyright related material which the national customs and police forces have registered/seized during the last 3 years (presented per year)?
34. Which system of exhaustion of intellectual, industrial and commercial property rights does your country apply? In particular, does your country apply a system of national or international exhaustion of trademarks? Does your country apply a system of national or international exhaustion of the distribution right (copyright and related rights)?
35. Does your country provide for an effective system of enforcement of intellectual property rights (both copyright and related rights and industrial property rights) to combat piracy and counterfeiting?
  - a) If YES, is it fully compatible with Directive 2004/48/EC on the enforcement of intellectual property rights?
  - b) In which cases is it possible to obtain provisional and precautionary measures?
  - c) Are infringements of intellectual property rights (both copyright and related rights and industrial property rights) covered by criminal law provisions?
  - d) What are the possibilities for the right holder to obtain damages from the infringing party?
  - e) Are infringements of intellectual property rights covered by administrative law provisions? Does the current legal framework properly tackle the issue of IPR

- infringements over the Internet? Are these infringements covered by specific legal provisions (civil, administrative or criminal)?
- f) Do judicial authorities have the possibility to order the destruction of counterfeit or pirated goods? Does Serbia ensure the timely destruction of such goods? Please provide examples over the last 3 years. Who covers the cost of destruction?
- g) Do the administrative and operational enforcement authorities dispose of sufficient and sufficiently trained staff? Please explain the capacity of the competent institutions to ensure IPR protection, number of staff and budget. What is the average length and cost of the judicial procedures for the main type of infringements (patents, trademarks, copyright, etc.)? Please also provide data on fines and penalties per year and IP crime.
- h) Please describe the cooperation and coordination mechanisms put in place between relevant administrations (including market inspectorate, intellectual property office, police, customs, etc.), as well as cooperation with rights-holders. What are the channels of communication and mechanism for cooperation, and how do these work in practice? What are the plans to improve enforcement capacity? Are there any special units to tackle internet piracy?
- i) Do the enforcement bodies have *ex-officio* powers to act against IP infringements?
- j) If NO, what measures, procedures and remedies does your country envisage adopting in order to dispose of an efficient system to fight against piracy and counterfeiting?
36. Is there a strategy in place (including consumer awareness) to support the enforcement of IP rights/fight against counterfeiting and piracy? Are there any overall assessment of the main characteristics and significance of IP infringements in Serbia (main rights infringed, economic impact, national production vs. import/transit etc.) What measures do national authorities take to ensure the public (consumers as well as retailer) understands the importance of respecting IPRs? Is there any policy to develop inter-industrial code of conduct to enforce IPR in Serbia?

## ***Chapter 8: Competition policy***

The competition *acquis* covers both anti-trust and state aid control policies. It includes rules and procedures to fight anti-competitive behaviour by companies (restrictive agreements between undertakings and abuse of dominant position), to scrutinise mergers between undertakings, and to prevent governments from granting state aid which distort competition in the internal market. Generally, the competition rules are directly applicable in the whole Union and Member States must co-operate fully with the Commission in enforcing them. The Competition *acquis* is based on Article 37 (State monopolies of a commercial character), Articles 101-105 (Rules applicable to undertakings), Article 106 (Public undertakings and undertakings with special or exclusive rights) and Articles 107-109 (Rules applicable to state aid) of the Treaty on the Functioning of the European Union (TFEU).

The *acquis* under this chapter is to a large extent linked to the obligations arising from the Interim Agreement on trade and trade related matters (IA) presently in force and the Stabilisation and Association Agreement (SAA) between the EU and Serbia.

In the field of **anti-trust**, national competition authorities must closely co-operate with the Commission in European Union (EU) competition procedures. Since 1 May 2004, all national competition authorities are also empowered to apply fully the provisions of the Treaty in order to ensure that competition is not distorted or restricted. National courts may also apply directly EU anti-trust rules so as to protect the individual rights conferred to citizens by the Treaty.

In the field of **state aid**, the decision as to whether or not aid granted by Member States is compatible with the Common Market can be taken only by the European Commission.

The term **liberalisation** refers to Protocol No 27<sup>14</sup>, in which it is stated that the internal market as set out in Article 3 TFEU includes a system ensuring that competition is not distorted. For this purpose, there is a specific surveillance system in the case of public undertakings and undertakings to which Member States grant special or exclusive rights. With respect to the liberalisation of specific sectors, reference is made to the relevant sector specific negotiating chapters.

The IA and SAA already lays down obligations in this field, including State aid which restricts competition and affects trade between the Contracting Parties, insofar as they may affect trade between the EU and your country. Practices contrary to the Agreement shall be assessed on the basis of EU rules. When answering the questions below and when appropriate, please make reference to the obligations under the IA and SAA.

It is important to determine the compatibility of your country's competition law and implementation capacity with the following essential parameters of the EU system. You are invited to provide a copy of the relevant legislative texts (in an EU working language). When responding to the specific questions below, please elaborate your reply.

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<sup>14</sup> Annexed to the Treaty on European Union and TFEU



## ***I. ANTITRUST INCLUDING MERGERS***

### ***A. Scope of application***

1. As to the scope of application, does the competition law cover:
  - a) all sectors of the economy;
  - b) public and private enterprises?
2. Does the law cover goods and services?
3. Does the law incorporate the principles of Article 106(2) TFEU?

### ***B. Restrictive agreements***

4. Does the law cover agreements, decisions of associations of undertakings and concerted practices?
5. Does the law contain a general prohibition of restrictive agreements?
6. Does the law lay down the nullity of restrictive agreements, i.e. are they unenforceable before the courts?
7. Does the law provide for an exception from the prohibition of restrictive agreements, or how are exceptions provided for?
8. Does the law provide for the possibility of block exemptions to be established (based on EU principles)?
9. Do the conditions for exceptions from the prohibition of restrictive agreements (both individual and group) correspond to Article 101(3) TFEU?

### ***C. Abuse of dominant position***

10. Does the law contain a general prohibition of abuse of dominance?
11. Does the law contain an exemption or defence for abuse?

### ***D. Mergers***

12. Does the definition of mergers cover the establishment of control (including *de-jure* and *de-facto* control) and joint ventures?
13. Does the law provide for prior notification?
14. What are the criteria for notification (e.g. turnover)?
15. Does the notification have a suspensive effect?
16. What are the criteria for prohibition (e.g. Significant Impediment of Effective Competition -"SIEC"- establishment or reinforcement of dominance)? Is there an

exemption for reasons of public interest in order to take into account a specific national interest?

17. Are there provisions on divestitures or remedies?

***E. General procedures***

18. Please describe the authority charged with implementing competition law, including information on the staffing situation (organisational structure, number of staff, etc.).

19. Which investigative powers does the law provide to the competition authority? How do they compare to the investigative powers laid down in Regulation 1/2003/EC?

20. Which fining powers does the law provide in case of violations (a percentage of the turnover)?

21. Does the law provide for interim measures?

22. Does the law contain prescription periods?

23. Does the law contain provisions for the protection of professional and business secrecy?

24. Does the law provide for sector inquiries?

25. Does the law provide for the right to be heard, including the right of access to files?

26. Does the law lay down the rights of third parties?

27. Does the law provide for judicial review?

28. Does the law provide for the publication of the activities of the competition authority?

29. Does the law foresee the possibility of private damages in cases of infringement of competition rules?

30. Please provide information on the enforcement record of the authority charged with implementing competition law (up-to-date data of cases, examples of recent decisions, breakdown of serious competition infringements assessed and results achieved during the last 2 years etc.).

**II. STATE AID**

31. Which steps have been and/or will be taken to establish a legislative framework for the control of State aid in your country? What are the constitutive parts of that framework (State aid law, secondary legislation, and direct reference to the EU *acquis*)?

32. Under the State aid legislation, what is the definition given to State aid? What is the procedure for the assessment of State aid?

33. What is the situation with respect to existing State aid measures? Please provide an explanation on the current State aid system with reference to the EU classifications.

34. Which institution is charged with the monitoring and control of State aid, the analysis of competition-related effects of State aid and the establishment of an on-going inventory based on the EU model? To what extent is this institution independent from State aid granting authorities?
35. What are the competences of the State aid authority which you have agreed to establish under the Interim Agreement and Stabilisation and Association Agreement? Please, make reference to the following points:
  - a) To what extent are its decisions on State aid binding on all parties?
  - b) Can it ask for the recovery of unlawfully paid state aid?
  - c) Can it take *ex officio* actions?
  - d) Will the authority also be able to control existing State aid?
36. Is there a system in place which foresees a prior notification and a standstill clause?
37. Is there a system in place which foresees complaints by third parties?
38. Are fiscal aid measures as well as aid to sensitive sectors (for instance steel sector, synthetic fibres) subject to comprehensive State aid control?
39. Please provide information on the aid schemes (sectors concerned, conditions for granting the aid) or individual aid measures (beneficiaries, conditions, amounts, forms of aid) provided to the real economy (i.e. excluding the financial sector) as a direct consequence to the economic crisis.
40. Please provide detailed information (beneficiaries, amounts, forms of aid) on State aid measures provided to the financial sector since 2008.
41. Is the methodology for drafting State aid inventory aligned with EU survey on state aid?

### ***III. Liberalisation***

#### ***A. General aspects***

42. Is your competition legislation fully applicable to public undertakings and undertakings with special or exclusive rights, in accordance with Article 106 TFEU?
43. Which public or private undertakings have been granted exclusive or special rights?
44. What are the subject, scope and duration of the relevant exclusive or special rights?
45. According to which procedure have the exclusive and special rights been granted?
46. What is the justification for granting the exclusive rights?
47. Is there an obligation for the companies with exclusive or special rights to fulfil tasks of a general economic interest? If so, please specify.

48. Have the regulatory and commercial functions been entrusted to bodies that are independent of each other? Please elaborate.

49. Which State monopolies exist?

***B. Sectoral aspects***

*Sector-specific aspects are dealt with in the relevant chapters.*

## **Chapter 9: Financial services**

The *acquis* covered by this chapter includes rules for the authorisation, operation and supervision of financial institutions and regulated markets. Financial institutions covered by the *acquis* can operate across the EU in accordance with the 'Single passport' and the 'home country control' principles either by establishing branches or by providing services on a cross-border basis. The *acquis* covers three major areas for which these principles apply: banking services, investment services and insurance services.

In the field of **banks and financial conglomerates**, the *acquis* sets out requirements for the authorisation, operation and prudential supervision of credit institutions, as well as requirements concerning the calculation of capital adequacy requirements applying to credit institutions and to investment firms. Together, the Codified Banking Directive and the Capital Adequacy Directive implement the **new capital requirements framework** based on the Basel II accord developed by the Basel Committee on Banking Supervision (BCBS). The Directives seek to ensure consistent application throughout the Union of the new international framework and replace the old credit risk capital requirements with a range of more comprehensive and risk sensitive approaches to the different categories of risks so that banks can choose the approaches that suit them.

The *acquis* in this sector also lays down rules relating to supplementary supervision of financial conglomerates and to the taking up, pursuit of and prudential supervision of the business of electronic money institutions. Credit institutions are required to join an officially recognised deposit guarantee scheme, which must provide for a minimum protection of €50,000 per depositor and it has in principle been agreed to increase this to €100,000 by the end of 2010. The *acquis* lays down rules regarding the annual and consolidated accounts of banks and other financial institutions. It also harmonises certain provisions concerning the reorganisation and winding up of credit institutions with branches in more than one Member State. A directive adopted in 2007, regulates the supervisory approvals of mergers and acquisitions in the financial sector.

In the field of **insurance and occupational pensions**, several directives set out rules concerning the authorisation, operation and supervision of life assurance and non-life insurance undertakings. Specific provisions exist in the non-life sector for co-insurance, tourist assistance, credit insurance and legal expense insurance. The *acquis* establishes rules for the supplementary supervision of insurance groups. In addition the *acquis* establishes supervision of reinsurers by competent authorities in their "home" country, on the basis of which they could operate throughout the EU. The Directive contributes to reinforcing international financial stability, an issue over which there has been concern in major international fora. It also establishes a regulatory framework as far as specialised reinsurers are concerned.

The directive on insurance mediation establishes a legal framework for the taking-up and pursuit of the activities of insurance and reinsurance mediation by natural and legal persons operating in the EU. In the field of motor insurance, several directives harmonise requirements concerning insurance against civil liability in respect of motor vehicles with a view to facilitating the free movement of goods and people, in particular by abolishing frontier controls on motor insurance. Directive 2003/41/EC regulates the activities and supervision of institutions for occupational retirement provision. The *acquis* lays down rules regarding the annual and consolidated accounts of insurance undertakings. It also harmonises certain provisions concerning the reorganisation and winding up of insurance undertakings with branches in more than one Member State.

An important and recent development is the Solvency II Directive, which has recently been adopted by the European Parliament and the Council and will be implemented until 31 October 2012. This directive introduces a new solvency system for insurance companies, risk based and pro-active, as well as a new supervisory set-up not only for individual insurance companies but also for insurance groups. Another important and recent development is the adoption of a codified Motor Insurance Directive.

In relation to **financial market infrastructure**, the directive on financial collateral arrangements aims to reduce and harmonise the formal requirements and procedures to create and enforce collateral across the EU, while the Directive on Settlement Finality aims to reduce the systemic risk linked to the insolvency of a participant in payment and securities settlement systems.

In the field of **securities markets and investment services**, the Directive on Markets in Financial Instruments (MiFID) and its implementing measures set out a comprehensive regulatory regime covering the authorisation, operation and supervision of investment firms and regulated markets. The Prospectuses Directive and its implementing measures reinforce the protection for investors by guaranteeing that all prospectuses, wherever in the EU they are issued, provide them with the clear and comprehensive information they need to make investment decisions. The *acquis* also prescribes minimum transparency requirements for listed companies concerning both periodic and ongoing information. The Directive on Market Abuse and its implementing measures introduce a harmonised and comprehensive administrative regime for prohibiting and prosecuting insider dealing and market manipulation. The *acquis* also requires that Member States ensure that at least one officially recognised investor compensation scheme is established offering compensation up to € 20,000. The legislation on investment funds (UCITS) sets out common basic rules for the authorisation, supervision, structure and activities of investment funds to facilitate the cross-border distribution of units of funds in the EU and to ensure adequate investor protection. The recast UCITS directive of 2009 introduces provisions on fund mergers and master-feeder structures. It replaces simplified prospectus with key investor information, improves notification procedure and strengthens supervisory co-operation mechanism. The transposition deadline is 30 June 2011.

As regards **supervision**, currently three committees exist at the EU level in the financial services sector, with advisory powers, the Committee of European Banking Supervisors (CEBS), the Committee of European Insurance and Occupational Pensions Committee (CEIOPS) and the Committee of European Securities Regulators (CESR). The Commission has now proposed to transform these three Committees into European Authorities, with commensurately increased powers to co-ordinate the work of national supervisors, arbitrate between national supervisors in supervisory colleges in cases of disagreement on supervisory issues regarding a cross-border financial institution, take steps to harmonise national regulatory rules and move towards a common European rulebook and directly supervise certain pan-European institutions which are regulated at EU level, such as Credit Rating Agencies.

The Stabilisation and Association Agreement already lays down specific obligations in the areas covered by this Chapter. When answering the questions below, please make reference to the state of implementation of such obligations.

## ***I. BANKS AND FINANCIAL CONGLOMERATES***

### ***General questions***

1. What is the current situation with regard to right of establishment and cross-border supplies of services in your country for EU credit institutions? Which conditions apply? Are there specific conditions regarding the opening of branches by foreign banks? Regarding the establishment of a foreign subsidiary?
2. Are foreign credit institutions, once authorised, treated in every respect as a national undertaking?

### ***Legal framework:***

#### ***Conditions of admission***

3. What are the essential requirements for the authorisation to take up the business of credit institutions (legal form, level of own funds, number and conditions concerning the persons who direct the business, others?)

#### ***Conditions of operation***

4. Does Serbia have a special pre-insolvency /early intervention/ resolution system for banks? What are the conditions for this regime to apply? What are the powers of the authorities?
5. What are the provisions concerning prudential ratios:
  - a) solvency ratio;
  - b) liquidity ratio.

Indicate the average level of these ratios for the industry.

6. Is there a deposit guarantee scheme? Describe its main elements .
7. What are the activities which a credit institution is authorised to carry on?
8. Which accounting prudential and statistical information is the bank required to give to the supervisory authority in respect of its business? Please indicate periodicity of such information.
9. Is there a specific regulation concerning the annual accounts and consolidated accounts of banks? Explain the main rules applying to the format of the balance sheet and to the publication of the annual accounts.
10. How are capital requirements determined? Can banks use their own models for determining risk and regulatory capital?
11. Is there a regulation concerning the capital adequacy relating to risks other than credit risks?
12. Is there a regulation concerning the large exposures? Describe its main elements.

13. Is there a regulation concerning the supervision on a consolidated basis? Describe its main elements.
14. Are the institutions issuing electronic money regulated? If so, in which way?

***Supervisory authorities***

15. Which is the competent authority to grant a license to a credit institution and to supervise it? Please indicate name and address. Has this authority other functions? Which? Does the supervisory authority publish an annual report? If so, could it provide the Commission with a copy or a summary in one of the EU languages? Please provide information on the number, importance and outcome of investigation carried out by the supervisory authority over the last five years. What are your plans for improving enforcement capacity of the supervisory authority over the next 5 years?
16. How is the operational independence of the supervisory authority ensured, in line with international standards (Basle Committee, the International Organisation of Securities Commissions (IOSCO) and the International Association of Insurance Supervisors (IAIS) core principles)?
17. Are professionals employed by the supervisory authority subject to limitations (time or other) regarding the possibility to be employed as senior staff in commercial banks? Please explain.
18. Does the supervisory authority have institutional cooperation with other domestic supervisory authorities and with home supervisory authorities of foreign banks present in the market?
19. Explain how do the Serbian supervisory authorities coordinate with the European Central Bank and other countries' Central Banks, notably home supervisory authorities of foreign banks established in Serbia?
20. What specific measures have been taken in order to improve the evaluation of credit risk and the quality of the loans' portfolios? Are international standards in relation to the recognition of bad debts and provisioning in place?
21. Are there particular areas of difficulty in banking supervision? What is the degree of independence of the supervisory authorities and how has this changed in recent years and/or are expected/planned to change? How efficient is co-ordination of supervisory authorities and institutions?
22. How many professionals are employed by the supervisory authority? What are the professional qualifications required?
23. What powers does the supervisory authority possess in order to require supplementary periodical information? Can the authority carry out on the spot verification?
24. How can the supervisory authority ensure that managers and directors act in a fit and proper way? Intervene if they do not?



25. What are the powers of intervention of the supervisory authority in case of undertakings in difficulties? Under what circumstances may the authorisation of a credit institution be withdrawn?
26. Do you apply any special measure for the supervision of financial conglomerates, as defined in Directive 2002/87/EC? If so, please describe them.

## ***II. INSURANCE AND OCCUPATIONAL PENSIONS***

### ***General questions***

27. What is the current situation with regard to right of establishment and cross-border supplies of services in your country for EU insurance companies? Which conditions apply?
28. Are foreign insurance companies, once authorised, treated in every respect as a national undertaking?
29. Is there a legal monopoly in one or more insurance branches (e.g. motor insurance, accident insurance)?

### ***Legal framework***

30. Please indicate the principal legislation adopted in this area and its implementation.

### ***Supervisory Authority***

31. What is the set-up and structure of the financial supervisory authority in your country? Who supervises the insurance company's business overall, its state of solvency and its technical provisions and the assets covering them (please indicate name and address)?
32. Which authority is in charge of the financial supervision over occupational pension funds?
33. What powers does the supervisory authority have
  - a) in order to require the necessary supplemental information;
  - b) to carry out on-site inspections;
  - c) in order to ensure that managers work in a fit and proper way;
  - d) in case of insolvency;
  - e) to sanction and remedy violations of the law?
34. How many actuaries and officials in charge of supervisory functions are employed by the supervisory authority? Please provide information on the number, importance and outcome of the investigations carried out by the supervisory authority. What are your

plans for improving enforcement capacity of the supervisory authority over the next 5 years?

35. What are the requirements of professional secrecy with respect to the members of the supervisory authority?
36. Which provisions exist with regard to the exchange of information with supervisory authorities of third countries?
37. Does the supervisory authority publish an annual report? Could it provide the Commission with a copy or a summary of the report in one of the EU languages? What are the powers of intervention in case of insolvency, abuses of authorisation?
38. How is the operational independence of the supervisory authority ensured, in line with international standards and the International Association of Insurance Supervisors – (IAIS) core principles)?

### ***Conditions of admission and licensing***

39. Which conditions are required of new insurance companies by national law before taking up the business of direct insurance? In particular, what are the requirements regarding:
  - a) prior authorisation;
  - b) schemes of operations / soundness of business plan;
  - c) suitability of shareholders / owners;
  - d) limiting itself to the business of insurance;
  - e) legal form;
  - f) needs test?
40. What are the rules with regard to the change of control of an insurance company (e.g. approval requirement, notification, standards to be met)?
41. What are the rules applicable to insurance intermediaries operating in your country? What conditions do they have to fulfil before they may take up their business (e.g. registration, tests, professional requirements)?

### ***Conditions of operation***

42. What are the requirements imposed by national law as regards prior approval of premia or policy conditions for non-compulsory or compulsory insurance?
43. What are the rules concerning the establishment of technical provisions? Are life/non-life insurance companies are obliged to employ actuaries?
44. What is the definition of solvency margin?
45. What are the solvency margins broken down by life/non-life insurance companies operating in your market?

46. What are the minimum levels of capital / minimum guarantee fund?
47. What are the rules for investing funds of an insurance company (e.g. diversification, limits on the amounts)?
48. What are the rules with respect to insurance and the means of electronic commerce?
49. What are the rules relating to distance marketing of insurance contracts?
50. What information has to be provided to a customer with respect to concluding a contract?

***Information provided to the supervisory authority***

51. Which rules apply to insurance companies with regard to the format of the balance sheet, net or gross presentation, acquisition costs (profit and loss accounts), valuation of investments (historical vs. current value), unrealised investment gains?
52. What specific rules apply to the publication of annual accounts of insurance companies?
53. Which annual accounting, prudential and statistical information is the insurance undertaking required to give to the supervisory authority in respect of its business?
54. What are the rules relating to requests of the supervisory authority for additional information?
55. What are the rules governing on-site inspections / on the spot inspections?

***Compulsory insurance***

56. Which insurances are compulsory (i.e. medical, hunting, architect, building, aircraft, lawyer's liability insurance)?
57. What are the specific legal provisions relating to compulsory insurance to be fulfilled by an insurance company?

***Motor insurance***

58. Is motor insurance compulsory in your country?
59. What are the damages covered (esp. both damages to things and injuries to persons)? Are there exclusions in the persons covered?
60. Is there a maximum amount of coverage specified in the law? If yes, what is the level of this coverage?

***Third Country Branches or Agencies***

61. What are the principles and conditions for authorisation of an undertaking whose head office is outside the country?

### ***Other***

62. Are there any insurance classes (e.g. credit insurance) for which a specialisation requirement exists to the exclusion of other classes, meaning that an insurance company offering that class of insurance can only operate in this area to the exclusion of the others?
63. What are the rules on portfolio transfer (e.g. authorisation, publication, rights of policy holders)?
64. What are the rules concerning the winding up of an insurer (e.g. notification, approval, publication, rank of insurance claims, rank of creditors)?
65. What is the set-up of the supervision of insurance groups and financial conglomerates (e.g. different capital adequacy rules, solvency requirements, intra-group transactions)? Is there an additional supervision of these entities?
66. What steps have already been and are expected to be undertaken to (i) supervisory methodology, (ii) organisation or (iii) staff in anticipation of the coming into force of Solvency II?

### ***III. FINANCIAL MARKET INFRASTRUCTURE***

67. To which extent is the financial market infrastructure aligned to the directive on financial collateral arrangement?
68. Please, provide details about existing mechanisms to reduce the systemic risk linked to the insolvency of a participant in payment and securities settlement system and to which extent are they in line with the directive on settlement.

### ***IV. SECURITIES MARKETS AND INVESTMENT SERVICES***

#### ***General questions***

69. Is there an authority in charge of supervising regulated markets? If yes, please indicate name and address. Does the supervisory authority publish an annual report? Could it provide the Commission with a copy or a summary of the report? Is this authority also in charge of supervising collective investment undertakings? Please provide information on the number, importance and outcome of investigation carried out by the supervisory authority over the last five years. What are your plans for improving enforcement capacity of the supervisory authority over the next 5 years?
70. Is there a central securities register? Please provide details.

#### ***Legal framework***

71. Please indicate the principal legislation adopted in this area and its implementation.

### ***Investment firms***

72. Please outline the legal framework adopted for the operation of investment companies, mutual funds, pension funds.
73. Is the provision of investment services subject to authorisation in your country? Is there any exception (undertakings which do not provide services for third parties, investment services not carried out on a professional basis)? How are investment services defined? Which activities require previous authorisation to be carried on? Which institutions can provide investment services? Are credit institutions and/or insurance undertakings authorised to carry on any of these activities? Do they need specific authorisation? What conditions are new investment firms required to meet by national law before taking up their businesses (legal form, initial capital, good repute and sufficient experience for persons who direct the business, fit and proper test for shareholders)?
74. Is the acquisition of holdings in investment firms subject to specific requirements?
75. Are there prudential ratios (solvency, liquidity)? Are they applied on a consolidated basis?
76. Please explain whether there is an investor compensation scheme and how it works to compensate investors in case an investment firm is not able to return back assets, and whether credit rating agencies are regulated in your jurisdiction.
77. What is the current situation with regard to right of establishment and cross-border supplies of services in your country for EU investment firms? Which conditions apply?

### ***Collective Investment Undertakings***

Please elaborate your responses to the following questions:

78. Are collective investment undertakings subject to authorisation requirements in your country? Which legal forms and structures of collective investment undertakings are provided? Are there rules governing the investment policy of a collective investment undertaking (eligible assets, investment limits)? Are there risk-management processes employed to monitor and measure the overall risk of a collective portfolio?
79. Are the assets of collective investment undertakings entrusted to a depositary? Which further obligations have to be fulfilled by the depositary? Is the depositary subject to prior approval? Which requirements apply for the depositary?
80. Are companies providing collective investment management services (management companies, investment companies) subject to authorisation? What are the authorisation requirements? Which additional activities of a management company may also be authorised? Which operating conditions apply?
81. Which information has to be supplied to the unit holders (full and simplified prospectus, annual report)?
82. What is the situation of collective investment undertakings from EU Member States in your country? How is the right of establishment and cross-border supplies of services of EU management companies being dealt with?

*The Commission recalls that Chapter 4 on free movement of capital has also to be respected.*

### **Markets**

83. Are there regulated markets? Please list them. How are such markets defined? Are there national rules which limit the number of persons which have access to those markets? Can credit institutions become members of a regulated market?
84. Are there Multilateral Trading Facilities (MTFs – alternative trading venues)? Please list them. How are they defined? Which institutions can operate MTFs? Are there national rules limiting access to those markets?
85. What are the information requirements vis-à-vis competent authorities and investors on transactions performed on regulated markets?
86. Which instruments can be traded on regulated markets? What are the conditions required for the admission of these instruments to listing on the regulated markets?
87. Which instruments can be traded on MTFs?
88. Can EU – issuers be listed on regulated markets?

### **Supervisory authorities**

89. As regards the regulatory and supervisory framework, what are the main features of the law on the Securities Market? Is supervision considered to be satisfactory? As in banking (above), what steps are planned to address potential problems of co-operation between supervisors on a consolidated basis?
90. Describe the powers and duties of supervisory authorities on the securities sector (to carry out on-the-spot inspections, to require supplementary information, to cooperate with third countries authorities). Which authority is in charge of supervising regulated markets and MTFs? Is it an independent authority? Which entities are subject to its supervision? Does the supervisory authority publish an annual report? Are supervisory authorities bound to secrecy as to information received from third countries competent authorities in particular? How many people are employed by these supervisory authorities? What are the professional qualifications required? What is its budget?
91. Which annual accounting prudential and statistical information are investment firms and listed companies required to give to the supervisory authority in respect of their businesses? Which information are collective investment undertakings and/or their management companies required to submit? What powers does the supervisory authority have to require supplementary information?
92. What are the powers of intervention of the supervisory authority in cases of investment firms in difficulties?
93. Is there a right of appeal to the Courts against any decisions taken by the supervisory authority?
94. How is the supervisory authority's operational independence ensured?

95. What are the supervisory authority's investigative powers?
96. Is the supervisory authority capable of imposing administrative sanctions and measures?

***Market structure information***

97. What is the number of (broken down by type of product/market):
- a) Regulated markets and/or MTFs;
    - b) broker-dealers on regulated markets;
    - c) credit institutions providing investment services;
    - d) portfolio managers;
    - e) collective investment undertakings (number of undertakings as well as total amount of assets under management)
      - i) total, of which:
        - ii) domestic;
        - iii) non-domestic EU;
        - iv) non-domestic non-EU.

## **Chapter 10: Information society and media**

The *acquis* includes specific rules on electronic communications, on information society services (in particular electronic signatures, electronic commerce and conditional access services), and on audio-visual media services.

In the **field of electronic communications**, the *acquis* aims to eliminate obstacles to the effective operation of the internal market in telecommunications services and networks, to promote competition and to safeguard consumer interests in the sector, including universal availability of basic modern services. The Stabilisation and Association Agreement provides for cooperation between EU and Serbia in the area of electronic communications infrastructure and associated services, including information society development. The objective as stated in the relevant provision on information society is to achieve ultimate alignment with the European Union *acquis* as from the entry into force of that agreement. Regarding electronic communications networks and services the Stabilisation and Association Agreement provides for a 1 year period after entry into force of the SAA for adoption of the *acquis* in this sector.

As regards **audio-visual policy**, the *acquis* aims to establish a transparent, predictable and effective regulatory framework for audiovisual media services in line with European Standards. It entails the legislative alignment with the Audiovisual Media Services Directive, which creates the conditions for the free circulation of audiovisual media services on the basis of the country-of-origin principle, but also provides for minimum standards on the protection of minors and consumers, measures to safeguard media pluralism and to combat racial and religious hatred, and a reference to cooperation between independent regulatory bodies. The *acquis* further entails EU recommendations on protecting children/minors online and the European film heritage. The MEDIA 2007 programme aims at strengthening the competitiveness of European audiovisual enterprises. Once Serbia complies with the audiovisual *acquis*, a participation in the European Union support mechanisms (MEDIA programmes) could be envisaged provided that all the conditions are fulfilled.

### ***I. ELECTRONIC COMMUNICATIONS AND INFORMATION TECHNOLOGIES***

The Stabilisation and Association Agreement already lays down specific obligations in this area. When answering the questions below, please make reference to the state of implementation of such obligations.

#### ***A. Basic data***

1. Please provide basic data on the current state of the telecommunications services market in your country. The indicators should be chosen so as to enable the Serbian market to be presented in a similar way as appears for enlargement countries in the regular reports on the implementation of the EU regulatory framework. The reference date is either 30 June 2009 (for regulatory data) or calendar year 2009 (for statistical data).
2. Please describe the current Information and Communication Technologies (ICT) market (basic data).

#### ***B. Legislative and institutional framework***

Please describe the legislative framework of the sector, with reference to current and planned primary and secondary legislation.



3. Please describe the current and planned institutional framework of the sector, with reference to government bodies, the role of the parliament and possible parliamentary committees and the role of representative organisations of public and private sector players and of consumers.
4. What are the legislative and regulatory provisions to ensure fair trading and consumer protection in the sector?
5. What are the mechanisms for market surveillance?
6. What are the procedures for dispute resolution regarding consumer-operator disputes, operator-operator disputes and operator-regulator disputes? Please also provide information on the number of different disputes and their resolution.
7. Of which relevant international organisations does your country hold membership?
8. Please provide full details on the administrative capacity of your National Regulatory Authority and its organisation. Also provide information on the administrative capacity of the relevant Ministry in charge of electronic communications.
9. Explain how the regulatory and institutional set-up secures sufficient transparency and legal predictability for market players and potential investors.

***C. Policy and regulatory frameworks***

10. Please describe the policy for the telecommunications sector. If a strategy document covering the sector exists, provide a copy in an EU language.
11. What is the timetable for legislative approximation to the *acquis*? What is the policy and timetable for the implementation of full liberalisation in the sector?
12. What is the situation and policy as regards universal service obligations?
13. Please describe the competence, structure and degree of independence of the regulatory body for telecommunications (operational independence, possibility for political interference, financial independence). Also provide information on its establishment, nomination procedures, budgetary and human resources and administrative powers. To what extent is there a separation of regulatory and operational competencies? In your response to these questions, please describe not only the legal provisions but also how the legal provisions are implemented in practice (and provide information going back up to five years on the implementation of such provisions).
14. Can decisions of the regulatory body be appealed? If yes, describe the procedure and its results over the past 2 years.
15. How does the allocation of frequencies and numbers/codes take place? Please indicate where relevant the involvement by "Conférence Européenne des Administrations des Postes et Télécommunications" (CEPT) and International Telecommunications Union (ITU).

16. Please provide details on the implementation and enforcement of competitive safeguard measures, in particular:
- CS (carrier selection)/CPS (carrier pre-selection) incl. calls to non geographical numbers;
  - implementation of number portability;
  - SMP (significant market power) regulations (market analysis procedure and imposition of remedies on SMP operators, including price control, and accounting separation), please also provide information on which markets will be analysed (and include planning));
  - access and interconnection, cost orientation, RIO (reference interconnection offer) (*including* the approval procedure by the regulatory authority) and the number of interconnection agreements;
  - RUO (reference unbundling offer) (full unbundling, shares access and also including bitstream access) and number of unbundled & shared loops;
  - national roaming and MVNO (mobile virtual network operator) access.
17. Describe your 'rights of way' procedures.
- Implementation of the European Emergency number 112
18. Describe the cooperation provisions between all the relevant authorities in the sector (i.e. the cooperation between the competition authority and the regulatory authority in charge of electronic communications).

***D. Description of sector***

19. What is the current stage of sector liberalisation? Please provide information for all market segments (fixed telephony, mobile telephony, internet) on:
- a) infrastructure, including all “alternative” infrastructures;
  - b) liberalised services.
20. What are the number of operators and the types of authorisation? Please provide information for the following sub-sectors:
- a) public voice telephony (Public Switched Telephone Network (PSTN), alternative infrastructures, e.g. utilities);
  - b) public land mobile communications (analogue and digital non-GSM (Global System for Mobile Communications), GSM, DCS 1800 (GSM operating at higher frequency), UMTS (Third Generation Digital Mobile System), WiMAX (Worldwide Interoperability for Microwave Access), paging etc);
  - c) private land mobile telecommunications (e.g. taxis, transport, emergency services);
  - d) satellite communication;
  - e) data communication;
  - f) cable television;.
  - g) others (not covered by the above).

21. What are the manufacturers and manufacturing activities for network equipment and terminals in your country?
22. Which are the main public telecommunications operator(s)? Please refer to:
  - a) ownership and control of the operators;
  - b) type of authorisation;
  - c) principal subsidiaries;
  - d) revenue/net income;
  - e) number of employees;
  - f) number of main lines;
  - g) number of subscribers for the main operators (in case of mobile telephony, distinguish between pre-paid and post-paid customers).
23. What strategic telecommunications alliances exist in your country? Please provide information on partners, shareholders, fields of activity and the approvals by the competition authorities.
24. What type of cost accounting system is used by the main public network operator(s) and/or the operators with significant market power? Is it mandatory to use the cost accounting system in justifying their prices? How are the retail prices regulated? How are the wholesale prices (i.e. for interconnection) regulated?
25. Please provide information on the number of internet users, based on the different (access) technologies. Please provide information on how the prices for internet use are determined.
26. Describe the situation as regards infrastructure access to cables and ducts, as well as the current extent of facility sharing.

## ***II. INFORMATION SOCIETY SERVICES***

### ***A. Policy***

27. Please describe the institutional framework of the sector, with reference to the relevant government bodies, the role of the parliament and possible other organisations or institutions. Also describe the policy for the development of the information society in your country. If a strategy document exists, please provide a copy in an EU language. Is there any national policy initiative similar to the eEurope or i2010 initiatives?
28. What body is in charge of the information society policies, including its implementation? How is the coordination of activities, developments and policies performed and ensured in the sector?
29. What is the budget allocated to the policy, what is the administrative capacity and what are the implementation mechanisms?

### ***B. Basic data on Internet access***

30. Please provide Internet access rates for:
  - a) schools, both primary and secondary education;
  - b) households;
  - c) enterprises, per size (SMEs, medium, large) and sector if possible.

### ***C. Research***

31. What is the specific public policy for promoting and supporting research on Information Society Technologies (ISTs)? If a strategy document exists, please provide a copy in an EU language.
32. What are the main universities, research institutes or centres active in IST research? In which domains?

### ***D. Public sector***

33. What are the public services offered currently on-line to citizens and businesses?
34. What are the penetration/usage rates of these services?
35. What is the institutional set up and what are the regulatory instruments and procedures for data security and the protection of privacy in the sector?
36. Please provide information on the (existence of) applicable rules regarding data retention, unsolicited communications (spam), itemised billing, comprehensive subscriber directories.
37. Provide information on the national domain name registry or registrars. Please provide also information on the number of registered domain names and sub domains, and also provide an overview of the annual price charged (excl. VAT).

### ***E. Private sector***

38. What is the rate of companies conducting e-business, per size and sector if possible? Which applications?
39. Are there any incentives offered to companies using ICTs? What kind of incentives?

### ***F. e-Commerce***

40. Please report on the alignment with the directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on Electronic Commerce), as well on the implementation of the provisions of the directive in Serbia.

41. Is there legislation or other requirements specific to the provision of information society services (defined as any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services)? If so, please give details on the alignment to the relevant *acquis* and the implementation.

***G. Electronic pay-services (conditional access – Directive 98/84/EC)***

42. Has your country ratified Convention 178 of the Council of Europe on the legal protection of services based on, or consisting of, conditional access?
43. Has your country ratified Convention 185 of the Council of Europe on cybercrime?
44. What kind of protection is currently provided to protect the remuneration of providers of services protected by conditional access?
45. Do you consider that this protection conforms to Directive 98/84/EC?

***H. Electronic signature***

46. Please report on the alignment with the directive on a Community framework for electronic signatures 1999/93/EC.
47. Have measures been taken to ensure the legal recognition of electronic signatures? Could you provide the national applicable law(s) and regulation(s)?
48. Could you detail the institutional setting related to electronic signature; i.e. which are the bodies responsible for supervision of certification service providers (including information on accreditation schemes) and those designated for the conformity assessment of secure signature-creation-devices? Could you provide details regarding the supervision and/or accreditation schemes?

***I. Accountability and cooperation***

49. How do you ensure accountability of the relevant authorities in this area?
50. Has a contact point been appointed (in Ministry, regulatory authority, and other authorities – if relevant-) to cooperate with authorities in other European countries?

***J. Administrative Capacity***

51. Please provide information (per institution/authority) on the number of staff and the respective responsibilities of the staff and provide an indication on the (available and necessary) level of administrative capacity in the sector.

### **III. AUDIOVISUAL POLICY**

These questions are related to the *acquis* in the field of audiovisual policy: the provisions of the Audiovisual Media Services Directive (Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services); the Recommendation of the European Parliament and of the Council of 16 November 2005 on film heritage and the competitiveness of related industrial activities and the two Recommendations on the protection of minors: the Council Recommendation of 24 September 1998 on the development of the competitiveness of the European audiovisual and information services industry by promoting national frameworks aimed at achieving a comparable and effective level of protection of minors and human dignity and the Recommendation of the European Parliament and of the Council of 20 December 2006 on the protection of minors and human dignity and on the right of reply in relation to the competitiveness of the European audiovisual and on-line information services industry.

#### **A. General framework**

52. Is the media legislation aligned to European standards on media in accordance with fundamental democratic principles?
53. What is the current legislative framework governing the audiovisual media services and television broadcasting (i.e. linear audiovisual media services including satellite and cable)? When was (were) the main piece(s) of legislation adopted? Please provide a translation in an EU language.
54. What is the timetable for legislative approximation to the *acquis*?
55. What is the policy established or foreseen with regard to the switch-over to digital broadcasting and the use of digital dividend? Can Serbia please provide a copy in English of the policy, as well as the information on the implementation of the actions of a policy document, and the foreseen timeline for the transition from analogue to digital broadcasting?

#### **B. Audiovisual Media Services Directive**

56. What are the competent authorities in the field of audiovisual policy? How are the competencies shared between them? Are there any plans to modify the regulatory structures in place?
57. With reference to the regulatory body for audiovisual media services, please refer to the following:
  - a) have recommendations of experts from the Council of Europe and OSCE been taken into consideration when drafting legislation establishing the regulatory body, in particular Recommendation Rec(2000)23 to Member States of the Council of Europe on the independence and functions of regulatory authorities for the broadcasting sector and its annex containing guidelines on independence and functions of regulatory authorities for the broadcasting sector?

b) legal safeguards for the bodies' independence, including rules or other mechanisms against interference from political sphere, and/or market players: nomination/appointment/dismissal of Board members and duration of their mandate, disqualification (incompatibilities) rules for members and rules on conflicts of interest, ethics and remuneration etc.;

c) bodies' organisational, technical, financial and human resources considering also the tasks related to on-demand audiovisual media services, particularly online services, according to the Audiovisual Media Services Directive (e.g. protection of minors): the analysis shall cover notably issues of personnel (number of employees, required level of expertise in comparison with their tasks and their status), issues of technical and financial resources, whether they are a separated entity or are converged with telecoms regulator;

d) considering also the tasks related to on-demand audiovisual media services, particularly online services, according to the Audiovisual Media Services Directive (e.g. protection of minors): monitoring, regulatory and sanctioning powers conferred to the bodies, their ability to create their own structures and to decide on their long term goals, impact of their regulatory functions and decisions on the audiovisual sector and the appeals procedure;

e) accountability and transparency mechanisms, (towards stakeholders, citizens);

f) the level of cooperation with other regulatory bodies within Serbia and with other countries.

58. Please refer to the procedure for assignment of frequencies for television broadcasting in Serbia. Which authority is responsible for assigning the frequencies, selecting the television broadcaster and setting the conditions for broadcasting?
59. What is the regime governing the granting of licences and the allocation of frequencies or satellite capacity? What are the conditions attached to the granting of licences and the assignment of frequencies or satellite capacity?
60. What are the distribution systems in place (terrestrial, cable, satellite)? What (if any) are the “must carry” regulations (obligations for the network to distribute certain channels)?
61. What are the arrangements as regards technical broadcast standards?
62. What legal measures apply to encryption of broadcast signals?
63. Which public and private broadcasters are currently licensed or authorised and how are they financed?
64. What are the criteria used for determining national jurisdiction over audiovisual media services in Serbia?
65. Are there any restrictions on reception or retransmission of audiovisual media services from other European States? Please refer to both television broadcasting and on-demand audiovisual media services.

66. Do you have specific measures applying to the retransmission of audiovisual media services in Serbia?
67. Please provide details of any international commitment(s) which may affect audiovisual services, in particular, in the framework of Serbia's accession to the WTO.
68. What (if any) are the provisions in the national audiovisual legislation setting standards in the fields of audiovisual commercial communications, in particular the ban on incitement to hatred, accessibility of people with visual or hearing disabilities, respect of copyrights of cinematographic works, television advertising including teleshopping and sponsorship, product placement, surreptitious advertising, ban on tobacco advertising and limitation of alcohol advertising and medical products; protection of minors (please refer to the watershed and the protection of minor from detrimental advertising in both television broadcasting and on-demand audiovisual media services) and public order; and the right of reply? Has Serbia introduced specific regulations in the field of television advertising that can be considered to be a more detailed or stricter rule compared with the rules in the audiovisual media services directive (for instance: ban on political advertising, ban on alcohol advertising, restrictions concerning children's programmes etc)?
69. Has a list of major events to be broadcast on free-to-air television been adopted in your country? If so, please provide us with the list of such events and the conditions of transmission.
70. Has any measure been taken concerning access by other broadcasters to events of high interest to the public which are transmitted on an exclusive basis by a broadcaster? Are there possibilities for other broadcasters to access such events and broadcast short reports?
71. Have audiovisual media services providers in your country developed codes of conduct on inappropriate commercial communications for foods and substances high in fat, sugar and salt directed to children?
72. What (if any) regulatory measures are used to encourage or require the audiovisual media services of, or the investment in, certain types of programmes (e.g. cultural, educational) or programmes of specific geographical, linguistic or sectoral origin (independent productions, European works, national works, programmes made or broadcast in certain languages etc)? Please refer to television broadcasting and on-demand audiovisual media services. Are there such measures as regards other media (cinema, theatres, video etc.)?
73. What definitions are used to distinguish television broadcasting from other audiovisual services?
74. What (if any) are the regulations covering other audiovisual services, in particular interactive, on-demand audiovisual media services, including Internet?
75. What rules and regulations govern public and private television broadcasting? What rules ensure the editorial independence of the public broadcaster? Please refer to the source of financing of the public broadcaster.



76. What are the legal provisions governing exclusive rights for the broadcast of major events (cultural, sporting, parliamentary sessions etc)?

***C. Cinema***

77. Please indicate the estimated overall amount of the audiovisual industry sector for 2009. What are (if any) the financial support systems in place for the audiovisual sector (including cinema)?
78. What legal and/or financial arrangements are in place for international co-productions (cinema and/or TV)?
79. What legal regime applies to radio sound broadcasting?
80. What limitations (if any) are there on the ownership of television and/or radio stations? Are there any specific limitations to foreign investors?
81. What systems are in place as regards statistics pertaining to the audiovisual sector?
82. Is there any certification system for tickets sold in officially recognised cinema theatres at the national level?

***D. Film heritage***

83. What legislative, administrative or other appropriate measures have you adopted to ensure that cinematographic works forming part of your audiovisual heritage are systematically collected, catalogued, preserved, restored and made accessible for educational, cultural, research or other non-commercial uses of a similar nature, in all cases in compliance with copyright and related rights?
84. How do you define the notion of cinematographic works forming part of your audiovisual heritage?
85. Please list the Film Heritage Institutions in Serbia, including also those of regional or local character, as well as their websites (if any).
86. Please describe the type of deposit in Serbia as: Legal Deposit, Compulsory Deposit of all funded films, Voluntary Deposit, Other (please specify).
87. Is there any provision/practice in Serbia concerning the collection of non-film material?
88. Could you describe the databases that are used by your Film Heritage Institutions? Are they searchable via internet?
89. What measures/programmes have been taken in order to ensure preservation of deposited cinematographic works?
90. How have you encouraged projects for the restoration of cinematographic works with high cultural or historical value?

91. Have you adopted legislative or administrative measures to allow designated bodies to make deposited cinematographic works accessible for educational, cultural, research or other non-commercial uses of a similar nature, in compliance with copyright and related rights? Please give details of the measures taken.
92. What steps have been taken to promote professional training in all fields related to film heritage?
93. Have you established a strategy for their national film heritage and annual plans for specific issues (digitisation, restoration, education etc.)?

***E. Protection of minors***

94. Has an association of Internet Service Providers (ISPs) been established in your country? Please give details of the ISP association(s).
95. Has a code of conduct been drawn up by the ISPs in your country? If possible, please provide a copy or the web address where it can be accessed.
96. Are there any legal requirements in your country which apply specifically to ISPs and how they should deal with illegal or harmful content accessed over the Internet? If so, what are they?
97. Are there any specific requirements for ISPs to inform the police or judicial authorities about illegal content offensive to human dignity, which is available over the Internet?
98. Has a “hotline” for reporting harmful or illegal content been established in your country? If so, please give details (including web and e-mail address) of the hotline(s), including their method of financing.
99. Have any efforts been made, either by industry or public authorities, to develop a filtering and rating system for the Internet in your country? If so, what progress has been made and what are the difficulties encountered?
100. What measures have been taken at national, local or regional level to spread awareness of safer Internet issues? Have these been part of a larger plan for “media education”? Have they been supported by public funds or by private funding (e.g. from industry or from voluntary associations) or by a mixture of public and private funding?
101. Please describe any initiatives which have been taken to control online chat-groups, in particular measures taken in order to avoid any abuse, which could be harmful to minors.
102. Please describe measures which have been taken in order to improve media-literacy (e.g. teaching children how to make a responsible use of new media).
103. Is there any specific regulation or self-regulation concerning the specific question of the right of reply with respect to online-media?

104. Have broadcasters in your country established a system of self-regulation relating to the protection of minors? Please give details of this, particularly with regard to membership. Does it include a code of conduct regarding the protection of minors and harmful content?
105. Are on-screen warning icons required, either by law or by codes of conduct, for potentially harmful television programmes? Are acoustic warnings before such programmes required, either by law or by codes of conduct? Where such measures are used, are they considered to be effective?
106. Are there any specific legal provisions in your country concerning the sale of video games? (This question concerns the physical sale of video game software, not the provision of software over the Internet for downloading onto computers).
107. Is there any self-regulatory system in place which covers questions relating to age-rating for video games? (e.g. such as the system of self-rating which has been announced by the Interactive Software Federation of Europe (ISFE)) If so, please give details.

## ***Chapter 11: Agriculture and rural development***

The agricultural chapter covers a large number of binding rules, many of which are directly applicable regulations. The proper application of these rules and their effective enforcement by an efficient public administration are essential for the functioning of the Common Agricultural Policy. This includes the setting up of management systems such as a paying agency and the Integrated Administration and Control System (IACS), and also the capacity to implement rural development actions.

EU membership requires integration into the Common Market Organisation of a range of agricultural products, including arable crops, sugar, animal products and specialised crops.

The required administrative structures are not always specified in the *acquis*. In many cases the *acquis* simply uses terms such as the “competent authority” to refer to the administrative structure that is needed. This means that it is left to each Member State to decide which institution is responsible for effective implementation of the *acquis*. However, the functions that EU Member States must have the capacity to carry out - through the administrative structures they establish - are clearly specified in the *acquis*.

### **I HORIZONTAL**

1. Please provide, with an indication of recent and expected future developments, a general description of:
  - the national and regional farm income policy, production and structural policy (in particular rural development policy)
  - the budget earmarked and used for this general agricultural policy framework
  - the administrative structure in place at the national and/or regional level (e.g. Ministry of Agriculture, Intervention/Paying Agencies, Advisory Boards, etc.) involved in agricultural policy formulation, execution, monitoring, and control.
  - a) If there is a paying agency in charge of the management of agricultural policy please submit information on the way it operates. If no, please provide information on the institution in charge of the management of your agricultural policy (Ministry of Agriculture, regional offices, marketing boards, etc.) In both cases, information on the structures of the organisation(s) involved should also be provided.
  - b) Please provide flowcharts describing how applications for aids are processed, controlled, authorised and paid, underlining the main processes and procedures with regard to the management and internal control system (if existing).
    - farmers’ organisations and their role in the agricultural and rural development policy formulation, implementation and monitoring as well as regarding their advisory role for farmers;
    - farm advisory services and farmer's register;
    - the method and frequency of information transmission to beneficiaries/general public (on applications and on other general agricultural and rural development issues).

2. Please provide general information on the trade policy and mechanism applied in Serbia regarding agricultural products including bi-lateral and multi-lateral agreements, import/export schemes, tariff quotas, systems of licenses, safeguard clauses etc, as well as operational structure in place; please also specify whether the EU Combined Nomenclature is applied. (Product specific measures should be described under section II).
3. Please provide a description, including financial details, of measures (State aid) or any other policies specifically applied in the sector of primary agricultural production, processing and marketing of agricultural products, as well as in the forestry sector (but not covered elsewhere in replying to this questionnaire). This should include direct and indirect input subsidies; social policy measures primarily directed to the agriculture sector; tax policy measures primarily directed to the agriculture sector; policies directed to privatisation of land and other factors of production (including the agro-food processing sector); measures which are aimed at developing a land market; credit subsidies; risk management tools and others.
4. Please provide information on publicly funded services to agriculture. The description should be provided only if public resources are involved. It should indicate the amount of public contribution and financing originating from any other resources for the period starting from year 2000. Examples are research; guidance/advisory service, training; marketing support; inspection; farm land surveying; advisory service, other.
5. Please describe the current land cadastre system and mechanism, and if existing, any system used for the identification of agricultural parcels.
6. Please inform on the existence of any type of cross-compliance systems (e.g. reduction in agricultural support paid to farmers if environmental, animal welfare, public, animal or plant health standards are not complied with).
7. Please explain the preparations for pre-accession assistance under IPA Component V (IPARD), including institutional set up, rural development strategy and programme, law on agriculture and rural development indicating whether there is any strategy and action plan. Please describe the main structures (if they already exist) as referred to in the IPA Implementation regulation.
8. Please inform on the existence of microeconomic instruments providing an overview of farm economics, in particular on the income of agricultural holdings, sectoral analysis and distribution of direct payments (comparable to the EU Farm Accountancy Data Network (FADN)).

## **II MARKET MEASURES**

9. A full description of the policies currently applied or planned is requested for each of the products or product categories listed below covering:
  - the aims, the functioning and the main quantitative elements of all the product-specific agricultural policy measures currently applied and planned: market intervention (buying-in, public/private storage, etc), production quotas, production

or export levy, tax, import duties and equivalent charges and other border measures like tariff rate quotas and other preferential imports production control, export refunds, etc.

- the management of import quotas explaining whether a system of import/export licences is used, and whether such a system provides for securities (bank guarantees) and controls (physical checks on products exported with a refund).

- the management and control of production subsidy schemes describing the procedure for registration of farmers' plots in the national farm register, procedure for lodging applications, data to be submitted, administrative and on-the-spot controls to be performed and sanctions to be applied.

-

*Arable crops, specialised crops and products:*

- Cereals;
- Rice;
- Sugar;
- Dried fodder, seeds, hops;
- Olive oil and table olives;
- Flax and hemp;
- Fruit and vegetables;
- Processed fruit and vegetables;
- Bananas;
- Wine;
- Live plants and products of floriculture;
- Raw tobacco;

*Animal products:*

- Beef and veal;
- Milk and milk products;
- Piguineat;
- Sheepmeat and goatmeat;
- Eggs;
- Poultrymeat;

*Specialised crops and products:*

- Ethyl alcohol of agricultural origin;
- Apiculture products;
- Silkworms;
- Potatoes.

10. Where the individual measures are applied to more than one product category, they should be included within the description for each product category concerned. The descriptions should include at least the following information:

- name of the policy measure; whether currently applied or planned (planned date of likely introduction);
- legislative basis (name and reference number of the relevant legal act);
- objectives and general description of the scheme;
- eligibility criteria of policy measure;
- basis for payments and for their regional differentiation (also the basis for determining the regions);
- amounts spent since 2000; total and per unit (ranges, if regionally differentiated);
- specific levies or taxes;
- use to which the levies/taxes are put (paid into general budget or destined for finance of particular activities, in which case please specify);
- administration of the scheme.

11. In addition, the description for the fruit and vegetables sector should include an indication, if relevant, of the economic importance of producers' organisations (including number and percentage of production covered by such organisations), legislation applicable in this field (also for inter-branch organisations) and any national measures aimed at encouraging the organisation of the sector. It would also be useful to provide details of any representative markets for determining production and import prices. Information should also be included on the processing of fresh fruits and vegetables (which products, any rules on jams and fruit juice production) and on any subsidies given for the processing activities as well as details of the legal relationship between processors and producers of fresh products.

12. For each of the following sectors, a detailed description should be given of:

- a) the existing regulatory requirements and the arrangements for their administration and enforcement including legislative basis (name and reference of relevant legal act); objectives and general description of the legislation; approximated or not to EU legislation (or degree of approximation); participation in international standard schemes; description of administrative and enforcement arrangements (including resources, human, financial, and infrastructure, and if possible the administrative organisational chart ).
- b) agricultural marketing requirements and standards (grading, sizing, mandatory/voluntary standards), labelling requirements (especially origin labelling) and the checks performed on imports/exports to assess compliance with these requirements (procedures, certificates, sanctions, etc):
  - Dairy products;
  - Beef and veal, sheepmeat and goatmeat;
  - Pigmeat, poultrymeat, eggs and honey;

- Fruit and vegetables;
- Wine and derived products;
- Floriculture;
- Olives and olive oil.

13. Regarding the wine sector, please describe the status of your preparations for the establishment of a vine cadastre.

### **III. DIRECT PAYMENTS TO FARMERS**

14. Please describe the direct payments regimes applied (i.e. income support granted directly to farmers), and in particular:

- the eligibility conditions;
- the management and control system applied to each of them (in particular, registration of farmers' and their agricultural areas in a national farm register/land register, registration of animals, procedure for lodging applications and eventually registration of such applications, any other registers in use for agricultural products/trees, data to be submitted, administrative and on-the-spot controls to be performed, sanctions to be applied);
- the interaction of the different parts of the management and control system as well as the interaction with any possible system used for the identification of agricultural parcels or cadastre system (see point 5 under I – Horizontal);
- the number of beneficiaries;
- the budgetary amounts devoted to each regime;
- any payments coupled from production (e.g. area payments granted for agricultural land with the obligation to produce);
- any specific rules on the transfer of the holding (sale, lease) in relation to the eligibility for direct payments;
- any other information that would be useful for comparing these regimes with the EU ones.

### **IV. RURAL DEVELOPMENT POLICY**

15. Describe the institutional framework for rural development; decision-making structure and responsibilities (top-down/decentralised method).

16. Detail and describe links between rural development and sectoral and territorial policies.

17. Information should be provided on all publicly funded rural development activities, whether they are implemented as part of integrated programmes, or as stand-alone schemes, and should include activities financed both nationally and regionally.

Rural development activities may include, but are not limited to:

- Increasing the competitiveness of the agricultural and forestry sector through



support for investment and restructuring, including investments on farms and forests, support for processing and marketing, land improvement, reparation, irrigation and water management, early retirement, vocational training, provision of advisory and extension services, establishment of producer groups, and establishment and operation of quality schemes for agricultural products;

- Enhancing the environment and countryside through support for sustainable land management, including supporting farming in mountain areas or other areas with particular handicaps, schemes to protect biodiversity, habitats and landscapes, support for environmentally friendly farming and forestry methods, afforestation, measures aimed at climate change mitigation and adaptation, water management (quality protection and quantity saving), soil protection, genetic resource conservation in agriculture;

- Enhancing the quality of life in rural areas and promoting diversification of economic activities, including the provision of basic services (e.g. roads, electricity, water, sewerage, local municipality/village authorities' buildings, etc. for the rural population, the renovation and development of villages, rural tourism, development of new economic activities to diversify the rural economy, and support for local development activities, small rural development projects at local level under own initiatives);

The description of each measure/activity should include the following information:

- The name of the policy measure and sub-measure;
- The legislative basis (name and reference of the relevant legal act);
- The objectives, rationale, and general description;
- The beneficiaries, eligibility and selection criteria;
- Details of the support provided (payment levels and composition of payments – share of private and public funds);
- The amount spent per year over the last 5 years, and budget foreseen for future years, per policy measure;
- Number of beneficiaries and average support per beneficiary;
- Administration of the scheme (body responsible, processing and selection of applications);
- Evaluation of the scheme.

## **V. QUALITY POLICY**

18. Please indicate whether a clear domestic policy, with related instruments, exists for recognition and protection of geographical indications and traditional names for agricultural products and foodstuffs. If so describe the instruments for registration and protection.

19. Please detail any other quality schemes in existence with regard to product origin or other quality characteristics.

## **VI. ORGANIC FARMING**

20. Please provide information on the existing schemes and the arrangements for its administration and enforcement including:
- Legislative basis (name and reference of relevant legal act);
  - Objectives and general description of the legislation;
  - Approximated or not to EU legislation (or degree of approximation);
  - Details of the support provided;
  - Description of administrative and enforcement arrangements (including resources, human, financial, and infrastructure, and if possible the administrative organisational chart).
21. Please describe the national accreditation and certification system for organic farming including the control system in place as well as its relevance for import/export (e.g. EU list of third countries).
22. Please describe the sector and its organisation (e.g. importance of cooperatives) with statistical data including farm structure, production, trade (export/import).

## **VII. AGRICULTURAL STATISTICS**

23. Please provide a brief description of the organisational structure for statistical collection and monitoring underlining the co-operation between the Ministry of Agriculture and central/local statistical offices concerning agricultural statistics.

### **A. General and product specific statistics**

24. The agricultural sector should be described (in a table) by the following statistical information (as far as it is available), each time for the years 2000-2009 (or most recent year available):
- a) Utilised agricultural area (UAA) on both a national and regional basis (in addition the situation in 1992 - if available): arable land; fallow land; land under permanent crops; permanent grassland; kitchen gardens; greenhouses;.
  - b) Forest area;
  - c) Evolution of farm structures (indicating when farm structure surveys had been carried out): farm size structure by region (where applicable); distribution of farms by cultivated area; distribution of farms by main type of production; distribution of farms by herd size; area used by farms smaller than 2 ha,
  - d) Agricultural population and its evolution, preferably based on the Labour Force Survey: share of total active population; regional distribution; full-time and part time farmers; distribution by age and sex;
  - e) Farm incomes for full time farmers (gross added value per annual work unit (AWU)) including comparison with average gross wages of employment outside agriculture;

- f) Contribution of the agricultural sector to Gross National Product (GNP) by region;
- g) Area (hectares), yield (ton/hectare) and production (tons) of soft wheat, durum wheat, barley, cereal maize, rye, oats, other cereals, basic or certified seed (varieties mentioned in the annex to Regulation 1234/2007), rape seed, soybeans, sunflower seed, other oilseeds, dried fodder, peas, field beans and sweet lupins, potatoes, turnips, flax and hemp and silkworm (annual production and growing area), sugar beets, rice, fruit and vegetables (by the most important products), bananas, hops, tobacco, cotton, fodder roots, hay (dry and silage) and silage maize area, and live plants/flowers (in value);
- h) Number of livestock, slaughterings, and average carcass weight for calves, male beef cattle, cows, pigs, chicken, other poultry, as well as sheep and goats;
- i) Number of dairy cows, milk yields, production of milk, deliveries of milk to dairies showing volume and fat content, the distribution of volume of deliveries and number of producers by herd-size category, the volume of direct sales by milk product type and number of producers making direct sales, volume of on-farm consumption of milk indicating separately feed and food use;
- j) Number of non-dairy cows (other cows) and number of specialised beef cattle, sheep and goats;
- k) Degree of self-sufficiency of the principal agricultural products including the main fruit and vegetables, eggs, honey and wool;
- l) Market balance sheets for the principal crops (soft wheat, durum wheat, barley, corn maize, rye, oats, other cereals, rape seed, sunseed, soybeans, refined sugar and isoglucose), the principal meats (beef, pork, poultry, as well as sheep and goat meat) and the principal dairy products (butter, skimmed milk powder, whole milk powder, cheese). The balance sheets should include production, domestic use (human consumption, feed use when applicable), imports, exports, beginning and ending;
- m) Wine (surface of the vineyards and annual production including alcohol and grape must);
- n) Production of ethyl alcohol of agricultural origin broken down by alcohol-producing product;
- o) Production and use of certified seeds;
- p) Olive oil; number of olive trees and market prices for each product category, specifying the stage of production and the quality. Please indicate whether a computerised information system such as the Geographical Information System of olive cultivation exists;
- q) Economic accounts for agriculture;
- r) Agricultural budget according to measures (support of markets, direct payments, social security, rural development) and total agricultural support;

s) Trade flows (volume and value) by product category:

- Imports (indicating the amount of preferential trade):

A. *from the EU;*

B. *from Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Albania, Montenegro and Kosovo;*

C. *from the rest of the world, specifying the three most important partners.*

Exports (indicating the amount of preferential trade):

D. *to the EU;*

E. *to Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Albania, Montenegro and Kosovo;*

F. *to the rest of the world, specifying the three most important partners.*

## **B. Rural development statistics**

25. Rural areas:

a) Please indicate whether a classification/definition of rural areas exists, and if so, please describe the basis for the classification, and the results across the country.

b) Please give the following information for each region of the country for the years 2000-2009 (or most recent year available):

– per capita GDP;

– % of total workforce employed in agriculture (preferably based on the Labour Force Survey);

– value-added per AWU;

– population density per km<sup>2</sup> and trend in recent years (i. e. is the rural population falling?);

– surface of the environmentally protected areas;

– unemployment figures.

c) Please indicate the percentage of the total population which lives in rural areas, and the percentages of the total and rural population having for 2008 or the most recent year available:

– piped water (water consumption in agriculture compared to the total consumption);

– mains electricity;

– connection to a sewage system;

– fixed telephone network, or coverage by a mobile telephone network;

- elementary school education;
- secondary school education;
- advanced level education.

26. National statistics concerning:

a) Compensatory allowances:

- Hill and mountain areas: number of holdings, Utilised Agricultural Area (UAA) and the number of livestock units (LU) in the following three categories:

- (1) Altitudes >800 m;
- (2) Slopes >20 % (below 800 m);
- (3) Altitudes between 600 m and 800 m and slopes > 15%.

- Areas with significant handicaps:

- (1) Areas where the yields of grass or cereals are <80 % of the national average: number of holdings, total UAA and total LUs;
- (2) Areas where key economic indicators (e.g. value added, gross and net income per farm and per AWU, etc.) are below the national average: number of farmers, total UAA and total LUs.

- b) Investment: number and proportion of holdings where the income per AWU is < 1.2 times the average of non-agricultural workers in the area and which provide at least 50% of the holder's total farm income.

- c) Young farmers and early retirement: Age profile of farm holders by five-year bands, including the number under 40 years old and numbers in receipt of any retirement benefits.

d) Producer groups:

- % of production by value that is handled by producer groups for each of the main sectors of production. Give details for the fruit and vegetable sector;
- % of holdings that are members of producer groups in each sector. Give details for the fruit and vegetable sector.

e) Marketing and processing:

- for each of the main sectors give:
  - (1) % of output that is processed and existing processing capacity;
  - (2) forecast increase in the proportion processed and in capacity over the next ten years.

- for each of the main sectors specify: capacity in need of modernisation.

27. Please explain your preparation for the census in the area of agriculture and its financing.

## ***Chapter 12: Food safety, veterinary and phytosanitary policy***

This chapter reflects the EU's integrated approach aiming to assure a high level of public health, animal health, animal welfare and plant health within the European Union through coherent farm-to-table measures and adequate monitoring, while ensuring the effective functioning of the internal market. In this domain a Candidate Country is requested to ensure the transposition of the EU *acquis* and its progressive implementation by a properly structured and trained administration.

Implementation requires appropriate administrative structures to be able to carry out inspection and control including appropriate laboratory capacity. Coordination between the different authorities in charge of the transposition and/or implementation is crucial. In addition, training of the various control inspectors, food- and feed business operators is necessary.

### ***I. GENERAL***

For each of the following points, please describe the current status and the foreseen evolution with a precise timetable.

1. Please provide flowcharts/organisation charts outlining levels of competencies and showing management lines to describe the structure and organisation of the services in charge of food safety veterinary and phytosanitary policy. The division of competencies and the links between central, regional and local level should appear clearly (degree of decentralisation/devolution of competence should be defined).
2. Please indicate resources and planned resources (human, material and financial) allocated to each sector.
3. Please provide a description of the current structure, as well as of the evolution foreseen. Two sets of organisation charts: one with the current structure and another one with the planned future structure (the dates foreseen for the establishment of new entities should be indicated).
4. Legislative powers in the fields of food safety, veterinary and phytosanitary legislation:
  - specification of the competent authorities (for legislation) and how legislation will be passed (primarily through parliamentary procedure or ministerial orders or decrees);
  - explanation of how co-ordination is (or will be) ensured in terms of transposition, implementation, and policy-making to ensure that the food chain is fully covered;
  - legal possibility to adopt legislation which will be implemented progressively and which can incorporate EU notions and cross-reference to another piece of EU legislation.
5. Please provide detailed information on the control activities and enforcement in the fields of food (and feed) safety, veterinary and phytosanitary policy, including details on the organisation of the controls as regards the frequency, the choice of establishments, the procedure for sampling and procedures in case of infringements. Please specify which bodies that are (will be) in charge of control activities and enforcement and their respective responsibilities. Please describe mechanisms of co-ordination.

6. Implementation: For each of the following items of the food safety, veterinary, and phytosanitary policy, listed below please give details of the measures taken to ensure proper implementation of the legislation with reference as relevant to the following activities (indicative list):
- laboratories used in hygiene, veterinary, phytosanitary controls, food- and feed-stuff analysis (chemical, microbiology, GMOs, etc): present or planned activities (with time-table) to comply with EU systems, timetable of accreditation according to EU law with name of accreditation body, methods of sampling and analysis (in general, for contaminants, for food contact materials etc);
  - management of crisis;
  - the setting up of the Rapid Alert System for Food and Feed (RASFF).

## **II. VETERINARY POLICY**

### General

7. Please provide information on general architecture of the legal basis; organisation and powers of different institutions involved.
8. Please provide information on respective fields of responsibilities of competent authorities concerned, in particular regarding rules on control.
9. Please provide a clear table of all the framework acts that cover or impinge upon the veterinary domain with an explanation of their coverage as far as the EU veterinary *acquis* is concerned. Please indicate whether you envisage adopting new framework acts.
10. Please provide information for each item listed below:

#### Control system in the internal market:

- live animals; semen, ova and embryos;
- animal products;
- certification;
- mutual assistance;
- safeguard measures;
- computer system (TRACES);
- funding of checks.

#### Control system for imports:

- live animals;
- products including food, feed and animal by-products;
- safeguard measures;
- Border Inspection Posts (BIPs);
- computer system (TRACES);
- funding of checks;

#### Identification of animals and registration of their movements:

- bovine animals (including central bovine database);
- ovine and caprine animals;



- porcine animals;
- equidae.

Animal disease control measures:

- Notification of animal diseases; Foot and Mouth disease; Classical swine fever; African swine fever; African horse sickness; Avian influenza; Newcastle disease; Fish and mollusc diseases; Bluetongue disease; Transmissible Spongiform Encephalopathies; Zoonoses and other diseases;
- Trade in live animals, semen, ova and embryos;
- Non-commercial movements of pet animals;
- Prohibition of substances and residue monitoring;
- Import requirements for live animals and animal products;
- Bilateral veterinary international agreements with EU Member States, candidate countries and other third countries (if any).

Animal welfare:

- Farm animals, laying hens including information on conditions of production, chickens kept for meat production, calves, pigs;
- Animals during transport;
- Animals at the time of slaughter or killing.

Zootechnical legislation

Expenditure in the veterinary field

### ***III. PLACING ON THE MARKET OF FOOD, FEED AND ANIMAL BY-PRODUCTS***

Please provide information on the following areas:

General:

11. General architecture of the legal basis; organisation and powers of different institutions involved.
12. Respective fields of responsibilities of competent authorities concerned.
13. Please provide a clear table of all the framework acts that cover or impinge upon the food, feed and animal by-products domain with an explanation of their coverage as far as the EU *acquis* is concerned. Please indicate whether you envisage adopting new framework acts.
14. Please provide information for each item listed below.

Hygiene rules

15. Specific rules for animal products, including information on the situation concerning agri-food establishments and the microbiological quality of raw milk
16. Control rules including implementation of HACCP (Hazard Analysis and Critical Control Points) by food operators. Also please provide statistics on the number of establishments (according to the activity) applying HACCP.
17. Specific control rules for animal products
18. Rules for animal by-products including information on the system of collection of cadavers and materials and situation of establishments

#### Funding of checks

19. Specific rules for feed hygiene, including information on the applicable legislation and procedures for approval/registration of feed establishments.

#### ***IV. FOOD SAFETY RULES***

##### General:

20. Please provide information on general architecture of the legal basis; organisation and powers of different institutions involved.
21. Please provide information on respective fields of responsibilities of competent authorities concerned.
22. Please provide a clear table of all the framework acts that cover or impinge upon the food safety domain with an explanation of their coverage as far as the EU *acquis* is concerned. Please indicate whether you envisage adopting new framework acts.
23. Please provide information for each item listed below:
  - Labelling, presentation and advertising of foodstuffs including nutrition and health claims and nutritional labelling;
  - Additives authorised and purity criteria;
  - Food enzymes;
  - Extraction solvents;
  - Flavourings;
  - Food contact materials;
  - Food supplements;
  - Food for particular nutritional uses;
  - Quick-frozen Foodstuffs;

- Contaminants;
- Novel foods;
- Ionising radiation;
- Mineral waters.
- Bilateral international agreements with EU Member States, candidate countries and other third countries (if any).

## **V. SPECIFIC RULES FOR FEED**

General:

24. Please provide information on general architecture of the legal basis; organisation and powers of different institutions involved.
25. Please provide information on respective fields of responsibilities of competent authorities concerned.
26. Please provide a clear table of all the framework acts that cover or impinge upon the feed domain with an explanation of their coverage as far as the EU *acquis* is concerned. Please indicate whether you envisage adopting new framework acts.
27. Please provide information for each item listed below:
  - Placing on the market and use of feed;
  - Authorised additives in feedingstuffs;
  - Undesirable substances in animal feed.
  - Conditions governing the preparation, placing on the market and use of medicated feedingstuffs.
  - Bilateral international agreements with EU Member States, candidate countries and other third countries (if any).

## **VI. PHYTOSANITARY POLICY**

General

28. Please provide information on general architecture of the legal basis; organisation and powers of different institutions involved.
29. Please provide information on respective fields of responsibilities of competent authorities concerned.
30. Please provide a clear table of all the framework acts that cover or impinge upon the phytosanitary domain with an explanation of their coverage as far as the EU *acquis* is concerned. Please indicate whether you envisage adopting new framework acts.
31. Please provide information for each item listed below:

Plant health, harmful organisms:

- General control measures; Specific control measures; Protected zones; Registration of operators (plant passports); Imports; Inspections and notification of interceptions; Expenditure in the phytosanitary field; Status of harmful organisms listed in the EU *acquis*.

Plant health, plant protection products:

- Placing on the market of plant protection products;
- Setting up and controls of maximum residue levels.

Quality of seeds and plant propagating material regarding the marketing of seed and propagating material of agricultural crops and vegetables, vine, forestry, ornamentals and fruit plants:

- Registration of varieties, catalogues;
- Seed certification;
- Approval of propagating material.

Plant variety rights

Bilateral phytosanitary international agreements with EU Member States, candidate countries and other third countries (if any).

## **VII. GENETICALLY MODIFIED ORGANISMS**

33. Please provide information on general architecture of the legal basis; organisation and powers of different institutions involved.
34. Please provide information on respective fields of responsibilities of competent authorities concerned.
35. Please provide a clear table of all the framework acts that cover or impinge upon the genetically modified organism domain with an explanation of their coverage as far as the EU *acquis* is concerned. Please indicate whether you envisage adopting new framework acts.
36. Please provide information for each item listed below:
  - Release into the environment;
  - Genetically modified food and feed.

## **Chapter 13: Fisheries**

The *acquis* on fisheries consists of regulations, which do not require transposition into national legislation. However, it requires the introduction of measures to prepare the administration and the operators for participation in the Common Fisheries Policy (CFP). The scope, the objectives and the principles of the CFP are laid down in a framework regulation (Council Regulation (EC) N° 2371/2002). The CFP provides rules for the conservation of living aquatic resources, the limitation of the environmental impact of fisheries, conditions of access to waters and resources, structural policy and the management of the fleet capacity, control and enforcement, aquaculture, common organisation of the market and international relations. The CFP is based on sound scientific advice and provides a framework for data collection.

With regard to **resource and fleet management**, the *acquis* contains precise rules for the adjustment of fishing capacity to ensure a balance between fleets and stocks as well as for the measurement of tonnage. It provides that Member States shall collect data for the EU fishing fleet register and establish a satellite based vessel monitoring system. Specific technical measures for the conservation of fisheries resources apply in the Mediterranean.

**Inspection and control** are mainly the responsibility of Member States. The *acquis* establishes detailed rules for the registration and reporting of catches. A Member State must have the administrative capacity for the effective control, inspection and enforcement of the CFP.

Two framework legislative acts govern the financial instruments of the EU for implementing the CFP. The first, Regulation No 861/2006, concerns for instance control, stakeholder participation, international agreements, data collection and scientific advice. The second, Regulation No 1198/2006 and its implementing Regulation No 498/2007, define the financial scope, areas of intervention and management of the European Fisheries Fund (EFF). In order to access the EFF, EU Member States are required to prepare a National Strategic Plan (NSP) and an Operational Programme (OP) and to have the necessary administrative management and control capacity in place in order to ensure a sound and efficient implementation of the OP.

The market policy is based on the application of common marketing standards, producer organisations, market intervention mechanisms, information to consumers and trade arrangements regime with third countries.

In addition to general **State aid** rules, the *acquis* contains specific State aid rules applicable to the fisheries and aquaculture sector. Given its exclusive competence in the field of fisheries, the EU is party to a number of **international agreements** and organisations. In some cases, existing fisheries agreements and conventions with third countries or international organisations need to be adapted or denounced prior to accession.

### **I. GENERAL**

#### **A. Fisheries legislation**

1. Please describe the main elements of your national legislation concerning fisheries.

### ***B. Administrative structure***

2. Provide an organisation chart describing the organisation of the fisheries administration and the fisheries inspection. Describe the relations between these bodies and the hierarchy in the system.
3. Are there plans to introduce other bodies or otherwise change the organisational structure in the short or medium term?
4. Describe the decision-making process and how competencies are delegated.
5. Describe the information flow between authorities. Are there cases where the information flow is not working properly? What is being done to counteract these deficiencies?
6. Describe the administration in place for market policy (notably as regards control of the implementation of common marketing standards, in ports and on wholesale markets, and of consumer information; control of quantities that are withdrawn from the market; collection of market information in the NUTS regions; collection and transmission of data concerning the price reference regime; application of the recognition conditions for producer organisations).
7. Is there any structural policy specifically for fisheries? If yes, information on the competent authority and a short description of the procedures should be provided.
8. How would your administration administer structural aid to the fisheries sector?

### ***C. Economic data***

9. Describe the evolution in catch quantity, first sale value and export value in the fisheries sector (catching, processing, marketing and support services), including aquaculture, over the last years.
10. Describe the evolution in overall employment in the fisheries sector, including aquaculture, over the last years.

## ***II. RESOURCE AND FLEET MANAGEMENT***

### ***A. Fishing fleet***

11. What are the principal fisheries in your country and what is their geographical distribution?
12. Where are fishing vessels located and what are their areas of operation? What type of gear do they use?

### ***B. Fleet register***

13. Does your country have a fleet register? If yes, describe the administrative structure for the fleet register and specify its status.

### ***C. Fishing licenses***

14. How is the issuing of fishing licenses organised?
15. What is the mechanism to withdraw licenses when the conditions for these are not met?

### ***D. Catches and landings***

16. Provide statistics for catches and landings per type of fishery.

### ***E. Other***

17. Are there any producer organisations?
18. Are there any specific provisions on consumer information?
19. Are there any marketing standards?

## ***III. INSPECTION AND CONTROL***

### ***A. Financial means***

20. What budgetary means have been allocated for fisheries control (in Euro)? Are these means increasing or decreasing?
21. How have these means been allocated?

### ***B. Human resources***

22. How many personnel are involved in fisheries control? What is the distribution of personnel among the relevant authorities? Are resources increasing or decreasing?
23. What is the working schedule of fisheries inspectors (full time/part time, hours etc.)? How many are directly involved in actual fisheries control (inspections)? How many are administrators? If officials have different tasks, what proportion of their time is spent on fisheries control?
24. What is the educational background of the control personnel? Is training provided, and what does it consist of?

### ***C. Powers of control***

25. Where is inspection powers defined?
26. Describe the powers of control available for each type of control personnel.
27. Do inspectors have a clear notion of the extent and the limits of their powers?

### ***D. Control equipment***

28. What control equipment is available for control activities? How is the equipment distributed among the different authorities?

29. What is the state of the control equipment? How old is it? Are there plans for renewal of the equipment?

30. Is the equipment adequate for the tasks to be carried out? Describe the needs.

31. What is the level of computerisation?

***E. Collection of data***

32. How is the collection of fishing data organised?

33. What scientific data is collected and who utilises it? Is scientific data used for stock management?

34. Does your country have quotas and if yes, what data are collected for quota management and verification (logbooks, landing declarations, sales notes, auction data, transport data, buyers information)? How is this data used for control purposes?

35. Are there any instruments or procedures for cross-checking of data?

***F. Inspection activities***

36. Provide statistics for inspections carried out.

37. What officials are responsible for carrying out inspections?

38. Is there a strategy in place for inspection activities? How are the targets set?

39. Are there guidelines issued for how inspections are to be carried out?

40. What does an inspection consist of? What is the methodology and the strategy as regards inspections?

41. Are inspections documented and, if so, how?

42. What is the level of practical inspection capability and skills? What is lacking?

***G. Legal Procedures for sanctioning infringements***

43. What is the legal framework for sanctioning infringements?

44. Is sanctioning based on criminal or administrative procedure? What authorities have the powers to impose sanctions?

45. What administrative sanctions are available?

46. What are the levels of fines to be applied? What are the actual sanction levels?

47. What are the possibilities to seize catches and gear? To what extent are catch and gear confiscated?

48. What means of appeal exist?



49. What are the requirements as regards evidence? Is it necessary to prove intent?

50. Provide statistics on sanctions imposed for fisheries infringements.

#### ***IV. STRUCTURAL ACTIONS***

51. What is the administrative and legal capacity to prepare and manage a structural policy for the fisheries sector?

52. How will the fisheries administration prepare for establishing the programming documents and the management and control system required in the EFF Regulation?

#### ***V. MARKET POLICY***

53. Please provide information on market policy and operational structure in place regarding the sustainable management of fish resources, marketing standards (freshness, size, packaging, presentation and labelling), consumer information, producer organisations, trade with third countries, inter-branch organisations and intervention. How will further administrative arrangements be established for implementing the market policy, in particular regarding interventions and producer organisations (POs) and arrangements for the electronic transmission of relevant market data to the Commission?

#### ***VI. STATE AID***

54. Please provide information on state aid given to the fisheries sector over the last three years.

#### ***VII. INTERNATIONAL AGREEMENTS***

55. Is your country a contracting party to any international, multilateral or bilateral fisheries agreements? If yes, please indicate the number of vessels and the volume of fish concerned by these agreements.

## ***Chapter 14: Transport policy***

EU transport policy is aimed at sustainable mobility combining Europe's competitiveness with the welfare of its citizens, making for greater safety and security and enhanced rights. It is an essential component of the Lisbon strategy and contributes to the EU's social and territorial cohesion. The objectives of EU transport policy are establishing efficient transportation systems offering a high level of sustainable mobility throughout the Union, ensuring high quality standards for safety, security and passenger rights and improving working conditions. The EU's sustainable transport policy requires our transport systems to meet society's economic, social and environmental needs.

Transport policy is governed by Title VI – Articles 90 and 100 of the Treaty on the Functioning of the European Union (TFUE). The *acquis* consists of regulations, decisions and directives. Their implementation has to be ensured by the day of accession.

### ***I. BASIC TRENDS AND DATA OF THE TRANSPORT SECTOR***

Basic data should be provided by completing the attached charts in Annex 1.

### ***II. MARKET STRUCTURE AND BASIC TRENDS FOR EACH MODE OF TRANSPORT***

#### ***A. Road Transport***

*Conditions of access to market and profession*

- 1) What are the rules governing access to the profession for operators engaged in national and/or international transport of passengers and goods? How and by whom is this legislation enforced? To which extent are the four criteria for access to the occupation of road transport operator met?
- 2) What are the rules governing market access for resident operators in national and international road goods transport (Regulation 1072/2009)? How and by whom is this legislation enforced?
- 3) What are the rules governing market access for national and international road passenger transport for resident operators? Are authorisations required for:
  - a) regular services;
  - b) special regular services;
  - c) shuttle services (if any);
  - d) occasional services?
- 4) How do companies obtain these authorisations? What is the normal validity period of authorisations? Do companies benefit from exclusive rights? How and by whom is this legislation enforced?
- 5) What are the rules regarding competition? How and by whom is this legislation enforced?

*Social and technical rules and standards*

- 6) What are the rules applicable to drivers' hours in domestic and international transport (driving and rest times, daily and weekly driving limits, daily and weekly rest periods, weekly working time etc.)? How and by whom is this legislation enforced?
- 7) Please give detailed answer for the following questions concerning driving licences.
  - a) What are the modalities concerning the attribution of driving licences? What is the minimum age for drivers?
  - b) What are the driving licence categories?
  - c. Please provide information on the driving licence model and on the theoretical and practical driving exams (Directives 91/439/EC and 2006/126/EC on driving licences).
  - d) Which institution is in charge of the organisation and supervision of driving exams?
  - e) Is the possession of the appropriate national driving licence sufficient for entry into the profession of commercial vehicle driver? If no, is complementary initial training, sanctioned by a certificate of professional proficiency (CCP) or an equivalent document required?
  - f) Is periodic training required for working as a professional driver? How and by whom is this legislation enforced?
  - g) Which authority issues permits for the establishment of driving schools and according to what procedure are they issued (Directive 2003/59/EC on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers)?
- 8) What are the national limits of maximum weights and dimensions for road vehicles (including maximum axle weights)? Is the road network accessible to vehicles in compliance with Directive 96/53/EC? If not, what would be the timeframe to make it accessible?
- 9) Is there national legislation concerning the installation of digital tachographs in trucks and busses (equivalent to Regulation 3821/85/EC as amended)? Does legislation concerning the installation of speed limiting devices on these vehicles exist (equivalent to Directive 92/6/EC)? How and by whom is this legislation enforced? What is the minimum number of controls carried out at the roadside and at the premises companies? What are the penalties?
- 10) Is there national legislation on technical vehicle inspection and control (equivalent to Directive 96/96/EC)? How and by whom is this legislation enforced? What are the scope and frequency of these controls? Are technical inspections of vehicles also conducted at the roadside (equivalent to Directive 2000/30/EC)? If yes, how often on average per year? Which body is in charge of it?
- 11) Is there national legislation concerning road, rail or inland waterway transport of dangerous goods, transportable pressurised equipment and designation/professional qualification of safety advisers to these transports? How and by whom is this legislation enforced? What are the scope and frequency of these controls? How many vehicles are

subject to daily controls? Is the reporting format for registering the frequency and outcome of such checks in conformity with Directive 95/59/EC on uniform procedures for checks on the transport of dangerous goods by road, or is such conformity planned?

- 12) Is there national legislation on vehicle registration documents (equivalent to Directive 1997/37/EC)? What data do these documents contain?
- 13) Is there national legislation on the setting up of a databank on road accidents? Are the data collected in line with the content of the European road accidents database CARE (Council Decision 93/704/EC)?
- 14) Is there a national scheme for the refurbishment of existing road tunnels so as to upgrade their level of safety (equivalent to Directive 2004/54/EC)? Is there a plan for implementing a safety management of road infrastructure (equivalent to 2008/98/EC)?
- 15) What is the administrative capacity of enforcing the legislation concerning social and technical regulations in the field of road transport?

*Road and other user charges*

- 16) What road user charges system, including minimum annual vehicle taxes and minimum excise duty for fuel, has been implemented in your country? What are the fee levels and what are the modalities for collecting them? Do these fees also apply to third country operators? What is the total amount of road fees collected per year? How reliable is the collection system? How is the collection system controlled in terms of reliability? What are the collected funds used for?
- 17) Are other charges to heavy good vehicles [and other road vehicles] applied? If yes, describe their scope (national, foreign, EU vehicles), amount, method of calculation and payment, authorities responsible for managing in the light of the Eurovignette Directive and the Land transport Protocol to the SAA.
- 18) What is the procedure applied to the selection of contractors for road maintenance and development of road infrastructure?

*International organisations and conventions*

- 19) On which date did your country sign or intends to sign:
  - a) the United Nations ADR agreement;
  - b) the United Nations ATP agreement;
  - d) the United Nations - ECE legislation on motor vehicle type approval;
  - e) the United Nations AETR agreement;
  - f) accession to the Vienna Convention of the United Nations (1968)?
  - g) the agreement on the international occasional carriage of passengers by coach and bus – INTERBUS?

20) Do you have national standards for the movement of ammunition and explosives in accordance with the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR)?

## ***B. Rail transport***

### *Conditions of access to market and profession*

21) What are the rules governing market access (e.g. regarding railway licences, safety certificates, safety certification of rolling stock and of staff)? Have all railway operators been awarded a license and a safety certificate?

22) Does the national railway company have management autonomy in relation to the State (Government or Parliament)? Is there accounting separation between operations and infrastructure? Is the national railway company financially sound (no accumulated debt burdens imposed by the State)?

23) What is the procedure of adopting the network statement? Does the infrastructure manager need approval of the state to adopt it, including setting the charges for using the infrastructure?

24) Can new entrants have access to the national rail network, provided that they have a licence which recognises their capacity as a railway carrier and they fulfil other relevant requirements (e.g. safety certificate, etc.)? How are train paths allocated to avoid any discrimination, and how are infrastructure usage fees defined and applied?

25) Has Serbia established a regulatory body, a safety authority, an accident investigation body and a notified body? What staff numbers, competences and budgets have been made available to these authorities? Can these institutions take decisions without the approval of the ministry? In case of disagreements or complaints, can a railway undertaking lodge a complaint with an appeal body (regulatory body) and can the regulatory body launch an investigation on its own initiative?

26) Has the safety authority a right to put rolling stock into service? How does the safety authority enforce national safety rules?

27) Has the safety authority adopted the criteria on train driver training centres and is there a right of access to these training centres? Has the safety authority established a register of driver licenses?

28) Has Serbia aligned its international agreements on rail border crossings to EU railway legislation and has Serbia ensured that any agreements on border crossings do not restrict open access of railway undertakings?

29) Are there any rules that the infrastructure manager should be independent from any railway undertaking? Does the law provide incompatibility rules applied for the members of infrastructure management board, the management of the holdings and the railway underway undertakings? Do such rules exist for the first years after quitting a management position in one of these entities and taking up another one? Does the regulatory body have to approve the appointment or dismissal of the members of the infrastructure management board? What safeguards have been put by the infrastructure manager to ensure business confidentiality of data that are sensitive to competition between railway undertakings, in particular relating to access to ICT systems and offices?

Public service contracts in road and rail transport

30) Please describe the implementation of *acquis* concerning public service contracts and general rules (as defined by Regulation (EC) No. 1370/2007 on public passenger transport service by rail and road). Please provide information on:

- a) the requirements the operators have to fulfil on the concerned areas of public service;
- b) the duration of the contracts;
- c) the award of public service contracts (including rules on awards to internal operators and direct awards);
- d) the publication requirements;
- e) the review/appeal procedures.

*Social and technical regulations and standards*

31) Who sets the technical and environmental standards, technical specifications applicable for rolling stock and for other rail subsystems? Are these standards in accordance with EU legislation on interoperability and with international standards?

32) Who sets and enforces the safety standards? Are the rules and standards made public? Who delivers the safety certificates? Does an independent national railway safety authority exist?

33) Is there a specific fiscal regime for rail transport operations?

*Overall assessment of the transposition of the acquis*

34) Please describe ongoing work, including plans, for the transposition of the relevant *acquis*, and in particular in relation

- a) to the first railway package (Directives 2001/12, 13, and 14):
- b) the second rail package (Directive 2004/49 on rail safety and Directive 2004/51 on rail freight market opening – see Official Journal L164 of 30 April 2004 and corrigendum in OJ L220 of 21 June 2004):
- c) the directives on “interoperability” (Directives 96/48, 2001/16 and 2004/50), which were recast in Directive 2008/57/EC):
- d) the third railway package (Directive 2007/58/EC on the opening of the international rail passenger market, directive 2007/59/EC on the certification of train drivers, Regulation (EC) No 1370/2007 on public passenger transport services by rail and road and regulation (EC) No 1371 on rail passengers' rights and obligations).

*Passengers' rights*

35) Is there national legislation on rail passengers' rights equivalent to Regulation (EC) No. 1371/2007?

- a) What are the rules on minimum requirements for the information to be provided to passengers before and during the journey?
- b) What are the rules on availability of tickets, through tickets and reservations?
- c) What are the rules on liability of railway companies for passengers and luggage and in the event of delays, missed connections and cancellations of services?
- d) What are the rules on transport conditions (including accessibility, assistance and information to be provided) for persons with reduced mobility?
- e) What are the rules on the handling of complaints and the national body responsible for the protection of passengers' rights? Is that national body independent of any infrastructure manager, charging body, allocation body or railway undertaking?
- f) What are the rules and penalties foreseen in case passenger rights are not respected?

*International organisation and conventions*

36) Has Serbia concluded rail border crossing agreements in recent years on its international border crossings? In which way do these agreements permit open access by domestic or foreign operators? If they do not provide open access and are thus not yet aligned to EU legislation, what are the plans to make them compliant?

37) Is your country party to any multilateral agreements regarding international railway organisations (OTIF and OSZD )?

***C. Maritime and inland waterway transport***

38) Please provide a brief description of any sea transport activities as well as transport that may take place on your lakes and rivers.

39) Please outline the legislation that covers this area. Are there any rules concerning safety, security, environmental and pollution prevention aspects of transport by sea and on lakes/rivers? Which institution is in charge of registration and control of ships/boats?

40) What is the competent Serbian administration for maritime and inland waterway transport?

41) What are the actual numbers of ships under Serbian flag involved in maritime and inland waterway transport?

42) What are the relevant International Conventions that Serbia applies in relation to safety, security, environmental and pollution prevention aspects of transport by sea and on lakes/rivers?

43) Are there any requirements regarding access to the profession of carrier of passengers and/or goods by waterway? Are there any rules concerning crew working time and manning in the maritime and inland waterway sector? What are the competent authorities responsible for enforcing the relevant legislation and requirements?

- 44) Please provide information regarding the renewal of the Serbia inland waterway fleet under the Inland Navigation Fund Law.
- 45) According to which technical requirements are the vessels of the Serbian inland navigation fleet certified?
- 46) Which authority is responsible for the inspection of the vessels?
- 47) Which authority is responsible for the issuing of the vessel certificates?
- 48) How many inland waterway vessels (in different categories) are registered in Serbia?
- 49) What is the technical state of the Serbian inland waterway fleet?

*Passanger rights*

- 50) Is there national legislation on the rights of passengers travelling by sea or by inland waterway?
- a) What are the rules on minimum requirements for information to be provided to passengers before and during the journey?
  - b) What are the rules on availability of tickets and reservations?
  - c) What are the rules on delays and cancellation of services?
  - d) What are the rules on transport conditions (including accessibility, assistance and information to be provided) for persons with reduced mobility?
  - e) What are the rules on the handling of complaints and the national body responsible for the protection of passenger rights?
  - f) What are the rules and penalties foreseen in case passenger rights are not respected?

***D. Combined transport***

- 51) What are the existing promotion measures/instruments available for national/international combined transport, such as:
- a) granting of subsidies for combined transport terminals;
  - b) granting of operational subsidies;
  - c) exemption from general restrictions imposed on road transport (driving ban, maximum authorised weights and dimensions etc.) when performing combined transport operations;
  - d) specific fiscal treatment.

***Air transport***

- 52) Does competition law apply to air transport? If yes, are competition rules applied to air transport different from those applied to other sectors? How and by whom are these rules enforced?



- 53) Are there public service obligations or similar schemes introduced in the air transport sector?
- 54) What is the legal basis for the establishment of the national air carrier?
- 55) Are there plans to privatise the national air carrier? If yes, please provide relevant details. Is there state aid granted in any form to the national air carrier? How and by whom are competition rules applied?

*Access to market and profession*

- 56) How can air carriers obtain authorisation to operate specific routes, whether they are domestic or international? Do certain air carriers hold exclusive rights on specific air routes? How is the ECAA Agreement taken into account in relation to the authorisation of air services? Who is responsible for the authorisation of air services?
- 57) What are the rules on setting air fares and rates? How and by whom are these enforced?
- 58) What are the conditions for the certification of airports? What are the conditions for the licensing of air carriers (AOC and operating licence)? Which bodies are competent for certification and licensing in these areas?
- 59) What are the insurance requirements in the air transport sector?
- 60) What are the rules for ground-handling, slot allocation, and Computer Reservation Systems? How and by whom are these enforced?
- 61) Which bilateral agreements with non-ECAA countries are in force? What type of regime is established under these agreements?

*Technical and social standards*

How and by whom are airport charges set? Are they set in a transparent and non-discriminatory manner? Are they cost related? Are there any consultation mechanisms? Is airport management separate from airport ownership? How are aviation safety requirements implemented and applied in the field of design, production, operation, maintenance of aircraft, parts and appliances and persons and organisations involved in the design, production, maintenance and operation of such products, parts and appliances, as well as certification of aerodromes and air navigation service providers, Please describe the aviation safety requirements in Serbia in the following areas:

- 1) product certification;
- 2) issuance of airworthiness certificates;
- 3) continued airworthiness of aircraft;
- 4) maintenance of aircraft, parts and appliances;
- 5) personnel, licensing of pilots and crew;
- 6) flight time limitations and training requirements of pilots and cabin crew as well as qualifications for training organisations;

- 7) certification of aerodromes and air navigation service providers.
- 62) Which body is responsible for exercising regulatory control for aeronautical products, persons, organisations, aerodromes and air navigation service providers?
- 63) Which body is responsible for their oversight and for enforcing aviation safety requirements?
- 64) What is the legislation in force on accident investigation and mandatory accident and incident reporting?
- a) Are the data available on air misses (almost collisions), which have occurred during the last ten years?
  - b) Is there a specialised administration that coordinates investigation procedures, monitors reports and data?
  - c) What rules are in force to ensure the confidentiality of information processed during occurrence reporting, incident and accident investigation by persons involved in the design, production, maintenance, operation and training in safety?
  - d) When is an independent accident investigation body expected to be established?
  - e) Is cooperation with other countries considered in this area?
- 65) Are there measures to monitor and limit noise and emissions levels around airports (i.e. noise zoning, land-use rules) and to contain or reduce air pollution resulting from air transport activities? Is there a progressive phase-out programme for Chapter 2 aircraft?
- 66) Is the Flight Information Region of Serbia already recognised by ICAO?
- 67) Please provide information on the name, legislative and regulatory status and ownership of the organisation responsible for provision of Air Navigation services (ANSPs)? What is the number of employees? Which entity is in charge of the designation and certification of the ANSPs. Are the designation and certification carried out following the applicable Single European Sky *acquis*? Is there a National Supervisory Authority in air traffic management effectively established? When and by which legal instrument?
- 68) What are the rules regarding safety oversight, standards setting, investment planning, provision of services, service planning and revenue collection? How does the level of fees for over-flight compare with the level of fees charged for flights to or from domestic airports?
- 69) What are the rules for licensing of air traffic controllers? Has Serbia adopted and implemented the Air Traffic Controller License Directive 2006/23/EC? Has Serbia implemented the flexible use of airspace concept, and which entity is responsible for it? Has Serbia undertaken steps to participate in any initiative conducive to establish a functional airspace block?

### *Aviation security*

- 70) Which bodies are responsible for the coordination and monitoring of the implementation of aviation security measures? Please specify which responsibilities each body holds. Please explain how the body (bodies) responsible monitors the implementation and the enforcement of aviation security measures (e.g. national civil aviation security programme, national quality control programme).
- 71) What is the current applicable legislation on civil aviation security? Please provide references to legislation, rules, and any other instruments that are applied.
- a) Please specify if the mentioned legislation applies to all airports.
  - b) To which type of airport does this legislation apply (e.g. civil/military airports, airports handling only certain types of traffic)?
  - c) Please provide the names, ICAO codes, and IATA codes of the airports to which the applicable legislation applies. If the applicable legislation does not apply to all airports, please specify which airports are not covered and why.
- 72) Is ECAC Doc No. 30 (PART II) in the field of aviation security fully applied and transposed into national legislation in Serbia? Please provide references to the applicable legislation and please specify the current level of application of ECAC Doc No. 30 (PART II) and indicate the timeframe for full application.
- 73) Please specify when and where ECAC last conducted an audit in Serbia and what it has covered.
- 74) Please explain how aviation security measures are financed.

### *International organisations and conventions*

- 75) Which international organisations in the field of aviation is your country member of (ICAO, ECAC, JAA, Eurocontrol)? On what date did your country adhere to these organisations? Can you indicate the date or intended date of joining the organisations your country is not member of?
- 76) What is the timeline for the implementation of the ECAA Agreement? Is there an Action Plan developed and followed for this purpose? What actions have been taken to follow the recommendations in the ECAA Assessment Report of 2008?
- 77) When is the Convention for the Unification of Certain Rules for International Carriage by Air (Montreal, 28 May 1999) expected to be ratified?

### *Social and consumer protection*

- 78) What are the rules for safety and health protection in the air transport sector? What are the rules for the working time of mobile workers in air transport?
- 79) Are there special consumer protection rules in the air transport sector, such as on package holidays? Are there rules establishing a right for compensation and assistance to passengers in the event of denied boarding, cancellation or long delays of flights? Are there any legislative or administrative rules protecting the rights of persons with

disabilities and persons with reduced mobility when travelling by air? Are there specific national bodies in charge of the enforcement of the rights addressed in this question? As Serbia is a signatory to the Common Aviation Area, in how far has it already integrated Regulations 261/2004, 1107/06 and 2027/97 into national law?

80) What are the rules on the liability of air carriers in the event of accidents?

*Administrative capacity*

81) Please describe the bodies responsible for the administration of civil aviation in Serbia with their names, legislative and regulatory status and the relations between them? Please indicate the number of persons employed each body? How is the training of the employees organised? How are these bodies financed?

**G. Satellite navigation**

82) Does your country intend to take part in the activities of the Galileo satellite navigation programme when operational?

**H. State aid**

83) Are there any State aid individual measures or State aid scheme in force in the following transport sectors?

a) Air transport;

b) Inland waterways;

c) Maritime transport;

d) Rail transport;

e) Road transport:

- Transport of freight,

- Transport of passengers (urban, suburban, regional, long distance)

f) Combined transport.<sup>15</sup>

84) What is the existing legislation governing the granting of State aids? How and by whom is this legislation enforced?

85) Are there any public service obligations imposed on transport operators? In which transport sectors?

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<sup>15</sup> As defined in Article 1 of the Council Directive 92/106/ECC of 07.12.1992, OJ N° L368 of 17.12.92.

**ANNEX 1:**

**I. BASIC TRENDS OF TRANSPORT DEMAND**

**A. Development of goods transport demand (tonne-km) 2002-2010\***

Data for latest year available

(million tkm)	2002	2003	2004	2005	2006	2007	2009	2010 (est.)	National traffic	Inter- national traffic	Of which traffic with FTI
Road											
Rail											
Pipeline											

\*changes in time series should be indicated and explained if occurring.

**B. Development of passenger transport demand (passenger-km) 2002-2010\***

(million pkm)	2002	2003	2004	2005	2006	2007	2008	2009	2010 (est.)
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Private  
Car

Bus

Railwa  
ys

Air

\*changes in time series should be indicated and explained if occurring

## **II. BASIC TRENDS AND MARKET STRUCTURE FOR EACH MODE OF TRANSPORT**

### **A.1. Road goods transport**

	2003	2008	2009	2010 (est.)
Enterprises				
Number at 31.12				
- private				
- state-owned				
Employees				
Number at 31.12				
Total:				
- private enterprises				
- state-owned enterprises				
- of which drivers:				
- private enterprises				
- state-owned enterprises				
Goods vehicle stock number at 31.12				
Total:				
< 3,5t loading capacity				
> 3.5t loading capacity				
Value created (by sector)				
Amount (national currency)				
% of GDP				
Energy consumption				
Tons (fuel)				

**A.2. Road passenger transport (interurban bus transport)**

	2003	2008	20089	2010 (est.)
Number of enterprises				
at 31.12				
- private				
- state-owned				
Size of enterprise:				
- 1 bus				
- 2-5 buses				
- 6-20 buses				
- > 20 buses				
Value created (by sector)				
Amount				
(national currency)				
% of GDP				
Energy consumption				
Tons (fuel)				



**B. Rail transport (as applicable)**

	2003	2008	2009	2010 (est.)
Number of enterprises at 31.12				
- private				
- state-owned				
Employees				
number at 31.12				
- Transport services				
- Supply industry				
Rolling stock				
Number at 31.12				
Total:				
- Diesel locomotives				
- Electric locomotives				
- Steam locomotives				
- Electric railcars				
- Diesel railcars				
- Goods wagons				
- Passenger railway vehicles				
Rolling stock by age, number at 31.12				
< 2 years old				
3 – 5 years old				
6 – 15 years old				
15 - 30 years old				
> 30 years old				
Value created				
Amount (national currency)				
% of GDP				

Energy consumption

Tons of fuel kwh

*C. Air transport*

1. General data	2003	2008	2009	2010 (est.)
Carriers, number at 31.12				
Licensed air carriers				
Energy consumption				
Tons (fuel)				
Value created				
Amount				
% of GDP				
Data by carrier				
Carrier (name) _____				
Type of operation (scheduled, charter, freight)				
Main destination				
Transport demand				
- Passengers domestic				
- Passengers international				
- Passengers scheduled				
- Passengers non-scheduled				
- Passenger-km scheduled				
- Passenger-km non-scheduled				
- freight (ton-km)				
Ownership (state/private)				
Fleet number at 31.12				
Total:				
- self-owned				
- leased				

Average age of planes

Employees (number)

Financial results (profit/loss)

2. Airport data by airport	2003				2008				2009			
	Passengers		Freight		Passengers		Freight		Passengers		Freight	
	Units	PKT	Tons	TKT	Units	PKT	Tons	TKT	Units	PKT	Tons	TKT
.....												
Commercial aviation												
Domestic				Scheduled								
				Non-scheduled								
To/from EU airport				Scheduled								
				Non-scheduled								
Other international destination				Scheduled								
				Non-scheduled								

Business/general aviation

PKT = passengers-km transported

TKT = tonne-km transported

3. Capacity data by airport		2003		2008		2009	
		ASK	No. of flights	ASK	No. of flights	ASK	No. of flights
Airport							
.....							
Commercial aviation							
Domestic	Scheduled						
	Non-scheduled						
To/from EU airport	Scheduled						
	Non-scheduled						
Other international destination	Scheduled						
	Non-scheduled						
Business/general aviation							
ASK = Available Seat-km							

## ***Chapter 15: Energy***

The objectives of EU energy policy are competitiveness, security of supply and sustainability. The energy *acquis* consists of rules and policies notably regarding competition and state aids including in the coal sector, conditions for equal access to resources for prospection, exploration and production in the hydrocarbon sector, the internal energy market (opening up of the electricity and gas markets), the promotion of renewable energy sources and energy efficiency, nuclear energy and nuclear safety and radiation protection. As regards international agreements, the chapter contains the Energy Charter Treaty and related instruments.

As regards **security of supply**, the *acquis* requires Member States to hold stocks of specified categories of oil products equivalent to 90 days of average annual consumption, and to report regularly to the Commission on hydrocarbon production, imports and prices. In gas, the Regulation on Security of Gas Supply, which enters into force in December 2010, calls for effective emergency plans, sets a common indicator to define supply disruption (N-1, i.e. the shutdown of major supply infrastructure or equivalent) and obliges states to collaborate in case of supply disruption.

The completion of the **internal energy market** is based on the EU rules on competition and state aids. Member States reached full market liberalisation in 2007 in electricity and gas adhering to the principles of transparency, non-discrimination, third party access, cross-border transit, security of supply and sustainability. Accounts for transmission and distribution activities are unbundled. Universal electricity services must be guaranteed and vulnerable customers be granted adequate protection. An independent regulatory authority must be designated as responsible for the efficient functioning of the markets. An independent transmission system operator (TSO) is equally crucial for the functioning of the internal electricity and gas markets. The implementation of new market rules on the internal energy markets, the Third Legislative Package is foreseen for mid-2011.

**State aids** to the coal industry can only be granted under specific conditions.

The promotion of **renewable energy** and **energy efficiency** includes requirements to transpose *acquis* on renewable energy, high efficiency cogeneration based on useful heat demand, the improvement of energy efficiency of buildings, energy services and various other initiatives. Where applicable, energy-using products must fulfil eco-design requirements and household appliances must carry energy labelling. An enforcement body is required in particular for labelling and minimum efficiency standards. To promote renewable energy and energy efficiency, Member States can participate in various actions under the Intelligent Energy Europe and other programmes.

As regards **nuclear energy**, the Euratom Supply Agency has exclusive rights to conclude contracts for the supply of nuclear materials, which must be notified (with exceptions). Undertakings also need to have relevant accountancy capacities. Member States must ensure a high level of **nuclear safety** and the protection of workers and the population from the risks arising from ionising radiation, by complying with the EU *acquis* on **radiation protection**. This covers authorisation and reporting of practices and operational protection of workers and population in normal circumstances, strict controls on radioactive sources, supervision of shipments and of radioactive waste, environmental monitoring, control of contamination of foodstuffs and an appropriate framework for emergency preparedness.

Parts of the *acquis* under this chapter are covered by the Energy Community Treaty which lays down specific obligations in these areas. When answering the questions below, please make reference to the state of implementation of such obligations.

## ***I. GENERAL***

1. Please provide the latest data information using a Eurostat compatible methodology<sup>16</sup> (please specify the methodology used) on energy supply, energy use, energy prices and energy balances (past, present and if available forecasts). Please use a structure concerning sectors and fuels similar to the one published in the Energy DG's Annual Energy Reviews or in the publication "Europe Energy and Transport - Trends to 2030". For this purpose, data should be provided by filling in the summary template attached (see Annex: Summary Questionnaire on the energy situation: Serbia - energy production).
2. Please provide a short description highlighting the current energy situation including the organisation of the sector and infrastructure developments. Do current energy prices reflect the costs (electricity, gas, heat, coal, oil)? Please give an overview of main energy prices and compare them with their costs. How has the privatisation process developed in the sector and what are the perspectives (please provide information per sub-sector)? Is the organisation of collection of (energy) data satisfactory in order to reply to reporting requirements of the EU in the energy (sub) sectors?
3. Please provide information on your energy strategy documents (energy policy, energy saving or policies in sub-sectors) and legislation on energy matters. If possible the strategy documents and legislation relating to government policy for the energy sector should be provided (in one of the official EU languages). A short summary of the reports and legislative acts would be appreciated. Both for reports and legislative acts, your country is invited to specify which report/act of legislation corresponds with which EU strategy or EU legal act (please provide this information for all questions related to energy). What is the general assessment on their (non-)compatibility with energy strategies and legislation of the EU?
4. Please provide information and, if possible, the texts of the agreements and conventions (in one of the official EU languages) that have been concluded with third countries or international organisations in the field of energy.
5. Please provide information on the fiscal measures (VAT, excise duties, CO2 energy tax, other taxes/levies) applied to energy products. Does the system favour indigenous energy sources? How will further tax harmonisation in the EU affect your energy balance?
6. Could you provide an organisation chart and information on staffing levels of the relevant energy authorities (ministry, agencies, regulator, etc.) and their key contacts? Could you provide an up-to date figures of the staffing level: what are the positions foreseen?
7. What are the likely investment needs in the various energy sub-sectors for the period until 2012? What type of financing is foreseen (public, private) and what are the sources of financing?
8. What are the investment plans in the medium and long term in the various energy sub-sectors? What type of financing is foreseen (public, private)?

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<sup>16</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:304:0001:0062:EN:PDF>



## **II. SECURITY OF SUPPLY**

9. What is the current level of oil stock reserves in your country, calculated according to EU methodology, and how are stocks currently calculated and controlled? Please provide a realistic timetable for reaching EU oil stock requirements (in case your country falls short of such requirements according to Directive 2009/119/EC of 14 September 2009 on the maintenance of stocks of crude oil and/or petroleum products). What are the expected difficulties for implementing this legislation (financial, legal, setting up of institutions, other)?
10. What are the existing or envisaged mechanisms in your country to face a disruption in oil supply and mitigate the effects of such disruption?
11. What is your current legal framework governing emergency oil stocks? In the event that your country has a dedicated oil stocks body, what are its tasks, staffing and budget?
12. What is your government's position on IEA membership and, if appropriate, by what date has such membership been requested or will it be requested?
13. Does your Government have the intention to coordinate closely its positions in the IEA with those of the EU/European Commission? What would be your preferred mechanism for such coordination?
14. In terms of gas supplies, have you: 1) foreseen the roles and responsibilities of various market participants in order to ensure security of supply; 2) prepared any emergency measures; 3) foreseen any monitoring and reporting mechanisms in order to mitigate future gas supply disruptions?
15. How does Serbia foresee to implement the Regulation on Security of Gas Supply (Regulation 994/2009)<sup>17</sup>

## **III. INTERNAL ENERGY MARKET**

16. Could compliance with the relevant *acquis* concerning the establishment of an internal energy market (below), lead to any problems in your country? If so, which are particularly difficult and for what reasons? (Please provide separate answers)
17. Please explain the rules on prospection, exploration and production of hydrocarbons as per Directive 94/22/EC.
18. Please explain the rules on price transparency as per Directive 2008/92/EC, Council Decision 99/280/EC, Commission Decision 99/566/EC of 26 July 1999 implementing Decision 99/280/EC.
19. Please explain the rules on opening up of the internal electricity and gas markets as per Directives 2009/72 and 2009/73, together with Regulation 714/2009 on conditions for

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<sup>17</sup> REGULATION (EU) No 994/2010 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 October 2010 concerning measures to safeguard security of gas supply and repealing Council Directive 2004/67/EC

access to networks for cross-border exchanges in electricity, Regulation 715/2009 on conditions for access to the natural gas transmission networks and Directive 2005/89 concerning measures to safeguard security of electricity supply and infrastructure investment.

20. What measures is Serbia taking to ensure compliance with Regulation (EC) 1228/2003, on conditions for access to the network for cross-border exchanges in electricity, including its application in the context of the Energy Community Treaty, and in particular in light of the dispute settlement procedure initiated against Serbia for non-compliance with this Regulation?
21. What is your policy, what are your plans on electricity, gas or oil exchanges and network interconnections with neighbouring countries and/or regions? What projects are being carried out as regards electricity and gas interconnectors? Who provides the funding and what agreements exist with respect to access to those networks?
22. What steps have you taken to implement the commitments taken in the framework of the Energy Community Treaty, in particular concerning the establishment of an integrated regional energy market?
23. Could you briefly describe the legal, procedural, technical and environmental frameworks for authorisation of networks? What is the average timescale to complete procedures governing authorisation for the construction of power and gas installations/networks etc.? Do you have plans to improve the timescale and address the difficulties; if so, when and how?
24. What is the legislative/regulatory framework for competition in the energy sector? Which are the specific issues that require an adaptation of the existing legislation? In which energy sub-sectors are there State aids (please specify) and in which are there trade barriers and what are these barriers? Which monopolies (e.g. refinery, import/export monopoly, exclusive or special production, transportation or distribution rights) exist currently in the energy sector in your country and what are your plans on them? What is the legislative situation regarding Independent Power Producers?
25. What is the structure of electricity and gas markets (ownership, concentration, separation of activities)? What are the main sources of energy? What is the structure of tariffs for transmission/distribution? Who approves tariffs or tariff methodology? Are there cross-subsidies? Are all consumers connected to the distribution network? What is the rate of collection of bills? Is there a regulator in place? What are its competencies, staff and budget? Is there room to extend the staff given the substantial increase of regulatory competencies foreseen by the Third package? Is there a Transmission System Operator for electricity in place? Is it integrated vertically and what are its competencies?
26. What measures are present to ensure a stable investment climate in the electricity sector? What measures have been foreseen for transmission and generation to ensure continuity of electricity supply? Are these measures non discriminatory? Do you monitor and forecast investment intentions in transmission and generation and if yes, on what time-scale?

#### **IV. STATE AID**

27. Does your country produce indigenous coal covered by the state aid framework?
28. In the event that your country produces coal covered by the state aid framework, could you please indicate:
- a) What is your government's position as regards Council Regulation 1407/2002? Could you provide an overview of your current or future modernisation, rationalisation and restructuring plans for coal undertakings (cf. Articles 4 and 5 of the Regulation)? Does your government have or envisage having a support scheme for capacity reduction? What are the contents of this scheme and what are the social/regional justifications?
  - b) What are the features of State aid in the sector? Are all elements of State aid currently part of the State budget? Is it planned to include all State aid in the State budget?
  - c) Concerning hard coal, what is your government's position on achieving a "coal-free trade area" in accordance with EU competition rules, particularly those related to "vertical agreements" (e.g. agreements with coal producers and electricity producers)?
29. With regard to Council Regulation no. 405/2003 of 27 February 2003 establishing a EU system for monitoring imports of hard coal originating in third countries, is your country in a position to provide the information required by this Regulation?
30. All solid fuels:
- a) Please provide information on the current and recent levels of production of hard coal and ortho-lignite.
  - b) Please provide information on any current State aid schemes for indigenous ortho-lignite production as well as on plans for their progressive reduction.
  - c) Where solid fuel industries are subsidised and with a view to restructuring, what are the current and future social plans, including those for adaptation of the labour force, and what are the regional conversion plans (e.g. attraction of new business)?

#### **V. RENEWABLE ENERGY**

31. Please provide information on current and planned measures promoting renewable energies in electricity, heating & cooling and the transport sector (nature of measures, budget available, etc.). Please refer to the support schemes already in place or planned, subsidies, incentives, various tax exemptions etc. Please indicate accordingly which support measures are already in place and which are planned. For the planned measures, please provide a calendar for their implementation.
- a) Is there framework legislation in place (Renewable Energy Law)? If not, what is the calendar for its adoption? Does secondary legislation already exist? If not, what is the calendar for its adoption? Which piece of legislation corresponds with which *acquis* and what is the state of compatibility?
  - b) Has a governmental National Plan or Strategy been adopted to promote renewable energy sources? What renewable energy sources is Serbia foreseeing to use for the production of energy (incl. electricity, heating and cooling)? If no national plan or

strategy has been adopted, are there plans to adopt one? If yes, what is the calendar envisaged for its adoption?

c) Have studies to assess the impact of the European *acquis* in the field of renewable energy been undertaken? If not, will there be such studies undertaken?

d) What difficulties do you foresee in the gradual adoption of these EU rules? What timetables for application are there foreseen?

e) In relation to Directive 2009/28/EC on the promotion of the use of energy from renewable sources, what is the current situation (i.e. the shares of renewable energy in energy consumption, shares of various types of sources of renewable energy – e.g. hydro, wind, biomass, geothermal, solar, biofuels, etc) and what are your ambitions for the contribution of renewable energy sources in energy consumption by the year 2020 (or possible intermediate years)? (Please use the methodology of Directive 2009/28/EC for calculating these shares. Please provide a detailed overview of the current situation)

f) Is there any legislation in place on giving priority or guaranteed access to the electricity grid to electricity from renewable source? If not, is there a calendar for its adoption?

g) Has any evaluation of the existing administrative procedures for the authorisation of renewable energy projects been done yet (with the view to streamline and expedite them)? If not, are there plans to do one? If yes, please provide details on its main conclusions. Is there any legislation on streamlining and expediting these administrative procedures? If yes, please provide details on its main provisions.

h) Please provide information (i.e. installed capacity, source of renewable energy, timetable for the commissioning) on ongoing or planned projects using renewable energy sources.

32. What is the current status of your country in standardisation bodies active in the energy sector, such as CEN/CENELEC?

33. Concerning the oil sector, do standard forms such as EN-228 (unleaded petrol-automotive fuel), EN-589 (LPG automotive fuel), EN-590 (diesel automotive fuel) exist?

34. Do any regulations on emissions from road and non-road vehicles exist?

35. Could information be given on compliance with EU standards in other energy sub-sectors?

36. Please provide information on energy technology and other programmes aiming at promoting energy efficiency and renewables. Could details of these programmes be provided, including the level of public subsidies?

## **VI. ENERGY EFFICIENCY**

37. Do you have or intend to elaborate a National Energy Efficiency Action Plan? Please provide information on its time framework, sectors addressed and expected/achieved savings. If you have a national energy efficiency/savings targets, please provide information on how it is defined and measured.

38. Please provide information on the main current and planned legislative and non-legislative measures promoting energy efficiency (nature of measures; budget available, etc.). Is there a law on energy efficiency?
39. Which institutions are, or will be, in charge of the implementation and monitoring of energy efficiency measures and programmes?
40. Have you established any system for encouraging energy savings and improving energy efficiency (such as white certificates schemes or voluntary agreements with energy industry or other actors)?
41. Are there any measures to promote energy efficiency in the public sector and exploit its exemplary role (e.g. energy efficiency public procurement)?
42. Are there any support schemes (financial, fiscal or other) for:
  - a) the improvement of energy efficiency in buildings;
  - b) the improvement of energy efficiency in industry and households;
  - c) the improvement of energy efficiency in transport.
43. Is there any policy to promote the development of energy efficiency services companies (ESCOs) or the uptake of energy performance contracts by energy consumers?
44. Do you have legislation in place that requires or ensures that final customers of electricity, natural gas, district heating and/or cooling and domestic hot water in your country are to be provided with individual meters that reflect actual energy consumption?
45. Do you have legislation in place that requires or ensures that billing is to be performed by energy distributors, distribution system operators and retail energy sales companies, based on actual energy consumption?
46. Is national legislation aligned with the Ecodesign and Energy Labelling Directives, their implementing measures and the Energy Star Regulation? Is there a mandatory energy labelling scheme and are there minimum energy efficiency requirements for household appliances? If not what are the plans for their introduction and when? What structures do you envisage for the enforcement of these measures? Is the national legislation aligned with regulation 1222/2009/EC on the labelling of tyres with respect to fuel efficiency and other essential parameters, and if not what are the plans for alignment?
47. Is energy efficiency considered in building codes?
48. Are there any minimum energy performance requirements for certain types of buildings (new and existing, residential and non residential)? Do you have any energy performance label for buildings?
49. Do you have any policy or programme to promote the development of very low energy buildings? Do you have provisions for minimum shares of renewable energy sources in energy supply to buildings?

50. Are there efficiency and/or monitoring requirements for heating, ventilation and/or air-conditioning (HVAC) and lightning?
51. Are data collected with regard to the nature and the energy performance of the building stock?
52. Does your legislation contain any requirements regarding energy audit schemes for final energy consumers (eg. business, industry)?
53. Is there policy framework and support schemes (financial, fiscal or other) with regard to highly efficient cogeneration? Have you considered any measures to enhance the role of district heating to promote energy efficiency in urban areas? Do you have any plans to promote the use of high efficient cogeneration and renewable energy in district heating and cogeneration?

## **VII. NUCLEAR ENERGY**

54. Please submit any nuclear policy papers/statements/declarations made by your government regarding the peaceful utilisation of nuclear energy in your country. Please submit your government's plans for the present and the future regarding nuclear energy, including the financing aspect.
55. Could you please also submit a list of Agreements concluded with EU Member States in the field of cooperation in peaceful uses of nuclear energy? Please provide the texts of your international agreements on cooperation in the field of nuclear energy and radiation protection with third countries or international organisations (in one of the official EU languages).
56. Is your country a member of the International Atomic Energy Agency (IAEA) and/or the Nuclear Energy Agency of the OECD and if not, does it intend to become member?
57. What are your country's nuclear research activities (existing/planned)? In case your country has research reactors, of which types are they and which nuclear fuel do they use? (*See also question 15 under chapter 25*)
58. Please provide the list of international conventions in the field of nuclear energy and radiation protection to which your country is a contracting party as well as the corresponding national legislation aiming to implement and enforce these conventions in the national legal order.
59. What is the position of your country regarding third party nuclear liability (the Vienna Convention and the Paris Protocol)? Please give a progress report regarding the ratification process.
60. Please provide information for all major nuclear sites and installations in your country on their activities, processes, throughputs and inventories of Uranium, Plutonium and Thorium.
61. Please provide information on any future plans or projects for installations storing, handling, processing or final disposing Uranium, Plutonium and Thorium.

## **VIII. OTHER NUCLEAR ISSUES (INCLUDING RADIATION PROTECTION)**

### ***Nuclear safety, radioactive waste management and decommissioning***

62. Please provide information on the structure of the National Regulatory Authority (NRA) (if any) especially in the fields of nuclear safety and radioactive waste management, including radiation protection and radiological emergency preparedness. Please provide the following information in detail:
- a. the legal framework of the NRA;
  - b. the competencies/powers of the NRA concerning nuclear safety, security and radiation protection, the licensing of operating and/or new nuclear facilities, including fuel and waste treatment facilities, and the implementation of nuclear safeguards;
  - c. the structure and responsibilities of the various departments of the NRA;
  - d. the degree of autonomy and independence of the NRA, method of appointment and reporting relationship of the officers of the NRA.
63. What is the existing and planned capacity for storing spent fuel and radioactive waste?
64. Do you have a national waste management programme covering all types of radioactive waste and all management stages including final disposal? Please provide details incl. the related documents).
65. Please provide information on the national legal and regulatory framework for nuclear safety. Does your country use/apply the IAEA/NUSS codes and standards?
66. Please explain your country's national decommissioning strategy and the corresponding legal framework.
67. What legal and financial provisions are put in place to ensure that adequate financial resources are available in time and managed transparently for decommissioning and the management of radioactive waste and spent nuclear fuel?
68. Please provide an overview of the current status and schedule of the dismantling of the Vinca nuclear institution and the repatriation of used fuel to Russia.

### ***Nuclear material supply, safeguards and physical protection***

69. Please provide the texts of the international agreements and conventions that have been concluded with third countries or international organisations in the field of nuclear material supply, accountancy and safeguards.
70. Please provide the texts of national legislation and policy in the field of nuclear material supply, accountancy and safeguards.
71. Does your country adhere to the Nuclear Suppliers Group (NSG) Guidelines? Does it have national legislation to enforce the guidelines of the NSG and the capability to maintain the necessary controls?

72. Who in your country can buy, own and sell nuclear material?
  73. Who in your country can physically hold nuclear material?
  74. With regard to the fuel used in your reactors, which country/countries is/are the source of enrichment services?
  75. Please describe what is your country's policy regarding import, export and trade of nuclear equipment, nuclear materials, new and irradiated nuclear fuel. Please give details of any national authorities responsible for controlling and/or monitoring such trade.
  76. Given that your country is party to the Treaty for the Non-Proliferation of Nuclear Weapons, does it have a full-scope safeguards agreement in force with the International Atomic Energy Agency (IAEA)? If so, please provide a copy. If not, will there be such an agreement in force in the near future?
  77. Has your country signed a Protocol Additional to the Safeguards Agreement on the basis of the document published as INFCIRC/540 and, if yes, since when is this Protocol in force?
  78. Has your country made a voluntary offer to the IAEA concerning extended reporting on movements of nuclear materials and equipment, pursuant to IAEA document GOV/2929 of 22.01.1993? If so, please provide a copy.
  79. Does your country envisage any regulatory problems in adapting its legislation to ensure that it conforms to the provisions of chapter VII of Euratom as regards the implementation of Euratom safeguards in all nuclear installations on its territory?
  80. Please provide information on components and equipment related to the nuclear fuel cycle present in your country that are subject to any agreement or convention concluded with third countries or international organisations.
  81. Does your country participate in any fusion research programme that involves the use of Tritium and who are the suppliers of this Tritium?
  82. Does your country envisage any problems in suspending the existing Safeguards Agreement between your country and the IAEA and adhering to the Agreement INFCIRC/193 between the EU, the IAEA and the non-nuclear weapon Member States of the European Union? Please answer the same question concerning the Protocol Additional to the Safeguards Agreement between your country and the IAEA.
  83. Did your country adhere to the Convention on Physical Protection of Nuclear Material (CPPNM) and its recent amendment, the Convention on Physical Protection of Nuclear Material and Nuclear Facilities (CPPNMNF)?
  84. Does your country belong to the IAEA Illicit Trafficking Database?
- Radiation Protection***
85. What is the status of compliance with the Euratom Treaty and Euratom *acquis* provisions concerning radiation protection? In particular:



- a) Is there an online network of dose rate measuring stations and off-line sampling programme to monitor environmental radioactivity (Air, water, soil and foodstuffs)? Are there plans to start providing automatic dose rate data to the EURDEP system soon?
- b) Regarding environmental assessment and review of the licensing of new sites and nuclear installations, please state if your country's present legislation provides for environmental assessment requirements and public participation/review during the licensing process.
86. What is the status of the legislation in the area of radiation protection in your country? Please provide a copy of existing legislation together with relevant regulations or government decrees in the following areas:
- a) Health protection of the population;
  - b) Health protection of workers;
  - c) Medical applications of ionising radiation;
  - d) Emergency preparedness, in particular interventions during a radiological emergency, international early exchange of information and information to the general public;
  - e) Contamination of foodstuffs and feedingstuffs;
  - f) Shipments of radioactive waste and spent fuel;
  - g) Control of high activity sealed sources and orphan sources. Do the arrangements comply with the IAEA Code of Conduct on the safety and security of radioactive sources?
  - h) Shipments of radioactive substances;
  - i) Protection against exposure to radon in dwellings and drinking water.
87. What is the timetable for compliance with Euratom Treaty and derived legislation provisions on radiation protection? Please provide any draft amendments or draft new legislation under consideration for the future.
88. Does your country follow the 1994 International Basic Safety Standards (BSS) edited by the IAEA?

ANNEX

Summary Questionnaire on the energy situation: Serbia – energy production<sup>18</sup>

Primary Production	Data			Forecasts			
	2000	2005	2009 <sup>19</sup>	2011	2012	2020	2030
Solid fossil fuels							
Oil							
Natural gas							
Nuclear							
Hydro and wind							
Geothermal							
Other renewable energy sources							
Total							

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<sup>18</sup> Changes in time series should be indicated and explained if occurring.

<sup>19</sup> Latest year available.

## **Chapter 16: Taxation**

The **indirect taxation** *acquis* consists primarily of harmonised legislation in the field of Value Added Tax (VAT) and excise duties. *Value Added Tax* was first introduced in the Community in 1967, eventually leading to the Sixth VAT Directive from 1977 and still in place today. It includes the application of a non-cumulative general tax on consumption. This is levied on all stages of production and distribution of goods and services. The VAT *acquis* provides for an equal tax treatment of domestic and non-domestic (import) transactions. VAT is also based on the neutrality principle whereby the tax applied is proportional to the price, whatever the number of intermediate transactions.

In the field of *excise duties* the *acquis* contains harmonised legislation as regards energy products, tobacco products and alcoholic beverages. EU legislation establishes the structure of the duty that should be charged, together with a system of minimum rates for each product group. Goods are subject to duty when they are produced within the EU or imported from a third country. However, in principle, the duty is payable only to the Member State in which the goods are released into consumption (with certain limited exceptions), and at the applicable rates in that Member State. The EU legislation lays down provisions on production, holding, movement and monitoring of excisable. As a result of the introduction of the single market, all systematic fiscal controls at the EU's internal frontiers were abolished by 1 January 1993. As regards excise products, their holding and movement for commercial purposes within the Internal Market continued to be closely monitored to establish the chargeability of the duty.

The *acquis* in the area of **direct taxation** concerns certain aspects of profit taxes and capital duty. The focus is on eliminating distortions for cross-border economic activities between enterprises within the Union. It also includes provisions to ensure effective taxation of income from savings in the form of interest payments made to individuals. The *Code of Conduct* for business taxation represents a political commitment by Member States to tackle harmful tax measures. Member States are required not to introduce new harmful tax measures, and to roll-back existing ones.

The EU legislation in the field of **administrative cooperation and mutual assistance** between Member States' tax and customs authorities provides tools to share information in order to circumvent tax evasion and tax avoidance. It allows gathering information about tax subjects, both automatically and on request. It also allows Member States to provide recovery assistance to each other.

The *acquis* in area of **operational capacity and computerisation** covers different areas of taxation. In the field of VAT, the *acquis* on the Value Added Tax Information Exchange System (VIES) provides for direct electronic interchange of data between national VAT administrations within the timeframe established in the relevant EU legislation. This allows national administrations to monitor and control intra-EU trade and detect possible irregularities. In addition, a specific IT system (VAT Refund) has become operational on January 1<sup>st</sup> 2010 to ensure the electronic treatment of applications for the refund of VAT paid in other Member States than the Member State of Establishment of the Economic Operators. A third major IT-system (VoeS) is required to establish the inter-connection for exchange of information among Member States related to the special scheme for e-Services provided by non-EU traders to EU citizens. Regarding excise duties, the EU *acquis* requires IT systems to allow Member States exchanging information on producers and traders of excisable products (EMCS). In the area of direct taxation Member States are required to put in place an

automatic system for the exchange of information of savings income in the form of interest payments through an electronic standardised format.

## ***I. INDIRECT TAXATION***

### ***A. General***

1. Please specify the elements of your VAT and excise legislation which might provide for:
  - a) a higher level of taxation on imported products than that imposed on similar domestic products (Article 110 TFUE);
  - b) repayment of tax on exported products which exceeds the internal tax imposed on them (Article 111 TFUE).

### ***B. Value Added Tax***

2. Please provide a copy of your country's VAT legislation (in one of the official EU languages), including other related legislation, such as administration guidelines, etc.
3. Please give a detailed description of your current VAT regime particularly in the following areas:
  - a) taxable persons (i.e. conditions for being subject to tax, ceilings, etc.); liable persons (i.e. who is paying the tax);
    - i) the response should include the VAT treatment of government bodies and public institutions; non-resident taxable persons, small and medium sized entrepreneurs, liberal professions, non-profit organisations, affiliated enterprises, groups, etc;
    - ii) how many VAT taxable persons are there in your country?
  - b) scope of taxable transactions (supply of goods, including immovable property, and services, incl. self-supply, private use);
  - c) territorial scope;
  - d) importation (taxation, suspension regimes, exemptions, etc.). How are goods that have been placed under a suspension regime treated in respect of VAT?
  - d) exportation (exemptions);
  - f) exemptions without credit for input VAT;
  - g) place of supply (goods and services);
  - h) chargeable event and chargeability of tax;
  - i) VAT rates, including the application of zero rates (levels and scope). Are reduced VAT rates set at levels, which would in the normal course of events permit complete deduction of input tax? Are supplies of services liable to a special VAT rate?

j) scope and procedures (credit/refund of VAT) in respect of the right of deduction. How long on average does it take to refund VAT to traders e.g. in the case of exports? Do you have any limitations to the right of deduction, and if so, which ones?

k) right to deduct input VAT by a taxable person;

l) special regimes (small and medium sized enterprises, second-hand goods, works of art, collectors items and antiques, flat-rate scheme for farmers, travel agents, simplification procedures, investment gold, others);

m) rules governing administration and records, including registration, records, invoices;

n) assessment and appeals (VAT returns, assessment and collection, procedure for claiming the credit and refund, penalties, appeal procedure, international mutual assistance and recovery of VAT claims);

o) transitional and temporary measures of the current VAT system;

p) taxable persons not established within your country (obligations, right to refund of VAT, etc.);

q) control procedures:

i) Is VAT control incorporated with the control of other taxes or is it separate?

ii) How many tax officials are involved in VAT control, excluding Customs?

iii) What is your experience in the exchange of information for tax purposes?

4. Please provide information regarding rules governing travellers' allowances on import and export. Is a general tax rate envisaged? How would it be collected?
5. Does your country operate free zones? If yes, please provide the text of the relevant act. Which regime is applied in the free zones for VAT and excise purposes? Are the free zones excluded from the territorial application of VAT and/or excise duties?
6. What are your targets for future developments of your VAT legislation (short/long term)? Please specify these in terms of timetables and anticipated problem areas.
7. Which VAT regime applies to goods transferred from Serbia to Kosovo and vice versa?

### ***C. Excise duties***

8. Please provide a copy of your country's excise duty legislation (in one of the official EU languages), including other related legislation, such as administration guidelines, etc.
9. Please give a detailed description of your current excise legislation, particularly in the following areas:
  - a) Taxable scope (product categories liable to excise duty). The following are of particular interest:
    - i) alcohol and alcoholic beverages;

- ii) cigarettes and other manufactured tobacco;
  - iii) mineral oils (petrol, diesel heating oil, etc.) and other energy products (electricity, natural gas, coal, biofuels);
  - iv) motor vehicles (excise duties, registration taxes, circulation taxes);
  - v) other product categories constituting a major part of excise income.
- b) Establishment of the duties, i.e. how are they calculated (e.g. by volume, weight, *ad valorem*, etc.)?
- c) Exemptions from duty.
- d) What is the level of duty applied for each product concerned? Is the rate level the same for similar imported products? If not, explain why.
- e) Chargeable event and chargeability of the duty.
- f) Importation/exportation, including travel allowances. Which excise regime applies to goods transferred from Serbia to Kosovo and vice versa?
- g) Registered/non-registered traders.
- h) Do you have a tax warehousing system for some/all product categories subject to excise? If not, what system do you apply:
- i) to domestic products?
  - ii) to imports?
  - iii) how far down the distribution chain does each warehousing system generally reach? Do general warehouses exist to which any importer may consign his products? How is duty financially secured? What physical security is required? How are movements between warehouses and between the frontier and warehouses handled?
- i) Do you operate other suspension schemes, i.e. tax arrangements applied to the production, processing, holding and movement of products where excise duties are being suspended? Is there a special tax regime with any non-EU countries requiring no excise duty payment or tax stamping?
- j) Do you apply special regimes for certain producers, such as farmers, small producers, fishermen, etc.?
- k) What are the provisions for tax free shops (airports, at land borders, etc...)? What are the traveller's allowances for third countries?
- l) Rules governing administration and records, including registration, invoices.
- m) Assessment and appeals (assessment and collection, procedure for claiming the credit and refund, penalties, appeal procedure, international mutual assistance and recovery of excise claims).

- n) Control procedures (in particular, what use is made of tax stamps and other fiscal markings, including fiscal markings for mineral oils).
  - o) What specific measures are taken to tackle illicit trade in excisable goods from third countries (e.g. cigarettes)
  - p) Transitional and temporary measures.
10. What are your targets for future developments in your excise legislation (short/long term)? Please specify these in terms of timetables and anticipated problem areas; in particular in terms of aligning to the EU *acquis*.

## **II. DIRECT TAXATION**

11. Does your legislation allow, for domestic operations of mergers, divisions, transfers of assets and exchange of shares, a deferral of the taxation of capital gains until their actual realisation (i.e. until disposal of the assets to which they relate)?
12. What are the essential features of your regime for the taxation of the disposal of fixed (long-term) assets of corporations?
- What kind of exceptions/exemptions do you apply to the taxation of capital gains of corporations?
  - Do the same rules apply within a trade or business of an individual? If not, what are the rules for individuals?
  - What are the applicable rules for individuals in the framework of their portfolio management?
13. Do you apply a special tax regime for business reorganisations?
- What are the reorganisations covered?
  - How does this special tax regime work?
  - Does this tax regime apply in cross-border situation? If yes, which?
14. Please provide information on the taxation of raising of capital by companies.
15. Does your legislation contain a definition of tax residence for individuals and companies? Please explain.
16. Please explain the taxation of Serbian source income of non-residents stressing any differences with the taxation of residents:
- a) Taxable base
  - b) Deduction of expenses
  - c) Exemptions
  - d) Tax rate

e) Tax incentives

f) Specific regime for permanent establishments, if any.

17. Does your legislation allow for levying withholding taxes on payments (dividend, interest, royalties or rent etc.) to other legal entities (natural persons or corporations) residing in and/or outside your country?
- a) What are the main features of the taxation regime on income from capital (personal and corporate)?
- b) Are there withholding taxes on income from capital (interest on bank deposits, debt instruments)? Please indicate tax base, tax rates, exemptions, fiscal treatment of residents (on domestic and foreign income) and non-residents, automatic reporting etc.
- c) Are turnover taxes or stamp duties applied to securities, credit contracts, insurance contracts, etc.?
- d) What treatment applies to dividends distributed by foreign companies to companies that are resident in Serbia? What mechanisms apply to avoid double taxation on dividends?
18. How is foreign income, received by resident taxpayers, treated in your country? What kind of system do you apply to prevent double taxation?
19. Which is your general policy on transfer pricing? Does your legislation contain any specific rules in transfer pricing? Please explain.
20. Does your legislation contain any specific rules in thin capitalisation and Controlled Foreign Corporations? Please explain.
21. Please provide a copy (in English) of your country's legislation on the taxation of income, profits and/or capital gains, including other related legislation, such as regulations concerning investment incentives or administrative guidelines, etc. Please describe the procedures for payment of personal income tax and calculation methods used. How is control carried out?
22. Do you apply any preferential tax schemes? If so, please provide a detailed description of these schemes (the main purpose of the scheme, the minimum requirements, the tax benefits, if it is time-limited, the kind of beneficiaries, etc.).

### ***III. ADMINISTRATIVE COOPERATION AND MUTUAL ASSISTANCE***

23. Please indicate how you cooperate with other countries in the field of administrative assistance in tax matters.
24. What is your policy to promote good governance in tax matters notably the international standard on exchange of information for tax purposes, on transparency of tax system and on fair tax competition?



25. With which countries do you currently have Double Tax agreements or Exchange of Information agreements for taxation of capital and income? What kinds of income and capital sources are covered by such agreements? Are there any restrictions on the availability or use of such information? Please provide a version of an article on exchange of information for tax purposes you are currently negotiating with your contracting partners in relation to Double Tax agreements or Exchange of Information agreements.
26. Do you have agreements with other countries for the recovery of taxation, and/or the serving of official notices from other states?

#### ***IV. OPERATIONAL CAPACITY AND COMPUTERISATION***

##### ***A. Tax Policy***

27. Describe the current and envisaged tax policy of your Government (notably, introduction of new taxes and/or abolition of existing ones).

##### ***B. General Tax Administration***

28. Please provide information on the organisational structure of your administration responsible for taxation, including excise duties.
29. Describe the laws governing the tax administration and taxpayers' rights and obligations.
30. Please provide a copy of your legislation on Tax Administration.
31. Please give a detailed description of the infrastructure of your VAT, excise and direct tax administration, including staff levels and IT systems.
32. Please describe the current state of computerisation of your country's administrative IT systems.
33. What are your plans regarding preparations towards full interconnectivity of your IT systems with the European Union IT taxation systems (VIES, VAT Refund, EMCS, etc...)?
34. Please provide statistics on the number of taxpayers for direct and indirect taxation, and the number of excise warehouse keepers.
35. Please provide statistics on the number of taxpayers importing and exporting goods and services.
36. Please provide statistics for 2007/2009 on measures against tax evasion. In particular, how much additional tax was claimed by the Tax Office, what proportion of the additional tax was collected, how many tax crimes were investigated by the Police, how many of these were prosecuted, and to how many convictions did they lead? What sentences were imposed?
37. Please provide information on corruption in the Tax Office. How are such cases dealt with? Have any cases reached the courts?

38. Please describe the cooperation with the Customs Authorities.
39. Please provide a copy of tax returns for direct and indirect taxation (VAT).
40. Please provide a copy of the application form for being registered as a (VAT) taxable person; what is the threshold for registration?

**C. Revenue**

41. Please provide a detailed description and relevant statistics of the overall revenue structure (taxes and social contributions) and of its main components (according to OECD revenue classification.)
42. How much, as a percentage of total State revenue, is generated by VAT, excise duties, taxes on income, profits and capital gains respectively?
43. Which proportion of your tax due did you receive in 2008:

	% collected by the date	% collected after the date	% not collected at all
VAT			
Excise duties			
Corporate income tax			
Personal income tax			

44. What is your estimation of your grey economy and how do you calculate it?
45. Please explain how your tax control is organised and resourced and how it functions. Furthermore, which is your control strategy for VAT, direct taxation and excise duties? In this context, please highlight which is the authority (or authorities) that are setting the overall control strategy and which are the main features of this strategy.

## ***Chapter 17: Economic and monetary policy***

The *acquis* in the area of economic and monetary policy contains specific rules requiring the independence of central banks in Member States, prohibiting direct financing of the public sector by the central banks and prohibiting privileged access of the public sector to financial institutions. Member States are expected to co-ordinate their economic policies and are subject to the Stability and Growth Pact on fiscal surveillance. New Member States are also committed to complying with the criteria laid down in the Treaty on the Functioning of the European Union (the Treaty) in order to be able to adopt the Euro in due course after accession. Until then, they will participate in the Economic and Monetary Union as a Member State with a derogation from the use of the Euro and shall treat their exchange rates as a matter of common concern.

The *acquis* in the area of economic and monetary policy is mainly governed by Title VIII (Articles 119 to 144) of the TFEU, and by relevant implementing legislation. Treaty provisions of Chapter 4 (specific to Member States whose currency is the euro) and those defined in Article 139 of the Treaty do not apply to Member States with a derogation.

The *acquis* consists mainly of Treaty provisions and protocols (primary legislation) and the provisions of instruments enacted by the EU institutions by virtue of them (secondary legislation e.g. regulations, decisions). Nonetheless, as indicated in Article 131 of the Treaty, each Member State shall ensure that its national legislation including the statutes of its central bank is compatible with the Treaties and the Statute of the European System of Central Banks (ESCB) and of the European Central Bank (ECB).

### ***I. MONETARY POLICY***

#### ***A. Country alignment***

1. Please provide a copy of the constitution and central bank law (including the central bank's statute) and other important monetary and financial laws (in one of the official EU languages).
2. What are in your view the necessary reforms in national legislation (central bank law, laws on banking sector, insurance companies, pension funds, social security funds, compensation funds, interest rates, exchange rate law etc) with a view to EU membership requirements? Which reforms are already underway?

#### ***B. Implementation capacity***

##### ***Central bank institutional, personal and financial independence:***

3. What is the degree of functional independence of the central bank from public authorities (President, Government, especially Ministry of Finance, Parliament etc)? What is the specific role of those actors in the functioning of the central bank? Describe the present situation both in legal terms (information based on the central bank law) and in practice.
4. Does the central bank act provide for the following prohibitions for third parties?
  - to give instructions;
  - to approve, suspend, annul or defer decisions;

- to censor decisions on legal grounds;
  - to participate in decision-making bodies of the central bank with a voting right;
  - to require *ex ante* consultation on the central bank's decisions?
5. Does the central bank have any *ex ante* reporting obligations towards other authorities regarding its monetary policies?
  6. How is the management of the central bank organised (composition and responsibilities of the governing bodies, in particular the managing board)?
  7. Which provisions from the law ensure democratic accountability and transparency of the central bank?
  8. What are the appointment and removal conditions and procedures for the central bank governor and the other members of the decision-making bodies of the central bank?
  9. Does the central bank's law comply with the following requirements?
    - minimum term of office of the Governor should be at least 5 years (indicate the current term of office);
    - grounds for dismissal of the Governor may not be different from the following: if the Governor no longer fulfils the conditions required for the performance of his/her duties or if he/she is guilty of serious misconduct;
    - security of tenure of other members of decision-making bodies of the central bank (how long is the term of their office?) and grounds for their dismissal should be similar to those here above mentioned;
    - membership of a decision-making body involved in the performance of the central bank's tasks is incompatible with the exercise of other functions that might create a conflict of interest (are members authorised to hold part-time jobs?);
    - right of judicial review of any dismissal decision by independent national courts?
  10. Is the central bank in a position to avail itself of the appropriate means to ensure that its tasks can be properly fulfilled? Does a consultation on and/or right exist for a third party to amend, approve or control by any means the central bank's draft budget and annual accounts? If yes, where is it regulated?
  11. What are the provisions governing the distribution of the central bank's profits?
  12. Does the *ex post* review of the central bank's accounts reflect adequate safeguards to prevent it from infringing on the bank's independence?

***C. Prohibition of monetary financing and privileged access:***

13. Please provide a copy of laws and regulations (in English) governing the access of government to financial institutions (e.g. laws and other regulations governing the asset allocation of banks, savings and co-operative banks, insurance companies, social, pension

and special funds, other institutional investors, investors compensation schemes, tax laws, etc).

14. What are the principles regulating the emergency liquidity assistance? To whom the central bank can provide the emergency liquidity assistance? Where is it regulated in the law?
15. Can the central bank provide solvency assistance to the financial institutions?
16. Please indicate the respective provisions in these documents, as well as any other elements, which might constitute privileged access of the government to financial institutions.
17. In particular, the following questions have to be addressed:
  - Are there national legal provisions requiring or encouraging (through tax or other advantages) banks, insurance companies, pension funds, social security funds, investor compensation fund or other financial institutions to invest (e.g. a certain portion of their assets) in domestic government securities or other government liabilities?
  - To what extent has the central bank contributed to the financing of the public sector? Describe the present situation both in legal terms and in practice. Describe the rules governing central bank credit to the government (limits, repayment, maturity, etc.), if such rules exist.
  - Is the central bank authorised to buy Serbian public debt instruments directly on the primary market? Can it buy public debt instruments from EU Member States?
18. Is there an emergency liquidity mechanism/overdraft facility or any other type of credit facility provided by the central bank to the central governments, regional, local or other public authorities, or any other public bodies governed by public law or public undertakings? If yes, on which conditions and where is it regulated?

#### ***D. Monetary and exchange rate policy***

19. What are the main objectives of the central bank? Who formulates the monetary policy?
20. Is the maintenance of price stability the primary objective of the central bank? Without prejudice to that objective, does the central bank support the general economic policy objectives of the government?
21. Is the central bank act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources, and acting in compliance with the principles set out in Article 119 of the Treaty?
22. Which is the official currency unit used for conducting the monetary policy? Where is it referred to in the law?
23. Do the basic tasks of the central bank include the following: definition and implementation of monetary policy, conduct of foreign exchange policy, holding and management of the official foreign reserves of the country, and promotion of the smooth operation of payment systems?

24. How is monetary policy carried out (what are the specific reserve requirements, refinancing facilities, open market operations, major central bank interest rates, other monetary instruments)? What have been the main recent developments in the use of monetary instruments? To what extent have direct instruments of monetary control (such as credit ceilings, interest rate controls etc) been replaced by indirect, market-based instruments (such as open market operations, financing facilities etc)? Is the framework for monetary policy sufficient to allow policy makers to conduct successful stabilisation policies? Are open market and credit operations, if any, based on collateral arrangements?
25. Which factors hinder the conduct of monetary policy (e.g. elasticity of loans and domestic expenditure to interest rates, competition in the banking sector, changes in the structure of financial markets)?
26. Describe the major characteristics and objectives of your exchange rate regime and policy: anchor, choice of the central rates, width of the fluctuation bands, etc.
27. How is the exchange rate policy implemented? What are its instruments (interventions, monetary policy, fiscal policy, capital control)? What is the intervention policy – if any – (currencies used, financing, and sterilisation)?
28. Are any reforms of the exchange rate policy envisaged? If yes, why? What part does the prospect of EU accession play in this respect?
29. Are there any attempts to measure equilibrium (real) exchange rates? What has been the recent evolution of the equilibrium real exchange rate?
30. What is the link between the exchange rate policy and monetary policy?
31. How will the liberalisation of capital movements affect the monetary and exchange rate policies? How vulnerable is your economy to a significant appreciation or depreciation of the currency?
32. What is the situation of foreign exchange reserves? Are there any targets for the size of these? How are the reserves managed?
33. How has the gross external debt stock developed? Please indicate the main sources of growth and its structural elements (e.g. maturity, creditor, currency composition, etc.)? What will the past debt accumulation mean in terms of medium and long-term growth of amortisation? How has the servicing of the external debt been managed?

## **ECONOMIC POLICY**

### **A. *Country alignment***

34. How is the policy coordination, in particular in the fiscal and monetary policy areas, governed by your legislation and effectively implemented?
35. Please provide an overview of the current and foreseen measures/policy instruments/structures/mechanisms to ensure the coordination of the economic policies within your country as well as with other EU Member States, in line with Europe 2020 for Growth and Jobs.
36. Which legal acts may contain provisions that are non-compliant with the *acquis*?

37. How does your country participate in the pre-accession economic policy surveillance?
38. Which are the general objectives taken into account into the preparation of the government's medium-term fiscal framework and budget law?

***B. Implementation capacity***

39. Does your country intend to align with the ESA 95 methodology for the purpose of statistical reporting to the EU?
40. How does your country assess the conditions for long-term macroeconomic stability? How does this interact with promoting integration and convergence with the EU?
41. As regards Articles 122 and 143 of the Treaty, what does your country's legislation state in the field of international treaties regulating the receipt of foreign assistance? Under which conditions is financial assistance from abroad allowed?

***C. Compliance with Treaty provisions***

42. How do you assess compliance by your country with the Treaty as it states that Member States should join with derogation for introducing the Euro?
43. Which reforms may be needed in order to comply with the relevant Treaty provisions and a possible timetable for adoption?

## ***Chapter 18: Statistics***

The *acquis* in statistics consists almost exclusively of legislation which is directly applicable in the Member States, such as European Parliament and Council Regulations and Commission Decisions or Regulations. The statistical *acquis* contains also a wide range of methodological handbooks and manuals in the various statistical domains such as agriculture, economic and monetary policy, demographic and social statistics and research. International agreements provide a further base for the statistical production.

The “Statistical Requirements Compendium” constitutes a comprehensive list of all EU legislation, gentlemen’s agreements, as well as the related methodological material with which Member States must comply in the field of statistics. The 2010 version of the Compendium will constitute the basis on which you should build your reply to this part of the questionnaire

([http://epp.eurostat.ec.europa.eu/portal/page/portal/candidate\\_and\\_potential\\_candidate\\_countries/publications/methodologies\\_working\\_papers](http://epp.eurostat.ec.europa.eu/portal/page/portal/candidate_and_potential_candidate_countries/publications/methodologies_working_papers)).

The Commission statistical work programme for 2010 (Annex 1) as well as the EU Statistical Programme 2008-12 (Annex 2) constitute a valuable source to verify the way in which the EU *acquis* develops.

1. Statistics might be collected by other institutional actors than the National Statistical Institute. In order to provide an overall picture of the system of official statistics, please give a description of the institutional arrangements concerning data collection, production and dissemination of official statistics in your country. This should include a listing of the specific responsibilities of the various actors.
2. Please describe the organisational structure, staffing levels and the level of independence of the National Statistical Institute. How have these issues developed in recent years, and what plans are there for the future? Can the Government influence the (choice of) data published by the National Statistical Institute? Please refer especially to measures aiming to increase the professional independence of the Institute.
3. Please describe the compliance of the statistical system of your country with the requirements as stated in the latest version of the Compendium, especially as concerns:
  - a) the current situation;
  - b) steps being taken to comply with the requirements (legislative and other measures to be taken, such as the implementation of the European Statistics Code of Practice, deadlines to achieve compliance);
  - c) major obstacles to be solved before being fully compliant.

This description should be provided for the following main areas:

- I. Statistical infrastructure
- II. Classifications and registers
- III. Sector statistics
  - a) Demographic and social statistics;
  - b) Macroeconomic statistics;
  - c) Business statistics;
  - d) Statistics on agriculture, forestry and fisheries;



e) Multi-domain statistics.

## ANNEXES

### Annex I

Statistical work programme of the Commission for 2010

[http://epp.eurostat.ec.europa.eu/portal/page/portal/ver-1/about\\_eurostat/documents/AWP\\_2010\\_final.pdf](http://epp.eurostat.ec.europa.eu/portal/page/portal/ver-1/about_eurostat/documents/AWP_2010_final.pdf)

### Annex II

Decision No 1578/2007/EC of the European Parliament and of the Council of 11 December 2007 on the EU Statistical Programme 2008 to 2012 (OJ L 344, 28.12.2007, p. 15)

## ***Chapter 19: Social policy and employment***

On the basis of Article 153 of the Treaty on the Functioning of the European Union (TFEU), the Union supports and complements the activities of the Member States in the area of social policy.

The *acquis* in the social field includes minimum standards in areas such as labour law, equal treatment of women and men in employment and social security, as well as health and safety at work. Specific binding rules have also been developed with respect to non-discrimination on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation (Article 19 of TFEU).

The European Social Fund (ESF) is the main financial tool through which the EU supports the implementation of its Employment Strategy and contributes to social inclusion efforts (implementation rules are covered under Chapter 22 “Regional policy and coordination of structural instruments” which deals with all structural instruments).

The Member States participate in EU policy processes in the areas of employment policy, social inclusion and social protection. The social partners from the Member States participate in social dialogue at the European level.

In the field of disability, the EU has adopted a strategy aimed at mainstreaming disability issues into relevant Union policies and at acting to enhance the integration of people with disabilities.

International agreements related to employment, labour and social issues, such as the relevant ILO Conventions or the UN Convention on the Rights of People with disabilities, need to be taken into consideration.

In relation to chapter 23 “Judiciary and Fundamental Rights”, it should be noted that trade unions rights are covered by chapter 19 only. As regards anti-discrimination and equal opportunities, these issues are essentially covered by chapter 19 with a specific focus on employment aspects, whereas chapter 23 covers cultural and minority rights as well as violence against women.

### ***I. LABOUR LAW***

#### ***A. The Legal and Institutional Framework***

The legal framework

1. Does your labour law contain a definition of:
  - a) employed worker (employee)?
  - b) self-employed worker (self-employed person)?
  - c) civil servant/official?
  - d) labour contract and status?
  - e) employer?
  - f) establishment, undertaking and group of undertakings?
2. Does your labour law apply to other categories of workers, apart from persons in paid employment?

3. Which categories of workers are not covered by the labour legislation? Please indicate in particular whether part-time, fixed-term or temporary agency work are covered or not?
4. Are workers in the public and private sectors treated differently? Are workers in profit and non profit-sectors or cooperatives treated differently?
5. Which aspects are covered by the Labour Code (i.e. primary legislation passed by Parliament) and which aspects are dealt with by ministerial regulatory action?
6. What are the main sources of law: international, constitutional, legislation, regulation, collective agreements, custom/conventions, case law?
7. Is there a hierarchy of norms in respect of these sources of law?
8. Does the system provide for collective labour agreements which have an erga omnes effect or does it only provide for agreements which may be extended to all workers in the sector and territory concerned (e.g. at regional or national level)?
9. At what levels are collective agreements generally concluded (national, industry-wide, group, company, establishment)? Is there a hierarchy between the collective agreements concluded at different levels?
10. Does your country's legal system apply a "concessionary" principle whereby a norm lower down the legal hierarchy may modify the content of a higher-ranking norm provided that the effect is favourable to workers?
11. Does your labour law contain provisions on the protection of workers' personal data?

The institutional framework

12. In what way does the State intervene in social matters (e.g. procedure for drawing up norms; government institutions responsible; administrative institutions responsible for applying norms)?
13. Could you please present an overview of administrative capacity in this field? Which Ministry / organisation is responsible? Which other administrative bodies are involved? Could you inform about staff numbers and responsibility levels?
14. Which court or courts are competent to deal with individual and collective labour disputes?
15. Is there a labour inspectorate responsible for the monitoring of working conditions and the application of labour law? Could you inform about staff numbers and organisation?

### ***B. Employment and Employment Protection***

Recruitment

16. Are employers free to take on whatever workers they wish? Are there specific anti-discrimination provisions (racial ethnic origin, religion or belief, disability, age or sexual orientation)?
17. Does the State hold a monopoly over placement services for certain workers?

18. Has provision been made for protecting applicants' private data?
19. Please give details of the legislative or regulatory framework relating to the above three questions.
20. What legal forms are there governing employment relations (e.g. open-ended contracts; fixed-term contracts; temporary work; part-time work; other forms)?
21. Are these various relations subject to formal conditions (e.g. written contracts with certain compulsory clauses)?
22. Are employers required to provide their workers with information on their conditions of work? What kind of information has to be supplied? Does this also cover workers who are required to work in another country?

#### Employment protection

23. What legal provisions apply to the suspension of a labour contract for maternity and parental leave?
24. Does the legal system make provision for a system of compensation where a labour contract is suspended for economic reasons (e.g. supply difficulties)?
25. Does the legal system include certain rights (material or procedural in terms of information and consultation) with regard to collective redundancies?
26. What is the definition of collective or economic redundancy/dismissal?
27. Do workers' and their representatives have a right to be informed and consulted?
28. Who are the workers' representatives in such cases and in what way are they designated?
29. Under what conditions do they exercise these rights?
30. Do the public authorities have a role to play in the procedure (e.g. is there a requirement to give notice of planned redundancies to the public authorities to give them a certain time to seek solutions to the problems likely to be caused by such redundancy measures)?
31. Does the legal system include rights in respect of individual redundancy/dismissal?
32. Does the system guarantee that labour contracts continue to apply where an economic entity is transferred to a new employer?
33. What conditions apply in such cases?
34. In such cases, does the system provide protection for dismissal? Are the transferor and the new employer required to inform and consult workers' and their representatives? Do these rights apply where the transferor is in the process of being declared bankrupt?
35. Does the legal system provide for unemployment benefit? Is such provision made in the labour law or in the social security law?

### ***C. Conditions of Work and Pay***

#### Conditions of work

36. What penalties can employers impose in cases of non-performance of work?
37. Does the legal system give workers certain basic rights, such as human dignity at work?
38. What is the minimum age for employment?
39. From what age and under what conditions may children perform minor jobs? Please provide information on the Government's measures in place to fight child labour.
40. What other steps have been taken to protect their physical and moral integrity?
41. Are there specific provisions concerning the number of hours that people of less than 18 years may work? If so, what do they specify?
42. Are there general arrangements concerning working time? What is the definition of working time? Are there specific rules for workers employed as seafarers, in the civil aviation or in the rail?
43. What is the maximum weekly working time?
44. Are there compulsory rest periods? In case of specific rules for certain types of workers (e.g. drivers, seafarers, air- and railway crews etc.), please provide details.
45. What are the different ways of organising working time (e.g. annualisation; flexitime; overtime, etc.)?
46. What is the system of paid leave?
47. What protection is there for night workers?
48. Do social partners have a role to play in implementing the various forms of organising working time?
49. Does the system provide protection of workers with part-time or fixed-term contracts and workers supplied by temporary-work agencies?
50. Are temporary agency workers entitled to the same working and employment conditions, including pay, as permanent workers of the user undertaking to which they are assigned?
51. What protection is there in the event of major change in working conditions?

#### Pay

52. Is there a guaranteed minimum level of pay? Is this a statutory minimum or is it subject to collective agreement? How is pay determined? What are the relevant criteria?
53. In what way is the payment of wages and salaries guaranteed?

54. Do workers enjoy a general privilege over the employers' goods and assets for payment of wages and salaries?
55. Are there additional guarantees where the employer is insolvent? More particularly, does the system provide for the creation of special guarantee institutions to protect the claims of workers owed money because of the employers' insolvency? How do such institutions work and how are they managed?
56. Are there schemes for worker participation in profits, shareholding, etc.?

#### Posting of workers

57. Are there any rules concerning workers posted in your country by their undertaking established in an EU Member State?

#### Information and consultation of workers' representatives

58. How are workers represented at plant, undertaking and group levels?
59. Are there any rules concerning information and consultation of workers at undertaking or establishment level?
60. Are there any rules concerning information and consultation of workers at transnational level?
61. Are there any rules on board level participation of employee representatives?

### ***D. Industrial Disputes***

62. Is there a special court to deal with disputes under collective agreements?
63. Is there a right to strike?
64. How is the right to strike regulated?
65. What restrictions are there on the right to strike in the private and public sectors?
66. Are lockouts allowed?
67. How are lockouts regulated?
68. Are there special methods for dealing with industrial disputes, e.g. conciliation, mediation and arbitration?

## ***II. HEALTH AND SAFETY AT WORK***

### ***A. General***

69. Could you please present an overview of the legal framework regarding Health and Safety at Work in Serbia? Please give also a general overview on the national policies and strategies in the field of health and safety at work, and its implementation. Also please provide a list of related strategic and policy documents indicating the principal goals and the time period covered?

If possible, present the information on the legal framework in a table. In this respect it is suggested to draw up a three column table consisting of: 1) EU Directives in the area of health and safety at work (see list attached), 2) corresponding national legislative acts and 3) comments regarding the level of transposition (i.e. the main provisions transposed, partially transposed, not transposed and any future plans regarding transposition) and, if necessary for certain acts, a short summary of the contents.

Regarding national acts please indicate in the table their full title, as well as number and reference as to their publication (later in the text, the number and abbreviated title of particular acts may be used).

The aforementioned table should be accompanied by a short summary explaining how the legislation is organised - which is the act of primary legislation governing health and safety at workplaces and which are the acts of secondary legislation.

## ***B. By Directives***

### 70. Framework Directive (89/391/EEC)

- a) Does your country have similar legislation in the field covered by the Framework Directive? If there is a national framework law on health and safety at work, could you please list the sectors and activities which are excluded from the scope of this law, and indicate which is the legislation applicable to excluded sectors and activities?
- b) If several legislative acts exist in this area, could you describe how they are coordinated and how they supplement each other?
- c) Is your legislation applicable to both the public and private sectors?
- d) How has national law taken up the principle of the employer's objective responsibility (Article 5)? Specifically, is it expressly stated that the workers' obligations do not affect the employer's responsibility? Are cases of force majeure provided for?
- e) Are the obligations of employers laid down in the Framework Directive provided for in the national law? As regards workers, does the national law address workers' responsibility for occupational health and safety issues and if so, which are their obligations?
- f) How does national law provide for taking into account the general principles of prevention that employers must apply when taking measures to protect the health and safety of workers (Article 6)?
- g) Does national law provide for the assessment of risks to be set out in written form (Article 9)? Does national law provide for this document to be available to workers, their representatives and labour inspectors? How is this requirement included in national law and implemented in the undertaking?
- h) Article 9 states that the employer must keep a list of occupational accidents resulting in a worker being unfit for work for more than three working days and draw up reports on occupational accidents suffered by his workers.
  - i) Are these obligations included in national law?

ii) With a view to the requirements put forward in EC Regulation 1338/2008 of 16 December 2008 on EU statistics on public health and safety at work, please answer the following questions:

(1) Have the following data been partially or completely gathered? Employer's economic activity; job, age and sex of the victim; type of injury and body part injured; geographic location, date and time of the accident.

(2) Have the following data been partially or completely gathered? Size of the undertaking; nationality of the victim; victim's employment situation; consequences of the accident – number of days lost, permanent incapacity or death resulting from the accident.

(3) When a work-related accident occurs, are extra data collected on the causes and circumstances of the accident, such as: Type of place (e.g. building, field, road), type of work (e.g. maintenance), specific physical activity (e.g. repairing or transporting a tool), tools used for the specific activity (e.g. pliers, wheelbarrow), anomaly (e.g. broken fastener, tyre puncture, sideslipping), cause of the anomaly (e.g. grease, carpet in poor condition), contact – the way the injury occurred and what produced it (e.g. being burnt by acid, having a leg cut by a cable)?

(4) Is there a list of officially recognised occupational diseases? (There is a European schedule of occupational diseases on this matter: Commission Recommendation of 19 September 2003 (2003/670/EC).

(5) What data are you currently collecting? What extensions are planned?

i) How is the principle set out in Article 6(5) (no involvement of the workers in financial cost) included?

j) Does national law address the measures that employers must take concerning fire-fighting, first aid and the evacuation of workers according to Article 8 of the Directive? How is the part of the Directive concerning serious, imminent and unavoidable danger addressed (Article 8 (3,4,5))?

k) How is the consultation and participation of workers and workers' representatives provided for in Article 11 regulated?

l) How do you ensure that workers' representatives have the means required to accomplish their tasks (working time, etc., cf. Article 11(5) of the Directive)?

m) How is the right to appeal to the competent authorities set out in Article 11(6) granted to workers and their representatives?

n) Article 7. How does national legislation set out that all undertakings must:

i) designate one or more workers to carry out activities related to protection and prevention; or

ii) if no competent personnel can be found within the undertaking, enlist competent external services or persons?

o) How does national law define the capabilities and aptitudes of the services and persons in charge of prevention and protection (Article 7)? How are the employers' capabilities and aptitudes verified if they take on this role themselves? Is prior authorisation required to set up external services?

p) When is the training of workers carried out (Article 12):



- i) When they take up a post?
  - ii) When they are moved to another job?
  - iii) When organisational changes affect the workstation?
- q) Are there national provisions, which provide for the surveillance of workers' health (Article 14)?
- r) Law enforcement (Article 4)
  - i) What is the system of monitoring and control of health and safety at work matters? Is there a single body responsible for the inspection of labour, or are various bodies responsible for different areas?
  - ii) In case there are different bodies responsible for controlling and supervising implementation of legislation on safety and health at work, how are their activities coordinated? In special cases, do they hold joint inspections? What are the main problems in coordinating the various bodies involved? What is the number of labour inspectors responsible for the surveillance of health and safety at work matters and what is the approximate number of employees in Serbia?
  - iii) As regards the powers of labour inspectors to take measures to ensure the correct application of the law:: Can they apply legal penalties? If so, what kind (monetary and/or criminal and/or administrative)? Do they have discretionary power? How many injunctions are issued? When the inspectors detect a problem, how far do they pursue the matter? Do they send a letter? Does the undertaking respond? How do they follow up? What percentage of detected infringements leads to legal action being taken? What is done with the money from fines? Is some or all of this money allocated to a fund for health and safety at work?
  - iv) How do you ensure that the labour inspectors are independent of the undertakings and organisations they inspect? Are the inspectors assigned to the same workplaces (i.e. must they inspect the same undertaking each year)?
  - v) What rules govern the composition of the inspection team (are there one, two or more inspectors)? Are special cases provided for?
  - vi) As regards work-related accidents: How are they declared to the Labour Inspectorate? Is the information centralised? How do you assess non-declaration? How does the system of insurance for work-related accidents function?
  - vii) What do you consider to be the most serious problems in the field of inspection (e.g. lack of resources, lack of money for missions, weak penalties)?

71. Workplaces (Directive 89/654/EEC):

- a) What is the definition of 'Workplace' in your national legislation?
- b) Which are the pieces of legislation dealing with the characteristics of the 'workplace'?
- c) Do you plan to apply legislation identically in all locations (new, existing, old) or differently according to whether they existed at a certain date?
- d) What approach has been decided on to include the minimum requirements set out in the Annex to this Directive (for example: outdoor workstations, the persons with disabilities)?

72. Work equipment (Directive 2009/104/EC of the European Parliament and of the Council of 16 September 2009 concerning the minimum safety and health requirements for the use

of work equipment by workers at work (second individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (codified version))

- a) Are there provisions in place relating to the use of work equipment?
- b) What is the scope of the term “work equipment” under the national provisions?
- c) How are the various legislative acts coordinated, if there is more than one?
- d) What approach has been or will be taken to include the rules on checking certain machines (those that are dangerous or subject to deterioration)?
- e) Do you already have a distinction or do you plan to distinguish between new equipment and equipment that is already in use?
- f) Is there a duty for inspection of work equipment and is such an inspection system in place for the effective technical control of work equipment?
- g) Does your law provide for rules regarding the use of work equipment provided for a temporary work at a height?

73. Personal Protective Equipment (Directive 89/656/EEC):

- a) Is there legislation in place on personal protective equipment (PPE)?
- b) Are there general rules on the use of PPE and on cases on situations where employers must provide PPE?
- c) Does national law ensure no involvement of workers in financial costs for the provision, maintenance, repair and replacement of PPE?
- d) Is the general principle that PPE shall only be used as a last resort reflected in your national legislation?
- e) Is there assistance (information, etc.) on the choice of PPE?

74. Display screen equipment (Directive 90/270/EEC):

- a) Are there specific rules for the use of screen equipment?
- b) If answer to (a) is yes: How is screen equipment defined?
- c) If answer to (a) is yes: Which measures shall be taken by the employer under the legislation?
- d) Do labour inspectors receive particular training in this regard?

75. Manual handling of loads (Directive 90/269/EEC):

- a) Does the national legislation contain particular provisions regarding the prevention of accidents and injuries caused by manual handling of loads? If so, please give an overview on the key provisions.
- b) Does this activity make part of the (i) preventive actions of the labour inspectorate, and (ii) of the control activities of the labour inspectorate?

76. Temporary or mobile constructions sites (Directive 92/57/EEC):

- a) Briefly describe your national legislation in this field.
- b) Does the national legislation provide for the involvement and obligations of various persons – the client, the project supervisor, the coordinators for safety and health matters at the project preparation and execution stages?

- c) Are there rules in place for sites where several undertakings are present at the same worksite, in particular as regards coordination of work?
- d) Is there a duty for the client or project supervisor to draw up a safety and health plan?
- e) Does your legislation take into account self-employed workers working alongside with other undertakings?
- f) Are there duties relating to the project planning and the project implementation phase?
- g) Is there the duty for prior notice of works to the competent authorities for works of a larger extent?
- h) How do you assess the administrative capacity of the labour inspectorate with regard to the construction sector?

77. Safety and health signs at work (Directive 92/58/EEC):

- a) Is there legislation on this issue?

78. Extractive industries: mineral-extracting industries through drilling (Directive 92/91/EEC) and surface and underground mineral-extracting industries (Directive 92/104/EEC)

- a) Which extractive industries are covered by the scope of national legislation? (In other words, what are the definitions of mineral-extracting industries through drilling and underground mineral-extracting industries?)
- b) Is there an adaptation period envisaged for old work-sites?
- c) Do workers receive health surveillance in the extractive industries (mines, quarries, etc.) (Article 8 of the Directives)?
- d) What legislation is or will be applicable to undertakings that extract by dredging? (Article 12 of Directive 92/104/EEC) (sandpits, etc).
- e) Does national law require that the employer must have a health and safety document (Article 3(2) of the Directives)?
- f) How does national law include the requirement that the employer responsible for the workplace (Article 3(3) of the Directives) must coordinate the implementation of all the measures concerning the safety and health of the workers and state, in his safety and health document, the aim of that coordination and the measures and procedures for implementing it?
- g) Are there any special measures for SMEs?

79. Fishing vessels (Directive 93/103/EC):

- a) Is there particular legislation in place for health and safety on board fishing vessels?
- b) To which type of vessel does this legislation apply?
- c) Are there rules in place for life saving equipment?
- d) Does your legislation provide for regular inspections of fishing vessels (Article 3(2))? Which body is responsible for inspection? How would you assess the administrative capacity of the inspection bodies for the fishing sector in general?

80. Medical treatment on board of fishing vessels (Directive 92/29/EEC):

- a) Is there legislation covering the medical equipment of vessels?

- b) Is there at least one national centre providing workers with free medical advice by radio (Article 6)?
  - c) Which authority is responsible for the annual inspection (Article 7)?
  - d) Does national law provide for training in medical and emergency measures (Article 5(2)) and special training regarding medical supplies and for their regular up-date (Article 5(3) and Annex V)? How is this done in practice?
81. Chemical agents (Directive 98/24/EC as amended by Directives 2000/39/EC and 2006/15/EC):
- a) Is there national legislation on the protection of workers from the risks related to chemical agents?
  - b) To what extent does your legal system include the approach of replacement of hazardous chemical agents?
  - c) Is there a total ban of the use of certain chemical substances?
  - d) Please explain the nature and scope of the employer's obligation to carry out risk assessment (Article 4).
  - e) What prevention strategy has been or will be drawn up to protect workers' health, and what kind of measures will be taken to eliminate risk, or reduce it to a minimum (Article 5)?
  - f) Is there mandatory health surveillance for workers who are exposed to chemical agents (Article 10)? If so, please specify the criteria for determining the categories of workers subject to this mandatory health surveillance.
82. Indicative occupational exposure limit values for chemical agents at work (Directives adopted in implementation of Council Directive 98/24/EC – Commission Directives 91/322/EEC, 2000/39/EC, 2006/15/EC and 2009/161/EU)
- a) Is there currently a list of chemical substances for which exposure limit values have already been set? If so, how many substances are on the list?
  - b) Are the limits indicative or binding?
83. Explosive atmospheres (Directive 1999/92/EC):
- a) Does legislation in your country specifically cover the risks arising from explosive atmospheres?
  - b) In case it does cover such risks, which protection measures are provided for by national legislation?
84. Biological agents at work (Directive 2000/54/EC):
- a) Is there specific legislation at national level?
  - b) Does your legislation provide for a classification of biological agents?
  - c) What general principles do you apply or intend to apply to:
    - i) risk assessment;
    - ii) risk elimination;
    - iii) risk reduction?

- d) Does your legislation include an obligation to replace dangerous substances by less dangerous?
- e) Is there a notification system for the use of certain biological agents and a duty to notify accidents to a competent authority?
- f) To what extent does the legislation apply to activities with non-deliberate involvement of biological agents (e.g. food industry, agriculture, waste processing, etc.) and does the labour inspectorate also cover this aspect upon inspection visits to undertakings in these areas?
- g) Is there health surveillance for workers?

85. Directive 2010/32/EU implementing the Framework Agreement on prevention from sharp injuries in the hospital and healthcare sector concluded by HOSPEEM and EPSU<sup>20</sup>: Have the Serbian authorities envisaged the transposition of this Directive and if so, what has been and is being carried out in this respect (e.g. impact assessment)?

86. Vibrations (Directive 2002/44/EC):

- a) Is there specific legislation on protection from exposure to vibration in place?
- b) Which is the scope of this legislation?
- c) Does your legislation set up exposure limit and action values, and if yes, which ones?
- d) Asbestos (Directive 2009/148/EC – codified version)
- e) Are products containing asbestos currently sold and processed?
- f) What is the definition of the term "asbestos" in the national law (Article 2)?
- g) What is the limit value for exposure of workers (Article 8) (EU 0.1 fibres/cm<sup>3</sup> as an eight-hour time-weighted average)?
- h) What method do you use to collect airborne fibres?
- i) Is applying asbestos by means of spraying prohibited (Article 5)?
- j) What authority is responsible for administering the notification system (Article 4)?
- k) Is there a register of recognised cases of mesothelioma?
- l) Do you require a complete plan of work to be drawn up before any demolition work is begun and what is the content of such plans (Article 13)?

87. Noise (Directive 2003/10/EC):

- a) Does the national legislation specifically cover risks from noise at work?
- b) Have you set a daily noise-exposure value for workers? If so, what is it?
- c) Does current legislation set exposure action levels on noise? If so, what is the action value? If not, do you intend to set one?
- d) Do you already have or plan to set a threshold (ceiling) limit value for noise? If so, what is this value?

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<sup>20</sup> This recently adopted Directive has to be implemented into national law of EU Member States by 11 May 2013.

e) Do you have a framework of preventive measures including health surveillance to effectively protect workers against noise? If so, how are these measures related to the limit values?

f) Are labour inspectors trained in regard to this physical agent and are they actively advising employers and workers on this risk?

88. Carcinogens (Directive 2004/37/EC):

a) Does your country have legislation in the field covered by the Directive?

b) Do you use the EU classification or a different classification to define substances as carcinogens?

c) Does the law oblige carcinogens to be replaced by less dangerous substances?

d) Are there provisions on health surveillance prior to taking up duty and in regular intervals?

e) Are medical records kept? For how long and by whom?

f) Does your legislation provide for limit values on benzene, vinyl chloride monomer and hardwood dusts and are they similar to the EC values?

89. Artificial optical radiation (Directive 2006/25/EC):

a) Is there specific legislation covering protection from risks regarding the exposure to artificial optical radiation?

b) In case there is such legislation, does it lay down exposure limit values for non-coherent radiation, other than that emitted by natural sources of optical radiation (Article 3(1))?

c) Are there any obligations imposed on employers to take measures to prevent the exposure exceeding the limit values?

***C. Effective implementation of related EU acquis***

Certain Directives in the area of health and safety at work require employers to take specific preventative and protective measures, to make available to workers specific work equipment to ensure workers' protection and to make substantial changes in workplaces (that includes requirements laid down, for instance, in Directive 2009/104/EC concerning the minimum health and safety requirements for the use of work equipment by workers at work, Directive 98/24/EC on the protection of health and safety of workers from the risks related to chemical agents at work, Directive 2003/10/EC on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (noise), Directive 2009/148/EC on the protection of workers from the risks related to exposure to asbestos at work, Directive 2006/25/EC on the minimum health and safety requirements regarding the exposure of risks arising from physical agents (artificial optical radiation), and others).

As putting into place these measures entails certain financial costs, national authorities are invited to comment on the issue whether an impact assessment was carried out (or is planned to be carried out) as regards socio-economic implications of the implementation of the Directives and whether there are measures envisaged to assist employers in order to ensure effective implementation of the Directives concerned.

### ***III. SOCIAL DIALOGUE***

90. What are the social dialogue mechanisms in your country? What is their legal basis?
91. What are the trade unions and employers' organisations recognised at national level or at regional or branch levels? Please provide a list of their names, dates of creation and coverage? How are these organisations entitled to recognition as social partners' organisations (criteria set out by law, code of labour, etc)?
92. How are social partners currently involved in the EU integration process? Is there any tripartite committee for this purpose? What role do social partners play in different preparatory activities/discussions in the framework of integration?

#### ***A – Tripartite social dialogue***

93. Has an inter-professional tripartite social dialogue been established and if so, how is it functioning?
94. What are the trade unions and employer organisations that participate in this tripartite process, and what are the main criteria for their participation?
95. What are the main areas covered by tripartite consultations?
96. Have there been tripartite national agreements concluded over the past few years? Do they represent an important feature of labour and social regulation in the country?
97. Are there any plans to modify or develop tripartite bodies in the future?

#### ***B – Bipartite social dialogue***

98. Please assess the state of development of autonomous bipartite social dialogue. Please describe how the social partners are structured at the intermediary levels of collective bargaining (sectoral and branch levels)?
99. At what levels are collective agreements signed mostly? Please supply information about the coverage by collective agreements?
100. Have there been important strikes, demonstrations or conflicts in recent years? Please describe shortly the reasons/issues.
101. What is the state of social dialogue in public administration and state enterprises? Are collective agreements signed in sectors such as education, health etc.? What is the situation with regard to trade union recognition and signature of collective agreements in state enterprises?
102. Is there collective bargaining or involvement of workers at enterprise level? What forms of workers' participation have been developed at enterprise level (participation in decision-making, information/consultation, financial participation etc.)?

103. What are the rules governing the unionisation in the public sector and for civil servants? Please describe limitations if any.

#### **D – Enterprise level**

104. Is there collective bargaining or involvement of workers at enterprise level?
105. What forms of workers' participation have been developed at enterprise level (participation in decision-making, information/consultation, financial participation etc.)?

### ***IV. EMPLOYMENT POLICY AND EUROPEAN SOCIAL FUND***

#### ***A. Employment Policy***

106. What is your overall view of the labour market situation in your country and the main issues/challenges? Please provide information on the impact of the financial and economic crisis on their labour market and on measures taken to address this. Please provide data on Labour market as regards activity rate, employment rate and unemployment rate.
107. Please describe the institutional framework for employment policies in your country (main policy documents, main objectives of employment policies/strategies).
108. Could you please present an overview of administrative capacity related to employment policy? Which Ministry is responsible? Which other administrative bodies are involved? Could you inform about staff numbers and responsibility levels for employment policy?
109. Does a public employment service (employment office) exist? If yes, what is its legal status and how is it organised? What are the main tasks/functions of the public employment service? What is its relationship with the Ministry of Labour? What are its resources and its staff?
110. Please describe the implementation of employment programmes and measures: legislative framework, responsible bodies, ways of financing, monitoring, follow-up etc.
111. How do labour market policy delivery systems function? What are the registration rates of the unemployed? What is the registration share of men and women? What is the role of the official information services?
112. What are the active labour market measures in place? What is the share of unemployed addressed by these measures? How is your active labour market policy funded?

#### ***B. European Social Fund (ESF)***

113. Do you have a Social Fund equivalent or similar to the European Social Fund (ESF)?
114. What is the administrative set-up for dealing with this policy?
- a) Ministries, administrations involved;
  - b) Inter-ministerial co-ordination;



- c) Vocational education and training systems;
  - d) Public employment services;
  - e) Coordination with European Employment Service (EES) and social inclusion process;
  - f) Participation of other authorities/partners (partnership)?
115. How is the programming capacity conceived?
- a) Establishment of development plans and programming documents;
  - b) Implications of structural funds principles: additionality, partnership, co-financing?
116. How is the implementing capacity conceived?
- a) Preparation, selection, appraisal;
  - b) Financial procedures;
  - c) Monitoring;
  - d) Evaluation;
  - e) Audit and financial control?
117. How do you intend to prepare for future ESF implementation using IPA component IV for Human Resources Development?

## **V. SOCIAL INCLUSION**

### **A. General**

#### *Evaluation of current data situation and structures*

118. Is there an official national definition of absolute and/or relative poverty and/or social exclusion? What is the national absolute/relative poverty line? How is it defined? Which equivalence scale is used?
119. Provide data on the following indicators – where possible: 2009 social inclusion indicators of the Social Protection Committee of the European Union ([http://ec.europa.eu/employment\\_social/spsi/common\\_indicators\\_en.htm](http://ec.europa.eu/employment_social/spsi/common_indicators_en.htm)) and explain the source for the income data and the methodology used where appropriate.
120. If possible, provide data or proxy allowing for time comparisons on people whose living conditions are severely constrained by a lack of resources (experiencing at least 4 out of 9 deprivations: people who cannot afford i) to pay their rent or utility bills, ii) to keep their home adequately warm, iii) to face unexpected expenses, iv) to eat meat, fish, or a protein equivalent every second day, v) a week's holiday away from home once a year, vi) a car, vii) a washing machine, viii) a colour TV or ix), a telephone.
121. In how far do you consider these indicators to be relevant for the description of the current and future situation of poverty and social exclusion in your country?
122. Is income or/and expenditure used for measuring monetary poverty?

123. In addition, what would you consider as the most meaningful and/or in the public debate most frequently used:
- a) non-monetary indicators for poverty and social exclusion;
  - b) administrative data sources.
124. Identify vulnerable groups for your country and present data/estimates about their size (e.g. persons with disabilities, unemployed, those in the informal sector/subsistence agriculture, ethnic/cultural communities (please specify), families, children and young people, women, elderly, single parent families etc.) and describe the underlying processes that cause vulnerability. What are the policy responses with regard to the individual groups?
125. Territorial disparities: Describe social exclusion in terms of urban/rural and of regional factors. Describe the regional distribution of ethnic/cultural communities.
126. Who has the political responsibility for designing and implementing social inclusion policies at national, regional and local levels? Who is responsible for policy coordination among the relevant departments in the administration at national, regional and local levels?
127. Describe the organisational structure of institutions involved in these policies, the role of social service providers, NGOs, advocacy groups, the co-ordination among the institutions and the coverage of their activities. Which are the financing authorities and mechanisms?

*Evaluation of future challenges*

128. What are the main challenges for combating poverty and for promoting social inclusion in your society? How do you assess the impact of the financial and economic crisis on the vulnerable groups?
129. Are there any expected impacts of reforms in other areas of social protection (pension, health, employment) on social exclusion and poverty? Are there any plans to e.g. extend coverage or e.g. reduce the benefit level of the social protection system?

**B. People with disabilities**

*Institutional and operational aspects*

130. Has your government adopted any national policy document containing main principles of national disability policy? Is there any corresponding Action Plan (stating out the way how the actions described in the policy document will be implemented)? Is there a specific coordination body overseeing the implementation of the national disability policy?
131. Has the European Disability Strategy 2010-2020 been taken into account when drafting and designing the national disability policy? If yes, can you highlight any concrete measures where the European Disability Strategy 2010-2020 has been of help or inspired policy makers to develop certain actions?
132. Does your national disability policy operate on the basis of the mainstreaming concept? If yes, can you give any examples of where and how the mainstreaming

approach was used and worked successfully? How do you ensure the application and implementation of the mainstreaming concept across various policy areas?

133. In most EU member states, national disability councils (comprising NGOs, organisations representing the persons with disabilities, disability experts, civil servants and other stakeholders) have been established. Have similar bodies been established in your state? If yes, are these bodies actively involved in the decision making process related to the persons with disabilities? If no, does the government in your country have any plans to contribute to the creation of such bodies?
134. Do you have some kind of regional bodies dealing with disability (regional disability councils) or are disability issues administered and dealt with only at national, centralised level?
135. Are there any initiatives to raise awareness of disability issues among the general population and to foster greater knowledge among people with disabilities of their rights and of how to exercise them?

#### *Legislation*

136. Is the protection of persons with disabilities as a specific segment of vulnerable population provided for in the constitution or does a specific “disability law” exist in your legislation? Does the Labour Law in your country explicitly prohibit discrimination in hiring and employment on the basis of disability?
137. Variations in terminology and definitions of disability used in different sectors of law and policy can lead to inconsistent application of the law and sometimes even result in denial of benefits. To what extent do you consider the definitions you use in your legislation uniform and coherent? Could you briefly describe the different definitions of disability legislation in your country operates with?

#### *Data and statistics*

138. The lack of reliable statistical information is a serious obstacle to effective policy-making in the disability area. Has a centralised data collections system, containing the relevant data, been developed in your country? Which are the main sources of disability related information and how do you ensure that the collection of these sensitive data is not violating the provisions on personal data security? What are the arrangements for convergence with the data gathering exercises, which the EU conducts in the area of disability? How is the relevant cooperation with the responsible bodies (such as Eurostat) organised?

#### *Pensions and Benefits*

139. In most of the EU countries, social protection available to people with disabilities includes right to health and pension insurance, the right to employment and occupational rehabilitation, child allowances and social welfare rights. Could you briefly describe which different forms of social protection are available for persons with disabilities in your country? Is an effort made to assure decent living conditions for people with disabilities? How are decent living conditions defined?
140. Social benefit system can sometimes have de-motivating effects in the sense that a disabled person who is able to work still chooses to go on social benefits instead of working. Different means can be applied to boost the efficiency of the system and to

prevent a situation like this. Could you briefly describe what measures you have taken in order to increase flexibility of the system and stimulate persons with disabilities capable of working to take up work?

#### *Employment and Education*

141. Describe shortly the different means by which you promote active participation and inclusion of people with disabilities in the labour market. To what extent is the quota system applied and which are the other incentives and measures aimed at encouraging disabled persons' entry into the labour market?
142. Describe shortly the system of vocational training available to persons with disabilities. How do you ensure that the training is adjusted to the needs of the market?
143. Describe how the government is promoting inclusive education and lifelong learning for pupils and students with disabilities. What are the plans for the next 5 and 10 years?
144. Transition period between the school and the first job poses a challenge and is crucial in ensuring successful integration of persons with disabilities into the labour market. Do you have any specific programmes in place targeting this challenge? Does some kind of follow-up guidance programme for the vocational training of the graduates exist?
145. Has a legal basis for supported employment been established in your country? Describe briefly the supported employment services system. Elaborate on any provisions for facilitating the transition from protected employment into the open labour market.

#### *De-institutionalisation and independent living*

146. To what extent is de-institutionalisation considered to be a priority for your government? Which measures aimed at promoting de-institutionalisation and community-based alternatives have been carried out?
147. Does your government currently carry out any form of training for independent living programmes?

#### *Accessibility and participation*

148. Which are the measures in place or foreseen to ensure accessibility to goods and services (including public services) and to ensure that assistive devices for people with disabilities are available and affordable? How well does the market in the assistive technology function in Serbia?
149. Which are the measures in place or foreseen to improve the accessibility of sports, leisure, cultural and recreational organisations, activities, events, venues, goods and services (including audiovisual media services); what is being done to promote participation of persons with disabilities in sports events and to organise disability-specific sports events?
150. How is accessibility to voting locals and electoral material assured? What is being done to facilitate the use of sign language and Braille in dealing with the official institutions? What are the corresponding plans for action?

## **VI. SOCIAL PROTECTION**

### **A. Main influencing factors for social protection**

151. Please provide the following main economic and financial indicators (if available, according to Eurostat methodology and time span covered - 10 years):
- a) GDP: absolute in EURO; growth rate; GDP per head in PPS;
  - b) Social protection expenditure as percentage of GDP;
  - c) Social protection expenditure as percentage of state budget.
152. Please provide the following main demographic indicators: female/male:
- a) population: absolute (Eurostat);
  - b) age structure: proportion of the population aged less than 15 years; proportion of the population aged more than 60 years; demographic dependency ratio (population aged 65+ over population aged 15-64), net population increase; proportion of people over 75;
  - c) fertility: birth rate per 1000 inhabitants, total fertility rate, mean age of women at child bearing, net reproduction rate;
  - d) life expectancy at birth (by gender), at age 40 and 65, healthy life years expectancy at birth and at 65;
  - e) is life expectancy data by socio-economic status (e.g. by income quintiles/deciles) available? If so, please provide the key data;
  - f) migration: emigration and immigration: crude rate of net migration, main trends, main developments in absolute figures, percentages of population, age groups, regions and ethnic groups.
153. Please provide the following main social indicators:
- a) unemployment rate (by gender); further information on vulnerable groups affected by unemployment (young people under 25, persons with disabilities, migrants etc.) male/female;
  - b) employment and labour market developments: employment rate of women; employment rate of older workers (55-64); highlight regional and sectoral differences and significances;
  - c) income distribution (income quintile share ration, GINI index; poverty: at risk of poverty rate and threshold,, definitions, highlight vulnerable groups);
  - d) family structure: main trends, number of children per family; age of mother; divorce rate; percentage of one-parent families; percentage of single households.
154. How does the described background affect social protection?
- a) Which are the economic forecasts for the next 2-3 years?
  - b) Are there any demographic projections? For which period? How are old-age dependency ratios (population aged 65+ over population aged 15-64) expected to evolve over the coming decades?
  - c) Are there any forecasts for labour market developments?

d) Outline the general trends and influences of economic, demographic and social developments on the social protection system of your country.

***B. Overview of the social protection system***

155. Please provide information on the general philosophy and the main principles and mechanisms of the social protection system: is the system Beveridge-type or Bismarck-type, what are the main distributional effects of the system, who is included/excluded?
156. Please provide the following specific information (please refer to the Mutual Information System on Social Protection (MISSOC)<sup>21</sup> as a model):
- a) Organisational chart of the social protection system (involved ministries, statutory insurances etc.); discussion of the chart: main institutional responsibilities for the fields of social protection (legislation and administration);
  - b) Centralisation/De-centralisation: Description of the main institutional levels in the social protection system, role of employers and employees, role of NGOs;
  - c) Supervision structures.
157. Please provide information on financing of social protection:
- a) Main financing sources of the social protection (taxes, social contributions, other taxes or state subsidies) and institutions involved (State, para-fiscal organisations, regional authorities, NGOs, private households etc.);
  - b) Main financing principles for the fields of social protection (pay-as-you-go, funded financing);
  - c) Financial administration of social protection: contribution rates, contribution base and tax base; is there an upper (lower) ceiling?
158. Please provide an overview of allowances: benefits and services provided by social protection (coverage, qualifying conditions, level of benefits, length of provision, taxation of benefits):<sup>22</sup>
- a) health care;
  - b) sickness;
  - c) maternity;
  - d) invalidity / disability;
  - e) old age;
  - f) survivors;
  - g) employment injuries and occupational diseases;
  - h) family benefits;
  - i) unemployment;

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<sup>21</sup> [http://ec.europa.eu/employment\\_social/spsi/missoc\\_en.htm](http://ec.europa.eu/employment_social/spsi/missoc_en.htm)

<sup>22</sup> Eurostat – ESPROSS functions :  
[http://epp.eurostat.ec.europa.eu/portal/page/portal/employment\\_and\\_social\\_policy\\_indicators/omc\\_social\\_inclusion\\_and\\_social\\_protection/overarching](http://epp.eurostat.ec.europa.eu/portal/page/portal/employment_and_social_policy_indicators/omc_social_inclusion_and_social_protection/overarching)

- j) minimum resources/social assistance;
  - k) long-term care;
  - l) housing.
159. How are the various benefits and allowances delivered to the beneficiaries? How is the accessibility and efficiency of the system ensured?
160. Who is in charge of collecting and processing social data? Are there any specialised social research institutes?

### ***C. Pensions***

#### Evaluation of the current system

161. What is the public-private mix in your country? What role do mandatory, occupational and individual pension schemes play for income security in old age (different pillars of the systems)? Is there a universal system for the whole population? Are there any statistics on the composition of income in old age (social transfers, family support, labour income, additional private income)?
162. Describe the level and structure of benefits: the replacement rate, the pension distribution, adjustment and indexing of pensions and the issue of poverty among pensioners. Do you think that the pension system is adequate with regard to income security in old age, the intergenerational distribution and the reduction of poverty in old age?
163. Describe current problems of financing the pension system in your country.
164. What are the economic incentives set by the pension system with regard to labour market participation, employment policies? Are there any other incentives (e.g. support for employers hiring older workers)?
165. Are there certain groups excluded from the system (coverage)? Is there a possibility of 'opting out'? If so, are there any problems caused by the exclusion of certain groups? Do you consider the system as equitable with regard to gender equality and other groups of the population?
166. Does the public consider your system as transparent and administratively effective? Does the system meet general acceptance in the population?

#### Evaluation of future challenges

167. Assess the financial sustainability of the system (of each pillar) with regard to demographic, economic and social changes.
168. Are there pension finance projections for the future? Which future developments are indicated?
169. What are the main challenges for the old-age security of your country in the future?

#### Evaluation of recent and planned reforms

170. Describe recent major reforms which have been implemented. What were the main objectives of the reforms?
171. Describe the discussion and status of planned reforms. What are the main political positions? What is the expected impact of these reforms?
172. Provide an analysis of current trends in pension policy and an assessment whether in your view these reforms (recent and planned) will cope with future challenges.

#### ***D. Health and long-term care***

173. Please explain how the delivery of health and long-term care is organised. What is the structure of the healthcare system in your country? What is the share of resources devoted to the primary and secondary care?
174. Please explain how the healthcare system in your country is financed (is there compulsory insurance or budget financing)? Please indicate the respective parts of taxes and social contributions, the breakdown between compulsory coverage and voluntary complementary coverage and further information on out-of-pocket payments (if available).
175. What is the level of total healthcare expenditure in % of GDP? What is the proportion of public and private financing? What is the incidence of out-of-pocket payments (official and unofficial) in healthcare (if available)?
176. What is the accessibility of healthcare system? Please describe existing inequalities in access (geographical, financial, social)? Are certain groups excluded from the public system for legal reasons (coverage)?
177. Is the healthcare system sustainable from the financial point of view? Is it sustainable from the point of view of human resources? Do you observe outmigration of staff or staff shortages? If yes, are there any strategies in place to retain staff?
178. What are outcomes of the health system as measured by different indicators? International comparison would be welcome. How is quality of care controlled (is there an independent body in charge of controls)? How are technologies in the care system assessed (is there an independent body in charge of the assessment)?
179. What is the organisation of the supply of long-term care services (is there a specific budget, specific plans etc.) compared to demand? What is the role of institutional and non institutional care? What is the proportion of public and private supply?
180. Did you take specific measures to improve access quality and sustainability of the health care sector? Same question regarding the long-term care sector.



## ***VII. ANTI-DISCRIMINATION AND EQUAL OPPORTUNITIES***

### ***A. Anti-discrimination***

The EU acquired important new competences in 1999 to combat discrimination on grounds of racial and ethnic origin, religion or belief, age, disability and sexual orientation. These competences are set out in Article 19 of TFEU.

On that basis, the Council adopted two Directives in 2000:

Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin. This Directive covers direct and indirect discrimination in the fields of employment, education, social protection (including social security and health care), social advantages, goods and services (including housing).

Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation. This Directive covers employment discrimination on the grounds of religion or belief, age, disability and sexual orientation. It includes specific requirements on reasonable accommodation for persons with disabilities.

The EU has also established an action programme to combat discrimination to support the transposition of the Directives and to promote a range of non-legislative activities (research, networking and awareness-raising).

Against this background the following questions are relevant:

181. Which is (are) the government department(s) responsible for measures to combat discrimination on the grounds outlined above?
182. What kind of legislative and non-legislative measures exist in your country to tackle discrimination?
183. What kind of judicial remedies exist in case of discrimination in the fields of employment, education, health care, social security, housing and access to goods and services? To what courts or other tribunals could victims of discrimination take their cases?
184. Are there specific legal provisions prohibiting discrimination and providing for remedies? Does such legislation define various types of discrimination (direct, indirect, harassment and instructions to discriminate)?
185. What sanctions and remedies can be applied in discrimination cases? Can the victim claim compensation? If so, does compensation cover the full extent of the loss suffered or are there any limits envisaged by the legislation?
186. What bodies (such as "equality bodies") exist to promote the fight against racial and gender-based discrimination (and discrimination on other grounds)? What are their powers? What are the guarantees for effective and independent performance of their powers?
187. What NGOs exist to promote the fight against discrimination? How are they involved in concrete actions, including policy-making and the defence of discrimination cases in the courts? Please indicate whether NGOs have the right to represent or act on behalf or in support of the victims of discrimination in court/administrative proceedings.

188. Does the legislation impose on an employer a duty of reasonable accommodation of disabled persons, to enable them to have access to, participate in, and advance in employment?

***B. Equal treatment of women and men***

Equal opportunities (Directives 75/117, 76/207, 2002/73, 86/613, 86/378, 92/85, 96/34, 96/97, 97/80 and 2004/113)

189. Is the principle of equal pay for equal work or work of equal value for men and women guaranteed?

i) by law;

ii) by collective agreement;

iii) by the Constitution ?

190. Do pay gaps exist between women and men? How is the gender pay gap defined and measured?

191. Is direct discrimination forbidden by law in the field of access to employment, training, promotion and working conditions?

192. Is gender specific advertising allowed?

193. Is there a rule established either by law or jurisprudence that there is no justification whatsoever to ask a woman about pregnancy when applying for a job of whatever kind?

194. Does the national law or case law provide a definition of direct and indirect discrimination, harassment on ground of sex and sexual harassment? (Directive 2006/54/EC)

195. Are there any legal provisions concerning damages to be awarded by court in case of discrimination on grounds of sex? If so, are there any upper limits defined by law for such cases?

196. Is there a system of administrative sanctions in case of discrimination based on sex? If so, please give details.

197. Are there any provisions to protect women (not pregnant women) against work underground, onerous and harmful work and in particular from night work?

198. Are there any provisions in law or ordinance to define jobs in the sense of Art. 2 (2) of Dir. 76/207 where the sex of a worker constitutes a determining factor?

199. Is there a general prohibition of night work for pregnant women?

200. What is the legal position of a spouse of a self employed worker in terms of status, social protection and rights?

201. Are pregnant women protected against dismissal during the time of pregnancy and maternity leave?

202. Do national law or collective agreements forbid the exposure of pregnant or breast-feeding women to hazardous agents?
203. Does the employer have to assess the risk within the workplace?
204. What are length and conditions of maternity leave required by law?
205. Do provisions in your law clearly stipulate that at least 2 weeks of maternity leave are compulsory?
206. Do national law or collective agreements give an individual right to parental leave and to reintegration into the previous or an equivalent job?
207. Is parental leave granted on an individual non-transferable basis to both parents?
208. What provisions on parental leave grant parents the right to return to the same work place, protection against dismissal and the protection of acquired rights?
209. Are there provisions on the burden or proof concerning court suits and other procedures in cases of sexual discrimination? If so, does the employer have to prove that he did not discriminate if discrimination can be presumed?
210. Do institutional structures exist for the promotion of gender quality? (Equal opportunities Commission, ombudsperson, etc.). Please provide an overview of all the institutional structures for the promotion of gender equality and indicate their administrative capacity.
211. Please provide information on:
  - a) the activity rates of women and men;
  - b) the employment rates of women and men;
  - c) the unemployment rates of women and men;
  - d) part time work for women and men;
  - e) educational attainment of women and men (upper secondary school, 20-24);
  - f) share of members of national Parliaments (women and men);
  - g) share of senior ministers of national government (women and men);
  - h) the gender pay gap between women and men;
  - i) the proportion of female entrepreneurs;
  - j) the availability of childcare facilities.
212. What measures are put in place to encourage the reconciliation between professional and private/family life of both women and men?
213. What measures are put in place to encourage a balanced participation of women and men in economic and political decision-making?

214. What measures are put in place to encourage labour market participation of particular groups of women such as disabled women, single mothers, older women, women living in rural areas etc.?
215. Are there any legal provisions in place covering occupational social security schemes? If so, do such schemes already exist in your country?
216. Are there any restrictions based on gender, concerning access to goods and services available to the public, offered outside private and family life?
217. Is gender used as an actuarial factor for insurance products?
218. Are health insurance premiums for women higher than for men and are pregnancy and maternity related costs taken into account for the purpose of calculating premiums?

#### Equality of treatment in social security

219. Is there a general social security scheme covering the working population in your country? Does it contain differences in the pensionable age for men and women, or in the survivor pension benefits available to men and women? (These may be permitted under the derogations contained in Directive 79/7/EEC.)
220. If there is a general social security scheme, does it also apply to civil servants, including the police and armed forces? Is there any specific scheme for civil servants, or are there within the general scheme specific rules for civil servants? Does it contain differences in the pensionable age for men and women, or in the survivor pension benefits available to men and women?

## ANNEX

### Main EU Directives in the field of health and safety at work

- **Directive 89/391/EEC<sup>23</sup>** of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work;
- **Council Directive 89/654/EEC<sup>24</sup>** of 30 November 1989 concerning the minimum safety and health requirements for the **workplace** (first individual directive within the meaning of Article 16(1) of Directive 89/391/EEC);
- **Directive 2009/104/EC<sup>25</sup>** of the European Parliament and of the Council of 16 September 2009 concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC – Codification of Directive 89/655/EEC, as amended by Directives 95/63/EC and 2001/45/EC);
- **Council Directive 89/656/EEC<sup>26</sup>** of 30 November 1989 on the minimum health and safety requirements for the use by workers of **personal protective equipment** at the workplace (third individual directive within the meaning of Article 16(1) of Directive 89/391/EEC);

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<sup>23</sup> OJ L 183, 29.6.1989, p.1.

<sup>24</sup> OJ L 393, 30.12.1989, p.1.

<sup>25</sup> OJ L 260, 3.10.2009, p. 5.

<sup>26</sup> OJ L 393, 30.12.1989, p.18.

- **Council Directive 90/269/EEC**<sup>27</sup> of 29 May 1990 on the minimum health and safety requirements for the manual handling of **loads** where there is a risk particularly of back injury to workers (fourth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC);
- **Council Directive 90/270/EEC**<sup>28</sup> of 29 May 1990 on the minimum safety and health requirements for work with **display screen equipment** (fifth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC);
- **Directive 2004/37/EC**<sup>29</sup> of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to **carcinogens or mutagens** at work (sixth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC - Codification of Directive 90/394/EEC);
- **Directive 2000/54/EC**<sup>30</sup> of the European Parliament and of the Council of 18 September 2000 on the protection of workers from risks related to exposure to **biological agents** at work (seventh individual directive within the meaning of Article 16(1) of Directive 89/391/EEC) - Codification of Directive 90/679/EEC);
- **Council Directive 92/57/EEC**<sup>31</sup> of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile **construction sites** (eight individual directive within the meaning of Article 16(1) of Directive 89/391/EEC);
- **Council Directive 92/58/EEC**<sup>32</sup> of 24 June 1992 on the minimum requirements for the provision of safety and/or health **signs** at work (ninth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC);
- **Council Directive 92/91/EEC**<sup>33</sup> of 3 November 1992 concerning the minimum requirements for improving the safety and health protection of workers in **the mineral-extracting industries through drilling** (eleventh individual directive within the meaning of Article 16(1) of Directive 89/391/EEC );
- **Council Directive 92/104/EEC**<sup>34</sup> of 3 December 1992 on the minimum requirements for improving the safety and health protection of workers in **surface and underground mineral-extracting industries** (twelfth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC);
- **Council Directive 93/103/EC**<sup>35</sup> of 23 November 1993 concerning the minimum safety and health requirements for work on board **fishing vessels** (thirteenth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC);
- **Council Directive 98/24/EC**<sup>36</sup> of 7 April 1998 on the protection of the health and safety of workers from the risks related to **chemical agents** at work (fourteenth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC);

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<sup>27</sup> OJ L 156, 21.6.1990, p.9.

<sup>28</sup> OJ L 156,21.6.1990, p.14.

<sup>29</sup> OJ L 229, 29.6.2004, p.23.

<sup>30</sup> OJ L 262, 17.10.2000, p.21.

<sup>31</sup> OJ L 245, 26.8.1992, p.6.

<sup>32</sup> OJ L 245, 26.8.1992, p.23.

<sup>33</sup> OJ L 348, 28.11.1992, p.9.

<sup>34</sup> OJ L 404, 31.12.1992, p.10.

<sup>35</sup> OJ L 307, 13.12.1993, p.1.

- Commission Directives establishing indicative exposure limit values:
  - **Commission Directive 91/322/EEC<sup>37</sup>** of 29 May 1991 on establishing indicative limit values by implementing Council Directive 80/1107/EEC on the protection of workers from the risks related to exposure to chemical, physical and biological agents at work,
  - **Commission Directive 2000/39/EC<sup>38</sup>** of 8 June 2000 establishing a first list of indicative occupational exposure limit values in implementation of Council Directive 98/24/E on the protection of the health and safety of workers from the risks related to chemical agents at work,
  - **Commission Directive 2006/15/EC<sup>39</sup>** of 7 February 2006 establishing a second list of indicative occupational exposure limit values in implementation of Council Directive 98/24/EC and amending Directives 91/322/EEC and 2000/39/EC;
  - **Commission Directive 2009/161/EU<sup>40</sup>** of 17 December 2009 establishing a third list of indicative occupational exposure limit values in implementation of Council Directive 98/24/EC and amending Commission Directive 2000/39/EC;
- **Directive 1999/92/EC<sup>41</sup>** of the European Parliament and of the Council of 16 December 1999 on minimum requirements for improving the safety and health protection of workers potentially at risk from **explosive atmospheres** (fifteenth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC);
- **Directive 2002/44/EC<sup>42</sup>** of the European Parliament and of the Council of 25 June 2002 on the minimum health and safety requirements regarding the exposure of workers to the risk arising from **physical agents (vibration)** (sixteenth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC);
- **Directive 2003/10/EC<sup>43</sup>** of the European Parliament and of the Council of 6 February 2003 on the minimum health and safety requirements regarding the exposure of workers to the risk arising from **physical agents (noise)** (seventeenth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC);
- **Directive 2004/40/EC<sup>44</sup>** of the European Parliament and of the Council of 29 April 2004 on the minimum health and safety requirements regarding the exposure of workers to the risks arising

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<sup>36</sup> OJ L131, 5.5. 1998, p.11.

<sup>37</sup> OJ L177, 5.7. 1991, p.22.

<sup>38</sup> OJ L 142, 16.6.2000, p.47.

<sup>39</sup> OJ L 38, 9.2.2006, p.36.

<sup>40</sup> OJ L 338 of 19.12.2009, p. 87.

<sup>41</sup> OJ L 23, 28.1.2000, p.57.

<sup>42</sup> OJ L 177, 6.7.2002, p.13.

<sup>43</sup> OJ L 42, 15.2.2003, p.38.

<sup>44</sup> OJ L 184, 24.5.2004, p.1.

from **physical agents (electromagnetic fields)** (18th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC), ); as amended by Directive 2008/46/EC<sup>45</sup>

- **Directive 2006/25/EC**<sup>46</sup> of the European Parliament and of the Council of 5 April 2006 on the minimum health and safety requirements regarding the exposure of workers to risks arising from **physical agents (artificial optical radiation)** (19th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC);
- Council **Directive 92/29/EEC**<sup>47</sup> of 31 March 1992 on the minimum safety and health requirements for improved **medical treatment on board vessels**;
- **Directive 2009/148/EC**<sup>48</sup> of the European Parliament and of the Council of 30 November 2009 on the protection of workers from the risks related to exposure to **asbestos** at work;
- **Council Directive 2010/32/EU** of 10 May 2010 implementing the Framework Agreement on prevention from **sharp injuries** in the hospital and healthcare sector concluded by HOSPEEM and EPSU (Text with EEA relevance).

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<sup>45</sup> OJ L 114, 26.4.2008, p. 88

<sup>46</sup> OJ L 114, 27.4.2006, p.38.

<sup>47</sup> OJ L 113, 30.4.1992, p.19.

<sup>48</sup> OJ L 330, 16.12.2009, p. 28–36

## ***Chapter 20: Enterprise and industrial policy***

The *acquis* under the enterprise and industrial policy chapter consists largely of **policy principles** and policy recommendations which are reflected in communications, recommendations, and Council conclusions. These are also subject of consultation forums and exchange of good practice measures. Enterprise and industrial policy comprises **policy instruments**, including financial support and regulatory measures, as well as **sectoral policies**, including recommendations for more targeted enterprise policy review/analysis and consultations. Overall, EU enterprise and industrial policy was strongly driven by the renewed Lisbon strategy for growth and jobs. The EU 2020 strategy, designed as the successor to the current Lisbon Strategy, will further guide the common direction of reforms for all EU Member States.

By establishing general **policy principles**, EU enterprise and industrial policy seeks to promote the formulation of competitiveness enhancing enterprise policies and industrial strategies. These are geared towards speeding up structural adjustments, encouraging an environment favourable to business creation, domestic and inward foreign investments, promoting the development of small and medium-sized enterprises (SME), entrepreneurship and innovation. The Small Business Act, adopted in June 2008 containing a set of joint principles and concrete actions to support SMEs, provides the framework for EU SME policy together with a common SME definition.

Enterprise and industrial **policy instruments** comprise EU programmes to provide financial support for competitiveness (including improved access to finance), innovation and information society (notably through the Competitiveness and Innovation Programme (CIP) for 2007-2013). It also includes Directive 2000/35/EC combating late payment in commercial transactions, as well as the Commission proposal for its recast (COM (2009) 126 final).

Through its enterprise and industrial **sectoral policies**, the EU promotes a more targeted analysis of the competitiveness of specific sectors and the launch of specific initiatives such as the creation of high-level groups, policy forums, studies and expert panels in certain sectors as well as networking initiatives.

The implementation of enterprise and industrial policy requires adequate administrative capacity at the national, regional and local level, including efficient consultation and cooperation mechanisms for a quality and effective policy formulation and implementation.

### ***I. ENTERPRISE AND INDUSTRIAL POLICY PRINCIPLES***

#### ***Industrial Policies and Competitiveness***

##### Benchmarking/Scoreboard

1. Please provide an overview and analysis of the economic situation of your country and more specifically of industry and industrial sector. When providing economic data, please indicate as far as possible not only the most recent available figures, but also past and future trends (the last three years and projections for the next three to five years) in respect of each question. **Please refer to Annex 1** for a more detailed set of questions on presenting the situation of industry and industrial sectors.
2. If an industrial/competitiveness policy is in place, please describe its main features and priorities. How these priorities are made consistent with the overall economic policy? Does the industrial policy take into account the necessity to create an attractive operating



environment for business and investors; to promote the development of adequate professional skills, the creation of an integrated innovation system and the development of clusters? How is competitiveness addressed?

3. Is there an industrial/competitiveness framework policy paper/strategy/action plan that defines the government's approach to industrial development and restructuring (including privatisation aspects) and improving competitiveness (if it is not the case, which documents can be considered reference documents for understanding the government's policy in the industrial sector and on competitiveness (policy analysis, strategies, action plans, regulations)? Specify the status of this (these) document(s). How it is based on the analysis of the country's competitive advantages, market imperfections/failures; when and for what reasons state intervention is foreseen; how the interface is articulated with other government policies such as competition, education and research, employment, and regional policies; whether interested parties (business operators, academic and research institutions, intermediary agencies) have been involved in the design of the strategy. How much is Industrial Policy a political priority for your Government?
4. Who is involved in design and implementation of industrial/competitiveness policy (ministries, agencies, private sector, stakeholders) and how (including what consultation mechanisms)? Which are the main tools/instruments, programmes, finance for industrial/competitiveness policy? Which institutions are responsible for policy implementation, in particular in the areas of privatisation, restructuring, export promotion, investment promotion, innovation and training? What are their main functions, organisation, staffing levels and annual budget? How is co-ordination between the various institutions arranged? How are industrialists consulted on policy? How are responsibilities divided between the central government and local government and the implementing agencies?
5. Which professional organisations exist and how are the interests of industry represented in these organisations? What co-operation exists between these organisations and government policy makers?
6. How are requirements of sustainable development incorporated in the design and implementation of industrial policy? Do you have any other more horizontal policy measures to take into account the climate change challenge?
7. What are the specific measures implemented to promote investment, and in particular to attract foreign direct investment? Do you have studies showing the opportunities (niches) for your manufacturing sectors on the EU and global market?
8. Has the government supported the creation of free zones and industrial parks or similar initiatives? If so, how can their operation be assessed so far? Are the relevant contractual agreements consistent with EU regulations?
9. Are you carrying out or commissioning studies on the competitive position of your economy and/or main industrial sectors and are results of recent studies available?
10. Please inform about what is foreseen for the future and what is in the pipeline (plans, blue prints, timetables).

### ***Privatisation and Restructuring***

11. Please provide a copy of your annual privatisation plan. What policy/plan and schedule has been identified for privatisation or restructuring? How is the privatisation of industrial enterprises proceeding according to this schedule? Where obstacles impede full respect of the schedule, what are the obstacles and the solutions proposed by the government to overcome these difficulties?
12. What is the progress in privatising the banking sector and utilities?
13. Is the environment for developing the ownership and corporate governance system adequate? Are there arrangements for post-privatisation corporate governance?
14. What is the main driving force behind industrial restructuring? Privatisation? Foreign Direct Investment? Development of competitive companies?
15. Are there adequate bankruptcy legislation and effective enforcement procedures in place to allow for the closing of non-viable enterprises?

### ***Enterprise and SMEs***

#### **Policies**

16. Please provide us with the official definition(s) currently applied in your country for SMEs.
17. What is the share of micro (up to 10 employees), small (up to 50) and medium-sized companies (up to 250 employees) in the national economy in terms of GDP, employment and export?
18. Is there a framework policy paper that defines/includes the government's approach and policy towards enterprises/SMEs? Specify the status of this document and provide the key elements of the government's SME policy. If it is not the case, which documents can be considered reference documents for understanding the government's policy in the enterprise/SME sector?
19. Has the government developed a specific SME development strategy/action plan? Please describe its status, period and main points of action. Please provide an overview of basic SME policy documents (policy analysis, strategies, action plans, regulations)
20. Who is involved in design an implementation of SME Policy (ministries, agencies, private sector, stakeholders) and how (including what consultation mechanisms)?
21. Which are the main tools/instruments, programmes, finance of SME Policy? Please estimate the amount of funding made available for SMEs through the national government and other donors (EU, international/bilateral donors).
22. Has an evaluation of SME Policy taken place – if so provide the main findings. Are evaluations planned?
23. Please provide information about what is foreseen for the future regarding SME Policy and what is in the pipeline (plans, blue prints, timetables).

24. Is there a specific legal framework for cooperatives, mutualities and foundations? Please explain.

*Business Environment*

25. Creating an environment in which entrepreneurs and family businesses can thrive and entrepreneurship is rewarded:

26. Is entrepreneurship in any way taught as a skill in the formal (primary, secondary, university) education or vocational training system? Where appropriate, please indicate whether these are compulsory or optional subjects in the curriculum.

27. Regarding university level education on entrepreneurship in your country: are there any specific academic titles on entrepreneurship, i.e. can an entrepreneurship degree be obtained as the ultimate objective of the course in question?

28. Outside of the remit of formal education and training, are there any other initiatives to stimulate entrepreneurship (using media, events, local partners, significant initiatives of companies themselves etc.) including female entrepreneurship, support to immigrants who wish to become entrepreneurs and support for business transfers?

29. Please describe your business incubators strategy and progress achieved so far.

*Ensuring that honest entrepreneurs who have faced bankruptcy get a second chance:*

30. Are there any measures that discriminate against entrepreneurs who have undergone bankruptcy in a previous venture? In which areas (access to public procurement, access to public funds, access to public support programmes)?

31. Do prohibitions or limitations apply to bankrupt entrepreneurs after the bankruptcy procedure has been finalised? Which ones and for how long?

32. Are there any policies in place to promote a fresh start for non-fraudulent entrepreneurs who have gone bankrupt?

33. Is there any target time to complete all legal procedures to wind up the business in the case of a non-fraudulent bankruptcy? What is the average time of discharge? Is it a complete or a partial discharge?

*Designing rules according to the think small first principle and simplifying the regulatory environment:*

34. Have the effects of your country's legislation on the business environment, in particular for small enterprises, been evaluated? If not, are you considering launching such evaluation? If yes, please provide an overview of the main findings and subsequent action taken by the government.

35. What procedures are in place to assess the impact of new legislation on business?

36. What measures has your government taken in order to adopt user-friendly administrative documents?

37. Are there any rules in place, which allow for SMEs to be exempted from certain regulatory obligations? Is your government considering any measures to allow for such exemption?
38. How many organisations representing SMEs exist at national level? List the main organisations and provide information on their coverage (specific sectors or types of companies, specific purpose of the organisation) and indicate how representative they are (membership as percentage of total number of companies). Are they established throughout the whole territory?
39. Is their participation in the policy-making process established? Is it formalised by law or any other means? Please mention a practice in this area (e.g. quote a consultative body/advisory council, etc).

*Making public administrations responsive to SME needs, notably by promoting e-Government and one-stop-shop solutions:*

40. Please make your best assessment of the total number of procedures and minimum time and costs (in euro) required to effectively register a new company and fulfil all formal requirements to effectively start a business. Please distinguish between registration in the narrow sense and other formal procedures and licensing/permits. Describe which administrations are responsible for the different steps, both at central and local level.
41. Can all or part of the process be undertaken through a single one stop shop? Please specify which steps have been unified and can be made through a single one stop shop.
42. Can all or part of the process be undertaken through on-line procedures? Please specify which steps, if any, can be made through direct on-line procedures.
43. Is there obligatory membership of Chambers of Commerce in your country? If yes, what is the membership fee?
44. Are there any policies in place to reduce the obligation of micro-businesses to participate in statistical surveys?
45. Please describe very briefly which (if any) measures your country has introduced to ensure the effective survival of start-ups. Where these have had measurable results, please provide data.
46. Adapting public policy tools to suit SME needs including through facilitating SMEs participation in public procurement and by ensuring that SMEs can make better use of state aids:
47. Are there any initiatives in place to promote the access of SMEs to public procurement procedures?
48. Are there any provisions in the state aid policy targeted at SMEs?

*Facilitating SMEs access to finance*

49. How would you assess the situation in your country in relation to SMEs' access to finance through banks and other financial institutions such as venture capital funds, especially in the light of the crisis of 2008-2009?

50. Is the financial sector seen as open and responsive to the needs of SMEs in your country? Are banks ready to respond to the needs of small employers without excessive collateral or guarantees? Which kind of collaterals do domestic banks accept to extend a loan to an SME and to what extent can intellectual property be used? What is the usual amount of data requested by banks in order to extend a loan to an SME? What are the average costs and how long does it take to prepare the requested documentation?
51. How easily are small loans (microcredits) currently available for businesses and people wanting to set up a business? Are (non-bank) microfinance providers active in you country?
52. Are there publicly financed SME funding programmes? If yes, please mention the most relevant programmes and the results obtained.
53. If such a programme does exist, are there plans for a loan guarantee programme for SMEs?
54. To what extent are other sources of finance (equity investment by venture capital funds or, business angels, etc.) being used and publicly promoted in your country? Please mention any good practice in this area, including the most relevant results obtained.

*Market access for SMEs:*

55. Are there any measures in place to promote SMEs use of and involvement in development of standards?
56. Are there any advisory services to SMEs to support themselves against unfair commercial practices?

*Promotion of upgrading of skills and of innovation:*

57. Are there any programmes aiming at the promotion of technology dissemination towards small enterprises? How would you assess the impact of these programmes?
58. What initiatives have been taken to promote technology transfer from research institutes to SMEs?
59. How would you assess progress in enhancing inter-firm co-operation and clustering? Which significant initiatives have been or will be introduced in this field?
60. Please describe measures, if any, to ensure the availability of education/training systems or initiatives to supply skills specifically in demand with SMEs
61. Are there any initiatives to develop SMEs' competences in research and development such as simplified access to public research infrastructure, use of R&D services, recruitment of skilled employees and training?

*Turning environmental challenges into opportunities:*

62. Please describe measures, if any, to provide incentives for eco-efficient business and products for SMEs.

*Supporting SMEs to access foreign markets:*

63. Please describe which measures, if any, are in place or to be introduced, to enhance the access and opportunities of SMEs on foreign markets, particularly the EU Internal Market.

## ***Innovation Policy***

64. Has the government prepared specific strategies in the area of innovation, research & development? Please describe the quality of innovation policy design and the policy delivering, by providing and explaining:
- Basic policy documents (policy analysis, strategies, action plans, regulations)
  - Who is involved (ministries, agencies, private sector, stakeholders) and how (including what consultation mechanisms)
  - Which are the main tools/instruments, programmes, finance.
65. Inform about what is foreseen for the future and what is in the pipeline (plans, blue prints, timetables).

## ***II. ENTERPRISE AND INDUSTRIAL POLICY INSTRUMENTS***

### ***Participation in EU programmes***

66. Brief description of participation in the Competitiveness and Innovation Programme (CIP) for SME: participants, experiences/results (as applicable).

### ***EP and Council Directive 2000/35/EC on combating late payment in commercial transaction***

67. Please provide your understanding of requirements under this Directive.
68. Provide state of play of possible existing alignment with Directive and possible plans for further alignment.

## ***III. SECTOR POLICIES (see also Annex 1)***

69. Is the government implementing sector specific development support programmes? What types of actions are implemented? How are they financed? Is the form of support implemented by the government compatible with EU state aid rules?
70. Please provide a description of the quality of sector policy design and the sector policy delivery, by providing and explaining:
- Basic policy documents (policy analysis, strategies, action plans, regulations);
  - Who is involved (ministries, agencies, private sector, stakeholders) and how (including what consultation mechanisms);
  - Which are the main tools/instruments, programmes, finance?
71. Inform about what is foreseen for the future and what is in the pipeline (plans, blue prints, timetables) in terms of sector specific development support programmes.
72. Please describe current policy and implementation as regards the privatisation of large industrial enterprises for the main industrial sectors of your economy. Are there any plans for re-nationalisation of large industrial enterprises? If yes, which ones? What are the government medium term objectives in these cases?

73. Has the government prepared sector-specific restructuring packages? If this is the case: Is enterprise viability the guiding principle behind the restructuring programmes or are there other objectives in terms of e.g. employment targets? How are these programmes financed? Is the support from the state compatible with EU state aid rules?
74. What progress has been made in implementing the policy? Is policy implementation monitored in an open and transparent manner?

## **Annex 1: Detailed questions on industry and main industrial (sub-)sectors**

The structure is as follows:

Section I – General questions requesting macro-economic data on industry.

Section II – A list of industrial sectors and sub-sectors is provided. Please provide the data listed (letters A to I) for all of these (sub-)sectors.

Section III – Supplementary questions. Please provide answers to the supplementary questions about the relevant (sub-)sectors.

Please refer to and answer questions on sectors and sub-sectors as relevant.

### ***Section I GENERAL QUESTIONS ABOUT INDUSTRY***

As and where appropriate, your replies should be in both absolute and relative (percentages) figures.

#### **75. Importance of industry to the economy**

- a) Contribution to gross national product (GNP)
- b) Breakdown between manufacturing and services in relation to GNP
- c) Contribution to GNP, by size of enterprise<sup>49</sup>, and by public and private sector
- d) Which are the most important subsectors within the respective industrial sectors (based on production parameters)?
- e) please provide sources of the provided data

#### **76. Number and structures of enterprises**

- a) Total number of enterprises in the manufacturing and services sectors
- b) Number of enterprises per size category
- c) Number of enterprises created (if available with a breakdown by size)
- d) Number of enterprises closed down (if available with a breakdown by size)
- e) Breakdown between public and private sectors
- f) Number of joint ventures with enterprises from the EU and with the rest of the world

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<sup>49</sup> For the sake of uniformity, please follow the size criteria used in the EU:

- large enterprises: over 250 employees

- medium-sized enterprises: between 50 and 249 employees

- small enterprises: fewer than 50 employees (if necessary a further category may be distinguished: micro-enterprises: fewer than 10 employees).



77. Jobs:

- a) Total number of jobs in industry and the totals for the manufacturing sector and for the service sector
- b) Number of jobs by size of enterprise
- c) Number of jobs created in industry and by the manufacturing sector and services sector, by size of enterprise if possible

78. Investment, privatisation and research and development (R&D):

- a) Total investment, and investment by the manufacturing sector and the services sector
- b) Foreign direct investment, on an annual basis and total. To the extent possible, distinguish between greenfield investment, privatisation-led investment (brown-field), real estate investment and inter-company debt operations.
- c) Origin of EU investment and that of principal non-EU countries
- d) Market shares in relation to size of enterprises
- e) Shares of total exports relative to size of enterprises
- f) Industrial R&D expenditure broken down into government financed expenditure (not including military programmes), industry financed and financed from abroad

79. Chief manufacturing sectors:

- a) Give a brief description of the chief sectors in terms of their contribution to GNP, employment, investment, the domestic market and exports. If possible, provide a breakdown by size of enterprise in each of the sectors considered.

**Section II     INDUSTRIAL SECTORS AND SUB-SECTORS**

Raw materials, non-ferrous metals, ferro-alloys, cement, glass, ceramics, paper and wood, publishing industry

80. Iron and steel:

- a) basic iron and steel effective production and potential production (capacity with separate hot rolled capacity)
- b) processed products, of which tubes
- c) ferro-alloys

81. Non-ferrous metals

82. Non-energy extractive industries (metallic and non-metallic, minerals broken down by mineral type):

- a) iron ore
- b) non-ferrous metal ores
- c) others

83. Ceramics

84. Forest-based industries:

- a) manufacture of wood products except furniture, of which: sawmilling, manufacture of veneer sheets, manufactures of builders' carpentry and joinery, others
- b) manufacture of pulp
- c) manufacture of paper and paper board
- d) manufacture of paper and paper board products
- e) printing

85. Glass and glassware

86. Cement and lime

*Chemicals and rubber*

87. Chemicals:

- a) inorganic chemicals
- b) petrochemicals and other organic chemicals
- c) fertilisers
- d) soap and detergents
- e) cosmetics, perfume or scent and toilet waters
- f) plastics
- g) pesticides and biocides
- h) paints and varnishes

88. Rubber: tyres and general rubber goods

*Mechanical and electrical engineering and consumer electronics*

89. Electrical and electronic equipment

90. Mechanical engineering:

- a) Manufacture of fabricated metal products, except machinery and equipment
- b) Manufacture of machinery and equipment not elsewhere classified
- c) Manufacture of electrical machinery and apparatus not elsewhere classified

91. Industrial motors

*Information technology industries*

92. Computer and office equipment

93. Telecommunications equipment

94. Consumer electronics

95. Components including microelectronics

96. Software

*Medical devices, including active medical devices and in vitro devices*  
*Pressure equipment and measuring instruments*

97. Pressure equipment: equipment operating under pressure (tanks, reservoirs, containers, industrial pipe-work, boilers, pressure vessels, safety devices operating under pressure):
- a) Pressure equipment Directive (PED)
  - b) Simple pressure vessels (SPVD)
98. Gas appliances (GAD): appliances burning gaseous fuels used for cooking, heating, production of hot water, lighting, washing, and refrigeration, and forced draught gas burners and heating bodies to be equipped with such burners (excluding appliances specifically designed for use in industrial processes carried out on industrial premises).
99. Legal metrology:
- a) Measuring instruments Directive (MID)
  - b) Non-automatic weight instruments (NAWI)
  - c) Prepackaging (Dir 75/107, Dir 76/211, Dir 2007/45)
  - d) Units of measurement

*Construction and construction products*

100. Manufacture of construction products
101. Execution of civil engineering works
102. Execution of building and housing works

*Transport equipment industries*

103. Automobile products (only new, not including used products):
- a) passenger cars
  - b) light commercial vehicles (up to 5 t gross vehicle weight)
  - c) buses and coaches
  - d) trucks
  - e) powered two- and three-wheelers
  - f) trailers and semi-trailers
  - g) parts and components for cars, trucks and buses
  - h) wheeled or track laying agricultural and forestry tractors
  - i) trailers and interchangeable towed machinery for agricultural and forestry tractors
  - j) systems, components and separate technical units for agricultural and forestry tractors
104. Rail and other guided transport vehicles
105. Shipbuilding and ship repair (including maritime equipment)
106. Manufacture of aircraft and spacecraft

*Food products*

107. Food and drinks sector:

- a) the food and drinks sector as a whole
- b) non-alcoholic beverages - soft drinks and mineral water
- c) malting and brewing industries' products
- d) spirit drinks
- e) sugar confectionery
- f) chocolate products and cocoa preparations;
- g) bread, biscuit, bakers' wares and pastry products
- h) pasta and couscous
- i) ice cream
- j) tobacco products
- k) baby food
- l) tea and coffee preparations
- m) processed dairy products
- n) margarines
- o) general food preparations (intermediate products for the food industry)
- p) starch products
- q) yeasts
- r) soups and broths

*Textiles and clothing, leather, footwear, furniture, toys*

108. Textiles and clothing:

- a) textiles: Please specify main activities (including knitwear)
- b) clothing industry

109. Leather and leather products

110. Footwear

111. Furniture

112. Toys

*Pharmaceutical products*

113. Medicinal products for human use

114. Veterinary medicinal products

*Defence products*

115. Land sector

- 116. Naval sector
- 117. Air sector
- 118. Space sector

*Tourism*

119. Data to be provided for each of the above listed sectors and sub-sectors (if applicable/relevant)

A. Production and Consumption:

- a) Installed production capacity and its utilisation rate
- b) Present production (by volume and by value)
- c) Domestic demand, present and forecast (for the next three years)
- d) National self-supply ratio  
(production – exports)  
(production + imports - exports)

B. Trade:

- a) Imports (including temporary imports) by volume and by value from the rest of the world and from the EU, stating the main countries of origin
- b) Exports (by volume and by value) to the EU and other countries of destination
- c) Exports/production and imports/production ratios

C. Structural features:

- a) Turnover and gross value added (GVA), percentage of industry total
- b) Number of enterprises
- c) Number of jobs, percentage of total of jobs in industry
- d) Structure of enterprises: size distribution; production - degree of concentration (by turnover) of the sector; annual investment over the past five years; plant and machinery; plant and machinery in active use
- e) Foreign capital and technology
- f) Which are the chief companies in terms of employment? In terms of physical output? Are they publicly or privately owned?
- g) Production and marketing monopolies
- h) Productivity per employee and per hour worked
- i) Wage and salary costs and costs of materials in the industry

D. Sector-specific standards and technical regulations, including sector-related requirements for environmental protection

E. Incentives:

- a) For investment

- b) For exports
  - c) Other
- F. Rules on foreign investment:
- a) Characteristics: Restrictions on foreign participation, financial participation in particular; tax benefits rules on profit repatriation
  - b) Guarantees
- G. Trading system:
- a) Non-tariff measures affecting imports and exports, such as licences and quotas
- H. Likely developments, and time-scale:
- a) Investment envisaged (public sector, private sector, foreign)
  - b) Present or envisaged restructuring or modernisation plans
- I. Approximation of national legislation to EU legislation:
- a) List of measures, either planned or already adopted
  - b) Timetable

**Section III SUPPLEMENTARY QUESTIONS (as relevant)**

120. Supplementary question on the iron and steel industries (including ferro-alloys): What is the situation with regard to the competitiveness of the iron and steel industry? Is there currently a Restructuring and Conversion Programme for the Steel Industry? In the case of steel sector restructuring: Have the authorities prepared a restructuring plan? Is implementation proceeding according to schedule, and in line with provisions of the SAA?
121. Supplementary questions on the chemical industry:
- a) What are the regulations governing the placing on the market of detergents?
  - b) What are the regulations on fertilisers?
  - c) Is there production or industrial use of drug precursors? What is the law on the manufacture and marketing of drug precursors?
  - d) Is there production or industrial use of civil explosives? What are the regulations relating to the certification and transfer of explosives for civil use?
  - e) Is there production of pyrotechnic articles? What is the law on the manufacture and marketing of pyrotechnic articles?
122. Supplementary questions on construction sectors: is there an established system for monitoring construction products? If so, is there a strategy in place for further approximation with EU legislation? How are interested parties and major players (producers, testing laboratories, state bodies) involved in the process and kept informed? Is there a strategy/plan for integrating the EN Eurocodes as national standards (EN1990 – EN1999), including the definition of the Nationally Determined Parameters (NDPs)?
123. Supplementary questions on motor cars (automobiles):

- a) Production, registration, imports
    - i) Present production, by vehicle category and make in units;
    - ii) For passenger cars, total of new car registrations by make in the last three years, and average age of the car population;
    - iii) Main countries of origin of new vehicle imports, by vehicle category, in units and values;
    - iv) Main countries of destination of new vehicle exports, by vehicle category, in units and values;
    - v) Non- tariff measures affecting imports and vehicle registration, such as licences and quotas, for both new and used vehicles;
    - vi) Share (in percentage) of total industrial production (output) and change in the last years;
    - vii) Share (in percentage) of total industrial employment and change in the last years;
    - viii) FDI in this sector;
    - ix) Concentrations/monopolies/size in this sector
    - x) Share public/private ownership.
  - b) Technical requirements for new vehicles
    - i) Describe the present type-approval system, both for the decision making of the regulations and for its application. For the registration of new vehicles the technical requirement are established by what kinds of legislation (law, regulations) and at national or other level (local, regional, etc.)?
    - ii) Number of type-approvals granted by Serbia in 2010 by vehicle type;
    - iii) Explain the staffing levels for ensuring the application of the type-approval legislation; how it is ensured that Serbia will have the necessary human and material resources to cope with the future implementation of the EU *acquis*?
124. Approximation of national legislation to EU type-approval legislation (as last amended)
- a) List of measures, either planned or already adopted for the alignment with EU type-approval legislation;
  - b) Timetable for future alignment. By when could Serbia be in full alignment with the EU *acquis* on motor vehicle type-approval, as last amended?
  - c) Does Serbia anticipate any problem for reaching this full alignment above?
  - d) Is there nationwide in Serbia sufficient availability of fuel of the right quality to meet EU emissions standards for motor vehicles?
125. Supplementary question on taxation in the road transport sector: what are your road and registration taxes by category of vehicle?
126. Supplementary questions on the food industry:

- a) Please provide data on the agricultural raw materials and intermediate products used by the industry, broken down by product (type of product, quantities, prices, etc.).
  - b) What are your quality requirements for agricultural raw materials used by the cereals, sugar, dairy and egg processing industries to manufacture food products? Please provide a comparison with EU requirements and information on any harmonisation measures carried out. Which institution performs controls and is there a control schedule?
  - c) Please provide data on agricultural policies affecting the food industry. What are the measures that affect the prices of raw materials, especially agricultural policy measures? Also mention any compensatory measures for food products (such as subsidies, production and export refunds for food producers and exporters).
  - d) Please provide information on any specificities of the Serbian trade regime for Processed Agricultural Products (special duties, quotas etc.)
127. Supplementary question on clothing: Please distinguish between domestic production and OPT (subcontracted) production of clothing products.
128. Supplementary questions on forest-based industries:
- a) What is the total forest area in millions of hectares and as a percentage of the total land territory of the country?
  - b) What is the forest ownership structure? Distinguish between natural persons, other private ownership, state forests, national parks, local authorities, other public ownership.
  - c) What is the round wood production (also as a percentage of annual forest growth)? coniferous, non-coniferous?
129. Supplementary questions on pharmaceuticals:
- a) What is the regulatory framework for marketing authorisation and for clinical trials of medicinal products?
  - b) What is the regulatory framework for pricing and reimbursement of medicinal products?
  - c) To what extent, if at all, does the assessment of relative effectiveness of medicines (i.e. clinical and cost comparison with existing medicines on the market) play a part in the national health schemes?
  - d) What government, or government-funded, schemes exist to give information to patients/citizens about medicines?
130. Supplementary questions on aeronautic industry:
131. a) Could you describe possible already existing participation / cooperation of companies / associations / Ministries with the EU aeronautic industry (e.g. participation in EU R&D programmes, possible link of national industry association to European association etc?)
- Supplementary questions on tourism:
- a) Please describe briefly the government's current strategy on tourism. Is there a formal document (law or action plan) which forms the basis of this strategy? Please describe the tourism governance structure (Public, Private).
  - b) What are the main priorities with regard to tourism development?



- c) Are there reliable instruments for monitoring the tourism structure, tourism flows and the performance of tourism business? Is a methodology for TSA (Tourism Satellite Accounts) being applied?
  - d) What is the place of tourism in the context of general economic development plans and in the reform of the administrative and legal framework?
132. Supplementary questions on forestry and its industrial sectors:
- a) Do you have legislation concerning forestry and its industrial sectors in different fields such as wood procurement conditions, mandatory standards, trade constraints, etc.?
  - b) Do you have studies or policy guidelines by sector on the economic and juridical structure of forestry and its sectors?
133. Supplementary question on defence products:
- a) Could you describe possible already existing participation / cooperation of companies / associations / Ministries with the EU defence industry (e.g. possible link of national industry association(s) to European association(s) etc)?
  - b) Could you provide a short overview of your exports of defence products (average amount, main categories of defence goods exported, main destinations over the last years)?
  - c) Could you provide a short overview of your imports of defence products (average amount, main categories of defence goods imported, main suppliers over the last years)?
134. Supplementary question on gas appliances sector:
- a) Please provide information on the types of gas and corresponding supply pressures used on the territory of Serbia preferably in line with CEN EN 437:2003+A1 "Test gases - Test pressures - Appliance categories".

## **Chapter 21: Trans-European networks**

The European Union policy concerning Trans-European Networks, based on Articles 170-172 of the Treaty on the functioning of the European Union, covers infrastructure in the areas of transport, telecommunications and energy. It aims at establishing and developing networks and ensuring their interconnections and interoperability. For transport (TEN-T) and energy (TEN-E), the following legislation makes up cornerstones: the regulation on TEN financial support (Reg. 680/2007 ) and the guidelines Decisions for TEN-T (661/2010) and for TEN-E (1364/2006).

As far as **transport network** is concerned, the trans-European network contributes to a sustainable and multimodal development of transport and to the elimination of bottlenecks. In this regard, the transport networks play a significant role in ensuring a sustainable mobility, combining Europe's competitiveness with the welfare of its citizens while securing the transports of good and passengers in Europe.

Given the level of investments needed to complete and increase the trans-European networks and bearing in mind the estimated growth in traffic between Member States (according to the Commission's estimations expected to grow, between 2007 and 2020, by 42% for freight and 26 % for passenger traffic), a list of priority trans-national projects has been defined at the European level.

Trans-European **energy networks** cover the transport and storage facilities of gas as well as the electricity transmission and make a significant contribution to the electricity and gas market. TEN-E respond to the growing importance for securing and diversifying the EU's energy supplies, incorporating the energy networks of the Member States and candidate countries, and ensuring the coordinated operation of the energy networks in the EU and in neighbouring countries. The security of energy supply and the functioning of the internal energy market are key policy goals. This is mirrored in the Trans-European Energy guidelines of 2006 aiming at the installation of an electricity and gas network. Two axes for priority projects relevant to Balkan countries have been identified: EL.4 aimed to develop the south-east European electricity market and NG.3 new natural gas pipeline networks to the EU from new sources – Caspian Sea and Middle East – via Turkey and Balkans.

Trans-European **telecommunication networks** mainly refer to the development of networks and deployment of related services in the framework of specific Community programmes. The ICT Policy Support Programme (or ICT PSP) aims at stimulating innovation and competitiveness through the wider uptake and best use of ICT by citizens, governments and businesses. The programme builds on the aims of the previous e-TEN, Modinis and e-Content programmes and will support the aims of the new integrated strategy i2010 – European Information Society 2010.

### **I. TRANSPORT NETWORKS**

#### **A. Transport infrastructure**

##### *Maps of the national network*

1. Please provide maps of the national long distance transport network (road, rail, inland waterways including inland waterway, ports, airports). The long distance network will be identified on the basis of the criteria laid down in the draft Community Guidelines

for the development of the Trans-European Transport Network (see Decision n° 661/2010 on Ten-T guidelines).

2. Please provide information about the relevant national infrastructure planning and investment procedures (especially mater plan, investment and implementation planning for the short, medium and long-term).

#### *Public expenditure and investments*

3. Please provide data on public expenditure and investments by completing the tables in Annex 2.

#### *Regional cooperation*

4. What steps have you taken to implement the Memorandum of Understanding of the South East Europe Core Regional Transport Network? To what extent is the South east European Core Transport network taken into account as the precursor for the future Ten-t network for the country?

#### *Legal framework*

5. What are the procedures applicable to the development of a transport infrastructure project? Are there differences according to the mode of transport concerned?
6. What is the project cycle? How are local and/or regional authorities associated with transport infrastructure projects?
7. Is there legislation on:
  - a) environmental impact assessment, nature protection, strategic environmental impact assessment,
  - b) rules of competition,
  - c) public procurement
  - d) railway interoperability?

#### ***B. Transport research***

8. Are there any research programmes on national transport operations?
9. Does research in the field of transport benefit from public and/or private funding, and if yes, what level of funding is allocated to transport related research?
10. What are the national priorities for transport related research?

#### ***C. Pipeline transportation***

11. Please provide a description of the national network, length and type of pipelines, quantities transported, capacities of existing installations, development policy, regional connections.

12. Is there a specific legal framework for pipeline transportation?
13. What environmental rules are applied?

## ***II. ENERGY NETWORKS***

14. Please, provide information, also in the form of maps, on the current status and on the major needs for energy infrastructures in your country. What are the major gaps/concerns in terms of infrastructures to fulfil with the obligations of security of supply in the internal market?
15. Indicate what is the status of implementation and planning of the axes for priority projects relevant to the South East Europe region in your country. In particular, indicate what is the level of development of the energy projects which are considered priority under the Energy Community process.
16. What are the planning and authorisation procedures applicable to the development of an energy infrastructure project?
17. The TEN-E policy is currently under revision. What are your expectations towards the new European Energy Security and Infrastructure Instrument which may replace the present TEN-E guidelines<sup>50</sup>/?

## ***III. TELECOMMUNICATION NETWORKS***

18. Is there any intention of joining the ICT PSP specific programme of the CIP?
19. What are eventually your plans with respect to it?

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<sup>50</sup> For reference see the [Communication "Energy infrastructure priorities for 2020 and beyond - A Blueprint for an integrated European energy network"](#) adopted on 17 November 2010



New

Road traffic management systems

Inland waterways, including inland  
waterway ports

Upgrade/renew links

New links

Ports / multimodal centres

Air transport/ Airports

Phys. infrastructure

ATM

Multimodal transport

Transport centres

Logistics

Border crossings

Rail

Road

TOTAL phys. infrastructure  
Logistic/management



## **Chapter 22: Regional policy & coordination of structural instruments**

The *acquis* under this chapter consists mostly of framework and implementing regulations, which do not require transposition into national legislation. They define the rules for drawing up, approving and implementing Structural Funds (the European Regional Development Fund and the European Social Fund) and Cohesion Fund programmes reflecting each country's territorial organisation. These operational programmes are drawn up by the Member States and proposals are submitted to the Commission. Subsequently, they are appraised and adopted by the Commission in accordance with Article 32 of Regulation (EC) No 1083/2006<sup>51</sup>, but their implementation is the responsibility of the Member States.

A **legislative framework** has to be in place allowing for multi-annual programming at national and, where relevant<sup>52</sup>, sub-national levels and budget flexibility, enabling co-financing capacity at national and sub-national (regional/local/municipal) level and ensuring sound and efficient financial control and audit of interventions. Member States must respect Union legislation, namely in the areas of public procurement, competition (state aid) environment, non-discrimination, equality between men and women, when selecting and implementing projects.

Member States must set up an **institutional framework**. This includes designating and establishing all structures at national and, where relevant, sub-national level required by the regulations as well as setting up an implementation system with a clear definition of tasks and responsibilities of the bodies involved. The institutional framework also requires establishing an efficient mechanism for inter-ministerial coordination as well as the involvement and consultation of a wide partnership of organisations in the preparations and implementation of programmes.

Adequate **administrative capacity** has to be ensured in all relevant structures. This includes recruiting and training qualified and experienced staff and establishing measures to retain such staff. In this context, Member States will need to make the necessary organisational arrangements, adapt procedures and organisation charts and prepare accompanying documents. The administrative capacity will have to be demonstrated in the thorough implementation of the Instrument for Pre-Accession Assistance (IPA)<sup>53</sup>, particularly in components III and IV which are the precursors to the EU Cohesion Policy.

The **programming** process covers the preparation of a National Strategic Reference Framework (NSRF) and a series of operational programmes (OP), including ex-ante evaluations and strategic environmental assessments. Member States have to organise broad partnerships for the preparation of programming documents. They have to ensure that a sufficient pipeline of mature projects is established allowing for a full financial

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<sup>51</sup> Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999 [OJ L 210, 31.7.2006, p. 25].

<sup>52</sup> For the Structural Funds the appropriate geographical level is at least NUTS level 2 for the Convergence objective and NUTS level 1 or NUTS level 2 for the Regional Competitiveness and Employment objective, and is NUTS level 3 for the European territorial cooperation objective (Article 35 of Regulation (EC) No 1083/2006)

<sup>53</sup> Council Regulation (EC) No 1085/2006 of 17 July 2006 establishing an Instrument for Pre-Accession Assistance (IPA) [OJ L 210, 31.7.2006, p. 82].



implementation of programmes. Member States will also have to carry out specific information and publicity measures with regard to the Structural Funds.

Establishing a **monitoring and evaluation** system includes the set up of monitoring and evaluation structures and processes in different relevant bodies as well the installation of a comprehensive and computerised management information system (MIS) accessible and usable for all concerned bodies.

Member States must set up a specific framework for **financial management and control** including audit. This includes designating and establishing all structures required by the regulations as well as setting up an implementation system with a clear definition of tasks and responsibilities of the bodies involved.

## ***I. LEGISLATIVE FRAMEWORK***

### ***A. Regional development legislation***

1. Please provide a list of all legislation directly relevant to Cohesion Policy, including legislation related to transport/TEN, environment, economic development, competitiveness, social policies, competition, public procurement or budgetary provisions.
2. Please answer the following questions about your legal set up relevant for Cohesion Policy. If the answer is affirmative, indicate which law or Government decision is applicable:
  - a) Does your legislation specify one administrative unit or entity responsible for coordination at the national level? Which entity? What is its composition?
  - b) Does your legislation specify one unit, group or entity responsible for decision-making at the national level? Which entity?
  - c) Is it specified in your legislation which unit or group functions as the secretariat that prepares the decisions referred to in question b)?
  - d) Does your legislation specify other responsible administrative units?
  - e) Does your legislation specify decision-making procedures?
  - f) Does your legislation specify at the national level an administrative unit(s) or entity responsible for implementation/management and monitoring of programs/projects? Which ones? What is the composition of this/these unit(s)?
  - g) Does your country have any specific legislation to regulate domestic regional policy or is such a law (and by-law) planned? Is this legislation compliant with the current IPA framework and future Cohesion Policy framework?
  - h) Where relevant, does your legislation specify a decision-making group, council, unit or other entity at the sub-national levels, i.e. future NUTS2 and future NUTS3 level? Which?
    - Are the members of this entity specified in your legislation? Indicate their appointment procedure.

- Is it specified in your legislation which unit or group functions as the secretariat that prepares these decisions?
  - i) Where relevant, does your legislation specify at the sub-national levels (future NUTS2 and future NUTS3) an administrative unit(s) or entity responsible for implementation and monitoring of programs/projects? Which ones?
  - Is this entity independent from the central level or from the decision-making entity? If not, in what way are they related?
3. Does your legislation specify a national budget for cohesion and/or regional policy (such as transport/TEN, environment, economic development, competitiveness, innovation.) and/or for labour market policy? In what form and at what level?
  4. Does your legislation specify a breakdown of the budget for cohesion and/or regional policy and/or for labour market policy between the central level and other levels of government?

***B. Compliance with Union policies***

5. In order for future operations to be financed by the Structural Funds/Cohesion Fund, what adaptations are necessary to your legislative framework to ensure its compatibility with the following Union policies and legislation:
  - a) Rules on competition (state aid);
  - b) Rules on the award of public contracts/public procurement;
  - c) Rules on the award of concession (and Public-Private Partnership);
  - d) Rules on environmental protection and improvement (in particular strategic environmental impact, environmental impact assessment, application of the polluter pays principle and definition of the Natura 2000 areas);
  - e) Rules on the elimination of inequalities and promotion of equality between men and woman and combating discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation during the various stages of implementing the Funds and in the access to them as well as on the promotion of equality between men and women?

***C. Budget planning and implementation mechanisms at national, sub-national (future NUTS2) and (future NUTS3) levels***

6. What adaptations are needed to your legislative framework to allow for multi-annual budget programming with a view to provide the national co-financing for the Structural Funds/Cohesion Fund assistance?
7. Which implementation mechanisms exist or are planned at national, and, where relevant, at regional and local levels to ensure the proper functioning of the budgetary system?

#### ***D. Co-financing mechanisms at national, and sub-national level***

8. What provisions are foreseen in the national budget which allow to transfer budgets of national co-financing between programs, funds and years?
9. How will national co-financing (at central, and, where relevant, at regional or local levels) in the framework of EU assistance be secured? In particular how will you envisage ensuring co-financing of multi-annual programmes, as the state budget is adopted on annual basis?
10. Are financial resources for future co-financing of EU programs and projects available (based on realistic economic forecasts)? If, yes, please specify.
11. Which are the regional and local, economic and social or other partners from whom national co-financing is expected? How will this national co-financing be secured?
12. How are sub-national authorities (including regional authorities and municipalities) financed? Do they have their own funding through local taxes or from other sources? Do they have some autonomy for borrowing funds (are there any limits)? What share of their budget comes from own fiscal resources/transfer from state budgets?
13. Which mechanisms are foreseen to take account and attract private co-financing? Is there a legal framework for Public-Private Partnership (PPP) or concessions?

#### ***E. Specific legal provisions on financial control***

14. What is the legal framework related to financial control and audit? Are all public bodies, at national or sub-national level, required to set up financial control and independent internal audit structures?
15. Are there legal requirements with regard to separation of duties, in particular between payment and authorising functions?

#### ***F. Territorial organisation***

16. Please explain briefly the relevant territorial organisation of your country. Are there ministerial/inter-ministerial deconcentrated structures?
17. What is the relevant territorial organisation/breakdown of your country and what are your plans in relation to introducing a provisional NUTS classification?
18. Do you intend to create a NUTS 1 level statistical division of your territory in accordance with Regulation (EC) No 1059/2003<sup>54</sup>?
19. What type of and how many regions are there in the existing regional breakdown which correspond to the future NUTS level 2? Are they political or administrative or other (define) regions?

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<sup>54</sup> Regulation (EC) No 1059/2003 of the European Parliament and the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS) [OJ L 154, 21.6.2003, p. 1.]

20. What type of and how many regions are there in the existing regional breakdown which correspond to the future NUTS level 3? Are they political or administrative or other (define) regions?
21. If relevant, do any entities for regional development exist at the regional level at present (in particular at NUTS 2 level)? If yes, what is their legal status, how they are financed, what competences and role do they have?
22. At which future NUTS level are representatives elected?
  - a) Do they play a role in the structures in place for local/regional development?
  - b) In what form?
23. Do sub-national level governments/municipal governments have a role in:
  - a) Preparing local development strategies and programmes;
  - b) Implementing development strategies and programmes;
  - c) Initiating and selecting projects in the context of government or donor-funded programmes;
  - d) Management and/or monitoring of programmes/projects;
  - e) Implementing national employment policies and adapting them to local needs;
  - f) Implementing social inclusion policies and adapting them to local needs?
24. What are the competences conferred upon sub-national authorities (transport, environment, education and training, economic development)?
25. Is there a legal framework allowing local authorities to set up inter-municipal structures for general or specific issues (water or solid waste sector for example)?
26. Does the existing legal framework allow local authorities/local communities to take part in common projects implemented across national borders? Are there any limitations (e.g. transfer of money between local authorities across borders)? Are there any limitations (e.g. transfer of money between local authorities across borders) in participating in cross-border or transnational projects? If these limitations exist, how and when Serbia plans to abolish them?
27. Are there any other, than IPA/CBC, specific administrative/legislative set-ups concerning territorial cooperation foreseen under the national legislation? If yes, what are they?
28. Does your legislation foresee a possibility for an entity from your country to participate in a European Grouping of Territorial Cooperation (EGTC) formed under Regulation (EC) No 1082/2006<sup>55</sup> or are there any agreements between Serbia and any EU Member State in this regard (possibly under the Council of Europe Madrid Convention of 21 May 1980 on Transfrontier Cooperation)? If yes, please indicate these provision or agreements.

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<sup>55</sup> Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC) [OJ L210, 31.7.2006, p. 19].

29. Do you have local or regional employment offices in your country? Do local employment offices have a role in:
- a) Implementing national labour market policies;
  - b) Making use of active labour market policies to combat structural unemployment;
  - c) Management and/or monitoring of projects?
30. Is there legislation on decentralisation or de-concentration of the administrative and political structures? If not, is a process of decentralisation or de-concentration under way or expected?

## **II. INSTITUTIONAL FRAMEWORK**

31. Please provide a description of the authorities responsible for the programming and implementation of EU and other assistance in your country, and in particular those bodies and structures which will manage IPA Component III and IV (planning, programming and implementation). The description should also include an overview of tasks and responsibilities for each authority. Particular emphasis should be put on programmes/projects of socio-economic development, including transport and environment infrastructure, SME and regional development and human resources development measures, as well as territorial cooperation.
32. What are the preparations for decentralised implementation and accreditation for that purpose under the IPA instrument for component III and IV? Is there a strategy and action plan? How does the institutional set up under IPA decentralised management for component III and IV differ from the current set up? Please describe the main structures as referred to in Regulation (EC) No 718/2007<sup>56</sup>.
33. How is co-ordination between the authorities or bodies at the central level being assured (arrangements foreseen for ensuring inter-ministerial co-ordination)?
34. How is co-ordination between the central level and, where relevant, the regional/local level assured:
- a) Are there regular co-ordination meetings?
  - b) Who participates in these meetings?
  - c) How often are they organised?
35. Do the different line ministries benefit from sufficient autonomy for designing their investment strategies and related planning documents?
36. What entity ensures the role of coordination and arbitrage? (resources, political support) Which entity would have overall responsibility?

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<sup>56</sup> Commission Regulation (EC) No 718/2007 of 12 June 2007 implementing Council Regulation (EC) No 1085/2006 establishing an instrument for pre-accession assistance (IPA) [OJ L 170, 29.6.2007, p. 1].

37. What is the role of the Ministry of Finance with regard to the coordination of other Ministries?
38. Does one ministry or other entity hold a central responsibility in the domain of State reform and Institutional capacity of public bodies?
39. What are the partnership structures that exist in your country: coherent, independent and representative network of civil society representatives, socio-economic partners?
40. How is partnership (stakeholder participation) organised in the preparation, financing, monitoring and evaluation of assistance?

### ***III. ADMINISTRATIVE CAPACITY***

41. What overall staff levels (also breakdown per organisation if available) are involved in programming and implementation of EU assistance in your country? What is the staff turnover ration?
42. Has (Is) training been (being) organised for staff in EU assistance programmes? What training plans for developing management capacity, project management, public procurement, evaluation capacity and financial management and control are envisaged?
43. Are there institutions responsible for the continuous training of civil servants (at national and sub-national levels)?
44. Have the relevant organisations prepared human resources or organisational development strategies? Do these organisations develop annual work plans and workload analyses?
45. What changes are foreseen with regard to IPA and decentralised implementation? What are the staff increase plans?
46. Recruitment: What are the recruitment procedures (efficiency and transparency)? Does the administration face difficulties in recruiting and retaining officials? Are there substantial differences related to working conditions between ministries hampering mobility?
47. Remuneration: is the level of remuneration in the public service competitive with the private sector in order to recruit skilled and stable staff? Are there extra wages, remunerations (bonuses), other incentives?

### ***IV. Programming***

48. Do national planning documents and sector strategies, including for transport, environment, economic development, SME/business development, R&D or human resource development exist? If yes, for what period and what are their main features in terms of socio-economic analysis, strategy formulation and objectives, priorities of investment, concrete measures to be taken as well as implementation arrangements?
49. If no, do you envisage preparing such a plan and strategies and for what period?
50. Is there a linkage between these plans/strategies and the process of national investment and budget planning and, if yes, how is it ensured?

51. Which authority(ies) or body(ies) were/will be responsible for (or involved in) the preparation of these plans and strategies?
52. Which are the procedures in place or foreseen for preparing these plans and strategies and for ensuring inter-ministerial co-ordination as well as a wide and effective association of relevant partners (regional and local authorities, economic and social partners etc.)?
53. How will it be ensured that the basic principles of programming (decision-making on the basis of objective criteria) will be respected?
54. Which are the sectoral priorities in terms of national public or equivalent structural expenditure (covering areas such as basic infrastructure, human resources, productive environment etc.)? Please provide a detailed breakdown.
55. How have cohesion policy/regional development and human resources development measures/projects under IPA components I and II been programmed/prepared? What national authorities/institutions have taken part in the process and to what extent? Have local/regional level bodies taken part in the process or have they been consulted?
56. What is the stage of preparations of programming documents for IPA components III and IV including the Strategic Coherence Framework and Operational Programmes? What bodies will take the lead on this programming process?
57. Does a pipeline of mature projects exist in order to ensure absorption under IPA component III and IV (and later under Structural Funds/cohesion fund)? If not,
  - when will the project pipeline be prepared (time plan)?
  - which bodies will be responsible for project preparation?
  - which body will coordinate at national level the preparation of project pipeline for IPA (Structural Funds/Cohesion Fund)?
  - how will the preparation of projects be financed (sources of financing)?
58. Do regional/local planning documents (strategies, programmes) exist at sub-national levels? If yes, are they coherent with the national sectoral plans? Have the line ministries participated in the development of these plans, have they been consulted? For what periods these plans have been developed? Do they include also the financial aspect of planned actions?

## ***V. MONITORING AND EVALUATION***

59. Are there entities with sufficient experience and capacity to perform monitoring and independent evaluations of public investment programs? Do they have experienced experts?
60. Is there a monitoring and evaluation system in place in your country to monitor the implementation of programs/projects which are co-financed by the EU? If this is the case,

please describe this system (actors involved, allocation of tasks, key data/indicators, collection and transfer of data etc.).

## ***VI. Financial management and control***

61. Which authority or body has overall responsibility for giving guidance or instructions on financial management?
62. Which are the provisions in place concerning the mobilisation and circulation of financial flows in the framework of EU assistance?
63. Which are the authorities or bodies through which financial flows are channelled (being part of the audit trail)? Please indicate which functions these authorities or bodies have.
64. In particular, which authorities or bodies would be responsible for verifying the correct implementation of operations, and for certifying the legality and regularity of expenditure to the Commission?
65. If applicable, please indicate which functions relating to the correct implementation of operation and to the certification of expenditure are delegated or partly delegated to other bodies to be identified.
66. If applicable, please specify how the concept of adequate separation of functions is applied in all implementation structures.
67. Are the authorities or bodies mentioned above subject to internal audit?
68. If applicable, which is the location of these internal audit units? Are these units functionally independent? How is this guaranteed?
69. How much staff is available for internal audit?
70. Are there at present any accounting arrangements for EU assistance? Which authority (authorities) or body (bodies) is (are) responsible?
71. Do procedures exist to manage irregularities at national and regional level (reporting / claiming system)?
72. In case of irregularities, who will be informed first?
73. Are there procedures and responsibilities concerning the notification of irregularities to the Commission?
74. Is there a guarantee in the rules that at all times the Commission will be informed of irregularities?
75. Are there responsibilities for control and audit at national and regional level? If yes, please provide a description of the competent authorities.
76. What anti-fraud measures (responsibilities, procedures) are in place?

*(See also Chapter 32)*



***VII. AVAILABILITY OF STATISTICS FOR THE IMPLEMENTATION OF THE STRUCTURAL FUNDS/COHESION FUND***

77. Please describe which socio-economic data/statistics are available at national and regional level.
78. Are these data/statistics harmonised at the European level (accepted and published by Eurostat)?
79. Are (harmonised) GDP data at PPP<sup>57</sup> available on future NUTS level 2? If yes, please provide these data.
80. Are (harmonised) GDP data at PPP available on future NUTS level 3? If yes, please provide these data.
81. Are (harmonised) unemployment data available on future NUTS level 2? If yes, please provide these data.
82. Are (harmonised) unemployment data available on future NUTS level 3? If yes, please provide these data.
83. Please indicate which data/statistics on general government expenditure and revenue are available at national/regional level?

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<sup>57</sup> Purchasing Power Parity

## ***Chapter 23: Judiciary and fundamental rights***

According to Article 6 (1) of the Treaty on European Union (TEU), the Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law. These principles are common to the Member States and need to be complied with by candidate countries.

The rule of law principle and the right to a fair trial, as enshrined in Article 6 of the European Convention on Human Rights (ECHR) and Article 47 of the Charter of Fundamental Rights of the European Union, provide that the **judiciary** must be independent and impartial. The content of these notions has been clarified in the jurisprudence of the European Court of Human Rights (ECtHR), which is an accepted reference for the EU *acquis* under Article 6 (2) of the TEU. In particular, courts must be established by law; there shall be no discrimination in the appointment procedures of judges; the judiciary must not be influenced in its decision-making by either the executive or the legislature; judges must act impartially and be seen to do so; their conditions of tenure must be adequately ensured by law; the grounds for disciplinary action or removal from the post must be limited and laid down in the law.

Furthermore, it is a general principle of EU law that the judiciary must have sufficient means to work efficiently; judges are expected to respect high ethical standards in the performance of their duties in accordance with the law. The Council of Europe (COE) Committee of Ministers Recommendation N° R (94) 12 on the Independence, Efficiency and the Role of Judges provides further clarifications. Similarly, the European Guidelines on Ethics and Conduct for Public Prosecutors (the Budapest guidelines) offer useful guidelines about a common European standard in the field.

Article 67 of the Treaty on the Functioning of the European Union (TFEU) mentions that preventing and combating **corruption** contributes to the establishment of an area of freedom, security and justice. The 1995 Convention on the Protection of the EC's Financial Interests and the 1997 Convention on the Fight against Corruption involving Officials of the EC or the Member States imply that "effective, proportionate and dissuasive" criminal law penalties are required to fight corruption. The Council Framework Decision on Combating Corruption in the Private Sector of 2003 defines active and passive corruption in the private sector as a criminal offence and prescribes the responsibility of legal persons for both active and passive corruption. Candidate countries are expected under the Communication from the Commission on a Comprehensive EU Policy against Corruption of 2003 to maintain strong political commitment at the highest level, develop and improve investigative tools and allocate more specialised staff to the fight against corruption, pursue training and specialisation, implement strategies and legislation in an effective manner and become fully aligned with the relevant international instruments. The latter include in particular the UN Convention against Corruption and the Council of Europe's Criminal and Civil Law Conventions on Corruption.

According to Article 6 (3) of the TEU and the case-law of the Court of Justice, the Union respects **fundamental rights**, as guaranteed by the ECHR and as they result from the constitutional traditions common to the Member States, as general principles of European Union law. Thus, they are binding on the Union institutions in the exercise of their powers and on the Member States when they implement European Union law (Article 51 of the Charter of Fundamental Rights of the EU). In the interpretation of fundamental rights, the Court of Justice has mainly drawn on the provisions of the ECHR and, occasionally, on several other international sources such as the UN International Covenant on Civil and

Political Rights. Art. 6 (1) of the TEU makes the rights, freedoms and principles set out in the Charter of Fundamental Rights of the EU binding for the Union.

The list of fundamental rights covers traditional civil rights, such as the right to life, the prohibition of torture and degrading treatment, the right to liberty and security of person imposing strict limits on pre-trial detention, the freedom of religion, freedom of speech and freedom of association and assembly. The Union also protects the fundamental right to privacy and guarantees the protection of personal data. Directive 95/46/EC of the European Parliament and of the Council on the Protection of Individuals with regard to the Processing of Personal Data and on the Free Movement of Such Data is the basic instrument at the EC level. This Directive gives substance to, and amplifies the principles of the protection of the rights and freedoms of individuals contained in other data protection agreements, in particular the COE Convention of 28 January 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data and its Additional Protocol 181. It provides for the free movement of such data within the EU/EEA for both the public and the private sectors under certain conditions such as legitimacy, good data quality, and observance of the principles of finality and proportionality.

The EU's human rights list also contains a number of guarantees to secure equality. There is a general prohibition of discrimination on a variety of grounds; equality between men and women must be ensured; cultural, religious and linguistic diversity is to be respected. Furthermore, the rights of the child need special protection; the contents of these rights may be drawn from the UN Convention on the Rights of the Child ratified by all Member States. Children have, in particular, the right to survival; development; protection from harmful influences, abuse and exploitation; and full participation in family, cultural and social life. Moreover, the EU Framework Decision on Combating the Sexual Exploitation of Children and Child Pornography of 2003 calls upon Member States to ensure that in their legal systems certain conduct is punishable; relevant sanctions need to be effective, proportionate and dissuasive.

According to Article 21 of the Charter of Fundamental Rights of the EU, members of national minorities shall not be discriminated against. Article 1 of the Framework Convention for the Protection of National Minorities confirms that human rights include minority rights. The latter include the right to non-discrimination of a person belonging to a national minority; the freedom of association, to assembly, of expression; the freedom of religion; the right to use one's language; and the effective participation in public affairs. Measures against racism and xenophobia cover areas such as anti-Semitism, Islamophobia, and anti-Gypsism. The importance of preventing and combating these phenomena is stressed in Article 67 of the TFEU. The Council adopted, in 1996, a Joint Action to combat racism and xenophobia.

Finally, the Union *acquis* in the field of fundamental rights contains a number of important judicial guarantees. Everybody has the right to a fair trial and the right to an effective remedy. Legal aid should be given if the person charged does not have sufficient means; this initially concerned criminal cases but has been extended, under certain conditions, to civil ones when the interest of justice so requires. Furthermore, the principles of legality and proportionality of criminal offences and penalties need to be observed. The accused must also benefit from a presumption of innocence and enjoy defence rights.

The **EU citizens' rights** regard the right to vote and stand as a candidate in elections to the European Parliament and in municipal elections; the right to move and reside freely within the European Union; and diplomatic and consular protection.

## ***I. JUDICIARY***

### *Independence*

1. How does legislation provide for the independence of the judiciary and the autonomy of prosecutors? Is independence of judges and autonomy of prosecutors guaranteed by the Constitution? How are the rights of the judiciary protected? Have there been any complaints about the independence of the judiciary and the autonomy of prosecutors? If so, how were they resolved?
2. Please describe the normal selection (not the re-election), promotion, disciplinary and dismissal procedures for judges and prosecutors and indicate how they relate to the accountability and independence of the judiciary (autonomy in the case of prosecutors). Have there been any complaints about the procedures? If so, how were they resolved?
3. Please describe in detail the differences in status, tenure etc. between prosecutors and deputy prosecutors and between judges and assistant judges.
4. How is the principle of the natural judge covered in Serbia's legislation and how is it implemented in practice?
5. How many and what types of specialised judges and prosecutors are there?
6. Human resources policy:
  - a) Describe the methods and criteria for the selection, appointment and promotion of candidates for judicial office. How are judges and prosecutors recruited (are there competitive and public exams; systematic interviewing of all candidates; comparison of CVs; etc.)?
  - b) Is the performance of holders of judicial office assessed? If yes, describe the body in charge as well as the relevant methods and criteria. What type of career system is established in Serbia (based on merit, seniority, mixed)?
  - c) Is the guaranteed tenure of office set out in legislation? Is there a mandatory legal retirement age?
  - d) Please describe the exact procedures for the dismissal of judges and prosecutors (legal basis, competent authorities to launch the procedure, reasons for dismissal etc.).
  - e) Probationary period for judges / prosecutors:
    - How long is it?
    - Is there a difference in the tasks of probationary period and life-appointed judges / prosecutors?
    - Do judges/prosecutors on a probationary period get specific training?
    - Are there objective and pre-determined procedures to evaluate the work during the probationary period? Who is responsible for this evaluation?

- Who decides on granting permanent tenure and on the basis of which criteria?
- Are the decisions on probation subject to judicial or administrative scrutiny?

- f) High Judicial Council and State Prosecutorial Council: Do members have specific privileges? Can the mandate be renewed and who can renew it? What are their qualifications? Are the judicial council and prosecutorial council deciding on their respective procedural rules? How is accountability ensured? How is potential conflict of interest scrutinised and taken into account? Do ex-officio members of these councils have the right to vote and what are their exact roles and functions? Does the Minister of Justice have the right to vote and if yes, in what cases?
- g) Is there an Inspection Service for the judiciary? (Are there internal control mechanisms established?) If so, describe its composition, role, way of functioning, budget and number of cases it is dealing with. What are the possibilities of appeal against any disciplinary measures and who decides on them?
- h) Is the selection of trainees objective and transparent? Please explain.
7. Mobility of judges:
- a) What procedure governs the allocation of judges to particular courts and regions?
  - b) Can judges be required to move between courts and regions? Who and how is the decision to move a judge made?
8. What are the measures in place ensuring internal independence of the judiciary? Are the ordinary courts independent from the Supreme Court or other higher courts? Is the Supreme Court or another high court prohibited from giving instructions, guidance, recommendations, explanations or supervision to ordinary courts? Do judicial leadership posts hold any evaluation, appraisal or disciplinary powers? If so what safeguards exist to prevent the undue influence of the internal judicial hierarchy?
9. Are the decisions of high courts easily accessible and in what way?
- Impartiality*
10. How does legislation provide for the impartiality of the judiciary?
11. Accountability and discipline:
- a) Is there a code of ethics for members of the judiciary? If so, by whom has it been set up? What is its legal status? How is it being implemented?
  - b) Are judges / prosecutors irremovable from the start of their career? How is this principle implemented and respected?
  - c) Do the laws provide immunity to judges / prosecutors? If so, what does immunity cover? What is the procedure for lifting the immunity? What is done to ensure that this is clear and transparent? Please give examples of how this has been implemented. What are the possible sanctions?

12. What is the salary scale for judges and prosecutors? How does this compare with other professions (high-ranking civil servants, attorneys, lawyers in private enterprises, etc.) and to the average income? How is the salary of judges and prosecutors set and adjusted in practice? Who is deciding about it?
13. Do judges / prosecutors receive non-monetary benefits such as free housing, real estate etc.? If yes, who decides on granting such benefits and upon which criteria?
14. Do judges / prosecutors have to submit financial statements (for example to the Anti-Corruption Agency)? If yes, how detailed are these statements and which mechanism is in place to verify the content provided?
15. What is the system for assignment (allocation) of cases? Are there any challenges to the practical implementation of the system?
16. What are the measures in place to prevent conflict of interest in judiciary? Who can decide on it? How is implementation ensured and what are the practical challenges in the implementation of these measures?
17. What are the measures to ensure freedom from undue external influence and how are they implemented in practice? Does the law provide sanctions against persons seeking to influence judges? Are judges criminally liable only for offences committed outside their judicial office? Is there a system of civil responsibility of judges for their decisions?
18. Have there been any allegations on corruption in the judiciary and, if so, are there any convictions in such cases? Is there a strategy/action plan to fight corruption in the judiciary? If so, what are the practical results in their implementation? Please provide statistics on indictments and convictions in cases of corruption in the judiciary over past 5 years.

*Professionalism/Competence*

19. Educational system:
  - a) Are internships for law graduates organised within the judiciary? If so, how is this done?
  - b) Is there any other form of pre-service training?
20. Training:
  - a) Please describe the training system for judges and prosecutors. Is it compulsory? In the case where vocational training is an obligatory requirement for entering the career of a judge or prosecutor, what are the selection criteria for being admitted to such training? If there is a requirement to have passed a final examination, how is such an examination organised?
  - b) Judicial Academy: Give information on its programmes, staff, number of students, financing etc. Are there other training facilities?
  - c) Do training programmes for judges and prosecutors include both vocational / initial training and continuous training? Is the training compulsory? Please, give information on the length of the vocational /initial training (including information on the average

number of hours covered per week), on the curricula and on the average time a judge, prosecutor and a court clerk spend annually on in-service training.

d) Please describe the training system for lawyers.

e) Is linguistic training an aspect of training of judges, public prosecutors or lawyers?

f) Are specific training courses organised for judges in new areas such as company law, cyber crime, financial crime, EU law, ECHR case-law, etc., but also on ethics in justice as well as on fundamental rights? Is there any continued training for judges?

g) How is training ensured for specialised judges and prosecutors?

h) What percentage of judges, prosecutors and other staff in the judicial sector has received further training over the last 5 years (compared with the profession as a whole)?

21. Clerical staff: Please give further details on the training for clerks at courts and prosecutors' offices.

Do they receive particular initial and vocational training (on case management, IT, relations with the public etc.)? Which institution is in charge of offering this training?

#### *Efficiency*

22. What is the annual budget of the judiciary? Please provide a breakdown for the last five years. What is the procedure for deciding the budget? Who is managing the budget in judiciary?

23. What is the average duration of (a) a civil case, (b) a penal case and (c) administrative law cases? In case of delays in handling cases, which problems are they mainly linked with?

(For example: complex summoning process, prolonged period for collection of evidence; police evidence not being accepted in courts; failure by witnesses to appear; failure by judicial experts to appear; workload associated with enterprise registration; workload associated with high number of appeals; absence of alternative dispute resolution mechanisms; complex case management; lack of technical equipment.)

24. Please provide data on how many cases have been pending more than 1 year, 2 years or 3 years.

25. Do simplified procedures exist in civil and / or criminal cases? If yes, please describe them and give statistics on their usage.

26. Please provide statistics (separate figures for civil, criminal, administrative and enforcement cases) on the number of pending cases over the last five years.

27. What is the rate of appeals compared with the number of first-instance decisions in civil and criminal matters? (please provide global breakdown of pending cases.) What is the rate of successful appeals compared to the total number of appeals?

28. Are there plans to reduce the backlog of cases? If so, please provide details.

29. Which roles / competencies do judges have (including outside normal proceedings such as in the execution of judgements, in registry issues etc.)? Which roles / competencies do prosecutors have (including outside criminal proceedings such as in the execution of judgements, civil or family law cases etc.)?
30. What is the percentage of the civil cases where the executive authorities are asked to enforce the judgement/final decision? Give equivalent information about fines in penal cases (the percentage of the cases where the fine is enforced by the executive authorities out of the total number of cases where a fine is imposed). How much time elapses, on average, until the enforcement of judgements? Is there any plan to improve enforcement?
31. Please describe the procedure for executing civil / criminal judgements.
32. Equipment:
  - a) Is there an IT supported case management system in the courts? Are systems and software compatible across the country? (The need to manage the computerisation on the national level calls for a central capacity to define needs, implement computerisation, including procurement of software and hardware, as well as to advise and help computerised courts.) Please describe briefly the main tools provided by the system.
  - b) Is there a Supreme Court database with case law accessible to courts, legal and judicial professions?
  - c) Are databases of law enforcement agencies accessible by courts?
  - d) How is the penal register updated with information on new sentences in penal cases and on execution of imprisonment including conditional paroles?
33. General working conditions:
  - a) Do judges and prosecutors have appropriate offices; computers, secretaries, law clerks?
  - b) Do judges and prosecutors have access to the archives and legal databases? How is access to recently adopted laws ensured?
  - c) Are archives in courts well managed and computerised? Explain.
34. Clerical staff:
  - a) Give the number of clerical staff. How does this compare with the number of judges and prosecutors? Who is responsible for deciding about the number of the clerical staff?
  - b) Do they have concrete job descriptions?
  - c) Which equipment (computers, e-mail, fax etc.) do clerical staff have at their disposal to perform their functions? Describe how archives are organised and to what extent the management of the archives is IT-supported. Is there sufficient and direct access to legal databases?

*Judicial reform*



35. How will the shortcomings in the recent reform of the judiciary be addressed? Please outline your strategy and further plans for reform. Who is or will be responsible for the implementation, coordination and monitoring of the further steps?

## **II. ANTI-CORRUPTION**

### *Policy and domestic institutions*

36. Are there any areas where corruption is more prominent? If so, how are these areas identified and what measures are taken?
37. What specialised anti-corruption bodies exist? Please describe them, indicating their legal and institutional status, composition, functions, powers and resources (i.e. public and private sector corruption). How are the independence and appropriate level of expertise and resources for these bodies ensured?
38. Do specialised departments to tackle corruption exist within the law enforcement authorities and the judiciary? If so, please describe them, indicating their legal and institutional status, composition, functions, powers and resources.
39. To what extent and from which sources are statistical data available on corruption cases (investigations, cases in court, convictions and sanction level), international co-operation in corruption cases, the link between corruption and organised crime and the link between corruption and money laundering?
40. Is there any specific training on combating corruption or training on ethics for public officials, the judiciary and the law enforcement?
- a) How and by whom is relevant staff trained?
  - b) Which accompanying offences (e.g. fraud, tax offences and money laundering) are covered by the training?
41. Public offices: is equal access guaranteed to all citizens? Do regulations exist which are objective and founded on merit-based criteria (in terms of adequate salaries, social rights, rotation in sensitive posts, financial disclosure obligations during office, rules on conflict of interest)?
42. Do you take any measures to protect whistleblowers in the fight against corruption?
43. Is integrity, accountability and transparency of public administration assured, e.g. by means of quality management tools, auditing and monitoring of standards, such as the Common Assessment Framework of EU Heads of Public Administration?
44. Which measures are taken to raise awareness of corruption as a serious criminal offence (e.g. campaigns, media and training)? Who is responsible for awareness raising?
45. Do effective codes of conduct, and other measures enhancing corporate social responsibility, exist for the private sector to prevent corrupt practices? How are these codes of conducts enforced?

46. What are the measures, approaches, strategies etc. targeting prevention of corruption? What is the practical experience with their implementation?

*Domestic legal framework*

47. Please provide succinct information on legislation or other rules governing this area.
48. What anti-corruption laws exist? How and by which bodies are they implemented? Does the legislation contain provisions designed to prevent corruption?
49. How is the link between domestic legislation and international conventions ensured?
50. Is corruption defined as a criminal offence in line with the Council of Europe Criminal and Civil Law Convention? Which type of conduct can be sanctioned as corruption? Is active and/or passive bribery sanctioned? In the public and/or private sector? Trading in influence? Corruption of foreign and international public officials? What kind of sanctions exist (e.g. possibility of confiscation of proceeds, disqualification measures)?
51. What are the rules guaranteeing the avoidance of conflict of interest in the performance of officials serving in the government, the administration and the judiciary? Does the legislation provide for public declarations of wealth and/or interest for the mentioned officials? How are such declarations assessed, checked and followed-up? What are the rules for members of parliament?
52. Do precise codes of conduct exist, which indicate what is and what is not allowed, and which are subject to a permanent monitoring process? How are these codes of conduct enforced?
53. Whistle-blowing – do clear rules (including on effective protection of whistle blowing) and reporting mechanisms exist in both the public and the private sectors? Please explain.
54. Are there clear and transparent rules on funding of political parties, social partners and other interest groups? Are these entities subjected to external financial control in order to avoid conflicts of interest between their representatives, public officials and the private sector? What is the practical experience with implementation of these rules?
55. What is the state of play in adopting a new law on party funding?
56. Does legislation on free access to information exist? What is the experience with its implementation? What is the role and remit of the Commissioner for Free Access to Information?
57. Public procurement, privatisation, large budgetary expenditure, construction, land-use planning:
- a) How are these areas monitored? Is the monitoring done efficiently and by an independent body? Is there sufficient follow-up to irregularities?
  - b) Is there parliamentary oversight?
  - c) How is financial control regulated? Is there a functioning auditing authority?

*International legal framework and institutions*

58. Please provide succinct information on adhesion to relevant international conventions (e.g. the UN Convention against corruption, the Council of Europe Civil and Criminal Law Conventions on Corruption, the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of proceeds from crime and the OECD Conventions on Combating Bribery of Foreign Public Officials in International Business Transactions and on Bribery in International Business Transactions).
59. What are the practical implications of implementation of the above mentioned international conventions including internal measures and anti-corruption strategies and initiatives to improve international anti-corruption cooperation (e.g. International Anti-Corruption Agency)?
60. When did Serbia become a member of the Council of Europe Group of States Against Corruption (GRECO) and what measures have been taken to implement GRECO recommendations?

*(For questions related to money laundering – see also chapter 4 (Free Movement of Capital); public procurement see also chapter 5 (Public Procurement); and fight against organised crime see also chapter 24 (Justice, Freedom and Security)).*

### **III. FUNDAMENTAL RIGHTS**

#### *Human rights*

##### *- Right to life and to the integrity of the person*

61. Please provide an overview of legislation and case law relevant to the right to life (Art. 2 of the Charter of Fundamental Rights of the EU and Art. 2 of the European Convention on Human Rights). Also provide an overview of national legislation, ratification of international treaties, case law and custom/practice relating to the death penalty. How does your legislation cover extrajudicial killings and crimes in the name of honour? What are the practical results in investigating such crimes?
62. What strategies and measures are in place to ensure the respect of the right to integrity of the person?
63. In the fields of medicine and biology, do precise rules exist which indicate what is and what is not permitted? Are these rules subject to a permanent monitoring process, in particular with regard to the right to integrity of the person?

##### *- Prohibition of torture and inhuman or degrading treatment or punishment*

64. Please provide information on specific national legislative as well as administrative and technical measures designed to prevent the occurrence of torture, inhuman or degrading treatment or punishment in state institutions, prisons or police stations etc. In this respect, what measures are in place providing for the inspections of detention centres or police stations and how often such inspections take place? Is legal redress foreseen for victims?
65. Is there any independent body which oversees the conditions in such institutions? Give details on disciplinary and criminal sanctions for State agents accused of ill treatment or torture during the exercise of their duties. Please provide relevant statistics.

##### *- Prohibition of slavery, servitude, and forced or compulsory labour*

66. Please provide information on specific national legislative, strategies as well as measures designed to prevent the occurrence of slavery, servitude and forced or compulsory labour.
67. Has Serbia ratified relevant international conventions and agreements?
68. What is the practical experience with implementing the legislation in this area?  
(See also questions under chapter 19 – Social Policy and Employment)
- *Respect for private and family life and communications*
69. How are the rights protecting and upholding respect for private and family life, home and communications ensured? In which circumstances can they be set aside?
70. Please describe the exact procedure for the application of house searches and special investigative means (such as telephone tapping) and how the protection of fundamental rights is ensured. Is, for example, any case of telephone tapping or house search allowed without a judge's warrant? What is the practical experience with implementing the legislation in this area?
71. Respect of privacy: is privacy safeguarded by law?
- *Right to marry and right to found a family*
72. Elaborate how the right to marry and the right to found a family are protected within your legislation.
73. What are your legal provisions on marriage or legal partnership, if any, including of same-sex couples?
- *Freedom of thought, conscience and religion*
74. Please give details and explain any limitations to this freedom, which are permitted.
75. Please give information on the measures taken to prevent discrimination against religious minorities in Serbia.
76. What is the constitutional status of religions in your country? Is there any state religion? Is there a legislative framework for conscientious objection? If so, please provide details.
77. Is there a legislative framework for conscientious objection to military service? If so, please provide details.
78. Please provide statistics on the number of religiously motivated incidents for the last five years.
- *Freedom of expression including freedom of the media*
79. Please describe the media landscape (written press and audiovisual sector). How are the audiovisual media financed? Is there a supervisory body for the (audiovisual) media, what is its composition and how does it function? Have recommendations of experts from the Council of Europe and OSCE been taken into consideration when drafting legislation in the field of media?

80. Is the media legislation aligned to European standards? Please provide information on the new media law.
81. Describe the libel legislation. What types of penalties are used for libel offences? What is the general trend of the court decisions in the area of freedom of expression (including the number of libel suits and other cases involving representatives of the news media)? Please provide statistics on libel cases and related fines, separating data for suits against media and civil society organisations' representatives.
82. Please indicate how laws on telecommunications have been, or will be, amended to take into account international recommendations regarding the freedom of expression. (*See also Chapter 10 on Information society and media*).
- *Freedom of assembly and association, including freedom to form political parties, the right to establish trade unions*
83. Provide statistics regarding the number of non-governmental organisations and associations or foundations active in your country? Please present a breakdown per sector/activity.
84. What is the legal status of non-governmental organisations and associations or foundations, including their financing, taxation, and restrictions on membership or activities? Specify the rationale of the State funding for NGOs and the mechanism for monitoring of the use of the funds. Is there a process for registering these organisations? Is it obligatory? Please describe the process in detail.
85. Which, if any, justifications are permitted as regards possible restrictions placed on the exercise of these freedoms? Which body may impose such restrictions?
86. What are the provisions on dissolution of political parties? Is there any case law in this field?
- *Treatment of socially vulnerable and persons with disabilities and principle of non-discrimination*
87. Provide information on legislation covering the treatment of socially vulnerable and persons with disabilities and the principle of non-discrimination.
88. What steps have been taken to prevent discrimination based on membership of a national minority, ethnic or social origin, sex, race, colour, genetic features, language, religion or belief, political or any other opinion, property, birth, disability, age or sexual orientation? Has Serbia established specialised services to combat discrimination? If so, which legislative framework, institutional context, composition, functions and powers pertain to these services? Has a general anti-discrimination law been adopted and when? (*See also Chapter 19 on Social policy and employment*)
89. How do you ensure legally and in practice the respect of the principle of non-discrimination on the basis of sexual orientation? Please name the NGOs active in the field of fighting against discrimination in sexual orientation, age and disability. Has the Freedom of Assembly been exercised freely and without problems for instance in the organisation of gay prides or similar events?

90. Has Serbia established specialised bodies to combat discrimination? If so, which legislative framework, institutional context, composition, functions and powers pertain to these services?

91. Is there specific legislative protection for the rights of the elderly? How is it implemented?

- *Right to education*

92. Please provide information on how, and to what extent, the right to education is guaranteed in legislative and practical terms. Please comment on the allocation of resources and institutional framework in place to facilitate the exercise of this right.

- *Right to property*

93. Please provide information on how, and to what extent, the right of ownership is guaranteed in legislative and practical terms. Is there any limitation for certain categories of persons (e.g. foreigners, EU citizens) or for certain types of property (e.g. agricultural land)? How is the right to property assured? What are the justifications permitted for restrictions placed on the exercise of this right and which body or bodies may impose such restrictions? Provide information on the main elements of the expropriation legislation (*See also Chapter 4 on Free movement of capital.*)

94. Which body is responsible for maintaining an urban and land cadastre and property register? Please provide information on the existing cadastre and land registry. Are there any plans for modernisations in the land registration and cadastre areas? Please explain.

- *Gender equality and women's rights*

95. Please provide details on legislative measures which ensure equality between men and women, commenting particularly on equality in areas such as employment, work and pay.

96. Give an overview of possible incentives which exist for both the public and private sectors to refrain from discriminatory employment practices.

97. How is gender based violence and domestic violence treated in your legislation and in judicial practice in terms of prevention, victim support and prosecution?

- *Rights of the child*

98. Please elaborate on the legislative, administrative, and institutional framework in place to ensure effective protection of the rights of the child.

99. How is domestic violence against children treated in your legislation and in judicial practice? How is effective protection of children from violence, including exploitation and sexual violence ensured?

100. How is child labour addressed in the legislation and what is the practical experience with its implementation?

101. Please elaborate on legislative and non-legislative actions taken to address discrimination against children from ethnic minorities, (including the Roma minority), children with disabilities, children living in remote areas as well as on grounds such as sex, birth status (married/unmarried parents) or others.
102. Which measures have been taken to promote and facilitate the registration of all children?
103. Please describe the procedure for taking care of orphans. Is there a foster care system?

### **Procedural safeguards**

#### *- Liberty and security*

104. How do you ensure that natural and legal persons from EU Member States have access to your courts, free of discrimination compared to your own nationals?
105. Do police, prison and other officers receive training on human rights, including training on the rights of women and of persons belonging to minorities?
106. Does your legislation allow for alternatives to imprisonment sentences, e.g. supervision measures, probation period and conditional release?
107. Describe your plans to develop a probation system. Do you have conditioned parols and conditioned imprisonment sentences and, if so, are the convicted in these cases subject to surveillance by a probation officer during the probation period?
108. Pre-trial detention:
- a) Is there a minimum threshold for pre-trial detention? If yes, what is the threshold? (Pre-trial detention can as a main rule only be decided for crimes which can be punished with imprisonment above a certain duration, for ex. 1 year or more, which is the case in some MS.)
  - b) What is the average duration of pre-trial detention?
  - c) Please describe the rules and procedures governing pre-trial detention and the rules on extending it. What are the rules regarding the revision of decisions on deprivation of freedom and pre-trial detention (automatic or upon request of the suspected)? For how long can a suspected person be deprived of his freedom before a court review takes place? Is there a maximum time limit for the total duration of pre-trial detention?
  - d) How are human and secure conditions for detainees (in respect of international human rights standards) ensured by the police, justice, prosecution and penitentiary systems? What measures are taken if such standards are not respected?
  - e) What measures have been put in place to prevent or prosecute the occurrence of torture and other inhuman or degrading treatment?
109. In cases where there is a pre-trial detention, in average how long have the suspected persons been deprived of their freedom before a competent judicial authority has decided

on the detention? What is the average duration between the lawful arrest and the start of the trial?

110. Imprisonment after conviction:

a) What is the average number of prisoners per cell square meter? What is the present size of the prison population?

b) Are inquiries into cases and allegations of ill treatment of detainees followed up? If so, how is this done? What is done to ensure a thorough, transparent and independent process?

c) Are pre-trial detainees separated from convicted prisoners?

d) Is special attention devoted to female prisoners and young offenders? If yes, please provide a detailed description.

e) Are there special provisions for prisoners with mental disabilities? Are such prisoners incarcerated? Are they separated from others?

111. Do you have a system of alternative sanctions (instead of prison)? What is the ratio of prison sentences compared with alternative sentences? Are alternative measures to pre-trial detention and imprisonment being developed or in place? If yes, please describe the measures.

112. When a case is remanded from the Supreme Court to a lower court for retrial, is the lower court then obliged to respect the positions of the Supreme Court on the legal issues the Supreme Court has dealt with? Does it happen often that one and the same case is remanded several times from the Supreme Court. If so, do you consider that this is a problem which you need to rectify?

- *Right to a fair trial*

113. How is the right to a fair trial enshrined in the legislation?

114. Elaborate on the legislative structures in place to ensure effective access to legal aid, commenting on the scope and resources of the legal aid service.

115. How is effective access to free legal aid in criminal cases ensured? Can free legal aid also be obtained in civil cases? Please give details on the criteria for receiving legal aid in civil matters.

116. How are defence lawyers appointed in cases where their fees are paid through the legal aid system? Are they entitled to fees according to normal lawyer tariffs?

117. Regarding the rights of defence, please provide information on how the following rights are guaranteed in legislative and practical terms. (*Please comment on the allocation of resources and the institutional framework in place to facilitate the exercise of these rights.*)

a) The right of the defendant to be informed promptly in a language which s/he understands of the nature and cause of the accusation against him/her;



- b) The right to have the free assistance of an interpreter, if one cannot understand or speak the language used in the court;
  - c) The defendant's right to have adequate time and facilities for the preparation of his/her defence;
  - d) The right to defend oneself in person or through legal assistance of one's own choosing;
  - e) The right to examine, or have examined, witnesses against him/her and to obtain the attendance and examination of witnesses on his/her behalf under the same conditions as witnesses against him/her.
118. Provide information about the elaboration and implementation of legislation regarding the following legal concepts:
- a) The principle that a person cannot be prosecuted for something that was not a criminal offence in national or international law at the time when it took place;
  - b) Non-application of a heavier sentence than was applicable at the time the criminal offence was committed;
  - c) Proportionality of the severity of the penalty to the criminal offence.
119. Please provide details on how the right not to be tried or punished twice in criminal proceedings for the same criminal offence is interpreted in your domestic law.
120. Please provide details on how the rights of victims of crime are ensured in criminal proceedings. Is there legislation in place concerning the fair and appropriate compensation for the injuries that crime victims have suffered?
- *Protection of minorities and cultural rights*
121. How is the principle of non-discrimination and equal treatment of minorities ensured? Please provide details of constitutional and legislative provisions as well as the institutional framework.
122. Please indicate when you plan to hold the next population census. Have the Law and all implementing measures on the Census questionnaire been adopted and when? Is its financing ensured? Does the questionnaire include a question on ethnic origin? How do you expect to protect personal data while gathering the needed statistics on minorities? Please explain.
123. Please provide statistical information, if available, on the situation of minorities as compared with the majority population in respect of
- housing;
  - education (participation in primary, secondary and tertiary education);
  - health services,
  - employment and unemployment rates;

- infant mortality and life expectancy.

124. What is the size of the Roma population in Serbia? What are the measures taken or planned for their integration?

125. What measures have been taken to improve birth registration data for minorities, particularly the Roma and the Egyptians? Is the ethnic origin sometimes registered in the birth certificate, especially for Roma? Do you know of cases when this happens at local level?

126. Please provide a description of existing language legislation and language training programmes for minority languages. Is language legislation in line with the Council of Europe's recommendations? What arrangements have been taken to ensure translation and interpretation?

127. Is the right of translation of all proceedings and documents in criminal and civil judicial proceedings ensured in accordance with the relevant Council of Europe documents? If so, how is this done?

128. Are there any professional restrictions for minorities (*de jure* or *de facto*)?

129. How is the full participation in political life of persons belonging to minorities ensured?

- *Measures against racism and xenophobia*

130. What is the legislative and institutional framework for measures against racism and xenophobia?

131. What is the practical experience with its implementation in Serbia?

132. Are there any specific policies, programmes, strategies, etc. tackling racism and xenophobia?

133. Are there any official bodies with a specific task and powers to combat racism and xenophobia?

134. Please provide statistics on hate, racist and xenophobic crimes as regards both victims and perpetrators, if available.

- *The EU Fundamental Rights Agency*

135. What steps (legislative, institutional and other) is Serbia undertaking/planning to take in order to be able to participate as an observer in the Agency's work?

- *Protection of personal data*

136. Personal data protection: Provide information on any legislation or other rules governing this area, and the coherence of such rules to relevant international conventions. What is done in order to ensure efficient protection of personal data?

137. Does existing legislation foresee sanctions in case of infringement of its provisions? If yes, please specify.

138. Does existing legislation include the following data protection principles:
- a) Purpose limitation principle: Data should be processed for a specific purpose and subsequently used or further communicated only insofar as this is not incompatible with the purpose of the transfer.
  - b) Data quality and proportionality principle: Data should be accurate and, where necessary, kept up to date. The data should be adequate, relevant and not excessive in relation to the purposes for which they are transferred or further processed.
  - c) Transparency principle: Individuals should be provided with information as to the purpose of the processing and the identity of the data controller in the third country, and other information insofar as this is necessary to ensure fairness.
  - d) Security principle: Technical and organisational security measures should be taken by the data controller that are appropriate to the risks presented by the processing. Any person acting under the authority of the data controller, including a processor, must not process data except on instructions from the controller.
139. Does existing data protection legislation provide for the possibility of limitations or exceptions to certain data protection principles and data subject's rights for important public interest grounds? If yes, please specify.
140. Does existing legislation contain provisions concerning:
- a) Special categories of data (sensitive data)?
  - b) Direct marketing?
  - c) Automated individual decisions?
141. How does existing legislation cover cross-border transfers of personal data? Please provide information on the application of the principle that trans-border data flows may only take place if the country of destination has a certain standard of data protection (adequacy)?
142. Please provide information on the supervisory authority responsible for monitoring the application of data protection provisions, in particular on the legal and practical measures taken to ensure its complete independence, and on the organisation of the supervisory authority, including the number of its staff, notably of inspectors.
143. Please provide information, including statistics, on the investigative powers of the supervisory authority, such as powers of access to data forming the subject of processing operations and powers to collect all the information necessary for the performance of its supervisory duties? Does the supervisory authority hear claims by any person in regard to the processing of personal data?
144. Please provide information, including statistics, on the effective powers of intervention of the supervisory authority such as the following:
- a) possibility for delivering opinions before data processing operations are carried out?

- b) possibility for ordering the blocking, erasure or destruction of data?
  - c) possibility for imposing a temporary or definitive ban on processing?
  - d) possibility for imposing sanctions on controllers?
145. Please provide information, including statistics, on the powers of the supervisory authority to engage in legal proceedings in case of violation of data protection provisions.
146. Does the supervisory authority have powers to bring to the attention of judicial authorities the violations of data protection provisions? Can the decisions taken by the supervisory authority which give rise to complaints be appealed against through the courts? If yes, please specify and provide statistics.
147. Does data protection legislation provide for the notification of processing operations to the supervisory authority?
148. Please indicate whether the existing legislation provides for rights of the data subjects. Do the data subjects have the right to access their own data, to object to the processing of their own data, to ask for rectification or deletion of their own data and under which conditions?
149. Please clarify whether the data subject exercises his/her rights directly or indirectly. Please indicate which is the relevant procedure and whether there are any exemptions or restrictions to the exercise of these rights.
150. What is done in order to ensure efficient protection of personal data by police and judicial authorities in criminal matters?

#### ***IV. EU CITIZENS' RIGHTS***

##### *Right to vote and stand as a candidate in municipal elections*

151. Which legal procedures would be necessary to allow EU citizens to vote for and/or stand for the local elections in your country, or to benefit from other electoral rights?

##### *- Right to move and reside freely*

152. What documents do EU citizens and members of their families need in order to enter Serbia?
153. What documents do EU citizens not exercising an economic activity have to produce and which fee are they charged for a residence permit?
154. What are the reasons to refuse entry or residence to EU citizens?

##### *Diplomatic and consular protection*

155. Which measures (legal, institutional and others) would be necessary to allow EU citizens to benefit from protection of diplomatic and consular representations of Serbia, including the establishment of an emergency travel document?

## ***Chapter 24: Justice, freedom and security***

EU policies aim to maintain and further develop the Union as an area of freedom, security and justice. On issues such as border control, visas, external migration, asylum, police cooperation, the fight against organised crime and against terrorism, cooperation in the field of drugs, customs cooperation and judicial cooperation in criminal and civil matters, Member States need to be properly equipped to adequately implement the growing framework of common rules. Above all, this requires a strong and well-integrated administrative capacity within the law enforcement agencies and other relevant bodies, which must attain the necessary standards. A professional, reliable and efficient police organisation is of paramount importance. The most detailed part of the EU's policies on justice, freedom and security is the Schengen *acquis*, which entails the lifting of internal border controls in the EU. However, for the new Member States substantial parts of the Schengen *acquis* are implemented following a separate Council Decision to be taken after accession.

### ***Migration***

1. Please provide information on general immigration policy, as well as legislation or other rules governing migration in your country.
2. Please describe your procedures for obtaining a residence permit, reasons for refusal, renewal or withdrawal of permits, and appeal procedures.
3. Do you have immigration rules providing for family reunification? If so, please outline these (who can be regarded as a family member, which conditions have to be fulfilled, procedure, rights after admission).
4. Do you have immigration rules for acquiring a long-term resident status? If so, please outline these, specifying the rights attached to the status and the conditions for withdrawal.
5. Please describe your system for admission for employment, study and research purposes. If you have several systems in place (i.e. seasonal workers, au pairs, highly skilled workers, trainees etc) please briefly outline them.
6. Describe your integration policy for foreign nationals (e.g. language courses, social inclusion).
7. Provide immigration statistics for 2007, 2008, 2009 and, if available, 2010, including a citizenship breakdown and reasons for immigration.
8. Please give a brief overview of your legislation with regard to combating irregular immigration and trafficking in human beings, in particular whether you have signed and ratified the Palermo Convention on Transnational Organised Crime and its two protocols on smuggling and trafficking in human beings.
9. Do you have rules providing for sanctions against employers of irregularly staying foreign nationals? If so, please outline these.

10. Do you have rules setting down the obligations of carriers transporting foreign nationals into the Serbian territory? If so, please outline these, specifying if these rules also provide for sanctions.
11. Specify the authorities and agencies involved in combating transit migration, human smuggling and trafficking in human beings. Describe their working methods and national co-ordination structures.
12. Is there a system of protection and support for victims of trafficking in human beings in place? If so, please describe it. Is there the possibility of obtaining a residence permit if the victim cooperates with the State authorities or for humanitarian reasons? Do you have data available on victims?
13. Please describe the international cooperation in place in this field (regional fora, bilateral agreements, cooperation with EU).
14. Please provide information on methods of data collection on foreign nationals refused entry and of apprehensions of foreign nationals found to be illegally present on national territory. What are the methods for removing foreigners? How do the authorities ensure that persons are returned to their countries of origin?
15. Please provide statistics on the number of apprehended foreign nationals found to be irregularly present in your country in 2007, 2008, 2009 and, if available, 2010. Please indicate which nationalities were most frequently represented, which routes and methods were used, and recent trends as well as how many of those apprehended were effectively removed from the country.
16. Specify your return policy, including:
  - a) Number of return decisions and carried out removals and destination of returns in 2007, 2008, 2009 and, if available, 2010;
  - b) Readmission agreements (and other working arrangement facilitating return) in place and planned, as well as ongoing negotiations in this respect;
  - c) Authorities competent to deal with readmission applications.
17. Please provide detailed information on the implementation of the readmission agreement concluded with the EU.

### *Asylum*

18. Please provide information on legislation or other rules governing your asylum policy.
19. Describe your asylum procedure at first and second instances:
  - a) normal, exceptional (for instance border) and accelerated procedures;
  - b) provide number and types of appeals;
  - c) explain which bodies are competent in each instance and how are they composed;
  - d) provide assessment of the average duration of the procedures;
  - e) identification of services involved and number of staff dedicated to asylum procedures;
  - f) present methodology for gathering the country of origin information.

20. Do you apply the following concepts (if yes, how?):
  - a) safe third country;
  - b) safe country of origin;
  - c) manifestly unfounded claims.
21. Describe the procedural guarantees for asylum applicants:
  - a) information, interview, right to counsel and representation, interpretation/translation;
  - b) independence of review and appeal procedures;
  - c) measures for unaccompanied minors.
22. What concept of protection do you apply?
  - a) How do you apply the 5 grounds in article 1A and the exclusion clauses of Article 1F of the 1951 Geneva Convention (GC)?
  - b) Are non-state agents of persecution included in your understanding of the refugee definition of Article 1A GC?
  - c) Do you have in place subsidiary protection(s) or other forms of humanitarian protection?
  - d) Do you have in place a temporary protection system to deal with mass influx of displaced persons?
23. Have you identified the services competent for the application of provisions for determining the State responsible for the examination of an asylum application and for recording and processing the fingerprints of asylum seekers in this connection (with a view to possible future implementation of the Dublin II and Eurodac-regulations)?
24. Describe your registration and identification (including IT) systems for asylum applicants.
25. Describe your system of reception conditions for asylum applicants including reception centres.
26. Describe the framework for cooperation with UNHCR and NGOs.
27. Describe your integration policy for refugees and persons who have received another form of protection.
28. Describe the system put in place to collect data and statistics on asylum and refugee movements in your country and provide the following data (reference period: 2005-2010): number of asylum seekers, number of positive decisions granting refugee and other protection status recognised, negative decisions rejecting the applications and other non substantive decisions (all of them for both first instance and appeal), disaggregated by citizenships of the applicants, for each year.
29. Describe the activities related to practical cooperation with other countries that your asylum authorities are engaged in (for instance: exchange of country of origin information, organisation of seminars, study visits, etc.)
30. Describe the situation of refugees covered by the *Law on Refugees*, which is applied to the refugees who arrived in Serbia during the Yugoslav wars of the 1990s (as opposed to the *Law on Asylum* of 2007)

### ***Visa policy***

31. Please provide information on legislation or other rules governing your visa policy.
32. Which third countries are currently under visa obligation and which ones are not?
33. Are there any provisions for a seasonal visa free regime?
34. What types of short- and long-term visas are issued, including by diplomatic representations abroad?
35. What criteria and conditions are used as a basis for issuing the different types of visas?
36. What is the standard procedure for the assessment of a visa application? Which institutions are responsible to carry out the assessment?
37. Does your country have online connections between visa-issuing authorities and the Foreign Ministry? Do you have broadband or high-speed connections to your central visa issuing authorities from your consular posts in third countries capable of transmitting biometric files? If not, do you have plans for such technical implementation?
38. Do your visa-issuing authorities have the physical capacity to digitally collect biometric identifiers (fingerprints and facial images) from visa applicants? If not, do you have plans for such technical implementation?
39. Does a national visa register/database exist (including granted visas and rejected visa applications)?
40. Do the existing visas allow applicants to work in your country without a residence permit or working licence?
41. Does your legislation foresee any provision for the punishment of persons entering your territory without a passport? If not, do your authorities have the intention to introduce any amendment to this end and when will this be done?
42. In which cases can visas be issued at border crossings? How frequently is this done? What checks are performed in these cases?
43. Are your border crossing points organised so that biometric equipment may be integrated into existing border check processes? Do you have plans for such technical implementation?
44. Do you have any agreements with third countries to issue visas on your / their behalf? In this case, how is the assessment of each request ensured?
45. Are you cooperating with or do you intend to cooperate with third countries to share premises for visa issuing procedures? If so, how is the assessment of each visa request ensured?
46. Document security: Please provide information on legislation and other rules governing the issuance of machine readable biometric passports and travel documents to Serbian citizens and residence permits to third country nationals legally residing in Serbia. Please provide information on legislation and other rules governing the format and the security features of visas.



47. What is your technical and administrative capacity to detect falsified documents? Please explain.
48. Please explain in detail the special procedures for Kosovo residents to obtain biometric passports, its functioning since its introduction and the measures taken to prevent fraud and corruption (in particular in view of bogus residence changes).

### ***External borders and Schengen***

49. Please provide information on legislation and other rules governing the area of border management in your country.
50. Does an integrated border management (IBM) strategy and action plan on IBM exist in your country? If so, describe the main components of your integrated border management strategy and the stage of implementation of the current action plan on IBM.
51. How are the ministerial competences arranged in regard to border management (administrative arrangements)?
52. Is there a centralised and clearly structured public authority with a direct chain of command between Border Police units?
53. Is there a constantly updated comprehensive situational picture at national level covering all information related to national border management? Is there a national coordination centre, coordinating 24/7 the activities of all agencies carrying out border control tasks?
54. Are there any plans to allocate reserves, staff and equipment to react to incidents along the borders?
55. Please describe the means of providing situational awareness and reaction capability on green and blue borders. Is the level satisfactory in relation to the threat analysis? What would be major fields of development in this respect?
56. Please describe the training system for the Border Police. Are the programmes in line with the Common Core Curriculum on border guard training? Are border police officers properly trained and specialised? Are border police officers able to communicate in foreign languages? Are they trained to deal with requests for international protection?
57. Please describe the risk analysis system in the Border Police. Describe the use of risk analysis on the level of operative management and possible results.
58. How is border management supported by intelligence?
59. How is the gathering of information, its analysis and distribution arranged?
60. Please describe the organisational structure of the national service or national services responsible for border control tasks:
  - a) legal and regulatory aspects;
  - b) human resources and training;
  - c) border control procedures;
  - d) infrastructure, IT systems and equipment;

- e) coordination and co-operation with other relevant services (customs, veterinary and phyto-sanitary authorities and/or other services/agencies).
61. What equipment is available to the border guards? Is there any major lack of infrastructure or equipment as regards the arrangements for, or organisation of, border checks?
  62. Which first and second-line equipment do you have in place at border-crossing points? Describe all the methods used by border guards for carrying out routine checks on national databases and registers.
  63. Do you have the capacity to secure machine-readability of new documents?
  64. Describe what is done to detect falsified documents and, in particular, to improve the exchange of information to combat counterfeit travel documents.
  65. Describe your IT equipment and online connections at the borders. Are all border posts equipped to the same level and are all staff trained in the use of the equipment? Are communication systems compatible with those used by neighbouring countries, and/or by EU Member States?
  66. Which national databases and registers do you have in place (e.g. wanted and missing persons, stolen vehicles, stolen property, etc.)? Please describe the searching procedures and search tools.
  67. Is border surveillance based on risk analysis? Is it supported by sufficient technical means? Do you have specific operational mobile units for border surveillance and if yes, in which parts of the borders?
  68. Please elaborate on the role and powers of the Border Police in detecting and investigating cross border crime.
  69. How does your country co-operate with neighbouring countries to improve border security (formal bilateral agreements as well as practical arrangements on customs and border police activities)?
  70. Please provide information on the state of play regarding cooperation with FRONTEX.
  71. What is the state of affairs concerning international agreements on borders and border co-operation with neighbouring countries? Please provide:
    - a) short description of agreements existing or being planned;
    - b) summary of the content of the agreements;
    - c) level at which the agreements were or will be adopted, as well as the (expected) time of adoption;
    - d) local border traffic arrangements;
    - e) BCPs with neighbouring countries.
  72. Please describe in detail the situation at the Administrative Boundary Line with Kosovo in light of all the above questions. Describe the practical cooperation with EULEX.
  73. Please describe the checking procedures with regards to the entry of foreigners in Serbia through the Administrative Boundary Line with Kosovo.

### *Judicial co-operation in civil matters*

74. Please provide information on legislation or other rules governing the area of judicial cooperation in civil matters, i.e. on issues of international jurisdiction, recognition, enforcement, access to justice and legal assistance in civil and commercial matters including family law. Please explain the situation of Serbia as regards your adhesion to relevant international conventions.
75. How are foreign judicial decisions, in particular originating from the Member States of the European Union, in civil and commercial matters recognised and enforced? Please provide statistics on the number of cases and the results achieved.
76. Are there special, simplified procedures available in your country for claiming and recovering non-contested and small claims? Please provide statistics on the number of cases and the results achieved.
77. How are foreign decisions, in particular originating from the Member States of the European Union, in family law matters (i.e., legal separation, divorce, marriage annulment, parental responsibility, maintenance obligations) recognised and enforced? Please provide statistics on the number of cases and the results achieved.
78. How are cases of international child abduction dealt with under the 1980 Hague Convention on the Civil Aspects of International Child Abduction? Please specify the number of applications made under the Convention for the return of children for the last three years, the outcome of the applications (return or non-return of the child) as well as the average duration of the procedure. Please provide statistics on the number of cases and the results achieved.
79. How does your legislation solve conflicts of jurisdiction and applicable law as regards international insolvency proceedings? How are foreign decisions on insolvency recognised and enforced? Please provide statistics on the number of cases and the results achieved.
80. Is it possible for parties involved in civil litigation in your country but not present in it, to ask for legal aid in the country of their habitual residency? If so, how are these requests received and dealt with by your country? Is the same possibility available to parties present in your country who are involved in litigation abroad? If so, how are these requests presented and then transmitted abroad? Please provide statistics on the number of cases and the results achieved.
81. How does your legislation solve conflicts of law for contractual and non-contractual obligations?
82. How are foreign judicial and extrajudicial documents received and served? How are your country's judicial and extra-judicial documents transmitted when they have to be served abroad? Please provide statistics.
83. How does your legislation solve jurisdiction, conflicts of law and recognition and enforcement issues for international succession situations?
84. How does your legislation solve conflicts of law for divorce and legal separation?

85. In the light of the above mentioned questions, please describe how the judicial cooperation in civil matter is dealt with in relation to EULEX.

***Judicial co-operation in criminal matters***

86. Is it possible for parties involved in criminal litigation in your country but not present in it, to ask for legal aid in the country of their habitual residency? If so, how are these requests received and dealt with by your country? Is the same possibility available to parties present in your country who are involved in litigation abroad? If so, how are these requests presented and then transmitted abroad? Please provide statistics on the number of cases and the results achieved.
87. Please provide information on legislation or other rules governing this area and their adherence to relevant international conventions.
88. What kind of foreign judicial decisions in criminal matters are recognised and enforced and what is the procedure for recognising and enforcing them?
89. How are foreign judicial documents received and served? How are your country's judicial documents transmitted when they have to be served abroad? Please provide statistics.
90. How are the records of criminal convictions legally and technically organised? Is the data electronically available? If so, is it stored nationally/centrally or regionally/locally? What is the legislative framework in place for data retention, including adequate safeguards for protection of personal data?
91. How and on which legal basis do you deal with requests from other countries to take evidence? How and on which legal basis are your country's requests for taking evidence abroad transmitted?
92. Is State compensation to victims of crime available? If so, how is it organised?
93. How does your legislation solve conflicts of jurisdiction in criminal matters?
94. Which procedures are available in the field of mediation in criminal matters?
95. How does your legislation regulate extradition? Is extradition of Serbian nationals permitted? To which relevant international conventions (U.N. Council of Europe, others) is your country a party? Are bilateral agreements in place on the issue, and with which countries? What is their exact content concerning extradition of own nationals? Do you have bilateral agreements on transfer of proceedings and, if so, what are the scope and limitations of these agreements? Please provide statistics on the number of cases and the results achieved.
96. How does your legislation regulate mutual assistance in criminal matters? Are direct contacts between prosecutorial/judicial authorities experienced? Is there a legislative framework on video-conferencing? To which relevant international conventions (U.N. Council of Europe, others) is your country a party? Are bilateral agreements in place on the issue, and with which countries?

97. How does your legislation regulate the transfer of sentenced persons? To which relevant international conventions (U.N. Council of Europe, others) is your country a party? Are bilateral agreements in place on the issue, and with which countries?
98. Is time spent in foreign pre-trial detention deducted from the final sentence or otherwise taken into account?
99. Under what conditions can a person be judged in his/her absence?
100. How does your legislation regulate cooperation for purposes of confiscation? To which relevant international conventions (U.N. Council of Europe, others) is your country a party? Are bilateral agreements in place on the issue, and with which countries? Please provide statistics on the number of cases and the results achieved.
101. In light of the above mentioned questions, please describe how the judicial cooperation in criminal matters is dealt with in relation to EULEX.

***Police cooperation and fight against organised crime***

102. Please provide information on legislation or other rules governing the police and police cooperation, and their adhesion to relevant international conventions.
103. How are the law-enforcement agencies organised (ministries responsible, structure, manpower, horizontal co-operation structures, budget)? What are the laws, regulations and administrative rules incumbent on the police and the exercise of police functions?
104. Are all police authorities in the country under the same command? Do the powers of individual police authorities overlap? Please describe the procedures for co-operation and coordination between the different bodies involved.
105. Which administrative and/or judicial control bodies and procedures exist? How is (a) internal and (b) judicial oversight organised and enforced?
106. What powers does the police have:
- a) In terms of preventing and detecting potential threats?
  - b) In terms of criminal investigation?
107. What are the competencies of the different forces (legal and administrative, geographical organisation, cross-regional cooperation, etc.)?
108. How are the police staffed and equipped and how are they financed (quantitative overview of staff, buildings, equipment, communication tools, hard- and software, etc.). Is an integrated computer-based investigation system available? Is an integrated crime intelligence system available?
109. Please describe the training system for police officers. Which training facilities and training programmes exist (schools, training content, target groups, knowledge networks, special skills, assessment of on-going development training)?
110. Is there training tailored to the fight against specific types of crime?

111. Is there functioning cooperation with liaison officers in third countries within the common framework? If yes, where do such liaison officers exist?
112. Describe the cooperation with neighbouring countries (also as regards border control and border surveillance). Which police cooperation agreements exist or are planned?
113. Describe the police cooperation with EULEX and the implementation of the EULEX-Serbia Police Protocol
114. Please describe the reforms of the police that have been implemented in recent years.
115. What are the current and future priorities of the police? What is the method for assessing priorities?
116. Does a code on police ethics exist? How is it enforced?
117. What is done in the field of crime prevention? How is this linked to the threat assessment model and identified priorities?
118. Which cooperation exists with international police cooperation bodies? How is this cooperation organised?
119. Which international instruments regarding police are adhered to and implemented (Council of Europe, UN, Interpol Convention etc.)?
120. What is the current state of play in relations to Europol? What is your capacity to participate in Europol? What are the future plans? What actions have been taken to take necessary steps to prepare for the conclusion of an operational cooperation agreement with Europol?
121. What information tools exist and are used (databases (owner, content, access); data registers, on-line sources etc.)? Describe how police officers access these tools. What are the regimes in place for ensuring data quality within the databases and systems?
122. What information equipment is used (fax, phone, radio communication, beepers, pagers, data networks, etc.)?
123. Please provide details about forensic capacity for law enforcement purposes, including the detecting, securing, transporting, storing and analysing of forensic DNA.
124. Please provide details about the use of special investigative means (capacities, bodies responsible, conditions for use, procedures oversight etc.).
125. What are the modalities of and conditions for cooperation of the police with other public security bodies (customs, security and intelligence services)?
126. What statistical data exist (police activities, crime, prevention, convictions)? Please provide details about the methods and quality of these statistical data. How are statistics used to guide policy development?

127. What actions have been taken to increase the efficiency of police cooperation between national agencies, especially border guards, police, customs officers, as well as cooperation with the judicial authorities?
128. What actions have been taken to improve the capacity of the specialised police services to investigate financial crime and to establish an efficient system of special investigative techniques tackling cross-border crime?
129. Please describe if, and to what extent, criminal investigation in your country are driven by a 'proceeds-oriented' policy and which authorities are involved?
130. Is there an official investigation (police) or prosecution policy to trace crime proceeds (financial investigation)? If so, on what is it based?
131. How much priority is accorded to the investigation/prosecution of acquisitive crime in your official investigation (police) or prosecution policy?
132. Are the tracing, seizing and confiscation of assets a separate goal of criminal investigations? Does it warrant the deployment of extra manpower, resources and/or investigation time?
133. Are there national statistical instruments for measuring the crime rate and the clear-up rate? Please provide the relevant statistics for the last two or three years.
134. Are performance indicators or benchmarks available to assess the quality of police activities? In the absence of such data, how is police performance evaluated?
135. What are the tools for career development? How is the performance of the individual police officer assessed?
136. Which information do you store and, if yes, who has access to the following data:
- a) data on persons wanted for extradition?
  - b) data on aliens to whom entry was refused?
  - c) data on missing persons?
  - d) data on persons to be placed under police protection for their own protection or to prevent threats?
  - e) data on witnesses, on persons summoned to appear before judicial authorities and on persons who are to be served with a criminal judgement or summons to report in order to serve a penalty involving deprivation of liberty?
  - f) data on persons (or vehicles used) for whom there is clear evidence or, based on an overall assessment, reasons to suppose that serious criminal offences will be committed?
  - g) data on convicted persons (of Serbian nationality, European citizens, third country nationals)?
  - h) data on objects (stolen, misappropriated or lost vehicles, trailers, firearms, blank official documents, and issued identity papers including invalidated, vehicle number plates and registration certificates, banknotes)?
  - i) criminal intelligence data?
137. Please provide information on national legislation or other rules governing this area, and their adhesion to relevant international conventions.

138. Please provide an overview of your activities to implement the action-oriented measures that were adopted by the Government as a follow-up to the London Conference and presented at the EU-Western Balkans JHA ministerial meeting of 28 November 2003.
139. What particular types of crime, especially organised and serious crime, does your country have to deal with? Please provide a description of the issues and any available statistics.
140. Specify if there is a proven international dimension of organised crime in your country.
141. What are the main elements of your policy dealing with organised crime? Does your legislation criminalise the sole fact of belonging to a criminal organisation? Please provide a description (offences covered, exceptions, level of sanctions etc).
142. Does your country have a specific legal framework for financial investigations, or are they carried out in the context of normal criminal investigations?
143. Indicate the use and effectiveness of financial investigations in specific crimes, e.g. trafficking in human beings, drugs trafficking; smuggling of goods (e.g. cigarettes, vehicles and counterfeited goods), etc.
144. Is it possible to continue an investigation into the proceeds of crime or more generally its financial aspects, after the proper criminal investigation has been closed/after the conviction?
145. Are there special legal powers/tools available to investigate the proceeds/financial aspects of criminal activities?
146. Is it possible to involve private experts (accountants, financial experts) in order to investigate the proceeds/financial investigations of criminal activities? If so, please explain the legal and other parameters under which this can be done.
147. Are there specialised units / persons / authorities that deal exclusively/mainly with financial crime and/or financial investigations within or among:
- a) Investigative authorities (police, customs ...)
  - b) Prosecuting authorities
  - c) Judges involved in the pre-trial phase
  - d) Any other authorities involved (please describe)
- Describe for each type of specialised unit / authority:
- a) Composition
  - b) Location in the internal structure
  - c) Level of expertise, (type of training, diplomas required)
  - d) Mission
  - e) Powers
148. For units / persons / authorities other than those mentioned under the previous question: describe training measures (practical, legal, language, etc...) specifically dedicated to financial investigation, including the international aspects thereof, for:
149. Databases and registers, related to financial investigation capacity :
- a) Please indicate whether you have a data base for the following categories: bank accounts, real estate, companies, vehicles, boats.



- b) Please provide for each register or database:
    - The content of the database/register (type of data contained, number of entries).
    - Which authorities have access to the database/register at national level?
    - The type of access to the database/register (direct/indirect, need for a judicial authorisation, etc.).
150. Is there a system allowing for confiscation/seizure of proceeds from crime? Who is competent for the confiscation/seizure? Please describe the procedure and the bodies involved.
151. Describe the specific institutions/bodies/departments/court chambers set up to fight organised crime (including data on staff, budgetary allocations and equipment in this area). How do you ensure special training of law enforcement officers including prosecutors and judges in this area?
152. How do you co-operate internationally in fighting organised and serious crime and how do you ensure national coordination in this combat? How do you cooperate with Europol and SECI/SELEC Centre in fighting organised and serious crime? How do you co-operate with the private sector, notably the banking sector?
153. How do you cooperate with EULEX in fighting organised crime?
154. Do you have a system of witness protection in place? If so, please provide details. How many people were concerned since 2005 (yearly statistics)?
155. How do you tackle cyber crime?
156. What are – in order of importance - the main forms of trafficking (human beings, drugs, cigarettes, firearms, stolen vehicles, counterfeited goods, counterfeited Euros etc.) and smuggling and which specific strategies – if any – do you have in place to tackle them?
157. Do your authorities make use of risk assessments? If so, related to which crime areas?
158. What are the estimated volumes and value of different categories of illegal trafficking?
159. Please describe your national legislation on trafficking in human beings (*see also questions under Political Criteria*).
160. Does a National Programme on Combating Trafficking in Human Beings exist in your country? If so, please describe the main elements.
161. What are the competent authorities for combating trafficking in human beings? What are their human and financial resources?
162. How are victims protected from their trafficker and what rights do they enjoy?
163. Do your law enforcement agencies receive specific training on combating trafficking in human beings? Please describe.
164. Please provide statistics on the number of cases of trafficking each year since 2005.

165. Does your legislation make a distinction between trafficking in human beings and smuggling of migrants?
166. Do your law enforcement agencies include specific units for combating trafficking (human beings, drugs, cigarettes, firearms, stolen vehicles etc.)?
167. Is there - based on a multi-disciplinary approach - any form of cooperation between the competent law enforcement bodies and other agencies, which are involved in the prevention of and the fight against trafficking in human beings?
168. Does your legislation cover credit card fraud? Please provide a short description. How many cases did you report each year since 2005?
- (For the following questions, see also Chapter 4 – Free movement of capital).
169. Do you have a strategy in place in fighting against money laundering? Please describe your national legislation on money laundering in this regard.
170. Is the financial crisis having an impact on money laundering trends? Is your Anti-Money Laundering Policy taking these new trends into accounts? If so, how?
171. Please explain the main difficulties that you face in combating money laundering.
172. Please describe the specialised bodies dealing with money laundering, Financial Intelligence Unit (FIU), as well as the structures within the police and other relevant departments. Describe any co-operation with the banking system and other financial actors (casinos, etc.).
173. Please describe the cooperation between your FIU and other national police, prosecution office, the judiciary and other relevant bodies (e.g. customs) in the field of money laundering.
174. Please describe your FIU cooperation with EU FIUs. Please provide figures on the number of exchanges of information with EU FIUs. What is your view on international cooperation with EU FIUs? How could it be improved?
175. What is done to provide concerned staff with specialised training?
176. Please, provide figures on the results on your Anti-Money Laundering Policy in terms of number of cash transaction reports (CTRs) and suspicious transactions reports (STRs) disclosed in the last 4 years, number of investigations initiated each year on the basis of CTRs and STRs, number of investigations initiated each year on other intelligence elements, number of freezing/seizing orders in the last 4 years, number of prosecutions/indictments/convictions/confiscation orders in the last 4 years. Please provide figures on the value of the assets and properties frozen/seized and confiscated in the last 4 years. Please also provide the legal requirements concerning CTRs and STRs.
177. In your opinion, what could be done to further improve your action against money laundering?
178. Do you have any national bank account register in place so as to facilitate the FIU analysis?

179. How have you responded to requests for mutual legal assistance related to money laundering?
180. Is there a system allowing for confiscation/seizure of proceeds from crime? Which body is competent for the confiscation/seizure? Number of people and their training? Is confiscation linked to a criminal conviction? Are statistics available illustrating the number and value of cases of assets confiscated over the last years?
181. Please provide information on your national legislation on confiscation. Has value confiscation been introduced in Serbia? Do extended confiscation powers apply in case of serious crimes? In the affirmative, please describe the relevant provisions.
182. Does Serbia have provisions allowing confiscating the proceeds of crime independently from a criminal conviction? In the affirmative, please describe the relevant provisions. Can foreign freezing or confiscation orders based on non-conviction based confiscation be executed in Serbia?
183. Are the provisions of the Council of Europe Strasbourg Convention of 1990 and Warsaw Convention of 2005 fully implemented in Serbia?
184. Does Serbia have a national asset recovery office in charge of tracing the proceeds of crime?
185. Is there a specialised structure in charge of managing frozen assets?
186. How has Serbia responded to requests of EU authorities to provide information on assets located in your country? How has Serbia responded to requests of EU judicial authorities to freeze or confiscate assets in your country?
187. Is specific training on confiscation and asset recovery provided to law enforcement officers, public prosecutors or judges?

***Fight against terrorism***

188. In view of implementing the Union's commitments and strengthening its capabilities in the fight against terrorism, it would be useful to receive information about the relevant international conventions signed and ratified by your country and its efforts in the fight against terrorism.
189. Is your country faced with any specific form of terrorism? If so, is it of internal or external origin? Please elaborate.
190. What is the national legal framework and legal basis for anti-terrorist action? Is it in line with the relevant international conventions?
191. Which national departments and agencies are involved in the fight against terrorism?
192. Which national bodies coordinate the fight against terrorism?
193. What is the role and input of security and intelligence services?

194. How is the financing of terrorism criminalised and which criminal activities are covered by the law? Are there specialised bodies dealing with the financing of terrorism?
195. Does Serbia comply with the recommendations of the Financial Action Task Force on Money Laundering and Terrorist Financing (FATF) and corresponding EU legislation aimed at implementing these FATF standards (like EC Regulation No. 1781/2006, EC Regulation No. 1889/2005, Directive 2007/64/EC)? Please provide details.
196. What measures have been taken to address the issue of an abuse of designated non-financial businesses and professions (such as lawyers, real estate dealers, casinos etc.) for terrorist financing purposes? Are there any measures to prevent abuse of non-profit organisations in this context?
197. What is done to provide concerned staff with specialised training?
198. Please provide information on existing bilateral and international co-operation (including liaison officers and magistrates).
199. Please provide information on the creation of electronic data banks (statistics, profiling of terrorists etc.).

***Fight against drugs***

200. Please provide information on legislation or other rules governing this area, and their adherence to relevant international conventions (including on sanctions applicable to drug offences).
201. What is your control system for drug precursors? Can you please describe the overall aspects in detail? In particular:
- Legislation.
  - Number of scheduled substances.
  - Provisions on export controls, including as regards the pre-expert notification (PEN) and deadlines for its response and export authorisations.
  - Export /import authorisations – explain your legal provisions, including the requirements.
  - Do you have transit control? Explain.
  - Authorisation of operators (licensing/registrations) – explain the requirements.
  - Documentation/labelling/record keeping – explain your legal provisions.
  - Explain cooperation procedures with the Chemical Industry – what measures are taken to carry out controls and supervise cooperation with Industry (i.e. implementation of the INCB Code of Practice)?
  - Notifications of suspicious transactions by the Industry: explain what is done to receive such notifications.
  - Do you have list of non-controlled substances (to implement the INCB's International Special Surveillance list)?
  - Can you explain how the provisions of article 12 of the 1988 UN Convention are implemented?
202. What are the main characteristics of your country's policy on combating drugs?

203. Does your country have a National Drugs Strategy/Action Plan that is in line with the EU Drugs Strategy (2005-2012) and EU Action Plan on Drugs (2008-2013)? Is there a budget foreseen for the implementation of the Strategy/Action Plan? Does the Strategy/Action Plan include an element of evaluation?
204. Are there formal arrangements to ensure the cooperation between authorities in the drugs field (e.g. an interministerial drugs group)? What are the principal measures deployed? How does coordination between law enforcement agencies work? Is there a clear allocation of tasks and coordination:
- a) between authorities competent for drug demand reduction?
  - b) between authorities involved in reducing drug supply?
205. Is there a system for the collection of drug related data according to the standards of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA). Is there a functional Focal Point for the Reitox network of the EMCDDA and what is the legal status for the focal point?
206. Is there a system for detecting and analysing new psychoactive substances? What is the procedure for placing new substances under control?
207. How do you co-operate with international bodies operating in the drugs field, such as UNODC, INCB, Commission on Narcotic Drugs, Pompidou Group, WHO, etc.?
208. Do you have general guidelines on the fight against drug supply reduction? Please provide information on the trends in drug trafficking in and through your country and on drug abuse.
209. How does cooperation and exchange of information with other national authorities work? Are there any Memoranda of Understanding or Joint Agreements between the various law enforcement services with responsibility for tackling the supply of drugs or other concerned counterparts (ports, express delivery services, etc.)? Are there similar agreements with relevant industries?
210. Is there adequate and sufficient administrative capacity to fight drug-related crime?
211. What are the relevant structures and competencies of the police, customs and judicial authorities? Please describe their functioning in day to day practice.
212. What measures have been adopted at the external borders?
213. Do your authorities make use of systematic risk-analysis? To what extent do they rely on financial investigations and on controlled deliveries?
214. What are the measures taken in respect of drug demand reduction?
215. What types of programmes are there for the prevention and reduction of health related harm associated with drug dependence (e.g. methadone programmes, needle exchange etc) and how are these programmes regulated?
216. Are there any measures taken for improving the understanding of the drug problem?

217. Are there any measures taken for improving coordination, cooperation and raising public awareness of the drug problem?

***Customs cooperation***

218. Please provide information on legislation or other rules governing the customs area.

219. Does the Customs Administration have an integrated computer system?

220. Is there development of risk analysis using, inter alia, information derived from Memoranda of Understanding (MoU)?

221. What is done to ensure inter-agency co-operation and the implementation of mutual assistance agreements?

222. Does the Customs Administration have a special investigation service with sufficient resources?

223. Are there adequate methods for the fight against fraud, including the introduction of mobile surveillance units?

224. Which risk profiles are used by customs?

225. Please provide information on the training of customs officers (including possible cooperation with EU countries on such training).

226. Which measures are taken to ensure the integrity of customs officers and prevent corruption?

227. What internal disciplinary procedures exist?

228. Are any statistics available on the number and type of disciplinary cases that have been undertaken in the last 3 years?

229. Do customs cooperation agreements with EU countries exist?

***Protection of the financial interests of the European Communities (penal aspects)***<sup>58</sup>

230. Does national law criminalise fraud against the Communities' financial interests, covering both expenditure and revenue?

231. Does national law provide for the concepts of criminal liability of heads of businesses and liability of legal persons for these offences?

232. Has your country established jurisdiction over all of these offences?

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<sup>58</sup> See the Convention on the protection of the European Communities' Financial Interests, *Official Journal C316*, 27/11/1995, p. 49-57; First Protocol to the Convention: *Official Journal C313*, 23/10/1996, p. 2-10; Second Protocol to the Convention: *Official Journal C221*, 10/07/1997, p. 12-22. "Non-penal" issues related to the protection of the Communities' financial interests are dealt with under Chapter 32.

***Protection of the euro against counterfeiting (penal aspects)***<sup>59</sup>

233. Has your country acceded to the 1929 International Convention on the Suppression of Counterfeiting?
234. Does national law criminalise the making and altering of counterfeit currency and related offences? Does it ensure that such activity is punished by appropriate criminal penalties, including imprisonment and the possibility of extradition?
235. Does national law ensure that it has the appropriate jurisdiction over offences involving counterfeiting, both of the euro and of other currencies?
236. Does national law provide for the concept of criminal liability of legal persons for these offences?
237. Does your country recognise, for the purposes of establishing habitual criminality, sentences handed down in other Member States for these offences?
238. Have you formally designated a National Central Office on currency counterfeiting in line with Article 12 of the 1929 Geneva Convention and Regulation 1338/2001?

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<sup>59</sup> See Framework Decisions 2000/383/JHA of 29 May 2000 and 2001/888/JHA of 6 December 2001. “Non-penal” issues related to the protection of the euro against counterfeiting are dealt with under Chapter 32.

## ***Chapter 25: Science and research***

The *acquis* in Chapter 25 – Science and Research – as laid down in Title XIX of the Treaty on the Functioning of the European Union (TFEU) requires the Member States, to take actions and carry out activities to achieve the European Research Area and take the necessary measures to ensure implementation of the research framework programme(s). The *acquis* in this Chapter does not require transposition of EU rules into the national legal order.

EU research policy aims to strengthen the scientific and technological bases of the Union by realising a European Research Area (ERA) in which researchers, scientific knowledge and technology circulates freely and supports competitiveness, including in its industry, while promoting all research activities necessary including in by actions based on other EU policies To advance towards the ERA, the Candidate Countries have to implement the Research Framework Programmes (FP). Since FP6, these programmes have been designed as major instruments to implement the ERA. They currently include: (1) the Seventh Framework Programme (FP7) of the European Union for research, technological development and demonstration activities for the creation of the European Research Area and for innovation (2007-2013), which is implemented through the specific programmes and the rules for the participation of undertakings, research centres and universities and for the dissemination of research results, for the implementation of the FP6 and participation therein and (2) the Euratom Seventh Framework Programme for nuclear research and training activities (2007-2011) and contributing to the creation of the European Research Area in the field of fission and fusion energy systems and radiation protection, and the specific programme and the rules for the participation in the Euratom Research Programme. As part of the research actions funded by the European Union, the Joint Research Centre (JRC) organises direct actions through its seven specialised institutions. Furthermore, candidate countries have been invited to participate in the policy initiatives carried out in partnership with Member States in order to realise the ERA.

In March 2000, the Lisbon European Council set the objective for the EU to become the most competitive and dynamic knowledge-based economy in the world by 2010. Since then, a number of important Communications and Action Plans were adopted with the aim of designing and implementing an integrated research policy in support of economic development and creating European excellence and knowledge. In 2000, the Commission adopted the Communication ‘Towards a European Research Area’ covering a wide range of areas. Other relevant communications are the Recommendation on the European Charter for Researchers and on a Code of Conduct for the Recruitment of Researchers (Mobility Action Plan), the Action Plan Science and Society, the Commission Communication ‘Investing in research: an action plan for Europe’ (based on the decision of the Barcelona European Council in 2002 to raise the overall investment in research and development to 3% of GDP by 2010), and the Commission Communication ‘More research and innovation: a common approach’ (based on the renewed Lisbon Strategy).

Following a 2007 public consultation on ERA and a Green Paper proposing six main ERA dimensions, the EU launched in 2008 a new partnership approach to research policy between the European Commission and the Member States, known as the Ljubljana Process. In this approach, ERA is regarded as embracing the totality of research activities, policies and programmes, whether at EU, intergovernmental, national or regional level, which have a transnational European perspective.

The Ljubljana Process led to the adoption by the Council in December 2008 of a 2020 Vision for ERA with, at its core, the idea of the fifth freedom: the free movement of researchers,



scientific knowledge and technology. Under the Ljubljana Process, the Council has called for a revised system of research policy governance to manage the new ERA partnership.

Policy development work is underway for all six dimensions of ERA. Five of these are the subject of specific ERA partnership initiatives launched in 2008 with the following aims:

- **Researchers:** to increase the number, quality and mobility of researchers and enhance Europe's attractiveness to researchers, focusing on open recruitment and portability of grants, social security and supplementary pensions needs of mobile researchers, employment and working conditions, and the training, skills and experience of European researchers.
- **Joint programming:** to make research in Europe more strategic, more focused and more effective through Member States coming together to discuss common visions, prepare strategic research agendas on major societal challenges and set up joint programmes to implement these agendas.
- **Research infrastructures:** to put in place a new EU-wide legal framework for the establishment and operation of new European research infrastructures (by means of a Council Regulation). ESFRI (European Strategic Forum for Research Infrastructures) continues to work on its roadmap for new pan-European research infrastructures.
- **Knowledge sharing:** to improve the exploitation of the results of public research by building on and implementing the Commission Recommendation and Council Resolution on the management of intellectual property in knowledge transfer activities, consisting of policy guidelines for Member States and a Code of Practice for public research organisations and universities.
- **International science and technology cooperation:** to establish a common strategy at European level for cooperation between Member States and the European Union with third countries in order to reduce the duplication, waste of resources and reduced impacts which result from the current fragmented approach.

In addition, other activities are underway to support national authorities and universities in the implementation of the EU 'modernisation agenda for universities' policy launched in 2005.

With respect to both the TFEU Research and Euratom/Nuclear Research framework programmes, the candidate countries will, upon accession, have to adhere to the bilateral and multilateral agreements the European Union has concluded on respectively science and technology and nuclear research.

The FP7 management committees assisting the Commission in implementing the FP7 specific programmes, the Scientific and Technical Research Committee (CREST); the Strategic Forum for International S&T cooperation (SFIC); the ERA steering Group on Human Resources and Mobility (SGHRM), the Knowledge Transfer Forum and the High Level Group on Joint Programming (GPC), as well as the Standing Committee for Agricultural Research (SCAR) are the key bodies in the designing and implementation of the EU research policy.

Finally, a number of ad hoc decisions concerning research in specific areas need to be addressed, such as the European Research Fund for Coal and Steel and the creation of Article 169 undertakings and Joint Technology initiatives.

## ***I. National Research policy***

### *Organisation of research at national level*

1. Please describe the institutional framework, with reference to the role and competence of ministries, national committees, parliamentary committees and regional authorities.
2. Do you have advisory committees on how to conduct research policy? Any bodies involving private sector?
3. Please describe the national policy for research and technological development (RTD). Please refer to the priorities, priority sectors, targets, target groups, and instruments to conduct research.
4. How is research and technological development organised? Please refer to:
  - a) types and numbers of research institutions (higher education institutions, governmental research centres, military research centres, academies, private foundations, research centres of state or private industry);
  - b) centres of excellence, research infrastructures;
  - c) nature of research activities (public or private, civil or military, institutional or contractual, applied or basic);
  - d) what are the main research results per priority areas? Are there indicators of scientific production? Please refer to the number of scientific publications (in ISC or other bibliometric database), number of patents or licences, number of research contracts or any other pertinent indicator to quantify scientific production;
  - e) how are the institutions promoting RTD innovation in industry organised? Please refer to technology centres, Community Innovation Relay Centres, science and research parks, technology transfer agencies.
5. Are there any actions relating to science in society and scientific based governance?
6. How is the respect of ethical standards being ensured: do you have regulations on ethics in conduct of science? Are there research funding programmes or university outreach programmes regarding ethical, legal and social aspects (ELSA) of science?
7. Describe the way in which scientific knowledge is fed into the policymaking process in your country.

### *Financing of research*

8. How are state funds allocated: please refer to the method and criteria used for the division of funds, scientific priorities, sector priorities, regional priorities, private vs. public research? What is the share of core funding vs. external competitive funding provided by public sources to research institutions? Do the rules of participation of the TFEU Framework Programmes have any impact on the design of the national competitive funding instruments targeting research institutions?
9. How is the evaluation of state funded research done: selection of evaluators? What are the criteria for funding? Is the use of public funding being monitored (statistics) and/or controlled?

## **II. Framework programmes**

### *TFEU Framework Programme*

10. Please explain how research promotion under the TFEU research framework programme is organised in your country: within the Ministry? Which department? Any outsourcing to a Promotion office or Agency?
11. How often are Information Days organised? Do you have special measures to encourage research cooperation under the FP?
12. What is the structure of the National Contact points and their relation with the Ministry?
13. Explain your legislation regarding taxation and import duties concerning EC funds for RTD.

### *EURATOM Framework Programme*

14. Is Serbia engaged, or planning to be engaged, in nuclear research and how is it organised at national level: which Ministry is responsible for nuclear research? Nuclear research is understood to mean falling under the scope of the Euratom Treaty (i.e. essentially limited to applied research in fission and fusion energy systems, management of radioactive research and radiation protection). (please also see Question 50 under chapter 15)
15. Does Serbia have any specific programmes and/or research institutes for nuclear research?
16. Has Serbia already participated in research projects under the Euratom FP?

## **III. Policy initiatives to help realise the European Research Area**

### *Investing in research*

17. Describe the national strategy on the Lisbon objectives: is there an Action Plan on investment in research aiming at increasing investment in research?
18. Please provide quantitative information for your country, if possible for the period 2000-2008, including at least the following aspects:
  - a) gross domestic expenditure on RTD – ratio to gross domestic product (GDP);
  - b) gross government expenditure on RTD – ratio to GDP;
  - c) gross higher education expenditure on RTD – ratio to GDP;

- d) gross business enterprise expenditure on RTD – ratio to GDP, ratio to gross government expenditure;
- e) gross foreign investment in RTD.

19. How are RTD services to industry organised? Are there measures to facilitate venture capital?
20. What are the financial or other incentives for RTD investment by state and private industry? What is the effectiveness of these incentives?

*Human Capital building and Mobility of researchers*

21. Please indicate what the percentage of science personnel is compared to the overall workforce. Which actions is your country taking to ensure that there are sufficient qualified researchers? How do you ensure human resources capacity? Are there any special actions for science and women? Is an Action Plan in place to increase the number of scientists in the country? What measures are in place to attract young people to science studies? Is a mapping of scientists abroad (Diaspora) taking place? Which actions has your country taken to ensure mobility (geographical, inter-sectoral and inter-disciplinary) of researchers? What kinds of visa procedures do you have for foreign scientists?
22. If there is a problem with regard to brain-drain of RTD personnel from your country, what are the possible government policies to address this matter? Are there any data on how many Serbian researchers are abroad and where?
23. How are continuing training schemes organised (e.g. implementing organisations, target groups, existing programmes)? How are young researchers funded, with stipends or with employment contracts?
24. Please provide quantitative information for your country, if possible for the period 2000-2009, including at least the following aspects:
  - a) personnel (public/private RTD);
  - b) tertiary education related to RTD: number of graduates, field, undergraduate/ post-graduate.

*Organisation of research on specific areas*

25. Is your country having special research programmes and funding on coal and steel?
26. Is your country having special measures to engage on research on Food, Agriculture and Biotechnologies and measures to ensure the proper use of biotechnologies? Any Action Plan?
27. What are the policies, programmes and budgets in the field of the conversion of military RTD?
28. Does your country have, or are you planning, targeted actions or special programmes to foster competitiveness via industrial research on specific topics such as clean sky? Innovative medicines? Energy efficiency? Are there existing examples of public-private partnerships in the field of research in your country?
29. Does your country have any special interest in participating in Article 185 initiatives or the Joint Technology Initiatives currently being implemented at EC level?

*International S&T cooperation*

30. Do you have a strategy for international S&T cooperation (either self-standing or embedded into a general S&T/globalisation strategy)? If yes, describe the main pillars of that strategy (e.g. how do you decide on what kind of research to do with whom? Which thematic and geographic priorities do you have in international S&T cooperation?).
31. What are the main means for supporting/implementing international S&T cooperation (e.g. openness of national research programmes for foreign participants, including funding of foreign participants; specific support instruments; bilateral S&T dialogues/agreements etc.)? Can you list any current international agreements on Science & Technology?
32. What kind of multilateral activities do you pursue (including membership in S&T-relevant international institutions)?
33. Do you participate in the Strategic Framework for International Sciences and Technology cooperation established under the CREST?

## ***Chapter 26: Education and culture***

The areas of education and training, youth and culture are primarily the competence of the Member States. The Treaty on the Functioning of the European Union (TFEU) provides that the Union shall encourage cooperation between Member States and support and supplement their actions, while fully respecting their responsibility for the content of teaching, organisation of education and vocational training systems, and their national and regional cultural diversity.

In the field of education, training and youth, besides a Directive on education of the children of migrant workers and the judgments of the European Court of Justice on cases related to non-discrimination between nationals of an EU Member State and other EU nationals, the *acquis* consist of mainly a cooperation framework. In the light of the Lisbon Strategy, open methods of coordination on education and training policies and on youth policies have been established with a view to the convergence of national policies and the attainment of shared objectives. The concrete future objectives of education and training systems endorsed in 2001, as well as the Copenhagen process for vocational training and the Bologna process for higher education, are providing directions for the improvement and development of the quality of education and training systems. This resulted in the work programme 'Education and Training 2010', and the strategic framework "Education and Training 2020", which integrates all actions in the fields of education and training at European level. Common objectives have also been agreed for the EU youth policies and a new EU Youth Strategy, based on a reinforced open method of coordination, was adopted for the period 2010-2018<sup>60</sup>. This strategy builds on the need to have a strong cross-sectoral approach. In addition, Member States need to have the legal, administrative and financial framework as well as the necessary implementing capacity in place to ensure sound management, including financial management of all decentralised education, training and youth EU programmes (currently the Lifelong Learning and Youth in Action Programmes).

As regards cultural policy, Member States need to uphold the principles enshrined in Article 167 of the TFEU and, in particular, ensure that their international commitments allow for the development and implementation of policies and instruments aiming at preserving and promoting cultural diversity. In accordance with these principles, the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, ratified by the EC, is a major element of the *acquis* in the field of culture. The Commission Communication on a European Agenda for culture in a globalizing world, endorsed in 2007 in a Council Resolution and conclusions of the European Council, introduced new cooperation methods, including a structured dialogue with the cultural sector, and a more structured system of cooperation between the Member States and the EU institutions (open method of coordination), in order to implement three common sets of objectives: cultural diversity and intercultural dialogue; culture as a catalyst for creativity; and culture as a key component in international relations. Five priority areas, articulated around the three objectives of the Agenda, were set by the Council for a first work plan for culture 2008-2010.

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<sup>60</sup> Council resolution of 27 November 2009 based on Commission Communication "An EU Strategy for Youth – Investing and Empowering. A renewed open method of coordination to address youth challenges and opportunities", COM (2009) 200, 27.04.09

## ***I. EDUCATION, TRAINING AND YOUTH***

### ***Cooperation in the field of policies***

The following questions are directed at all levels of education.

#### ***A. Educational system***

1. Structure of the educational system: Please describe the structure of the educational system, including vocational education and training (VET) and adult education, following the Eurydice format (<http://www.eurydice.org>). Give details of the different levels of education, whether compulsory and/or free of charge, and the mechanisms for transition between them. Please describe the role of private education and VET providers and of enterprises in VET provision.
2. Statistics: please provide data on pupils/students and teachers/trainers at the different levels of the educational system, including VET and adult education. If possible give an estimate of the expected evolution over the next ten years. Provide statistics on public and, if possible, private resources allocated to education at national level (in % of GDP and national budget). Please provide statistics on school drop-out rates in lower and higher education (with breakdown per gender, ethnic group and geographical area).
3. Stabilisation of reforms: what are the main objectives and the timetable for implementation of the most recent of current reforms of the education and training system? Should the system undergo yet more reforms?
4. Governance and financing: please describe arrangements for the governance and financing of education and training, giving details about the degree of financial and administrative autonomy of establishments and about stakeholder participation. Please address, in particular, the role of the social partners in VET.
5. Qualifications: please describe educational and VET qualifications frameworks and structures, including arrangements for recognition of informal and non-formal learning (work experience, in-service training, self-learning, etc.).
6. Please provide information on measures available, including educational and vocational guidance, to integrate young people into the job market or higher education or VET .
7. Please provide information on the transition from school to work and the role of the social partners and enterprises.
8. Young persons leaving education and/or training without formally recognised qualifications: what are their numbers and percentages? What are the second chance measures undertaken to provide alternative routes to achieving qualifications?
9. Would you be interested in participating in the structures established under the Open Method of Coordination?

#### ***B. Administration of the systems***

10. Status of educational institutions: Describe the procedures for setting up educational institutions. Which is the authority that monitors the setting up and functioning of

educational institutions? Are there different types of status for educational institutions (e.g. private, public, private subject to control, etc.)?

11. General mechanisms for the monitoring and evaluation of the educational system: Are there mechanisms in place or in the process of being implemented for monitoring and evaluating educational establishments? What do they examine? To what extent are they independent from Government ministries?
12. Statistical data collection and processing facilities: Describe the facilities and the type of data collected. Describe the various levels at which such data is collected and processed. Are there statistics on the destination of school leavers, VET and higher education graduates? Are there statistics on the concrete benchmarks for the improvement of education and training systems (early school leavers, number of graduates and gender balance in maths, science and technology, number completing upper secondary level education, basic skills, participation in continuing education and VET)?

### *C. Infrastructure*

Please provide information on:

13. Criteria for setting up infrastructure: Coverage of national territory: What variables are taken into account for setting up educational infrastructure (population density, geographical criteria etc.)? According to what criteria is infrastructure set up for the education of children of national minorities?
14. Criteria for the provision of equipment: Who takes decisions and according to what procedures concerning the purchase of equipment for schools and universities? Does equipment include: manuals, libraries, teaching equipment for instructors, computer and multimedia equipment? Give information for each type of equipment and each level of education.
15. Please provide information and statistics on ICT use in education and training, including the number of pupils per computer and distance learning facilities, etc.
16. Provision of accommodation for students/trainees not living at home: What facilities exist? What services do they provide? Are developments in such facilities envisaged? If so, what developments?
17. Are there special facilities, at all levels of education, for handicapped persons in mainstream education and VET establishments?

### *D. Teachers*

18. Please describe the requirements for the qualification of school teachers and school principals at all levels of education.
19. Please describe the initial and continuing training provisions and facilities available for teachers?

### *E. Curricula*

20. Decentralisation of decisions relating to curriculum: Which are the authorities that establish the curricula at each level of education? What degree of autonomy do



educational establishments have in respect of setting teaching hours for curriculum, and the content of such teaching time?

21. What is the core/compulsory curriculum in primary and second level education?
22. Please describe VET and higher education curricula delivery methods? Are courses modular? What kind of arrangements exist for credit transfer?
23. Teaching of the official languages of the European Union: please describe the teaching provided at the various levels of the education system. Provide available statistics on the number of young persons or children studying the various languages.

#### *F. Adapting to change*

Please provide information on:

24. The identified skill needs and/or shortages, and the responses from the education and VET systems.
25. The adaptation of education and training to the requirements of the knowledge society.
26. The promotion of sense of initiative and entrepreneurship as a basic competence for young people within the different levels of education.
27. The adaptation of education and training to industrial and technological change.
28. The transfer of innovation and good practice in training into mainstream education and training provision.
29. The application of the lifelong learning principle to policies, systems and structures for education and VET.
30. The integration of vocational training into mainstream education and pathways between general and vocational streams of education.

#### *G. Youth*

31. What, if any, are the national strategies encompassing one or several of the following fields: youth employment and youth entrepreneurship, non-formal education of young people, creativity, youth participation, health / well-being of young people, social inclusion of youth, youth volunteering? More specifically, please provide information on:
  - a) Measures to develop the quality of non formal education and to recognise its outcomes.
  - b) How decentralised are the structures for youth employment on a local level – the level closest to young people – and what are the plans for the future? See also questions above.
  - c) Measures taken to encourage talent development, creative skills and entrepreneurship of young people and their access to culture.
  - d) Measures taken/planned to encourage a healthy living for young people and physical activity with a focus on preventing and treating obesity, injury, addictions, mental and sexual health problems.

- e) Measures taken/planned to ensure full participation of youth in society, and to promote greater social involvement of young persons within the framework of the social and institutional democratisation process.
- f) Measures taken/planned to develop the provision of facilities and adoption of policies to prevent poverty and social exclusion of young persons, in particular among disadvantaged youth groups.
- g) Measures taken/planned to facilitate the mobility of volunteers from the EU and from the candidate countries, for long-term activities (6 months to 12-18 months) in terms of residence permits, insurance, etc.
- h) Measures taken/planned to support and recognise Youth work.

32. Which institution is in charge of the overall coordination of youth issues in the country? Cross-sectoral cooperation on youth matters between various concerned Ministries is a very important aspect of the EU Youth cooperation framework. Please provide information on how such cross-sectoral cooperation is ensured.
33. Would you be interested in participating in the mechanisms established under the youth Open Method of Coordination?

#### ***Access to education of EU citizens***

34. Education of children of EU nationals: please provide information on the estimated number of EU nationals working in your country and having children residing there at the age of compulsory school attendance under Serbian law. Please indicate whether there are special provisions for education of these children (such as free of charge courses of the Serbian language) and what are their main countries of origin.
35. Equal access: describe arrangements to ensure equal access to education and training regardless of gender, ethnic origin, religion or disabilities.
36. Tuition fees and other conditions of access to higher education establishments (public and private): how are they regulated? Are they different for Serbian nationals and for foreigners?

#### ***EU programmes***

37. What is your appreciation of the level of interest and participation of young people, youth workers and youth organisations in the country in the opportunities which have been offered by the Youth in Action Programme and its Western Balkan Window?
38. Are there any national programmes to support youth organisations and their activities? If so, please provide information about their structure and management modalities.
39. What is your appreciation of the level of interest and participation of universities, academics and students of the country in the opportunities which have been offered by the Tempus and Erasmus Mundus Programmes?
40. What services of the relevant ministries are in charge/are planned to be in charge of the monitoring of the different Community programmes? How are they staffed/planned to be staffed? Do these ministries have audit services?

41. Are you aware of any existing informal partnerships between educational establishments in your country and projects supported under the Lifelong Learning programme? Are there any plans to support such informal partnerships?

## ***II. Culture***

### ***Cooperation in the field of policies***

42. What, if any, are the support systems in the following fields: artistic creation, innovative cultural projects, improvement of skills for artists and cultural operators, cultural cooperation with other countries?
43. What, if any, are the support programmes in the field of literary creation and translation?
44. What, if any, are the support programmes in the field of cultural heritage?
45. What legal regime applies to book pricing? Are there any fixed price regulations?
46. What legal regime applies to the sale and movement of cultural goods?
47. What legal regime applies to the preservation of cultural heritage?
48. What legal regime applies to the cession of rights (exclusive or otherwise) to exploit aspects of cultural heritage (e.g. digitisation of art collections)?
49. What systems are in place as regards statistics pertaining to the cultural sector?
50. What measures have you taken in the context of the implementation of the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions?
51. Do you subscribe to the objectives of the European Agenda for Culture?
52. Would you be interested in participating in the structures established under the Open Method of Coordination?

### ***EU programmes***

53. Please explain measures taken/planned to promote the Culture programme and prepare participation of cultural operators in the country.
54. Are there any plans to ensure additional financial support to successful applicants?

## ***III. Sport***

55. Following the entry into force of the Lisbon Treaty on 1 December 2009, the EU has been attributed a new competence for sport (Article 165 TFEU). In this respect, please complement any information provided on Sport under the Youth Point with a description of the organisation of sport in Serbia and the role sport plays in societal (health, education and social inclusion terms) as well as economic terms.

## **Chapter 27: Environment**

EU environment policy aims to promote sustainable development and protect the environment for present and future generations. It is based on preventive action, the 'polluter pays' principle, fighting environmental damage at source, shared responsibility and the integration of environmental protection into other EU policies. The *acquis* comprises over 200 major legal acts covering both horizontal and sectoral legislation (air quality, waste management, water quality, nature protection, industrial pollution control and risk management, chemicals, climate change, noise and civil protection.). Compliance with the *acquis* requires significant investment. A strong and well-equipped administration at national and local level is imperative for the application and enforcement of the *acquis*.

### **I. GENERAL ENVIRONMENT POLICY**

1. Are there any constitutional provisions in relation to environmental protection and/or sustainable development?
2. Is there a general environmental protection framework act, serving as a basis for other environmental legislation?
3. What are the main principles underpinning environmental legislation (e.g. polluter pays principle, precautionary principle, etc.)?
4. Is there a long term national strategy governing protection of the environment and/or a national sustainable development strategy? Is this strategy effectively implemented? What are the related institutional arrangements (e.g. SD Council)?
5. Is there a concrete action programme for the environment with short and medium term objectives, an indication of the availability of the budgetary and other resources to achieve them and a timetable? Is it linked to the EU environmental *acquis* and how is its implementation monitored?
6. How are you ensuring that your environmental legislation and policies are aligned with EU environmental legislation? What are the main difficulties encountered?
7. How much has been invested in environment and environmental infrastructure (i.e. in order to comply with environment *acquis*) in the last three years? What are your future investment plans?
8. Give a detailed description (with staffing levels) of the administrative bodies (Ministries, agencies etc.) responsible for enacting, implementing and enforcing environmental legislation and policy at both national and sub-national (e.g. regional) levels. How are the responsibilities shared for achieving the objectives in the various sectors (water, waste, nature protection, forests etc.) and how is coordination assured? Outline any plans to develop and reinforce administrative capacities. Please indicate budget allocated to the administrative bodies including agencies.
9. How are the responsibilities shared for the various sectors (water, waste, nature protection, forests etc.) and how is coordination envisaged? Outline your plans to develop and reinforce your administrative capacity.

10. Are there legislative and budgetary provisions relating to the training of administrative officials in the environmental field? How difficult is it to find suitably qualified personnel? How difficult is it to find qualified personnel to provide the training?
11. What are the mechanisms for monitoring compliance with environmental legislation and the state of the environment? Please describe in detail, if existing, the system of environmental inspections - competent authorities, frequency of the inspections, provisions for planning, carrying out, following up, reporting on environmental inspections etc.
12. Do criminal penalties for breaches of environmental law exist? If yes, please describe the penalty system. Does Serbia's legislation provide an administrative or criminal responsibility of legal persons for breaches of environmental law? If so describe the law. What type of other criminal penalties than imprisonment and fine exist for breaches of environmental law? To what extent do provisions exist which already have criminalised the environmental offences listed in the Directive 2008/99/EC?
13. Please detail the number of prosecutions for breaches of environmental law and the level of penalty for such breaches over the last 5 years. Please provide information on the collection rates of fines imposed and the relevant statistics for breaches in the sectors of air, water and waste for the last three years and, if available, also for other environmental sectors.
14. What type of economic instruments (taxes, duties, tradable permit schemes, etc) are used for environmental policy? Please communicate the share of environmental taxes in total taxation and in GDP. Please estimate the percentage of GDP spent on environmental protection.
15. Are there any mechanisms to provide for the protection of the environment to be taken into consideration in other policies, in particular agricultural, industrial, energy and transport policies in line with Article 11 of the Treaty on the Functioning of the European Union?
16. Which international agreements concerning environmental protection have been signed and which ones have been ratified by your country?
17. Has your country submitted a report to the UN Commission on Sustainable Development (CSD) on the implementation of Agenda 21?
18. Could you describe the national effort in the field of environmental research and development (e.g. level of funding of national institutes, etc.)?
19. Please detail any initiatives or programmes of environmental regional co-operation in which your country is participating. In particular, outline your country's plans to follow up on the priority projects identified by yourselves in the framework of the Regional Environmental Reconstruction Programme (REReP) and the Infrastructure Projects Facility (IPF). Which are your priority topics in the Regional Environmental Network for Accession (RENA) and which actions do you envisage for promoting those?
20. Please explain what measures are taken to reduce diseases caused by environmental factors in your country.

## 21. II. SECTORAL ENVIRONMENT POLICIES

22. The questions on each sector below should allow for an evaluation of the current situation and trends. Information on capacity building and/or problems in this respect would also be most useful. Any additional information, for instance on achievements so far and major problems to be solved, should also be provided.
23. Indications on cost/benefit aspects and on investment in the different areas should be given, as available and as appropriate.

### A. Horizontal Legislation

24. Are there measures providing for public access to environmental information upon request and by public authorities of their own initiative (so called "active dissemination")? Are there provisions on administrative and/or judicial review in case access to information is not granted? Does Serbian law cover information "held for public authority", i.e. environmental information which is physically held by a natural or legal person on behalf of a public authority (Article 2, point 4 of Directive 2003/4/EC)?
25. What are the provisions in relation to access to the courts and administrative complaints when it comes to organisations (including non-governmental organisations) and individuals? Do non-governmental organisations that meet certain requirements, if any, determined by national/international law (if yes, what are these requirements), have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of law relating to the environment? If yes, in what areas related to the environment is this applied? Could you provide examples of cases where standing was granted by courts/administrations to NGOs engaged in environmental matters? What is the average duration of administrative/judicial cases relating to the environment? Are there procedural measures available to NGOs to assist them when bringing cases to courts? Is special standing granted for NGOs to challenge decisions relating to Environmental Impact Assessments (EIA) and Integrated Pollution Prevention and Control (IPPC) at judicial and administrative levels? Is legal aid, injunctive relief, suspensive effect of appeals applied and if yes, how? What are the (average) costs and average duration of environmental cases, including appeal cases, for a party to the administrative/judicial procedure (expert's costs, court fees, legal representation, deposits required for certain procedural measures)? Are the special provisions in place to guarantee that they do not extend over a reasonable amount of time??
26. Do standardised systems or methods for gathering, transferring and reporting of data and statistics concerning the environment exist?
27. What are the provisions relating to public participation (information and consultation) in decision making related to the environment? Are there requirements for public participation prior to administrative decisions relating to permitting activities likely to have significant environmental impact? Are there requirements for public participation in relation to plans and programmes and/or policies and/or legislation related to the environment? Which administrative bodies (Ministries, agencies, etc.) and at which level (national, regional, local) are responsible for granting development consent? Do

environmental authorities participate to development consent procedures and how? Are there review procedures whereby members of the public and/or public concerned can challenge the substantive and procedural legality of decision, act or omission occurring in connection with the decision making related to the environment subject to public participation? Is there a definition of "public" or "public concerned" which is applied in this context? What are the specific deadlines applied when the public is consulted in decision-making related to the environment?

28. Has your country ratified the Aarhus Convention on access to information, public participation and access to justice in environmental matters? If not, what is the planned timeline for this ratification?
29. Has your country ratified the Espoo Convention on environmental impact assessment in a transboundary context, and, if so, how does it ensure that transboundary consultation is carried out? How long is the time-frame envisaged for the transboundary consultation? If your country is not a Party to the Espoo Convention, what is the planned timeline for this ratification? At national level, what measures are there for an environmental impact assessment of certain projects? At what stage of the project is such an assessment to be carried out? How often are projects turned down or amended as a result of these assessments?
30. Has your country ratified the SEA (Strategic Environmental Assessment) Protocol to the Espoo Convention? If not, what is the planned timeline for this ratification? What steps are being taken to introduce environmental assessment of plans and programmes, and do they also extend to policies and legislation?
31. Could you briefly describe the activities your country takes part in the framework of the European Environment Agency and Eionet?
32. How is the impact on habitats/species taken into account in environmental assessments procedures?
33. Does your country have in place a Regulatory or Sustainability Impact Assessment System that leads to an assessment of the economic, social and environmental impacts of major public policies in a single integrated process?
34. How are concepts of environmental sustainability including the protection of habitats and species integrated into policies related to economic sectors, including agriculture, mining, tourism, fisheries and aquaculture?
35. What is the common standard of liability when it comes to damage caused to the environment (strict or fault based)? And how is damage recovery in this field at present understood and working: Are there rules on damage to persons (bodily injury, damage to property, economic loss etc.) "via the environmental path", or are there rules on "pure ecological damage", or rules on both, or no rules at all in this field? How is "pure environmental damage", i.e. in particular damage to protected species and natural habitats, damage to water and damage to land currently followed up and dealt with? In case there are rules on "pure ecological damage": Are there measures based on environmental liability aiming at preventing and remedying environmental damage? If not, is the adoption of such measures planned for the near future? To what extent do legal obligations exist for liable operators of certain dangerous activities (and on a subsidiary

basis for other parties and for competent authorities) to restore in kind the environmental damage caused to protected species and natural habitats, to water and to land, independent from private claims for reimbursement.

## **B. Air Quality**

36. Do air quality limit values or target values exist for specific atmospheric pollutants? If so, what are these values?
37. What is the relationship of the above with the WHO standards/guidelines?
38. Is there a national programme for monitoring air quality or national/regional/local plans on air quality? If yes, is information made available to the public and has public been consulted on the programme/plans? Which is the competent authority dealing with air quality problems and which responsible for the development of air quality strategies?
39. Are there estimates of emissions of the major atmospheric pollutants?
40. Are there national programmes or strategies for reducing emissions of atmospheric pollutants? What are the resources, methods and procedures employed for emission monitoring?
41. Are there national, regional or local plans or programmes specifically addressing improvement of air quality (i.e. concentration levels of certain pollutants) in the respective areas?
42. What arrangements are in place to control Volatile Organic Compound (VOC) emissions from different sources including petrol storage and distribution, the use of solvents by industry and from the use of paints and varnishes?
43. What is the state of ratification and implementation of the UNECE Convention on long-range transboundary air pollution and its various protocols? Is your country in the European Pollutant Emission Register (EPER) and the European Pollutant Release and Transfer Register (E-PRTR)? If not, what is the time schedule foreseen for partaking in these Registers?

## **C. Waste Management**

44. What are the main features of the legislation concerning waste management (incl. household waste, waste from consumer goods, packaging waste and electric and electronic equipment, end-of-life vehicles, PCB/PCT, industrial waste including hazardous waste, sludges from urban waste water treatment and other waste from specific activities)? Does Serbia intend to apply for the European List of Waste?
45. Please provide basic information about facts and figures on waste generation and management:



46. a) Quantity, type (e.g. hazardous) and origin (industrial installations, agriculture, mining and quarrying, municipalities etc.) of waste generated per year;
47. b) Waste treatment facilities: number and performance of treatment plants, composting and recycling plants, incineration facilities, landfill sites;
48. c) Figures on export and import of waste (quantity, type).
49. Is there a general waste management policy (programme, strategy etc.) in place? Has Serbia set a timeline for adoption of remaining waste legislation?
50. Is there a legislative framework in place on the following topics:
  51. a) Basic framework legislation (definition, hierarchy on waste treatment (prevention, re-use, recovery), authorisation schemes, responsibilities for the disposal and recovery of municipal waste and of other waste);
  52. b) Framework legislation on hazardous waste;
  53. c) Legislation on specific types of waste treatment (incineration, landfill);
  54. d) Legislation on specific waste streams or types;
  55. e) Legislation on shipment of waste.
56. Does Serbia's waste management legislation include provisions on waste prevention?
57. Which instruments exist apart from legislation (e.g. economic instruments, waste management planning)?
58. Is there an administrative infrastructure in place? If yes, on which level (national, regional, local)?

#### ***D. Water Quality***

59. Could you describe the legislative basis for water protection and water resources management, in particular:
  60. a) water quality and water quantity;
  61. b) ground water and surface waters;
  62. c) drinking water quality;
  63. d) bathing water quality;
64. Are waters subject to general protection or is this protection restricted to certain bodies of water or waters for certain use (e.g. drinking water extraction), or are there special protection areas apart from general provisions?

65. Does the existing legislation provide for principles such as prevention of pollution at source, emissions control and water quality standards?
66. Is there a system of prior regulations and/or specific authorisation for water extraction from ground water and/or from surface waters?
67. Does the existing legislation provide for objectives laid down in a “master plan”, also listing the measures to take for reaching these objectives?
68. To what extent is the quality of drinking water supplied to people from the public supply systems in compliance with existing Serbian legislation?
69. Is there a system for prior regulations and/or specific authorisation for storage and handling of substances endangering or potentially endangering waters?
70. Please provide basic information about facts and figures on urban waste water management. Please provide information on number and performance of waste water collection and treatment facilities and estimates on the percentage of population and industries connected to collecting systems and to treatment facilities.
71. Which are the responsible authorities for:
72. a) planning procedures?
73. b) prior regulation and/or specific authorisation procedures?
74. How is the coordination of the various authorities involved in planning and implementation of water related policies and legislation ensured?
75. Is a system of River Basin Management being developed to ensure water quality and quantity management as well as flood risk management and if so, how? Is the legislation in place that addresses prevention and protection against flood risks? Is there cooperation in place with neighbouring countries with which Serbia is sharing river basins? How is the management of fisheries and other living resources integrated into such management? Is there a system in place to encourage active involvement of all interested parties (including public and private stakeholders) in river basin management?
76. Have the monitoring networks both for surface waters and groundwater been established under the nitrates directive?
77. Have nitrates vulnerable zones been designated? Is the legal text available?
78. Has the Code of Good Agricultural Practices under the Nitrates Directive been adopted? Is the legal text available?
79. Has the Action Programme under the Nitrates Directive been adopted? Is the legal text available?
80. Which is the state of play of the implementation of the Nitrates Directive?

### ***E. Nature Protection***

81. Describe the legislative basis for the protection of nature, especially concerning species and habitats of conservation interest.
82. To which multilateral environmental agreements related to biodiversity is Serbia party, and how are they implemented?
83. What are the national plans regarding bio-diversity? Where does Serbia stand in implementing the Emerald network as preparation for future Natura 2000.
84. What systems of protected areas exist for nature conservation, including specifically protected areas? On what basis have protected areas been designated? What is their current surface coverage? What is the percentage of the national territory protected at present? What is the plans for increase of protected areas?
85. What are the main (legal and practical) nature conservation instruments (e.g. permitting systems, impact assessments, management contracts, conservation plans, compensation systems, etc.), land-use planning controls and enforcement measures that exist:
  - a) for protected areas;
  - b) for the conservation of nature outside of protected areas;
  - c) for protected species?
86. Is there a system in place for the systematic monitoring of the biodiversity? If so, could you please provide details?
87. How is the administrative system responsible for nature protection organised? Give a detailed description (with number of staff etc) and please indicate annual budget allocated for nature conservation (administration, management, monitoring etc).
88. What are the major differences between your existing nature conservation legislation and EU nature conservation directives and what are the major difficulties you foresee for the approximation process?
89. What are the major differences between your existing legislation on wildlife trade and EU Regulations on that matter and what are the major difficulties you foresee for the approximation process?
90. What are the major differences between your existing legislation on animal welfare related to wildlife and EU Regulations on that matter and what are the major difficulties you foresee for the approximation process?
91. Describe the legislative basis for the keeping of animals in zoos. Does a system for inspections and licensing exist for these types of establishments?
92. Does your country have a national forest programme and a national forest inventory system?
93. Is there a system in place for the systematic monitoring of the conditions of forests (especially in relation to the effects of new challenges caused/likely to be caused by climate change)?

94. Is there a centralised system in place for the collection of data on all forest fires? Is there a strategy for the prevention of forest fires?
95. Please describe the general policy and legislative basis for soil protection, including provisions for the identification and management of contaminated sites.
96. Does your country have a soil monitoring system in place? If so, please give details (e.g. parameters considered, frequency of monitoring, etc).

#### ***F. Industrial Pollution Control and Risk Management***

97. What are the main features of the legislation concerning the permitting of industrial installations with regard to emissions of pollutants into the air, water and soil? Is there a permitting system in place based on the use of best available techniques for integrated pollution prevention and control (IPPC)? How many IPPC installations exist? What are the monitoring, enforcement and reporting activities in relation to the legislation?
98. What are the main features of the legislation regarding emissions from large combustion plants (rated thermal input above 50 MW), waste incineration plants and installations using organic solvents?
99. Is there a system in place to provide for a pollutant release and transfer register regarding industrial facilities?
100. Are there provisions relating to the participation of public or private organisations in environmental management and audit schemes?
101. Are there measures providing for an eco-labelling system?
102. How is the issue of industrial risks and accidents dealt with and controlled by public authorities? Is there a system in place to control major accidental hazards (Seveso)?

#### ***G. Chemicals***

103. What are the main features of the legislation concerning chemical substances?
104. Are there classification, packaging and labelling rules for chemicals (for both substances and preparations)? When does Serbia expect to implement to UN GHS?
105. Is there a registration/authorisation procedure for pesticides, i.e. plant protection products (agricultural pesticides) and/or biocides (non-agricultural pesticides)?
106. Are there data collection and risk assessment procedures for chemicals, in particular pesticides?
107. How does Serbia prepare for implementation of Regulation (EC) 689/2008 concerning the export and import of dangerous chemicals? Does the administrative capacity and infrastructure exist to manage and control the implementation of this legislation, and in particular the export of chemicals subject to it?
108. Are there any legal provisions and administrative measures and the respective infrastructure to prohibit and control the export and import of certain hazardous and/or

banned chemicals, including pesticides? Is there an export notification scheme for banned or severely restricted chemicals including pesticides?

109. When does Serbia expect to accede to the UNECE POP Protocol on Persistent Organic Pollutants (POPs)?
110. Is there a scheme, including a national competent authority, for the protection of laboratory animals as required by Directive 86/609? Has the Council of Europe Convention ETS 123 on the protection of laboratory animals been ratified and implemented?
111. Are there legal provisions in place regarding exports and safe storage of mercury and certain mercury compounds and mixtures as required by Regulation (EC) No 1102/2008?
112. How are you preparing for implementation of Regulation (EC) No 1907/2006 on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency? Does administrative infrastructure exist to manage and control the implementation and enforcement of the legislation?
113. How big is the chemicals industry in Serbia? Indicate approximately how many companies are SMEs. How much chemical substances are exported to the EU and EEA/EFTA countries?
114. Are there provisions for collection of statistical data on the use of animals for experimental and other scientific purposes?

#### ***H. Climate Change***

115. Which ministries and/or governmental agencies are responsible for the development, implementation and monitoring of climate change policies and measures? Do they have clear mandates to perform these tasks? Do they have sufficient human and material resources? Have these resources been strengthened in recent years and what plans exist for further strengthening?
116. Have national climate change policy, strategies, action plans and measures been adopted? What is their scope (mitigation, adaptation, mainstreaming, sectors, which greenhouse gases)?
117. Are there additional policies and measures on climate change currently under preparation? If so, when will they be adopted and implemented?
118. In addition to the measures referred to under the heading “Industrial Pollution Control and Risk Management”, is there national legislation controlling emissions from mobile sources (cars, trucks, buses, etc.)?
119. What arrangements are in place to monitor the quality and life-cycle greenhouse gas impact of petrol, diesel, other gas oils and heavy fuel oil?
120. What steps has Serbia taken to set emission performance standards for new vehicles, and to promote monitoring and availability of consumer information on fuel economy and CO<sub>2</sub> emissions in respect of the marketing of new cars?

121. What steps has Serbia taken to promote carbon capture and storage?
122. Is there a national system for greenhouse gas monitoring and reporting established? If so, how is it organised?
123. Has Serbia taken steps to curb greenhouse gas emissions from aviation activities?
124. Is there a completed national inventory of greenhouse gas (GHG) emissions for 1990 and for any later years?
125. What are the expected GHG emissions until 2012 compared to 1990?
126. Has your country submitted any national communication under the United Nations Framework Convention for Climate Change (UNFCCC)? If so, when was it submitted?
127. What is the stage of the implementation of the Kyoto Protocol?
128. What is the state of implementation of the Montreal Protocol for the protection of the ozone layer?
129. Are measures for the reduction of emissions of fluorinated gases in place or planned?
130. Has Serbia undertaken measures to transpose the EU *acquis* covering GHG emission reductions, especially EU ETS?
131. Is there a national climate change policy and measures adopted? Are there any additional policies and measures related to climate change currently in the development phase and if so, when are they planned to be introduced?
132. Does Serbia have sufficient institutional capacity to efficiently implement developed policies and measures?
133. Which ministries and/or governmental agencies are responsible for the development, implementation and monitoring of climate change policies and measures? Do they have clear mandates to perform these tasks? Do they have sufficient human and material resources? Have these resources been strengthened in recent years and what plans exist for further strengthening?
134. Do any countries, UN organisations or other donors fund capacity building activities for the UNFCCC and Kyoto Protocol in your country?
135. How is your country preparing for the post-2012 climate regime? What are Serbia's long term GHG reduction goals? Would Serbia be ready to take on GHG emission limitation/reduction commitments in the post-2012 climate regime?
136. Which measures has Serbia undertaken to transpose and implement EU *acquis* covering GHG emission reductions, in particular with respect to the different sectors covered by the EU emissions trading system (stationary installations and aviation activities)?

137. Will there be sufficient information and training provided by a competent authority on the auctioning of emissions allowances and on the participation in the secondary carbon market?

138. What additional assistance is potentially needed to establish the above-motined activities?

***I. Noise***

139. Is there a general noise abatement act or policy? What are the main features of the noise control policy (emission standards, planning standards)?

140. Which noise sources are covered by this legislation/policy, in particular what is the situation as regards road traffic, rail traffic, air traffic, industrial activities sites such as construction plants and equipment industries?

***J. Civil Protection***

141. Which administrative bodies (Ministries, agencies, etc.) are responsible for developing the civil protection policy?

142. What is the general approach and organisation as regards civil protection?

143. Are there specific measures aiming at protecting the environment in the case of a disaster?

144. Does the civil protection organisation include a component for international co-operation and if so, what is the nature of this?

145. Are there specific strategies or measures aimed at protecting the population from disasters?

146. Are there specific strategies or measures aimed at preventing and combating forest fires?

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## ***Chapter 28: Consumer and health protection***

The *acquis* under the Consumer and Health Protection chapter consists of horizontal policy instruments, including financial support, regulatory and governing measures, as well as vertical policies. These describe in detail the mechanisms, on the one hand, for the protection of the consumer's safety and his/her economic interests and, on the other hand, human public health.

The *acquis* in the area of consumer protection includes the following instruments: a general financing framework and rules for the governing of consumer protection at the European Union (EU) and Member State level, including injunctions and access to justice, together with a measure for enforcement cooperation by Member States public authorities (CPCS). It also covers aspects related to the consumer's general product safety, such as dangerous imitations, liability for defective products and the EU's Rapid Alert System (RAPEX), as well as topics like sale of consumer goods and associated guarantees, unfair contract terms, price indications, doorstep selling, distance selling, distance marketing of financial services, consumer credits, misleading and comparative advertising, unfair commercial practices, timeshare, package travel and rights of flight passengers.

The *acquis* in the area of public health comprises measures as regards the general financing framework and measures for governing this area. It also deals with issues related to tobacco control, communicable diseases, blood, tissues and cells, mental health, drug abuse prevention, health inequalities, nutrition, alcohol related harm reduction, cancer screenings, healthy environments including prevention of injury, promotion of safety and European action in the field of rare diseases.

Member States need to transpose the *acquis* into national legislation. The implementation and enforcement of consumer and health protection policies require adequate administrative capacities and infrastructure at national, regional and local level. As regards public health, adequate administrative capacity is needed to properly implement and enforce EU health legislation especially in the field of blood, tissues and cells. As regards consumer protection, this refers to effective market surveillance and appropriate independent judicial and out-of-court dispute resolution mechanisms. It is also necessary to raise public awareness, consult with the public and involve consumers actively in effective policy implementation, thus informing and educating the consumer and ensuring a role for consumer associations.

### ***I. CONSUMER PROTECTION***

#### ***A. Horizontal aspects***

1. Please describe the scope of your consumer protection policy. Is consumer protection recognised as a specific policy in your country? Are there specific rules on consumer protection in other policy areas?
2. Please describe the institutional set-up for consumer affairs in your country.
3. It should be specified whether there are bodies within the public administration which are competent for:
  - a) General co-ordination of consumer affairs: is general competence on consumer policy allocated to one designated authority, which is responsible for taking initiatives and for coordinating actions in the consumer area?
  - b) Market surveillance/general product safety: are there independent administrative structures and enforcement powers monitoring the market for consumer goods, in order to



detect breaches of product safety rules and to ensure they are corrected? This would include dealing with consumer complaints and infringement of rules. [*Specific questions on product safety and market surveillance are to be found in section B. below.*]

c) Market surveillance/protection of economic interests of consumers: are there independent administrative structures and enforcement powers monitoring the market for consumer goods and services, in order to detect breaches of rules protecting the economic interests of consumers and to ensure they are corrected? This would include dealing with consumer complaints (individual complaints and cases harming the collective interests of consumers) and infringement of rules. [*See also section C. below.*]

- Information should outline mandate, responsibilities and powers (e.g. of investigation, to seize the courts, etc.), as well as structure and organisation of the services in charge of consumer policy, including links between central, regional and local level.

- Please indicate human and financial resources allocated to each sector.

- Please explain how co-ordination between competent authorities is ensured.

- Please explain how you deal with infringements of consumer protection laws harming the collective interest of consumers in cross border cases.

d) Are there regular statistical processes which monitor the levels and evaluation of prices for consumer's goods and services? Are there surveys intended to determine the level of satisfaction with consumer goods or the percentage of consumers who have switched their service provider?

4. Have consultation structures or procedures been established in order to allow consumer interests to be represented in discussions on consumer policy, when drafting and implementing legislation?
5. Access to justice: which measures are in place, if any, to facilitate consumers' access to justice through the courts to seek individual redress? Are there measures to simplify and speed up small claims litigation? Do out-of-court bodies exist which provide alternative dispute resolution systems (e.g. mediation, arbitration or conciliation systems)?
6. Is there in the consumer area a court or an administrative procedure which enable entities such as consumer organisations/public authorities to seek an injunction to stop an illegal practice of a trader and to describe the system?
7. Has the government drawn up any education, information and awareness-raising programme on consumer issues, which would help consumers be aware of their rights and able to exercise them?
8. Do non-governmental organisations representing consumer interests exist in your country? If so, please describe their situation: how many are there? When were they created? How is their membership composed? Are they representative of consumer interests at national level? Is the government promoting and assisting their development? What are their objectives? Which kind of activities do they carry out? What are their main sources of financing? How many staff do they employ?
9. Have you developed any relations with other countries on consumer protection issues (e.g. cross-border co-operation activities, exchange of information and best practices, etc.)?

## ***B. Product safety-related measures:***

### ***Legislation***

10. In the framework of your consumer protection policy, indicate whether the following sectors are covered and to what extent they are in line with the relevant EU *acquis*:
  - General Product Safety Directive (2001/95/EC)
  - RAPEX Guidelines (Decision 2010/15/EU)
  - marketing restrictions of child-resistant and novelty lighters (Decision 2006/502/EC as prolonged by Decisions 2007/231/EC, 2008/322/EC, 2009/298/EC and 2010/157/EU)
  - Marketing prohibition of products containing the biocide dimethylfumarate (Decision 2009/251/EC as prolonged by Decision 2010/153/EU)
  - Food-imitating Products Directive (Directive 87/357/EEC)
  - Liability for defective products (Directive 85/374/EEC)
11. Do you have legislation concerning liability for defective products?
12. Are there legal provisions in force establishing the principle of objective liability or liability without fault of the producer in cases of damage caused by a defective product? If such provisions are in force, is there a rule of joint liability in cases where more than one person is liable for the same damage?
13. If legal provisions on product liability are in force, what products do they cover? Are some products excluded from the scope of these rules? What is the definition of "damage"?
14. If legal provisions on product liability are in force, how is the producer defined, what are the rules applicable to burden of proof?
15. If legal provisions on product liability are in force, are there any rules exempting the producer from liability (e.g. producer did not put the product into circulation, the defect causing the damage came into being after the product was put into circulation by the producer, the product was not manufactured for profit making sale, the product was neither manufactured nor distributed in the course of producer's business, the state of scientific and technical knowledge at the time when the product was put into circulation was not such as to enable the defect to be discovered, the defect is due to compliance of the product with mandatory regulations issued by the public authorities)?
16. If legal provisions on product liability are in force, is the producer's liability altered when the damage is caused both by a defect in the product and by an act or omission of a third party?
17. If legal provisions on product liability are in force, are there any rules on expiration of liability?
18. Do you have any plans to modify the existing legislation? Please give details and timetables.

### ***Implementation and enforcement***

19. Please comment on the important aspects of the infrastructure for general product safety as described below by referring to your national system for market surveillance:

- a) market surveillance/enforcement authorities with defined responsibilities and sufficient powers and resources to monitor the compliance of products with the directive and to react to complaints;
- b) rapid and well functioning legal system for taking measures in cases of breaches of the legislation and for appropriate means of redress in respect of measures taken;
- c) systematic approaches (surveillance programs, follow up of scientific and technical knowledge, review and revision of the functioning of the activities) to ensure the effectiveness of market surveillance;
- d) system for co-operation between market/surveillance bodies with responsibilities in relation to enforcement of different types of consumer products as well as with customs (Regulation (EC) No 339/93, Regulation (EC) No 765/2008 replacing as of 1 January 2010 the Regulation (EC) No 339/93);
- e) defined methodology for risk-assessment and access to technical expertise and competent and independent testing facilities for checking conformity of products;
- f) access to information on product dangers to the public respecting professional secrecy and restrictions required for monitoring and investigation activities;
- g) system for co-operation and information with producers and distributors and consumer associations with regard to providing and receiving information and exchange of experiences;
- h) system for providing rapid information to consumers and businesses through the media;
- i) system for ensuring administrative co-operation with other countries;
- j) co-operation with the national standardisation body with regard to the use of standards under the directive and to ensure co-operation of all parties concerned (including consumers) in the development of standards related to consumer products;
- k) systems for collection of product related injury data (such as the EU EHLASS programme);
- l) number of controls carried out and the results, the reasons for the controls (own initiative/complaints), type of products controlled, the geographical coverage of the controls, the way the controls have been carried out (ocular examination/testing).

20. Please give some indication of the level of activities in the field of market surveillance by providing statistics, as available, referring to some of the following examples:

- a) number of complaints received, from whom and actions undertaken;
- b) number and types of measures taken by market surveillance authorities;
- c) number and types of measures taken by customs authorities;
- d) number and types of product safety cases dealt with by the courts, average time-frame for a decision and average time for enforcement;
- e) number and type of rapid-alert measures notified to and from the central point and documentation on follow-up to such notifications;
- f) activities undertaken (meetings, information documents etc.) for ensuring co-ordination between authorities and interaction with economic operators and consumer organisations;
- g) information activities directed to the public;

- h) routines and meetings between product safety authorities and customs to ensure co-ordination of the customs control;
- i) details of systems for ensuring a systematic approach to control activities;
- j) statistics on injuries related to products;
- k) systems established to ensure consumer participation in relevant standardisation work;
- l) statistics relating to sales figures of consumer products, origin of the products etc.

21. For which of these product categories have you carried out specific market surveillance activities in the last three years?

- a) Child-care articles (e.g. teething rings, pacifier chains, baby walkers, folding cots);
- b) playground equipment;
- c) furniture (e.g. bunk beds, flammability of upholstered furniture);
- d) do-it-yourself equipment (e.g. ladders);
- e) leisure equipment (e.g. bicycles, climbing equipment, bounce castles);
- f) clothing (flammability risks, strangulation risks);
- g) decorative articles (e.g. imitation fruit, Christmas decorations, candles);
- h) products containing chemicals (e.g. phthalates in PVC-products, biocide dimethylfumarate in shoes, clothing and furniture);
- i) products for children, other than toys (e.g. products attractive to children, children's swim seats, playpens);
- j) cigarette lighters;
- k) laser pointers;
- l) medicines.

22. For product-categories for which no activities were carried out: what was the reason that no activities were carried out?

23. For categories for which activities were carried out: choose randomly some of the products falling under the categories of products under question 21 as examples to provide answers to the following questions:

- a) Why did you choose these products?

Examples:

Accidents involving the product.

Risk reported by the manufacturer.

Risk reported by conformity assessment (testing, certification) bodies.

Risk reported through an alert network.

Risk reported through a national alert network (e.g. hospital services).

Action by consumer associations or an individual consumer.

Complaint from a competitor.

Information from another country (bilateral contact).

Risk reported by customs.

Special risk covered by a sectoral or seasonal surveillance programme.

Random check.

b) How was the surveillance organised for these products?

Examples:

Timing and frequency of checks (e.g. before placing on the market, during customs clearance, after placing on the market, in use).

Locations where the checks were carried out (e.g. places of design, manufacture, packaging, storage, sale, in use, goods transport vehicles, roadside checks, customs control).

Control procedures (e.g. documentary or in-situ checks, visual checks (marking, etc.), requests for technical documents, sampling, testing in government laboratories, testing in private laboratories).

Resources used (e.g. administrative and judicial authorities involved, numbers of staff assigned, spending).

Time elapsing between the first check and final decision.

c) Which measures were taken as a result of the checks? (If the measures were temporary, for how long did they apply?).

Examples:

Product deemed compliant.

Party responsible merely required to bring the product into compliance.

Product banned from the market until brought into compliance.

Product withdrawn from the market until brought into compliance.

Product impounded.

Product ordered to be destroyed.

Product recalled.

Information and warning for consumers (how?).

Recall of the product from consumers (how?).

Civil or penal sanctions (to whom?).

24. Have the results of these activities and the experience acquired influenced subsequent market surveillance activities?

25. Who were informed about the activity and/or the outcome – in general or with regard to specific products (e.g. media, other countries, etc.)?

26. What practical difficulties were encountered in carrying out the activities?

### ***C. Non-safety related measures (protection of economic interests of consumers)***

#### ***Legislation***

27. In the framework of your consumer protection policy, indicate whether the following sectors are covered and to what extent they are in line with the relevant EU *acquis*:
- certain aspects of the sale of consumer goods and associated guarantees (Directive 1999/44/EC)
  - unfair terms in consumer contracts (Directive 93/13/EEC)
  - indication of the prices of products offered to consumers (Directive 98/6/EC)
  - contracts negotiated away from business premises (Directive 85/577/EEC)
  - distance contracts (Directive 97/7/EC)
  - distance marketing of consumer financial services (Directive 2002/65/EC amending Directives 90/619/EEC, 97/7/EC and 98/27/EC)
  - credit agreements for consumers (Directive 2008/48/EEC)
  - misleading and comparative advertising (Directive 2006/114/EEC)
  - unfair commercial practices (Directive 2005/29/EC)
  - certain aspects of timeshare, long term holiday product, resale and exchange contracts (Directive 2008/122/EC)
  - package travel, package holidays and package tours (Directive 90/314/EEC)
  - injunctions for the protection of consumers' interests (Directive 2009/22/EC)
  - principles applicable to the bodies responsible for out-of-court settlement of consumer disputes (Commission Recommendation 98/257/EC)
  - principles for out-of-court bodies involved in the consensual resolution of consumer disputes (Commission Recommendation 2001/310/EC)
  - pre-contractual information to be given to consumers by lenders offering home loans (Commission Recommendation 2001/193/EC)
28. Please indicate for each of the above listed pieces of legislation the basic features of the respective legislation, including enforcement mechanisms, and plans for reform. With regard to the Recommendations on ADR please indicate the ways in which Alternative Dispute Resolution bodies in Serbia comply with Commission Recommendation 98/257/EC and Commission Recommendation 2001/310/EC.
29. Please indicate whether within the framework of your consumer protection policy there are in place public authorities that are capable of assuming the obligations imposed by Council Regulation 2006/2004 on Consumer Protection Cooperation.
30. Specify which authorities are competent for drafting the relevant legislation and how legislation is passed (primarily through parliamentary procedure or ministerial orders or decrees).

31. Please indicate additional existing legislation protecting consumers' economic interests (e.g.: rules on sales promotions, rules on advertising, rules on price reductions, general labelling requirements on products).

### ***Implementation and enforcement***

32. If public authorities exist to protect the economic interests of consumers, please specify the powers at their disposal and give some examples of activities carried out, including the powers and activities in cross border cases.
33. Please provide details on enforcement of legislation in the area of financial services, in particular on consumer credit.

## ***II. Public Health***

### ***A. Horizontal aspects***

34. The Commission White Paper 'Together for Health: A Strategic Approach for the EU 2008-2013', Document COM(2007) 630 final, sets out the health strategy of the European Union (EU). The Second Programme of EU Action in the Field of Health 2008-2013 (Decision 1350/2007/EC) is a key instrument to support the Strategy's objective. Does your country have a health strategy? What are the main priorities? Are activities being implemented in these areas? If so, give a brief description. Examples are:

- Health mainstreaming
- Health promotion activities
- Surveillance and preparedness activities
- Innovation in health/health technologies
- Gender dimension
- Health literacy programmes
- Consultation mechanisms
- Health status analysis and reporting (to support national health policy cycles, as public health problems and their determinants – in different population groups – are important for policy makers).

35. Please provide information on the health status of the population in your country. This should include gender specific and combined information on key health indicators such as infant mortality and life expectancy; patterns of mortality and morbidity; situation with regard to communicable and sexually transmitted diseases, healthy life years. To this end, please see DG Health and Consumers website on European Community Health Indicators (ECHI) and consider as an example to follow this first set of key health indicators. ([http://ec.europa.eu/health/indicators/echi/list/index\\_en.htm](http://ec.europa.eu/health/indicators/echi/list/index_en.htm)). With reference to descriptive data, please specify also:

- a) What data is produced nationally, who has access to them and to what degree are they comparable to other EU countries?

b) What is available on access to and use of health care, funding of primary and secondary care, morbidity, mortality, incidence rates, hospital facilities, health personnel, healthy life years, regional differences?

c) What is the number of health staff physicians, nurses and dentists other staff per capita?

d) What is the average length of stay in hospitals and institutions?

e) What are the main determinants of diseases?

f) What are the diseases that cause most premature deaths and disabilities?

36. With reference to the institutional framework and administrative capacity, please answer to the following questions:

a) Who are the main actors involved with public health in your country? How many people are currently working in the Ministry of Health and Social Welfare and the other public health institutions?

b) As candidate countries need to transpose all EU health *acquis* into their national legislation and enforce this legislation, adequate administrative and institutional capacity, and infrastructure is needed to apply the EU rules and standards at national, regional and local level. Please describe the current situation in your country. Are there any plans for changes?

37. With reference to the health system reforms, please describe:

a) Any on-going or planned reforms

b) What was the scope of the previous reforms (since 1990)?

c) Are the reforms monitored and evaluated? If so, to which degree?

d) What part of the health care system should be reformed?

e) In particular, what eHealth strategy exists in the country? How embedded is it with the overall health strategy and with the strategic orientation and investment plans in health? In particular, how does it (plan to) contribute to patient safety, healthcare quality (measurement and improvement), health professionals' efficient use of time and coordination of care?

f) How is Health in All Policies being incorporated as a horizontal priority?

g) How is Health being considered for the future drafting of a national strategic reference framework for the use of structural funds?

h) What kind of healthcare quality indicators are used in your country?

i) How are the different health stakeholders, in particular health professionals and patients, involved in the definition, validation, implementation and evaluation of healthcare strategies? What governance mechanisms are set in place for such purpose?

38. What share of the mental health services is provided within institutions? Are there other ways to get treatment (community based care)? What are the selection criterias for



admission to and release from institutions? Who develops treatment plans? What are the patients' rights?

39. What are your current health expenditures, as a percentage of GDP, and in absolute terms (in Euro), and how are they structured, including the amount spent in the public sector and the private sector, the amount spent on prevention, and health promotion?

40. With specific reference to health promotion and disease prevention:

- What measures are you taking to improve health promotion and disease prevention, e.g. 3 types of cancer screenings (colorectal, breast and cervical)?

41. Are you implementing the OECD manual "A system of health accounts"? If no, when are you planning to do so?

42. With reference to cross-border healthcare, please specify the following:

a) Do you have cross-border arrangements for treating patients with any EU Member State or candidate countries?

b) What is the annual flow of patients into and from your country by sending/receiving country?

c) What is the annual expenditure (percentage of GDP and total amount in Euro) for treatments of patients from your country abroad?

d) Irrespective of arrangements, what information on cross-border is gathered at the moment?

43. Are your health institutions members of any European or WHO networks? If so, which ones?

44. With reference to health information and knowledge, are your health statistical institutions members of any Eurostat networks? If so, which ones?

45. The EU has established a network of competent authorities in health information and knowledge. Does your country have the administrative capacity, including human and material resources, to participate in the work of such a network? Please describe the system used to collect, analyse and report health data and information in your country.

46. With reference to health workforce, please specify the following:

a) is there mobility of clinical staff (nurses/doctors) to/from your country to EU Member States, candidate and potential candidate countries, or others? If so, in which numbers and to which countries?

b) How is healthcare staff appointed, and what is the distribution of health personnel across the country?

c) How many move across borders?

d) Education and training

e) Where is the healthcare staff trained?

- f) To what educational level are nurses trained (e.g. degree level)?
- g) What are the mechanisms for planning the number of health medical doctors and nurses trained? E.g. is a *numerus clausus* in operation?
- h) Does the number of staff correspond to the needs of the population?
- i) Is training paid for out of the public purse or does the student pay full cost?
- j) Are there any policies to try and retain doctors and nurses in the health system?
- k) Is there any estimate of numbers of trained health professionals not currently working in healthcare?

**B. Tobacco**

47. With reference to tobacco control, what are the gender specific and combined smoking rates in your country by age groups (in percentages)?

48. With reference to the following list of *acquis*, please answer to the questions below a) to d):

- Directive 2001/37/EC of the European Parliament and of the Council of 5 June 2001 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco products
- Directive 2003/33/EC of the European Parliament and of the Council of 26 May 2003 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products
- Commission Decision 2003/641/EC of 5 September 2003 on the use of colour photographs or other illustrations as health warnings on tobacco packages
- Commission Decision /2005/1452/EC of 26 May 2005 on the library of selected source documents containing colour photographs or other illustrations for each of the additional warnings listed in annex 1 to Directive 2001/37/EC of the European Parliament and of the Council
- Commission Decision 2006/1502/EC amending Commission Decision C(2005) 1452 final of 26 May 2005 on the library of selected source documents containing colour photographs or other illustrations for each of the additional warnings listed in Annex 1 to Directive 2001/37/EC of the European Parliament and of the Council
- Directive 2007/65/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities
- Council Recommendation 2003/54/EC of 2 December 2002 on the prevention of smoking and on initiatives to improve tobacco control
- Council Decision 2004/513/EC of 2 June 2004 concerning the conclusion of the WHO Framework Convention on Tobacco Control
- The Commission has adopted on 30 June 2009 a proposal for a Council Recommendation on smoke-free environments (COM(2009) 328 final). The

Recommendation has been adopted by the Council on 30 November 2009 and its publication will follow in due course.

Questions:

a) Are there legislative, regulatory or administrative provisions in force in your country covering these areas? If yes, please send summaries and, if possible, full texts in English.

b) In case there are no legislative, regulatory or administrative provisions in force, are there any drafts or proposals for these in the pipeline? If so, give details of these and of the timeline for their adoption.

c) In cases where neither of the above exist, are there any plans to start preparing proposals? Please explain, also indicating the envisaged timetable.

d) Does your country have the necessary administrative capacity, including human and material resources, to fulfil the requirements laid down in the EU legislation listed above?

e) Serbia ratified the WHO Framework Convention on Tobacco Control (FCTC). What are your experiences of the implementation of the FCTC? Are you participating in the follow-up of the FCTC, including the work of the Conference of the Parties and Intergovernmental Negotiation Bodies?

### ***C. Communicable diseases***

49. With reference to communicable diseases please:

a) Describe your epidemiological surveillance (diseases monitoring) system, in particular the reporting mechanism, involved parties and their respective roles, as well as the list of communicable diseases notified to the national competent public health authority.

b) Describe your alert and response system, in particular the communication mechanism, risk assessment and risk management of public health emergencies of international concern in the field of communicable diseases, involved parties and their respective roles; provide some examples which illustrate how this system operates.

c) Indicate if you have adopted a national epidemic preparedness plan, including pandemic influenza preparedness plan. Moreover, since 5 February 2008 International Health Regulations (2005) entered into force in your country. Indicate your National IHR Focal Point and what is your timetable to develop national action plans to implement and meet IHR (2005) requirements in order to strengthen national capacity.

d) Indicate your immunisation programmes, and the level of coverage.

e) Provide the following information regarding communicable diseases.

50. Is there/Are there plan(s) of action for an outbreak at national level? If yes, please provide a translation of one.

51. Is there a legal basis for monitoring anti-microbiological resistance? How is the system organised?

52. Can you provide the Commission with the curriculum of training in epidemiological specialisation?
53. What is the number of hospital departments and the number of beds for the treatment of communicable diseases?
54. Is there a quality assurance system implemented for laboratory performance? How many laboratories have an accreditation?
55. With reference to the following list of *acquis*, please answer to the below questions a) to d):

#### Basic Act

- Decision No 2119/98/EC of the European Parliament and of the Council of 24 September 1998 setting up a network for the epidemiological surveillance and control of communicable diseases in the Community - Official Journal L 268/1;03.10.1998

#### Amending Acts

- Regulation (EC) N° 1882/2003 of the European Parliament and of the Council of 29 September 2003 adapting to Council Decision 1999/468/EC the provisions relating to committees which assist the Commission in the exercise of its implementing powers laid down in instruments subject to the procedure referred to in Article 251 of the EC Treaty - Official Journal L 284/1;31.10.2003

- Regulation (EC) No 596/2009 of the European Parliament and of the Council of 18 June 2009 adapting a number of instruments subject to the procedure referred to in Article 251 of the EC Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny — Adaptation to the regulatory procedure with scrutiny — Part Four- Official Journal L 188/14; 18.07.2009

- 2003/534/EC: Commission Decision of 17 July 2003 amending Decision N° 2119/98/EC of the European Parliament and of the Council and Decision 2000/96/EC as regards communicable diseases listed in those decisions and amending Decision 2002/253/EC as regards the case definitions for communicable diseases - Official Journal, L 184/35; 23.07.2003

- 2007/875/EC: Commission Decision of 18 December 2007 amending Decision N° 2119/98/EC of the European Parliament and of the Council and Decision 2000/96/EC as regards communicable diseases listed in those decisions (notified under document number C(2007) 6355) (2007/875/EC) - Official Journal, L 344, 28.12.2007, p 48

#### Implementing Measures

- 2000/96/EC: Commission Decision of 22 December 1999 on the communicable diseases to be progressively covered by the Community network under Decision No 2119/98/EC of the European Parliament and of the Council - Official Journal, L 28/50; 03.02.2000

- 2000/57/EC: Commission Decision of 22 December 1999 on the early warning and response system for the prevention and control of communicable diseases under Decision No 2119/98/EC of the European Parliament and of the Council. - Official Journal, L 21/32; 26.01.2000

- 2002/253/EC: Commission Decision of 19 March 2002 laying down case definitions for reporting communicable diseases to the Community network under Decision

N° 2119/98/EC of the European Parliament and of the Council - Official Journal, L 86/44; 03.04.2002

#### Amending Acts

- Commission Decision 2003/534/EC of 17 July 2003 amending Decision N° 2119/98/EC of the European Parliament and of the Council and Decision 2000/96/EC as regards communicable diseases listed in those decisions and amending Decision 2002/253/EC as regards the case definitions for communicable diseases- Official Journal L 184/35; 23.07.2003

- 2003/542/EC: Commission Decision of 17 July 2003 amending Decision No 2119/98/EC of the European Parliament and of the Council and Decision 2000/96/EC as regards communicable diseases listed in those decisions and amending Decision 2002/253/EC as regards the case definitions for communicable diseases - Official Journal, L 185/55; 24.07.2003

- 2007/875/EC: Commission Decision of 18 December 2007 amending Decision No 2119/98/EC of the European Parliament and of the Council and Decision 2000/96/EC as regards communicable diseases listed in those decisions - Official Journal, L 344/48; 28.12.2007

- 2008/351/EC: Commission Decision of 28 April 2008 amending Decision 2000/57/EC as regards events to be reported within the early warning and response system for the prevention and control of communicable diseases - Official Journal, L 117/40; 01.05.2008

- 2008/426/EC: Commission Decision of 28 April 2008 amending Decision 2002/253/EC laying down case definitions for reporting communicable diseases to the Community network under Decision No 2119/98/EC of the European Parliament and of the Council - Official Journal, L 159/46; 18.06.2008

- 2009/312/EC: Commission Decision of 2 April 2009 amending Decision 2000/96/EC as regards dedicated surveillance networks for communicable diseases - Official Journal, L 91/27; 03.04.2009

- Commission Decision 2009/363/EC of 30 April 2009 amending Decision 2002/253/EC laying down case definitions for reporting communicable diseases to the Community network under Decision No 2119/98/EC of the European Parliament and of the Council- Official Journal L 110/58; 01.05.2009

- Commission Decision 2009/539/EC of 10 July 2009 amending Decision 2000/96/EC on communicable diseases to be progressively covered by the Community network under Decision No 2119/98/EC of the European Parliament and of the Council- Official Journal L 180/22; 11.07.2009

- Commission Decision 2009/540/EC of 10 July 2009 amending Decision 2002/253/EC as regards case definitions for reporting Influenza A(H1N1) to the Community network- Official Journal L 180/24; 11.07.2009

- Commission Decision 2009/547/EC of 10 July 2009 amending Decision 2000/57/EC on early warning and response system for the prevention and control of communicable diseases under Decision No 2119/98/EC of the European Parliament and of the Council- Official Journal L 181/57; 11.07.2009

#### Basic Act

Regulation (EC) No 851/2004 of the European Parliament and of the Council of 21 April 2004 establishing a European Centre for Disease Prevention and Control- Official Journal L 142/1;30.04.2004

Questions:

a) Are there legislative, regulatory or administrative provisions in force in your country covering these areas? If yes, please send summaries and, if possible, full texts in one of the official EU languages.

b) In case there are no legislative, regulatory or administrative provisions in force, are there any drafts or proposals for these in the pipeline? If so, give details of these and of the timeline for their adoption.

c) In cases where neither of the above exists, are there any plans to start preparing proposals? Please explain, also indicating the envisaged timetable.

d) Does your country have the necessary administrative capacity, including human and material resources, to fulfil the requirements laid down in the EU legislation listed above?

56. Please fill out the below table on structures and mechanisms of communicable diseases in Serbia

<b>STRUCTURES AND MECHANISMS</b>	<b>REFERENCES</b>	<b>COUNTRY COMMENTS / INPUT</b>
<p><b>1.</b> Structure and/or authorities which, at country level and under responsibility of that country, are competent at national level and are charged with collecting information relating to the epidemiological surveillance of communicable diseases</p>	<p>Article 1 Decision 2119/98/EC Article 9 Decision 2119/98/EC Article 1 Decision 2000/57/EC Article 4 Decision 2000/96/EC</p>	<p><b>1) Listing of structure(s) and authority(-ies)</b> <b>2) Contact details of country's counterpart(s)</b> <b>3) Knowledge of structures at EU level</b></p>
<p><b>2.</b> Procedures for the dissemination of the relevant surveillance data at EU level</p>	<p>Article 1 Decision 2119/98/EC</p>	<p><b>Knowledge of EU procedures</b></p>
<p><b>3.</b> Competent public health authorities in the country responsible for determining the measures which may be required to protect public health</p>	<p>Article 1 Decision 2119/98/EC</p>	<p><b>1) Listing of public health authority(-ies)</b> <b>2) Contact details of country's counterpart(s)</b></p>
<p><b>4.</b> Definitions of "epidemiological surveillance" and of "prevention and control of communicable diseases"</p>	<p>Article 2 Decision 2119/98/EC</p>	<p><b>1) Listing of terminology used at national level</b> <b>2) Reflection on coherence between national and EU terminology</b></p>

<p><b>5.</b> Communicable diseases to be progressively covered by epidemiological surveillance</p>	<p>Article 3 Decision 2119/98/EC Article 4 Decision 2000/96/EC Annex I Decision 2000/96/EC</p>	<p><b>1) Listing of communicable diseases and special health issues at available national level</b></p> <p><b>2) Listing of dedicated surveillance networks available at national level</b></p> <p><b>3) Listing of communicable diseases requiring case reports at national level</b></p>
<p><b>6.</b> Criteria for selection of communicable diseases of special areas to be covered by epidemiological surveillance</p>	<p>Article 3 Decision 2119/98/EC Annex II Decision 2000/96/EC</p>	<p><b>1) Listing of criteria available at national level</b></p> <p><b>2) Reflection on coherence between national and EU criteria</b></p>
<p><b>7.</b> Case definitions for reporting communicable diseases, including clinical, laboratory and epidemiological criteria as well as case classifications</p>	<p>Article 3 Decision 2119/98/EC Article 5 Decision 2002/253/EC Annex Decision 2002/253/EC</p>	<p><b>1) Listing of case definitions available at national level</b></p> <p><b>2) Reflection on coherence between national and EU case definitions</b></p>
<p><b>8.</b> Nature and type of data and information to be collected and transmitted in the field of epidemiological surveillance and the ways in which such data are to be made comparable and compatible</p>	<p>Article 3 Decision 2119/98/EC Article 5 Decision 2002/253/EC (<i>Regulation (EC) 851/2004</i>)</p>	<p><b>1) Listing of data (nature and type) and information for collection and dissemination at national level</b></p> <p><b>2) Reflection on comparability and compatibility of epidemiological data at national and EU level</b></p>
<p><b>9.</b> Epidemiological and microbiological surveillance methods</p>	<p>Article 3 Decision 2119/98/EC Article 5 Decision 2002/253/EC (<i>Regulation (EC) 851/2004</i>)</p>	<p><b>1) List of methods</b></p> <p><b>2) Reflection on coherence between national and EU methods</b></p>
<p><b>10.</b> Guidelines on protective measures to be taken</p>	<p>Article 3 Decision 2119/98/EC</p>	<p><i>Not applicable</i></p>
<p><b>11.</b> Guidelines on information and guides to good practice for the public</p>	<p>Article 3 Decision 2119/98/EC (<i>Regulation (EC) 851/2004</i>)</p>	<p><i>Not applicable</i></p>
<p><b>12.</b> Appropriate technical means and the procedures by which the data will be disseminated and analysed</p>	<p>Article 3 Decision 2119/98/EC Article 4 Decision 2000/96/EC</p>	<p><b>1) Listing of technical means and procedures for data dissemination and analysis at national level</b></p>

	Annex III Decision 2000/96/EC (Regulation (EC) 851/2004)	<b>2) Reflection on compatibility of reporting tools and procedures for data dissemination and analysis</b>
<b>13.</b> Notification of information regarding the appearance or resurgence of cases of communicable diseases at national level, together with information on control measures applied	Article 4 Decision 2119/98/EC (Regulation (EC) 851/2004)	<b>1) Acknowledge of notification/ reporting requirements for such information at national level</b>  <b>2) Listing of communications mechanisms and notification tools available at national level</b>  <b>3) Reflection on compatibility between national and EU notification systems</b>
<b>14.</b> Notification of information concerning the progression of epidemic situation	Article 4 Decision 2119/98/EC (Regulation (EC) 851/2004)	<i>Idem 13.</i>
<b>15.</b> Notification of information on unusual epidemic phenomena or new communicable diseases of unknown origin	Article 4 Decision 2119/98/EC (Regulation (EC) 851/2004)	<i>Idem 13</i>
<b>16.</b> Notification of information in country possession on all cases of communicable diseases and new communicable diseases of unknown origin in non-EU countries	Article 4 Decision 2119/98/EC (Regulation (EC) 851/2004)	<i>Idem 13</i>
<b>17.</b> Notification of information concerning existing and proposed mechanisms and procedures for the prevention and control of communicable diseases, in particular in emergency situation	Article 4 Decision 2119/98/EC (Regulation (EC) 851/2004)	<i>Idem 13</i>
<b>18.</b> Notification of considerations which would help in coordination at EU level of efforts for the prevention and control of communicable diseases, including any counter-measures implemented	Article 4 Decision 2119/98/EC (Regulation (EC) 851/2004)	<i>Idem 13</i>
<b>19.</b> Information communicated under points 14-18 is promptly	Article 5 Decision 2119/98/EC	<b>Reflection on how to improve existing mechanisms and tools in place at national level and</b>



forwarded	<i>(Regulation (EC) 851/2004)</i>	<b>on compatibility with EU notification/ reporting systems</b>
<b>20.</b> Procedures for information, consultations and coordination under early warning and response system (EWRS)	Article 6 Decision 2119/98/EC Article 2 Decision 2000/57/EC Annex II Decision 2000/57/EC	<b>1) Acknowledge on such procedures at national level</b> <b>2) Reflection on compatibility of procedures in place at national and EU level</b>
<b>21.</b> Categories of communicable diseases	Annex Decision 2119/98/EC	<b>Comparison of scope</b>
<b>22.</b> Events to be reported within the early warning and response system (EWRS)	Article 1 Decision 2000/57/EC Annex I Decision 2000/57/EC <i>(Regulation (EC) 851/2004)</i>	<b>1) Listing of types of events reported at national level</b> <b>2) Comparison of scope</b>
<b>23.</b> Collection and information exchange on events and measures adopted in response to those events or indications for such events, e.g. by using the national surveillance system	Article 1 Decision 2000/57/EC <i>(Regulation (EC) 851/2004)</i>	<b>1) Acknowledge of such collection and information exchange on events and measures at national level</b> <b>2) Listing of national early warning and response systems</b> <b>3) Reflection on compatibility of national and EU early warning and response systems</b>
<b>24.</b> Contact tracing	Article 2a Decision 2000/57/EC Annex III Decision 2000/57/EC <i>(Regulation (EC) 851/2004)</i>	<b>1) Acknowledge of contact tracing activities at national level and their reporting through national early warning and response systems</b> <b>2) Acknowledge of specific procedures concerning processing of personal data relating to contact tracing activities at national level</b> <b>3) Reflection on compatibility of procedures for processing of personal data at national and EU level</b>
<b>25.</b> Seasonal influenza vaccination	Council Recommendation 2009/1019/EU	<b>1) Listing of national actions plans</b> <b>2) Information on their implementation</b>
<b>26.</b> Prevention and control of	Council Recommendation	<b>1) Listing of national</b>

healthcare associated infection (HCAI)	2009/C 151/01	<b>strategies</b>  <b>2) Information on their implementation</b>
<b>27.</b> Prudent use of antimicrobial agents in human medicine	Council Recommendation 2002/77/EC	<i>Idem 26</i>

***D. Safety and quality of blood, human tissues and cells, organ donation and transplantation***

56. With reference to the following list of *acquis*, please answer to the below questions a) to d):

- Directive 2002/98/EC of the European Parliament and of the Council of 27 January 2003 setting standards of quality and safety for the collection, testing, processing, storage and distribution of human blood and blood components and amending Directive 2001/83/EC
- Commission Directive 2004/33/EC of 22 March 2004 implementing Directive 2002/98/EC of the European Parliament and of the Council as regards certain technical requirements for blood and blood components
- Commission Directive 2005/61/EC of 30 September 2005 implementing Directive 2002/98/EC of the European Parliament and of the Council as regards traceability requirements and notification of serious adverse reactions and events
- Commission Directive 2005/62/EC of 30 September 2005 implementing Directive 2002/98/EC of the European Parliament and of the Council as regards Community standards and specifications relating to a quality system for blood establishments
- Directive 2004/23/EC of the European Parliament and the Council of 31 March 2004 on setting standards of quality and safety for the donation, procurement, testing, processing, preservation, storage and distribution of human tissues and cells
- Commission Directive 2006/17/EC of 8 February 2006 implementing Directive 2004/23/EC of the European Parliament and of the Council as regards certain technical requirements for the donation, procurement and testing of human tissues and cells
- Commission Directive 2006/86/EC of 24 October 2006 implementing Directive 2004/23/EC of the European Parliament and of the Council as regards traceability requirements, notification of serious adverse reactions and events and certain technical requirements for the coding, processing, preservation, storage and distribution of human tissues and cells
- Commission Directive 2010/45/EU of the European Parliament and the Council of 7 July 2010 on standards of quality and safety of human organs intended for transplantation

- Commission Communication on an Action Plan on Organ Donation and Transplantation (2009-2015): Strengthened Cooperation between Member States (COM (2008)819/3).

Questions:

- a) Are there legislative, regulatory or administrative provisions in force in your country covering these areas? If yes, please send summaries and, if possible, full texts in one of the official EU languages.
- b) In case there are no legislative, regulatory or administrative provisions in force, are there any drafts or proposals for these in the pipeline? If so, give details of these and of the timeline for their adoption.
- c) In cases where neither of the above exist, are there any plans to start preparing proposals? Please explain, also indicating the envisaged timetable.
- d) Does your country have the necessary administrative capacity, including human and material resources, to fulfil the requirements laid down in the EU legislation listed above?
- e) In case you do not yet have the necessary administrative capacity, what are your plans to upgrade it up to EU standards (training, infrastructures, materials, human resources, etc.)?
- f) Regarding the Action Plan on Organ Donation and Transplantation, do you have in place or plan to put in place any of the priority actions proposed?

57. How are tissues and cells for reproductive use regulated in Serbia? Are there plans to transpose the *acquis* on quality and safety regarding these tissues and cells?

***E. Mental health, socio-economic determinants of health, health inequalities, drug abuse prevention, healthy lifestyle, nutrition, eHealth, alcohol abuse prevention, cancer screenings, and healthy environment including prevention of injury, promotion of safety and European action in the field of rare diseases***

58. With reference to the following list of EU Council Recommendations, Council Resolutions and Council Conclusions in the field of public health, please answer to the below questions a) to d):

Mental health

- 2000/86/01/EC: Council Resolution of 18 November 1999 on the promotion of mental health
- Con. 02/6/01/EC: Council Conclusions of 15 November 2001 on combating stress and depression-related problems
- Con. 03/9688/1/EC: Council Conclusions of 2 June 2003 on combating stigma and discrimination in relation to mental illness
- Con. 05/9805/EC: Council Conclusions of 3 June 2005 on a Community Mental Health Action
- European Pact on Mental Health and Well-being, High Level Conference June 2008

- EU-Compass for Action on Mental Health and Well being: EU Member States Policy documents, recommendations and declarations; database of policies and good actions; reports and studies; implementation

#### Health inequalities

- Res. 00/C218/3/EC - Council Resolution of 29 June 2000 on action on health determinants

#### Drugs abuse prevention and harm reduction

- 2003/488/EC: Council Recommendation of 18 June 2003 on the prevention and reduction of health-related harm associated with drug dependence
- Notice 2008/C 326/09: EU Drugs Action Plan for 2009-2012

#### Healthy lifestyle

- Con. 04/C221/EC: Council Conclusions of 2 December 2003 on healthy lifestyles: education, information and communication

#### Obesity: nutrition

- Con. 05/9803/EC: Council Conclusions of 3 June 2005 on obesity, nutrition and physical activity

#### eHealth

- (December 2009) Council Conclusions on “Safe and efficient healthcare through eHealth”, on how best to introduce and make use of information and communication technology to improve healthcare, aiming at moving from theoretical experience exchange to concrete cross-border cooperation and creating a structure for cooperation that can gather and pass on the outcomes of all ongoing initiatives and projects in the area of eHealth.

- (July 2008) Commission Recommendation on cross-border interoperability of electronic health record systems (lead by Directorate General Information Society), aiming to create a means whereby authorised health professionals can gain managed access to essential health information about patients (in respect of the fundamental right to the protection of personal data)

- (November 2008) Joint Communication on Telemedicine from Commissioners Reding and Vassiliou. The Joint Communication has launched a 4-year undertaking, aiming to facilitate patient access to secure and high quality healthcare, even in remote areas, through telemedicine services. The Communication focuses on telemonitoring for patients experiencing chronic diseases, in particular elderly people, and teleradiology bringing solutions to staff shortages. It highlights the need to provide evidence of impact, to engage health professionals and patients, to create legal certainty at EU and national levels, and to solve remaining technical problems.

- (May 2007) 409 standardisation mandate to the European Standardisation bodies (CEN, CENELEC and ETSI) in the field of Information and Communication Technologies, aiming at listing, agree on and recommend on existing standards relevant to eHealth.

#### Alcohol abuse prevention

- Con. 2009/C 302/07: Council Conclusions on Alcohol and health, 1 December 2009
- Con. 16165/06: Council Conclusions on EU strategy to reduce alcohol-related harm,

30 November-1 December 2006

- COM (2006) 265 final: Communication from the Commission of 24 October 2006: An EU Strategy to support Member States in reducing alcohol related harm

- Rec. 01/458/EC: Council Recommendation of 5 June 2001 on the drinking of alcohol by young people, in particular children and adolescents

- Con. 01/C175/EC: Council Conclusions of 5 June 2001 on a Community strategy to reduce alcohol-related harm

Cancer

- Rec. 03/878/EC: Council Recommendation of 2 December 2003 on cancer screening

- COM(2008) 882: Report from the Commission to the Council, the European Parliament, the European Committee of the Regions - Implementation of the Council Recommendation of 2 December 2003 on cancer screening (2003/878/EC)

- Con. 10/06/2008: Council Conclusions on reducing the burden of cancer ([http://www.eu2008.si/en/News\\_and\\_Documents/Council\\_Conclusions/June/0609\\_EPSCO-cancer.pdf](http://www.eu2008.si/en/News_and_Documents/Council_Conclusions/June/0609_EPSCO-cancer.pdf))

- COM (2009) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Action against Cancer European Partnership

- Con. 13/09/2010: Council Conclusions on action against cancer

(page 17 on:

[http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/EN/genaff/116489.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/genaff/116489.pdf) and <http://register.consilium.europa.eu/pdf/en/10/st12/st12667.en10.pdf>)

Prevention against electromagnetic fields

- Rec. 99/519/EC: Council Recommendation of 12 July 1999 on the limitation of exposure of the general public to electromagnetic fields (0 Hz to 300 GHz)

Prevention of injury and promotion of safety

- Rec. 07/C164: Council Recommendation of 31 May 2007 on the prevention of injury and the promotion of safety

Patient safety

- Council Recommendation of 15 November 2001 on prudent use of anti-microbial agents in human medicine

- Rec. 2009/C 151/01: Council Recommendation of 9 June 2009 on patient safety, including the prevention and control of health care associated infections

European Action in the field of Rare Diseases

- Rec. 2009/C 151/02: Council Recommendation of 9 June 2009 on action in the field of rare diseases

- Dec. 2009/872/EC: Commission Decision of 30 November 2009 establishing a European Union Committee of Experts on Rare Diseases

- Dec. 2010/C 204/02: Commission Decision of 27 July 2010 on the appointment of the members of the European Union Committee of Experts on Rare Diseases set up by Decision 2009/872/EC

Questions:

- a) Are there legislative, regulatory or administrative provisions in force in your country covering these areas? If yes, please send summaries and, if possible, full texts in one of the official EU languages.
- b) In case there are no legislative, regulatory or administrative provisions in force, are there any drafts, proposals or programmes for these in the pipeline? If so, give details of these and of the timeline for their adoption.
- c) In cases where neither of the above exist, are there any plans to start preparing proposals? Please explain, also indicating the envisaged timetable.
- d) Please describe the administrative capacity, including human and financial resources, to fulfil the requirements laid down in the EU legislation listed above? (Is there any impact observed from the current economic and financial crisis?)

59. With specific reference to mental health, please answer to the following questions:

- a) What are the measures you are taking to support the social inclusion of people with mental health problems? What are the measures taken to reduce the stigma and discrimination and to ensure human rights of people with mental health problems?
- b) Do you provide specialised mental health facilities for vulnerable groups such as old people, children, young people and refugees?
- c) What are the measures taken to support mental health and well-being of children and adolescents in the educational settings?
- d) Do you provide a community based services for people with mental health problems?

60. With specific reference to access to health care system, do you have specific measures in place to allow the poorest people, minorities and people living in rural and remote areas to have equal access to the health care system in your country?

61. With specific reference to infant mortality, what measure are you taking in the field of reproductive health care and infant health care to decrease the infant mortality rate?

62. With specific reference to alcohol abuse, control and prevention, how is the sale of alcoholic beverages regulated in your country?

63. With specific reference to non-communicable diseases, as their burden is increasing, what measures are you taking to promote a healthy lifestyle (quit smoking, promote sports, healthy nutrition, fight alcohol abuse) and prevent this type of diseases?

64. With specific reference to rare diseases, do you foresee the implementation of a National Plan / Strategy / Integrated set of actions in the field of Rare Diseases?

## ***Chapter 29: Customs union***

The customs union *acquis* consists almost exclusively of legislation which is directly binding on the Member States. It includes the EU Customs Code and its implementing provisions, the Combined Nomenclature, common customs tariff and provisions on tariff classification, customs duty relief, duty suspensions and certain tariff quotas, and other provisions such as those on customs control of counterfeit and pirated goods, drugs precursors, export of cultural goods, as well as on mutual administrative assistance in customs matters and transit. Member States must ensure that the necessary implementing and enforcement capacities, including links to the relevant EU computerised customs systems (e.g. TARIC, QUOTA2, Surveillance2, EBTI, AEO, NCTS) are in place. The customs services must also ensure adequate capacities to implement and enforce special rules laid down in related areas of the *acquis* such as external trade, health and security provisions.

The *acquis* consists mainly of a number of instruments ensuring the functioning of the customs union and the effective protection and control of its external borders. Amongst others, the legislation focuses on the implementation of the European Union's common commercial and trade policy, the organisation of its common agricultural market and the co-ordination of its economic and monetary policies.

### ***I. CUSTOMS LEGISLATION***

1. Please describe how the customs legal framework is organised (which parts of legislation are in the consolidated customs law or code and its implementing provisions or which are in separate legal acts on different subjects, if any).
2. Please provide a copy of your country's customs tariff and indicate the tariff headings of which the goods nomenclature differs from the EU's Combined Nomenclature, if any (*Annex I to Council Regulation 2658/87*).
3. Please describe the principles that determine the duty rate structure and level (*see also Chapter 30 on common commercial policy*).
4. Please provide a description of your tariff system for tariff suspensions, tariff quotas and tariff ceilings.
5. Please indicate any potential difficulties that may be expected with regard to the application of the customs legislation in trade with the European Union.
6. Please describe your system in force for ensuring a correct classification of goods in your tariff. Do you publish explanatory notes or tribunal rulings? Please also describe your systems for Binding Tariff Information and Binding Origin Information.
7. Please describe the rules of preferential origin applied by your country under bilateral or multilateral agreements or in the framework of autonomous arrangements. Please provide copies of relevant protocols and national legislation if any. Please also mention any other conditions of granting preferential tariff treatment.
8. Please describe the rules of non-preferential origin applied by your country, in particular for the purposes of implementing trade defence instruments, quantitative restrictions, origin labelling requirements, etc.

Please describe how you ensure that movement certificates EUR.1 are issued in accordance with Protocol 3 to the Interim Agreement. What are the charges for the issue of movement certificates EUR.1?

9. Please describe your procedures for carrying-out random and reasonable doubt verifications of proofs of Serbian origin. Are the importing countries informed about the results of random verifications in cases when products are found to be non-complying with origin requirements?
10. Please indicate whether any exporters have been authorised as approved exporters.
11. Please describe the current system of customs valuation; what kind of customs valuation methods are used (e.g. with reference to the provisions of the WTO Agreement). Do you use minimum or reference values to determine the customs value? If so, for which products? Please give an overall assessment of your capacity to implement the EU rules on customs valuation.
12. Please describe your system of incurrence of customs debt and the repayment procedure.
13. Please describe your system of collecting and managing guarantees.
14. Explain your procedures and formalities for goods brought into or leaving the customs territory.
15. What are the general provisions for placing goods under a customs procedure? What types of declarations exist? Is there a possibility to amend or invalidate a declaration? Are there simplifications of customs formalities and controls?
16. Explain your provisions in relation to the verification and examination of goods.
17. Please describe your legislation on duty relief at importation and exportation.
18. Please describe what types of customs transit arrangements (national or international) are used. Provide a detailed description of the essentials of the transit procedure.
19. Please describe your other customs procedures on: a) storage (temporary admission, customs warehousing and free zones); b) specific use (temporary admission and end use); c) processing (inward processing, outward processing, processing under customs control).
20. Please provide your current legislation on free zones and give detailed information on their functioning and incentives.
21. Does your legislation provide for domestic/national rules of origin for goods produced in the free zones and then released for free circulation in Serbia? If so, please describe the applicable rules and the tariff treatment of non-originating components used in the production of such goods.
22. Please describe existing simplified procedures, including facilitations on security procedures for authorised economic operators (AEO), authorisation for approved exporter (origin) or other simplified authorisations procedures, if any. If existing, please describe the authorisation procedure to obtain the status of AEO, including criteria,



benefits etc. If existing, please describe the procedure for obtaining the status of 'approved exporter'.

23. Please describe your system of risk selection for the execution of the customs controls. (e.g. is the system automated, are risk selection criteria established at national, regional or local level?). Is there in place any kind of monitoring system of the controls carried out on the basis of risk analysis/risk profiles, including the evaluation of the results? Is there any system for management of the random controls?
24. Does Serbian customs legislation establish any particular rules in relation to trade with Kosovo?
25. What customs formalities apply to goods transferred to and from Kosovo. Are there any duties or fees applied?
26. Are there any specific rules in relation to Kosovo in the Serbian legislation regulating rules of origin?
27. Please provide a description of your customs control system for counterfeit and pirated goods and specify the kind of industrial or intellectual property covered by the control system (copyright, patents, designs, etc.).
28. Please provide a description of your customs control system for cultural goods.
29. Please provide a description of your customs control system for dual use goods.
30. Please provide a description of your customs control system for drug precursors, dangerous chemical products and ozone depleting products.
31. Please provide a description of your customs control system for the enforcement of CITES.
32. Please provide information concerning rules and procedures for cash controls at the borders.
33. Please indicate the existence of duty free shops at the borders, if any.
34. Please describe the administrative and customs fees, if any, which apply in the framework of customs related activities.
35. What legislation related to an electronic customs initiative is in place?
36. What are the customs related security initiatives? Is there any legal obligation to traders to provide pre-arrival/pre-departure information (prior to import/export)?
37. Please provide detailed information concerning the administrative capacity of the customs administration, incl. organisational structure, staffing levels, reforms recently undertaken or planned, responsibility for granting authorisations for applying customs procedures, etc.
38. Please provide information on your customs mission statement and customs strategy document(s), if any.

39. Please describe how internal audit, if any, within the Customs Administration is organised.
40. Please describe how post clearance controls, if any, are organised.
41. Please indicate how you cooperate with other countries and customs areas in the field of administrative assistance in customs matters.
42. Please describe the training system of customs officers and of economic operators.
43. What was the level of turn-over of staff in the Customs Administration in recent years? Are there enough qualified applicants to fill the vacancies?
44. Please describe your recruitment policy and the conditions of staff recruitment.
45. Please describe the procedures, if any, on the possibility of transfer, career, progression and dismissal of staff.
46. Please describe the system and measures taken to avoid and cut down corruption and misconduct within the administration, if any.
47. Please describe the rights of defence allowing the economic operator to make his view known before an unfavourable decision is adopted.
48. Please describe the appeal procedure allowing economic operators to contest customs decisions.
49. Do you have a customs laboratory and what kind of goods can be examined?
50. How are the controls on baggage of travellers organised?
51. Which kind of infrastructure and equipment is used by customs to control goods at the border? Do you make use of electronic seals or container security devices to ensure the integrity/position (track and trace) of the containers during its voyage?
52. Please describe your cooperation with other authorities (other than customs). Do you perform controls with other authorities at the same time or place? Do you exchange information?
53. Do you have a website? If yes, what information is available and how often is this information updated?
54. With reference to interconnectivity and interoperability of IT systems:
  - Please describe the current state of computerisation of your country's administration in the following areas:
    - a) Exchange of data for accomplishment of customs formalities and applications (for example BTI) between customs and economic operators;
    - b) Customs import/transit/export/warehousing control, with or without electronic connection of traders (this item relates both to the means by which traders make customs declarations and the means by which customs authorities control them, e.g. risk analysis);

- c) Collection of import/export data;
  - d) Electronic tariff available to traders and customs officials;
  - e) Accounting system for the collection of customs duties and other charges, and the management of guarantees;
  - f) Management/allocation of tariff quotas;
  - g) Please provide information on your customs administration IT strategy and on its plans for further computerisation in the above-mentioned areas.
55. Please describe your national system for registration and identification of economic operators.

## ***Chapter 30: External relations***

The *acquis* in this field consists mainly of directly applicable EU legislation which does not require transposition into national law. This EU legislation results essentially from the EU's multilateral and bilateral commitments in the trade field, as well as from a number of autonomous trade measures. In the area of export credits and dual-use goods, some directives require transposition into national legislation.

In this context, applicant countries are required to progressively align their policies towards third countries and their positions within international organisations (particularly WTO) with the policies and positions adopted by the European Union and its Member States.

In the area of development policy and humanitarian aid, Member States need to comply with EU legislation and international commitments and ensure the capacity to participate in the EU's development and humanitarian policies.

### ***I. COMMON COMMERCIAL POLICY***

#### ***WTO and other horizontal aspects***

##### ***A. Most Favoured Nation Trade***

1. In order to have a complete picture of the differences between your trade regime and the EU trade regime, could you please provide us with:
  - a) legal act defining the trade policy;
  - b) your national tariffs (preferably all in one excel document in electronic format. See also Chapter 29 on customs union);
  - c) quantitative restrictions applicable in your country, if any.
2. In case you are in possession of a comparative study between your and the EU's import regime, please provide us with the summary findings of the study.
3. Please supply us with your latest trade data (import and export) in electronic format.
4. Please supply us with an overview of the state of play of Serbia's WTO accession file, including your latest official offer in goods and services and draft Working Party Report

##### ***B. Generalised System of Preferences (GSP)***

5. Does your country apply a GSP scheme?  
If yes:
  - a) Please supply the date of the first GSP scheme implementation and of subsequent extensions or renewals, periodicity of validity, duration of the present scheme and the legal procedure for adoption/extension of schemes.
  - b) What is the product coverage and what are the preferential duties applied?
  - c) Please list the top 10 beneficiary countries.
  - d) Is there any graduation mechanism applied?
  - e) Can you please provide the list of beneficiaries and the text on the rules of origin applied to GSP imports?

f) Have you already excluded some countries, and if so, on which basis (sanction, level of development...)?

g) Do you have a specific GSP safeguard clause?

h) How many different GSP regimes (i.e. general arrangement, LDCs, ...) exist in your country's GSP scheme?

i) Do these regimes have specific incentives (like our labour/environmental clause)?

j) What is the share of GSP in the total of imports from third countries?

k) To the best of your knowledge, what are the main differences between your country's GSP scheme and the EU's scheme?

If no:

What would, in your opinion, be the impact on your country of the adoption of the EU's GSP scheme?

### ***C. Trade Defence Instruments***

6. Please provide copies (in one of the official EU languages) of the relevant legislation in force in your country concerning anti-dumping, anti-subsidy and safeguard measures.

7. If no such legislation exists yet, please describe the current plans to adopt it, if any.

### ***D. Services***

8. Please provide us with any legal act(s) defining your trade in services policy, including any legislation defining the trade-related aspects of a specific services sector.

9. Taking into account that Serbia is during its accession process to the WTO, please inform to what extent are your draft GATS commitments in line with those of the EC?

10. When Serbia becomes a Member State of the EU, the Commission will have to consolidate Serbian GATS commitments with the existing EU commitments. What consideration has been given to the work (compensation) needed to bring your country's commitments in line with those of the EU? Please identify any commitments you have undertaken or intend to undertake which will need to be brought in line with the commitments undertaken at EU's level (in the WTO). Please provide the summary findings of any work on this issue.

11. Do you have any agreements providing for market access/national treatment for trade in services? Please provide for each agreement the following information: nature of the agreement (e.g. preferential trade agreement, commercial co-operation agreement, other - please specify), date of ratification, date of entry into force, initial term of agreement, automatic renewal procedure, period for which acquired rights exist. Please provide copies (in one of the official EU languages) and indicate clearly which procedures are foreseen in each agreement for its amendment or termination, to achieve its compatibility with the EU *acquis*. Which sensitive sectors are normally excluded (e.g. aviation, maritime transport, audiovisual, etc.) from such agreements? Do any of these agreements include a regional economic integration organisation clause (specifying the possibility to grant privileged access to investors or investments of other countries, which belong to the same regional integration organisation as the contracting party)?

12. Are you currently negotiating or have you entered into a commitment to negotiate any new services agreements? Please provide details regarding the current status and any intermediate results arising from any such ongoing or proposed negotiations.

***E. Administrative Capacity***

13. Please provide information on administrative structure and functioning of your national authority dealing with Commercial Policy, describing the following:
- a) staffing numbers in the various departments, including, if possible, a detailed organisation chart,
  - b) measures to ensure co-ordination of actions across the various departments involved in the implementation of trade policy, particularly co-ordination mechanisms with the departments responsible for customs administration,
  - c) decision making mechanisms, for instance concerning the introduction or modification of trade measures.
14. Are there any trade and trade-related trainings foreseen in the short-term and long-term perspective?

***Dual use goods***

15. Do you apply and how do you apply export controls on dual use goods?
16. Please provide the Commission with the texts of the relevant legislation (in one of the official EU languages).
17. Please explain what items fall under your dual use legislation and on which basis you compile this list.
18. What are the control procedures?
19. Has there been any global analysis by your national authorities of the differences between your legislation and that of the European Union? What are the main differences? If there is no analysis, is such an analysis planned? Please provide any relevant details of such plans.

***Export credits***

20. What are the institutions providing the credits/insurances? Please present the methodology for defining the risk factor in export credit/insurances? How does this methodology take into account the OECD arrangement?
21. Do the institutions providing credits/insurances also cover short term exports to EU countries and OECD countries covered by Commission Communication pursuant to Article 113 of the Treaty on the Functioning of the European Union (TFEU) applying Articles 92 and 93 of the Treaty to short-term export credit insurance (OJ C 281 of 17 September 1997)?
22. Do you foresee any problems with regard to the implementation of Council Directive 98/29/EC on harmonisation of the main provisions concerning export credit insurance for transactions with medium and long-term cover?

## **II. PREFERENTIAL TRADE AGREEMENTS**

23. What preferential trade agreements does your country have with third countries? Please provide copies (in one of the official EU languages) of such agreements. (Texts can be copied on a CD-ROM)
24. Please provide, for each agreement, the following information: nature of the agreement date of ratification, date of entry into force, initial term of the agreement, automatic renewal procedure, period for which acquired rights exist and indicate clearly what are the modalities foreseen in those agreements for their amendment or termination, to bring them in line with the EU *acquis*.
25. Has there been any global analysis by your national authorities of the differences between these agreements and those that the European Union might have with the same third countries? If yes, please provide us with the findings of such analysis. If no, is such analysis planned? Please provide any relevant details of such plans.
26. Do you plan to negotiate any new preferential trade agreements?

## **III OTHER TRADE-RELATED AGREEMENTS**

27. Please provide a list of all your international agreements on economic/technical cooperation and integration, or any other agreements relevant for trade matters
28. Please provide, for each agreement, the following information: nature of the agreement date of ratification, date of entry into force, initial term of the agreement, automatic renewal procedure, period for which acquired rights exist and indicate clearly what are the modalities foreseen in those agreements for their amendment or termination, to bring them in line with the EU *acquis*
29. Do you plan to negotiate any new economic/technical cooperation and integration agreements or any other agreements relevant for trade matters?

## **IV. BILATERAL INVESTMENT AGREEMENTS**

30. In order to have a complete picture of the differences between your investment regime and investment regimes in the EU, could you please provide us with any legal act(s) defining your investment policy, including any legislation defining the investment-related aspects of a specific sector?
31. With which countries have you concluded bilateral investment agreements? Please provide for each agreement the following information: nature of the agreement (e. g. bilateral investment treaties, commercial cooperation agreements, other, (please specify), scope (covering market access, non-discrimination, protection, promotion etc) date of ratification, date of entry into force, initial term of agreement, automatic renewal procedure, period for which acquired rights exist. Please provide copies (in one of the official EU languages) and indicate clearly what are the modalities foreseen in those agreements for their amendment or termination, to bring them into line with the

European Union *acquis*. Does any agreement include a regional economic integration organisation clause (possibility to grant privileged access to investors or investments of other countries, which belong to the same regional integration organisation as the contracting party)? Which sensitive sectors are normally excluded (e.g. aviation, maritime transport, fishing, audiovisual, etc.) from such agreements?

32. Does any of such agreement contain a free transfer clause that provides for the unrestricted transfer of any capital and payment related to an investment? If so, are there any exceptions or safeguard clauses that would limit such a free transfer clause? What is the scope of these exceptions and how are they triggered?
33. Have you carried out an analysis to identify any differences between these agreements and those that the EU may have with the same third countries? If yes, please provide us with the findings of such an analysis. If not, is such an analysis planned? Please provide any relevant details of such plans.
34. Are you currently negotiating or have you entered into a commitment to negotiate any new bilateral investment agreements? Please provide details regarding the current status and any intermediate results arising from any such ongoing or proposed negotiations.
35. Do you plan to negotiate new bilateral investment agreements?

#### ***IV. DEVELOPMENT POLICY AND HUMANITARIAN AID***

##### *Development policy*

36. Is there a policy framework or any kind of regulation on development cooperation/aid?
37. Is your country bound by co-operation, trade, or other agreements with developing countries (whether African, Caribbean and Pacific, Latin American, Asian or Mediterranean countries)?
38. Does your country apply a preferential trade policy (irrespective of the agreements mentioned above) vis-à-vis certain developing countries? If so, what are the form and details of such policy/policies?
39. Does your country have a developing country aid budget? What is the size of the budget and how is it allocated? Which amount, if any, was spent for humanitarian aid to third countries during the last 3 years? Do you measure your budget contributions according to Official Development Assistance (ODA) methodology?
40. What are the projects, if any, on development aid assistance carried out by your country during the last two years?
41. Does your country have future commitments on development aid assistance or on development aid?
42. Administrative capacity: is there a Ministerial service/Agency for development co-operation, or are there specific projects of assistance to third countries managed by Ministries other than the Ministry of Foreign Affairs? If yes, how are they organised?



43. To what extent are the EU development strategy, objectives, common values and principles, as outlined in the European Consensus on Development (December 2005, [http://ec.europa.eu/development/policiesgen\\_en.cfm](http://ec.europa.eu/development/policiesgen_en.cfm)) incorporated into your national foreign policy?
44. Does your country subscribe to the Millennium development goals? Where do you stand in fulfilling the goals?
45. In which International Agreements dealing with development are you participating?

*Humanitarian aid*

46. How do you define humanitarian aid? Does your country accept the principles of needs-based aid in line with the humanitarian principles enshrined in the EC Humanitarian Aid Regulation (EC 1257/96) and the European Consensus on Humanitarian Aid with respect to external humanitarian assistance? In particular, attention is drawn to the principle of non-discrimination whereby assistance is awarded to victims, without discrimination on the grounds of race, ethnic group, religion, sex, nationality or political affiliation and must not be guided by, or subject to, political considerations.
47. Does your country have a recognised framework for national non-governmental organisations who aim to provide assistance, whether development or humanitarian, in third countries? Please explain.
48. Do you have an organisation or section of government administration which monitors and provides relief in the event of natural and man-made disasters? Is the possibility of such disasters monitored on a continuous basis? If yes to either, what immediate assistance and resources are available and have been provided in the event of such happenings? Is such assistance given solely internally or is it available for the benefit of third countries?

## ***Chapter 31: Foreign, security and defence policy***

The common foreign and security policy (CFSP) and the Common security and defence policy (CSDP) are based on legal acts, including legally binding international agreements, and on political documents. The *acquis* consists of political declarations, joint actions, common positions and agreements. Member States must be able to conduct political dialogue in the framework of CFSP, to align with EU statements, to take part in EU actions and to apply agreed restrictive measures. Applicant countries are required to progressively align with EU statements, and to apply restrictive measures when and where required.

### ***A) Summary Information***

1. The Treaty on European Union (TEU) includes in Title V provisions on Common Foreign and Security Policy which new Member States will apply. The Commission wishes to know whether, in your view, the application of these provisions upon accession could give rise to any problems or difficulties. More precisely:
2. Are you prepared to accept unreservedly the definition, legal structure and organisational arrangements for the Union's Foreign, security and defence policy (CFSP and CSDP) including its military dimension?
3. Will you from the time of accession be ready and able to participate fully and actively in the Foreign, security and defence policy (CFSP and CSDP) as defined in the TEU?
4. Will you, upon accession, take on in their entirety and without reservations the objectives of the TEU, the provisions of its Title V, and of the declaration attached to it, as well as the relevant international agreements concluded on behalf of the EU, and other relevant sources of the Foreign, security and defence policy (CFSP and CSDP) *acquis*?
5. Will your administration, and in particular the Ministry of Foreign Affairs, have the necessary structure and technical equipment to fully take part in the Foreign, security and defence policy (CFSP and CSDP) at the time of accession?
6. In view of the provision for Member States to support the Union's external and security policy actively and unreservedly (Article 24.3 TEU), please explain what your country's treaty obligations are under international law, and whether they will need to be modified in view of accession. For this purpose, please send a list of your existing treaty obligations, and those under negotiation.
7. Does your country support the European Security Strategy as updated and endorsed in December 2008?
8. Which legal instruments/pieces of legislation in the context of foreign, security and defence policy do you have in place and what do they cover?
9. How many measures (declarations, demarches, common positions) have you aligned with since July 2008? Which such measures have you not aligned with?
10. Which bodies in your country are responsible for, implement and ensure coordination of foreign policy?

11. Have you appointed the necessary "Political Director" and the "European Correspondent"?
12. Please provide us with basic information on the structure, disposition, and numbers of your diplomatic service (embassies, missions, consulates general and consulates). For instance, how many employees does your foreign service consist of (diplomats, support staff etc)?

***B) CFSP – political dialogue***

13. In view of the objective of strengthening the security of the Union and its Member States in all ways (Art. 24.3 TEU), please explain the state of relations between your country and neighbouring non-EU member states. For this purpose, the Commission requests you to provide summary information on your co-operation with neighbouring countries, including both co-operation in regional organisations and bilateral cooperation.
14. What political dialogue takes place between your country and the following:
  - Western Balkans (Albania, Croatia, Bosnia and Herzegovina, Serbia, Croatia, former Yugoslav Republic of Macedonia, Montenegro, Albania, Former Yugoslav Republic of Macedonia and Kosovo);
  - Turkey;
  - The countries covered by the European Neighbourhood policy (ENP);
  - Eastern Partnership;
  - Euro-Mediterranean Partnership;
  - Russia;
  - USA and Canada;
  - China, Japan, India, Pakistan.

***C) CFSP and CSDP – political strategy***

***Restrictive measures***

15. In view of the Union's capacity to implement restrictive measures and economic sanctions under a Joint Action or Common Position (see Articles 28-29 TEU and Articles 75 and 205 TFEU), please provide an overview of your country's constitutional and legal arrangements for the implementation of restrictive measures and economic sanctions, the relevant administrative structures and monitoring mechanisms, and a list of unilateral and multilateral (in particular UN) restrictive measures currently applied by your country.
16. To what extent has your country fully implemented the restrictive measures listed on the sanctions website: [http://ec.europa.eu/external\\_relations/cfsp/sanctions/measures.htm](http://ec.europa.eu/external_relations/cfsp/sanctions/measures.htm)?
17. Regarding the implementation of sanctions decided by CFSP Common Position or Joint Action (i.e. arms embargo), which specific ministries/bodies and law enforcement agencies (Ministry of Defence, Customs Administration, Ministry of Foreign Affairs, security and intelligence services) or departments would be in charge of the monitoring,

controlling and implementation, and what is their operational structure (staffing, budget, reporting)?

18. Provide data on trade in used or new weapons with countries against which the EU maintains arms embargos.

### ***Conflict prevention***

19. Does your country support all EU measures in this field?
20. Does your country support the EU Programme for the Prevention of Violent Conflicts (endorsed by the Göteborg European Council in June 2001) and the Communication from the Commission on Conflict Prevention (April 2001)?

### ***Non-proliferation and WMD/SALW strategy***

21. In view of EU's commitments in the areas of non-proliferation of weapons of mass destruction (WMD), please explain your country's participation, or intended participation, in the different international regimes/instruments concerning non-proliferation of weapons of mass destruction, exports of conventional arms, as well as the authorities in charge of implementing these international regimes.
22. Can you clarify the amount of trade in conventional weapons your country is involved in either directly or as a transit point? What would be the national mechanisms to enact the internal controls necessary to allow instruments such as the Wassenaar Arrangement, the Australia Group, the Nuclear Suppliers Group, the Zangger Committee and the MTCR regimes to function and which would be the relevant law enforcement agencies for each of these export control regimes?
23. Does your country comply with the Council Joint Action 2006/419/CFSP of 12 June 2006 in support of the implementation of the United Nations Security Council Resolution 1540 (2004) and in the framework of the implementation of the EU Strategy against the Proliferation of Weapons of Mass Destruction?
24. Does your country comply with the Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment?
25. In view of the Union's current efforts to establish a European armaments policy, please provide information on your country's defence industry and provide information about any obstacles to compliance with the above policy.
26. What is your country's position and what measures are being taken with regard to the Council Decision 2009/42/CFSP of 19 January 2009 on support for EU activities in order to promote among third countries the process leading towards an Arms Trade Treaty, in the framework of the European Security Strategy?
27. What is your country's position and what measures are being taken with regard to the Council Joint Action 2008/487/CFSP of 23 June 2008 in support of the universalisation and implementation of the 1997 Convention on the Prohibition of the Use, Stockpiling,

Production and Transfer of Anti-Personnel Mines and on their Destruction, in the framework of the European Security Strategy?

28. Has your country undertaken national implementation measures necessary to comply with its obligations under the Chemical Weapons Convention (CWC)? Do you have in place legislation and administrative measures prohibiting activities proscribed under the CWC? Please provide details. Have you established a functioning National Authority serving as a focal point for the CWC-related matters? What measures have been undertaken to regulate and monitor trade in scheduled chemicals?
29. Do you have a national control strategy for small arms and light weapons (SALW)? If so, please provide a copy.
30. Do you have a national registration system and database for small arms and light weapons? If so, please provide recent weapons registration statistics.
31. Do you have a national commission or authority to monitor the production, import and export of small arms and light weapons? If so, who are its members and what are its terms of reference?
32. Do you have legislation in place for the internal control of small arms and light weapons, including possession, use, carriage and registration of weapons?
33. Do you have legislation in place for external transfers (import, export, transit etc.) of such weapons, in line with the Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment?
34. Please provide information and figures on import and export of SALW.
35. Provide information on the type of sanctions (administrative and penal) as provided for in national laws for not surrendering illegally possessed firearms.
36. Does your country comply with the Council Joint Action of 12 July 2002 on the European Union's contribution to combating the destabilising accumulation and spread of small arms and light weapons (2002/589/CFSP)?
37. Does your country comply with the EU Strategy to combat illicit accumulation and trafficking of SALW and their ammunition?
38. Does your country comply with the Council Common Position 2003/468/CFSP of 23 June 2003 on the control of arms brokering?
39. Does your country comply with the 2001 UN Program of Action against the spread of illicit small arms and light weapons (SALW) and its protocol?

***Cooperation with international organisations***

40. In view of the provision for Member States to co-ordinate action in international organisations (Art. 34 and 35 TEU) please provide a list of the relevant international

organisations of which your country is a member (with date of joining) or is negotiating membership, such as the UN, the OSCE, the Council of Europe, etc.

41. Does your country engage with international organisations on e.g. elections monitoring, training activities?

***Security measures (classified information)***

42. Is the legal framework on security procedures for the exchange of classified information which enables secure communication between Member States' Foreign Ministries in place?
43. Does your country comply with the EU security policy requirements?
44. Does your country have an agreement with the EU on security procedures for the exchange of classified information and has it been ratified?
45. What specific legislation is in place to regulate the field of information security fully in accordance with EU standards?
46. Does your country comply with the Council Decision of 19 March 2001 adopting the Council's security measures (2001/264/EC) as amended by the Council Decision 2004/194/EC and 2005/571/EC?

***D) CSDP – contributing capacities***

***Civil crisis management and military crisis management***

47. Is your country committed to the development of the CSDP and does your country subscribe to the EU's goal to be active, capable and effective in the area of civil and military crisis management?
48. Is your country supporting the Headline Goal 2010?
49. Does your country support CSDP missions in the Western Balkans and elsewhere?
50. Does your country have a framework agreement with the EU for participation to CSDP operations? When was it signed and has it been ratified?
51. In view of the Union's policy to strengthen and develop its capabilities in international crisis management, please explain if your country is contributing or is ready to contribute personnel to EU a) civilian and b) military crisis management operations. Has your country the relevant operational training capacities and facilities for such civilian and military personnel.
52. Provide information on your country's engagement in international activities such as the UN peacekeeping missions?

## **Chapter 32: Financial Control**

This chapter contains four main policy areas, namely public internal financial control (PIFC), External Audit (EA), the protection of the EU's financial interests and the protection of the Euro against counterfeiting.

With regard to the first two areas, there is no Union legislation requiring transposition into national law. Rather, the screening concerns the commitment of the candidate country to adopt international standards for internal control and internal audit and EU best practice. The international standards referred to are embodied in the INTOSAI Guidelines for Internal Control Standards for the Public Sector (2004), based on the second version of the COSO model of the Institute of Internal Audit (IIA). For this purpose, the candidate country should discuss with the Commission and adopt a PIFC Policy Paper with a short and long term action plan having realistic deadlines. With regard to the latter two areas, there is a precise *acquis*. Where it is directly applicable upon accession there is a particular focus on administrative structures and capacity.

**PIFC** is a comprehensive concept to support the candidate country in upgrading its internal control systems. EA relates to the function of the Supreme Audit Institution reporting to Parliament. PIFC and EA relate to the entire public budget, in particular central government income and expenditure, including foreign funds. However, the more specific rules for managing and controlling EU funds are treated under the relevant other accession negotiation chapters.

The PIFC concept is based on three principles, 1) managerial accountability implemented through, inter alia, sound financial management and control (FMC) systems, 2) decentralised and functionally independent internal audit (IA) and 3) centralised harmonisation of the FMC and IA systems.

Regarding **external audit**, the candidate country is expected to apply the norms defined by the International Organisation of Supreme Audit Institutions – INTOSAI - in particular its Lima Declaration and Mexico Declaration, which foresee supreme audit institutions that are functionally, institutionally and financially independent and report to Parliament only.

The other relevant policy area under this chapter concerns the **protection of EU financial interests**. First, it comprises operational cooperation of Member States, which must have the capacity to cooperate effectively with the European Commission and to communicate all suspected cases of irregularities and fraud. They must ensure the protection of EU funds at an (at least) equivalent level to the protection of national funds. Member States are also obliged to assist and cooperate on-the-spot checks carried out by EU services. While some of this *acquis* applies directly to Member States and thus does not need to be transposed, effective cooperation and coordination structures and capacities in the candidate country need to be set-up. In order to facilitate the required cooperation by future Member States, the nomination of national anti-fraud cooperation services – AFCOS – as a single contact point with OLAF is considered very useful.

Furthermore, this part of the chapter also includes the convention on the protection of the EU's financial interests ("PIF-Convention") and its three protocols, including the harmonisation of penal law and the reinforcement of cooperation.

Finally, this part of the chapter comprises the non-penal aspects of the **protection of the Euro against counterfeiting**, such as the prohibition of metals or tokens similar to Euro coins, the

obligation for financial institutions to withdraw counterfeit notes and coins and effective anti-counterfeiting bodies and procedures.

## ***I. PUBLIC INTERNAL FINANCIAL CONTROL AND EXTERNAL AUDIT***

### ***Public Internal Financial Control***

#### *General*

1. Which ministry (and which organisation within the ministry) has the responsibility to develop, harmonise, coordinate and check the following elements of PIFC in your country? What is the legal basis of this responsibility? Please provide a translated copy.
  - a) Financial management and control systems (covering managerial accountability, accounting, ex-ante financial control, ex-post financial control, inspection);
  - b) Internal audit (comprising financial, systems-based, performance and IT-audits).
2. Has this Ministry or organisation written a Policy Paper or Strategy Paper, describing the present situation of public internal financial control in your country and analysing the adequacy of these systems? Does this paper contain recommendations for the future development of PIFC? Has this paper been endorsed by the Ministry of Finance and by the Government? Has the paper become a general policy carried by the Government? Please provide a copy in one of the official EU languages.
3. Does PIFC in your country cover the control and audit of income (customs and tax authorities), expenditure (commitments, tender and contracting procedures, disbursements and recovery of unduly paid amounts), assets and liabilities? Does PIFC cover all parts of the national (and lower authorities) budgets and if not, which parts are excluded and covered by the control of other institutions?
4. How is PIFC (control and audit) organised in authorities below the central level and regional/local level, in as far as they benefit from national budgetary funding? And how in respect to their own funds?
5. Could an overview be given of any weak points in the areas mentioned under question 3 above, as perceived by the Ministry or other parties (such as the Supreme Audit Institution, the Treasury or the Parliament), that need further consideration for improvements in the future?
6. Could information be provided on the salary levels of the public control and audit staff, including a comparison with salaries in the private sector? Are there any other income elements not deriving from the national budget, either for control/audit staff or organisations? Is it difficult under the present salary regime to find and retain suitable staff for these functions?

#### *Legislation*

7. Please, provide the following documents in one of the official EU languages, if available:



- a) Framework Law for PIFC, Budget Law, Treasury Law, Inspection Law;
- b) Specific Laws on FMC and IA and inspection (implementation laws);
- c) Tertiary regulations, such as manuals for FMC and IA, IA Charter, Codes of Ethics for FMC and IA, Audit trails.

*Financial management and control (FMC) systems*

8. Will a central Treasury system be developed? To what extent will the control functions of the Treasury have an impact on certain tasks of the traditional checks during ex-ante control or make them redundant? How will the Treasury control functions be integrated into the ex-ante control activities of the Ministry of Finance and in line ministries?
9. Provide a description of the general set-up, roles and responsibilities of financial services in line ministries and/or budgetary chapters (you should cover the functions of the authorising officer, the accountant, double signature systems for commitments and disbursements, the ex-ante financial controller, the inspection and the ex-post financial controller). Has the concept of audit trails been introduced?
10. Describe the planning and nature of ex-ante control (scope and contents, 100% checks or sampling based on risk assessment, etc). Are statistical methods used in such sampling, such as the Monetary Unit Sampling technique? Are risk assessment and risk management techniques being developed?

*Internal Audit (IA) systems*

11. Has the function of internal audit been introduced in your country's public sector (please refer to the attached Glossary for the exact meaning of the internal audit concept). Describe the functional independence of the internal audit function in the following terms: status of independence vis-à-vis management, nomination, transfer and demotion, freedom to set annual and strategic audit plans and ad hoc planning, freedom to report to the highest level of the hierarchy and in case of conflict to other relevant organisations. Are internal audit units established in line ministries? Do they share tasks with the inspectors or is a strict separation foreseen between the two functions?
12. What kind of audits is performed by the Ministry of Finance and by Internal Audit Units, if established, in line ministries and other spending centres (e.g. regularity and legality audits, systems-based audits, performance and IT audits)?
13. What procedures have been introduced to ensure adequate audit reporting (contradictory procedures with auditees) and for the adequate follow-up of audit findings? Who ensures the feed back of audit findings into the FMC systems?

*Central harmonisation for FMC and IA*

14. Could a description be given of the tasks that the Ministry of Finance has in relation to providing central guidance on methodology to all ex-ante financial control and internal audit activities in all line ministries and government spending centres? How does the Ministry ensure that these guidelines are adhered to? Are there compliance and substantive tests performed for this purpose?

15. What actions are undertaken to train controllers and auditors? Who is responsible? Is there a Public Finance School for these functions? Are there contacts with the SAI, the IIA chapter for your country and with academic authorities? Is there training for certified public internal auditors? Are staffs being trained to become training specialists?
16. Have rules been established to ensure a minimum of knowledge and experience before staff can become financial controllers and internal auditors (examination board or otherwise)?
17. What expertise is presently transferred to the government in this field under what programmes (consultants, Sigma, others)?
18. Could a description be given of the available staff capacity in the organisation dealing with the development of FMC and IA harmonisation?

***The Supreme Audit Institution (SAI) (External Audit)***

19. The SAI is requested to provide an extensive description of its tasks, responsibilities, its independence and its relations to the Parliament and the Ministry of Finance (discussions and follow-up of its recommendations). Relevant issues are how the SAI is adapting to EU best practice and international standards of external audit. Describe the remit of the SAI (coverage of all budgetary chapters, non-budgetary national funds, lower authorities etc). Have the rights and duties of the SAI been defined in the Constitution? How is the independence of the SAI ensured? What is the current staff of the SAI and what are the future plans to improve its capacity? Please provide a copy of the SAI Law in one of the official EU languages.
20. Is the SAI involved presently in any strategies to reform itself? Has it already developed a strategy paper for its future tasks?
21. Could you describe in detail what procedures have been set up for adequate co-operation between the Supreme Audit Institution and the organisation(s) responsible for public internal financial control, e.g. for avoiding duplication of audit tasks at the same time in the same locality, for informing each other about perceived control/audit weaknesses in government expenditure/income, for the way of reporting audit findings to each other, for training or any other kind of regular cooperation?

## **II. PROTECTION OF THE EU FINANCIAL INTERESTS**

### **A. Management and Control of (future) EU Funds**

Treatment and follow-up of cases of suspected fraud and other irregularities, protection of EU financial interests (non-penal aspects)<sup>61</sup>:

*(a) Implementation of the Convention for the protection of the Communities; financial interests and its protocols*

22. What are the applicable definitions of "irregularities", "fraud", "corruption" and "money laundering"? Please identify: a) the relevant fraud provisions in national criminal law; b) the general forgery offences as well as the corruption offences in national criminal law?
23. Please identify the relevant provisions in national criminal law concerning the criminal liability of company managers. What is the applicable definition of complicity in economic crimes?
24. Please identify the relevant provisions in national criminal law concerning the liability of legal persons.
25. Please identify the relevant provisions in national criminal law concerning the possible seizure, confiscation or removal measures for results and instruments of economic crimes.
26. What are the requirements of national procedural penal law regarding general possibilities for extraterritorial jurisdiction based on the personality principle?

*(b) Capacity for operational cooperation in the field of the protection of the EU financial interests.*

27. The EU *acquis* requires that national law protects EU funds in the same way as national funds. Does national law provide for specific obligations and procedures with regard to the treatment of cases of suspected fraud and other irregularities affecting national, EC or international funds?
28. How are cases of suspected fraud and other irregularities dealt with in practice? Are any data kept on detected cases of suspected fraud and other irregularities? If yes, please provide recent data.
29. Is Serbia considering setting up specific institutions or bodies for the investigation and/or treatment of cases of suspected fraud and other irregularities affecting national, EC and/or international funds (separate from the PIFC-systems), or are such institutions or bodies already in place? If so, what is the scope of their competencies? How is their administrative capacity and their operational independence ensured? Have any procedures been defined for the communication, by other national authorities, of cases of suspected fraud and other irregularities to these institutions or bodies? Have any mechanisms been defined for cooperation between these different authorities?

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<sup>61</sup> Penal issues related to the protection of the Communities' financial interests are dealt with under Chapter 24.

30. Have any mechanisms been defined for cooperation with EC authorities and guaranteeing sufficient assistance to EC investigators during their anti-fraud investigations?
31. Financial and judicial follow-up: Have any procedures been defined for the communication of cases of suspected fraud to the prosecution authorities? Have any procedures been defined for the recovery of uncollected resources and unduly spent funds in the case of suspected fraud or other irregularities?

***B. Protection of the Euro against counterfeiting (non-penal aspects)***

32. Which definition of counterfeiting of both for notes and coins is provided by national law?
33. Does national legislation provide for the obligation of credit institutions and other payment service providers, and any other institutions engaged in the processing and distribution to the public of notes and coins (as specifically indicated in article 6 of Regulations 1338/2001) to ensure that Euro notes and coins, which they have received and which they intend to put back into circulation, are checked for authenticity and that counterfeits are detected?
34. Does national legislation provide for the obligation of credit institutions and other payment service providers, and any other institutions engaged in the processing and distribution to the public of notes and coins (as specifically indicated in article 6 of the Regulation 1338/2001) to withdraw from circulation all banknotes and coins which they know or have sufficient reason to believe to be counterfeit and to hand them over to the competent authorities? Have any sanctions been defined in the case this obligation is not complied with?
35. Which authorities have been designated for the centralisation, technical analysis and processing of information on counterfeit bank notes and coins, both Euro and other currencies?
36. Have any procedures been defined for the transmission of examples of counterfeit banknotes and coins, both Euro and other, and related information to the relevant authorities inside or outside your country?
37. Have any procedures been defined for the gathering and indexation of statistical data relating to counterfeit banknotes and coins (both for the Euro and other currencies)?
38. Which sanctions apply for the entering into circulation and for the use of medals and token similar to Euro coins?
39. What are the procedures and bodies established for the fight against counterfeiting?
40. Has Serbia participated in the Pericles programme?

## ANNEX

Please find attached a list of definitions (Glossary) relating to control/audit as used by the Commission (DG BUDG) in relation to assessing applicant countries' Public Internal Financial Control (PIFC) systems. It is of importance that your country and the Commission speak the same language as much as possible and the attached definitions may be of help to you in explaining your national equivalents. Please note that the term "control and inspection" relates to managerial responsibilities in the framework of managing income and expenditure and that the term "audit" relates to the independent assessment function (e.g. of control systems).

**Glossary of Definitions used by the Commission  
in the framework of Public Internal Financial  
Control (PIFC)**

Term	Definition
Accounting Control System	A series of actions, which are part of the total internal control, system concerned with realising the accounting goals of the entity. This includes compliance with accounting and financial policies and procedures, safeguarding the entity's resources and preparing reliable financial reports.
Administrative Control System	A series of actions, which are part of the internal control system, concerned with administrative procedures needed to make managerial decisions, realise the highest possible economic and administrative efficiency and ensure the implementation of administrative policies, whether related to financial affairs or otherwise.
Audit	In its most generic sense this can mean any examination ex-post of a transaction, procedure or report with a view to verifying any aspect of it – its accuracy, its efficiency etc. The word usually needs to be qualified more narrowly to be useful.
Audit Evidence	<p>Information, which supports the opinions, conclusions or reports of the auditors, internal audit services or SAI. It should be:</p> <p>Competent: information that is quantitatively sufficient and appropriate to achieve the auditing results; and is qualitatively impartial such as to inspire confidence and reliability.</p> <p>Relevant: information that is pertinent to the audit objectives.</p> <p>Reasonable: information that is economical in that the cost of gathering it is commensurate with the result, which the auditor or, the internal audit service or the SAI is trying to achieve.</p>
Audit Mandate	The auditing responsibilities, powers, discretion and duties conferred on any audit body (e.g. the SAI under the constitution or other lawful authority of a country (as set out in primary or secondary national legislation).
Audit Objective	A precise statement of what the audit intends to accomplish and/or the question the audit will answer. This may include financial, regularity or performance issues.
Audit Procedures	Tests, instructions and details included in the audit programme to be carried out systematically and reasonably.
Audit Scope	The framework or limits and subjects of the audit.
Audit Trail	The phrase has a rather imprecise general meaning in general audit usage. However, annex 1 of Council Regulation 2064/97 has provided a specific detailed description of the requirements of 'a sufficient audit trail' for the purposes of the structural funds managed by the Member States on behalf of the Commission. In brief summary it requires the maintenance of

	<p>records giving the full documentation and justification at all stages of the life of a transaction together with the ability to trace transactions from summarised totals down to the individual details and vice versa.</p> <p>The overriding objective of the audit trail is to ensure a 'satisfactory audit from the summary amounts certified to the Commission to the individual expenditure items and the supporting documents at the final beneficiary'.</p> <p>The word "audit trail" in the Regular Reports and the Accession Partnerships is to be understood in the light of the above definition which should be applied in the context of all Pre-Accession Funds to Candidate Countries.</p>
Audited Entity	The organisation, programme, activity or functions subject to audit by the SAI or the (internal) audit service.
Auditing Standards	Auditing standards provide minimum guidance for the auditor that helps determine the extent of audit steps and procedures that should be applied to fulfil the audit objective. They are the criteria or yardsticks against which the quality of the audit results is evaluated.
Charter (Internal Charter)	<p>Audit</p> <p>Also called Internal Audit Mission Statement, especially in non-US (-linked) organisations. The Charter/Mission Statement of the internal audit activity is a formal, written document that defines the internal audit activity's purpose, scope, and responsibility. It aims to ensure that the internal audit is looked upon with trust, confidence and credibility.</p> <p>The charter should:</p> <p>Ensure the functional independence including specification of the position of the internal audit activity within the organisation;</p> <p>Permit unrestricted access to records, personnel, and physical properties relevant to the performance of engagements;</p> <p>Define the scope of internal audit activities;</p> <p>Define reporting requirements to auditees and, where necessary, to judiciary institutions and</p> <p>State the relationship with the State Audit Office.</p>
Compliance Audits	See Regularity Audits
Constitutional	A matter which is permitted or authorised by, the constitution of fundamental law of a country.
Controls	Any kind of control on an organisation or beneficiaries of public funds, both internal and external controls on an organisation – i.e. both internal controls and controls from outside the organisation.
Due Care	The appropriate element of care and skill which a trained auditor would be expected to apply having regard to the complexity of the audit task,



	including careful attention to planning, gathering and evaluating evidence, and forming opinions, conclusions and making recommendations.
Economy	Minimising the cost of resources used to achieve given planned outputs or outcomes of an activity (including having regard to the appropriate quality of such outputs or outcomes).
Effectiveness	The extent to which objectives of an activity are achieved i.e. the relationship between the planned impact and the actual impact of an activity.
Efficiency	Maximising the outputs or outcomes of an activity relative to the given inputs.
Evaluation	Can mean a) The evaluation of tenders as part of the contracting process; or b) Specific reviews designed to examine the overall performance of a programme or project. Its scope may vary. Its core should be setting out, obtaining or calculating the outcomes of the programme or project and considering their economy, effectiveness and efficiency, but it usually covers a much wider range of issues including the appropriateness and achievement of output objectives as well. It may be carried out before, during or after the programme or project has been completed (usually known as ex-ante, mid-term or ex-post). It shares many characteristics with performance audit
Ex ante financial control (EAFC)	Ex ante financial control (EAFC) is the set of control activities prior to carrying out financial decisions relating to appropriations, commitments, tender procedures, contracts (secondary commitments), and related disbursements and recovery of unduly paid amounts. Such decisions can only be taken after the explicit approval of the ex ante financial controller.  EAFC is sometimes also called "preventive control". This is the narrower meaning of financial control. If described as EAFC there can be no ambiguity.
Ex post internal audit (EPIA)	The set of audit activities that take place ex-post. I.e. in this context, after financial decisions have been made by the management. EPIA can be carried out by centralised government audit bodies, responsible and reporting to the highest levels of government (Ministry of Finance or even the Cabinet of Ministers) or decentralised audit bodies (Internal Audit Units in government budget implementation spending units, like Ministries or Agencies).
Ex-post	When referring to audit, "ex post" usually means an audit performed after the initial legal commitment of a transaction. When referring to evaluation, "ex post" usually means an evaluation performed after the transaction has been fully completed.

External audit	Any audit carried out by an auditor who is independent of the management being audited. In public finance, it means audit external to the Government financial management and control policy is carried out by the national Courts of Auditors (or similar institutions) Supreme Audit Office to objectively ensure that such management and control systems are compliant with the definition of PIFC as mentioned elsewhere in this glossary above.
Field Standards	The framework for the auditor to systematically fulfil the audit objective, including a) planning and supervision of the audit, b) gathering of audit evidence which is competent, relevant and reasonable, and c) an appropriate study and evaluation of internal controls.
Financial Audits	Cover the examination and reporting on financial statements and examine the accounting statements upon which those statements are based
Financial controller	<p>The function of the financial controller may mean different things in different organisations e.g.:</p> <p>a) the role which gives ex-ante approval to individual transactions that they are in conformity with regulations and procedures; or.</p> <p>b) the same as auditor; or.</p> <p>c) the management role which combines responsibility for the recording and processing of transactions (financial accounting) with the preparation of and reporting against budget targets (management accounting).</p> <p>In the Commission, Financial Control was originally (1973) defined as ex ante approval of any kind of financial decisions, later the internal audit function was added to the functions of the Finance Controller. Recently the trend is to split the two functions and the term "financial control" refers again only to ex ante approval.</p> <p>In the framework of Enlargement the term is used for the ex ante approval function.</p>
Financial controls	<p>The phrase has a wide meaning in some organisations and a narrow meaning in others (very broadly, organisations from further North take the wider meaning and those from further South take the narrower meaning).</p> <p>The wide meaning follows the meaning of internal controls except that it refers to controls, which have a specific financial component. In practice, in this context, there are few controls, which do not have a financial component and the phrase financial control can often be virtually interchangeable with internal control.</p> <p>The narrower meaning follows the narrower meaning of financial controller and refers to the specific review of the conformity of transactions with regulations and procedures described in ex-ante financial control.</p>

Financial management (FM)	In the framework of Enlargement the term is understood to be the set of responsibilities of the management (which is responsible for carrying out the tasks of government budget handling units) to establish and implement a set of rules aiming at an efficient, effective and economic use of available funds (comprising income, expenditure and assets). It refers to planning, budgeting, accounting, reporting and some form of ex ante financial control. FM is subject to internal and external audit.
Financial Systems	The procedures for preparing, recording and reporting reliable information concerning financial transactions.
Findings, Conclusions and Recommendations	Findings are the specific evidence gathered by the auditor to satisfy the audit objectives; conclusions are statements deduced by the auditor from those findings; recommendations are courses of action suggested by the auditor relating to the audit objectives.
Functional Independence (FI)	The special status of a financial controller (narrow sense) or an internal auditor (whether central or decentralised), providing him/her with the power of maintaining a free professional judgement vis-à-vis his superior of the organisation in matters of control and audit. This concept requires the maintenance of a balance between those who are responsible for managing the organisation and those who are controlling/auditing the organisation. FI should be embodied in relevant legislation. Another way to ensure FI is to have the central control/audit organisation nominate a delegate Internal Auditor into the organisation to be audited or to allow the Internal Auditor (in case of conflict of interests) to report his findings freely to the central audit body.
Fundamental	A matter becomes fundamental (sufficiently material) rather than material when its impact on the financial statements is so great as to render them misleading as a whole.  See also Significant Control Weakness
General Standards	The qualifications and competence, the necessary independence and objectivity, and the exercise of due care, which shall be required of the auditor to carry out the tasks related to the fields and reporting standards in a competent, efficient and effective manner.
Impact	The same as result or outcome.
Independence	For an external audit it means the freedom of the national Courts of Auditors or similar institutions in auditing matters to act in accordance with its audit mandate without external direction or interference of any kind.  From an internal audit viewpoint it means that the internal audit service should be organised directly under the top management. Nevertheless, the internal audit service should be free to audit any area that it considers to be an area of risk for material errors, even when management might not think so. (see also functional independence)

<p>Internal Audit</p>           <p>Centralised internal audit (CIA)</p>  <p>Decentralised internal audit (DIA)</p>	<p>The Institute of Internal Auditors definition is:</p> <p>Internal audit is an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes.</p> <p>More concretely, it is the functional means by which the managers of an entity receive an assurance from internal sources (including internally subcontracted sources) that the internal controls are achieving their internal control objectives. It will cover, inter alia, Financial Audits, System Based Audits, Performance Audits, IT-Audits It has most of the characteristics of external audit except that it finally reports to the management and therefore can never have the same level of independence as external audit.</p> <p>In public finance a distinction is made between centralised internal audit and decentralised internal audit as follows:</p> <p>CIA is public ex post internal audit performed by a centralised body (e.g. the Ministry of Finance or another Internal Audit body (like the Government Control Office in Hungary or the Internal Audit Board in Malta)) on systems</p> <p>DIA is the internal audit performed by specialised Internal Audit Units located inside government or lower public budget implementation spending centres (Ministries or Agencies)</p>
<p>Internal Auditor (IA)</p>	<p>The Internal Auditor (IA) (whether located outside or inside the organisation of the Managing Director) is responsible for carrying out all relevant kinds of ex post internal audit. In public finance terms, the IA should be subject to a special "statute" (preferably written in the Internal Audit Law governing the PIFC-system in a given country) allowing him an adequate degree of functional independence. The IA can report to the MD or be assigned by a central Public Internal Audit Service, like the Ministry of Finance or an Internal Audit Board responsible to the Prime Minister of the Cabinet of Ministers</p>
<p>Internal Control</p>	<p>The whole system of financial and other controls, including the organisational structure, methods, procedures and internal audit, established by management within its corporate goals, to assist in conducting the business of the audited entity in a regular, economic, efficient and effective manner.</p> <p>Internal control relate to the following categories: Control environment; Risk assessment; Information and Communication; Control activities and Monitoring of controls</p>
<p>Internal Control Objective</p>	<p>The primary objectives of internal control are to ensure:</p>

	<p>1) The reliability and integrity of information.</p> <p>2) Compliance with policies, plans, procedures, laws, and regulations.</p> <p>3) The safeguarding of assets.</p> <p>4) The economical, efficient and effective use of resources.</p> <p>Each organisation should design its own system of internal control to meet the needs and environment of the organisation.</p>
International Organisation of Supreme Audit Institutions (INTOSAI)	An international and independent body which aims at promoting the exchange of ideas and experience between Supreme Audit Institutions in the sphere of public financial control.
IT systems audits	Examine the sufficiency and adequacy of the protection of the security of the systems of IT applications in order to guarantee the confidentiality, integrity and availability of information and IT systems
Managerial Accountability	Represents the obligation to be accountable for a given task. Accountability covers issues like separation of duties (authorising officer, accountant, ex ante financial controller); development of Financial Management and Control manuals (powers, responsibilities, reporting and risk management), all financial transactions (commitments, contracts, disbursements, recovery of unduly paid amounts), links with the central harmonisation facilities, and evaluation and reporting on F/C systems
Management control	Control by management: the same as internal control, including financial control
Managing Director (MD)	The Managing Director (MD) can be a Line Minister or his delegates, responsible for the implementation of Programmes/projects relating to national or lower budget income or expenditure. The MD is responsible for setting up financial management and control systems inside his organisation and the development of financial management and control manuals and its implementation through the nomination of an Accountant. The MD and the Accountant should create a double signature system (DSS) to provide for the highest degree of transparency in financial management.
Materiality and Significance (Material)	In general terms, a matter may be judged material if knowledge of it would be likely to influence the user of the financial statements or the performance audit report. Materiality is often considered in terms of value but the inherent nature or characteristics of an item or group of items may also render a matter material - for example, where the law or some other regulation requires it to be disclosed separately regardless of the amount involved. In addition to materiality by value and by nature, a matter may be material because of the context in which it occurs. For example, considering an item in relation to the overall view given by the accounts, the total of which it forms a part; associated terms; the corresponding

		amount in previous years. Audit evidence plays an important part in the auditor's decision concerning the selection of issues and areas for audit and the nature, timing and extent of audit tests and procedures.
Mission Statement		See Charter (Internal audit Charter)
Opinion		The auditor's written conclusions on a set of financial statements as the result of a financial or regularity audit.
Outcomes		The effects of a programme or project measured at the highest meaningful level in proportion to the programme or project (e.g. jobs created). In practice there are always at least some external non-controllable elements, which influence whether outcomes are achieved or not. The same as results or impacts
Outputs		The directly tangible deliverables of a programme or project insofar as they are, for practical purposes, completely under the control of the implementers of the project (e.g. training seminar executed).
Passer-outre		PO is the procedure whereby the opinion of the ex ante financial controller (refusal to approve) can be overridden by the ultimate body responsible for the management of government budget implementation (e.g. Council of Ministers). A reasoned and extensive request by the MD should be the basis for such a decision, while the MD remains responsible for his acts.
Performance Audit		An audit of the economy, efficiency and effectiveness with which the audited entity uses its resources in carrying out its responsibilities. In practice there can be difficulty distinguishing Performance Audit from Evaluation. Sometimes Performance Audits are limited to consideration of outputs but this considerably limits the value of the audit. Also Evaluation may create data, particularly on outcomes, whilst Performance Audit would usually be limited to a review of data which was available (and if necessary identification of missing data) Performance Audit is usually concerned with testing performance against some given standards.
Planning		Defining the objectives, setting policies and determining the nature, scope, extent and timing of the procedures and tests needed to achieve the objectives.
Postulates		Basic assumptions, consistent premises, logical principles and requirements which represent the general framework for developing auditing standards.
Public Accountability		The obligations of persons or entities, including public enterprises and corporations, entrusted with public resources to be answerable for the fiscal, managerial and programme responsibilities that have been conferred on them, and to report to those that have conferred these responsibilities on them.
Public Financial	Internal Control	PIFC is the overall financial control system performed internally by a Government or by its delegated organisations, aiming to ensure that the

(PIFC)	financial management and control of its national budget spending centres (including foreign funds) complies to the relevant legislation, budget descriptions, the principles of sound financial management, transparency, efficiency, effectiveness and economy. PIFC comprises all measures to control all government income, expenditure, assets and liabilities. It represents the wide sense of internal control. It includes but is not limited to ex ante financial control (EAFC) and ex-post internal audit (EPIA)
Reasonable Assurance	<p>Internal control, no matter how well designed and operated, can provide only reasonable assurance to management regarding the achievement of an entity's objectives. The likelihood of achievement is affected by limitations inherent in all internal control systems. These limitations may include faulty decision-making with respect to the establishment or design of controls, the need to consider costs as well as benefits, management override, the defeat of controls through collusion, and simple errors and mistakes. Additionally, controls can be circumvented by collusion of two or more people. Finally, management may be able to override elements of the internal control system.</p> <p>Reasonable assurance is provided when cost-effective actions are taken to restrict deviations to a tolerable level. This implies, for example, that material errors and improper or illegal acts will be prevented or detected and corrected within a timely period by employees in the normal course of performing their assigned duties. Management during the design of systems considers the cost-benefit relationship. The potential loss associated with any risk is weighed against the cost to control it.</p>
Regularity Audit	Attestation of financial accountability of accountable entities, involving examination and evaluation of financial records and expression of opinions on financial statements; attestation of financial accountability of the government administration as a whole; audit of financial systems and transactions, including an evaluation of compliance with applicable statutes and regulations; audit of internal control and internal audit functions; audit of the probity and propriety of administrative decisions taken within the audited entity ; and reporting of any other matters arising from or relating to the audit that the SAI considers should be disclosed. This is normally not applicable to Internal Audit Services.
Report	The auditor's written opinion and other remarks on a set of financial statements as the result of a financial or regularity audit or the auditor's findings on completion of a performance audit.
Reporting Standards	The framework for the auditor to report the results of the audit, including guidance on the form and content of the auditor's report.
Results	The same as outcomes or impacts
Risk	An event which can result in an undesirable or negative outcome. It is characterised by the probability or likelihood of the event occurring and the resulting impact or consequence if it does occur. These two factors

		combine to result in a level of risk exposure.
Risk assessment		<p>Auditor's tool to help identifying audit projects offering the highest added value to the organisation. Risk assessment is the identification of all local financial management and control (FMC) systems and of their associated risks according to a number of risk factors (IIA).</p> <p>The risk assessment approach has to be used at, at least two levels:</p> <p>A. for the establishment of the annual audit programme, selecting projects of highest expected return and</p> <p>B. In the planning phases of the individual audit itself.</p> <p>Risk factors are: assessment of volume, sensitivity and materiality of data, the control environment, confidence in management, complexity of activities and Information systems, geographical diversity, and prior audit knowledge.</p>
Risk Management (RM)		<p>The overall process of identifying, assessing and monitoring risks and implementing the necessary controls in order to keep the risk exposure to an acceptable level. Best practice suggests that it should be an embedded part of the management process rather than something, which is added at a later stage.</p> <p>RM acts as awareness raising exercise and as a forum for sharing views at all levels in organisations; it informs and trains management and staff and increases the likelihood for success in the achievement of the objectives.</p> <p>Management creates the conditions and establishes tools necessary to evaluate, prioritise and decide before carrying out an activity to allow it to obtain a reasonable assurance of achieving the objectives with reasonable value for money. The internal control system ensures that management protects itself from unacceptable risks.</p> <p>Processes need to be developed to identify these risks and conceive and implement a system to control the most significant risks. A success factor for implementing the risk management system throughout the organisation is the management's general interest in the exercise. RM should be put on the agenda for the development of its own system for assessing the risks to which the organisation is subject.</p>
Significant Weakness	Control	<p>Significant is the level of importance or magnitude assigned to an item, event, information, or problem by the internal auditor. Significant audit findings are those conditions that, in the judgement of the director of internal auditing, could adversely affect the organisation. Significant audit findings (as well as weaknesses cited from other sources) may include conditions dealing with irregularities, illegal acts, fraud, errors, inefficiency, waste, ineffectiveness, conflicts of interest, and control weaknesses</p>



Supervision	An essential requirement in auditing which entails proper leadership, direction and control at all stages to ensure a competent, effective link between the activities, procedures and tests that are carried out and the aims to be achieved.
Supreme Audit Institution (SAI)	The public body of a State which, however designated, constituted or organised, exercises by virtue of law, the highest public auditing function of that State.
Systems based Audit	<p>Systems based audit refers to an in-depth evaluation of the internal control system with the objective to assess to extent to which the controls are functioning effectively. It is designed to assess the accuracy and completeness of financial statements, the legality and regularity of underlying transactions and the economy, efficiency and effectiveness of operations.</p> <p>A systems based audit should be followed-up through substantive testing of a number of transactions, account balances etc to determine whether the financial statements of the auditee are accurate and complete, the underlying transactions legal and regular and/or the criteria for economy, efficiency and effectiveness have been achieved.</p>

## **Chapter 33: Financial and budgetary provisions**

This chapter covers the rules concerning the financial resources necessary for the funding of the EU budget ('own resources'). These resources are made up of the following: traditional own resources, especially customs duties, including duties on agricultural products and sugar levies, which are levied by the Member States on behalf of the EU; a resource based on value-added tax; and finally, a resource based on each Member State's gross national income. Member States must have appropriate administrative capacity to adequately coordinate and ensure the correct calculation, collection, payment and control of own resources. The *acquis* in this area is directly binding and does not require transposition into national law.

### **I. TRADITIONAL OWN RESOURCES**

1. Which departments are responsible for levying import duties (customs duties and agricultural duties) and possible other charges levied on goods entering your country?
2. For each relevant department, please give details of:
  - a) The general organisation set-up (central departments and external services);
  - b) Collecting, accounting and control procedures.
3. Are there separate accounts to distinguish recovered debts and outstanding debts?
4. What was the revenue from import duties for the year 2009? Please provide a breakdown of the total yield by your country's imports originating from the Union's current Member States (EU-27) and the rest of the world.

### **II. VAT RESOURCE**

5. Is there a value-added tax system applicable in your country? If so, please provide a summarised description thereof<sup>62</sup>.
6. For the relevant departments (Ministry of Finance, tax administration, statistical office) please give details of:
  - a) The general organisational set-up;
  - b) VAT collection, accounting, control procedures, and statistical infrastructure.
7. What were the gross receipts of VAT and VAT refunds for the year 2009? If possible provide a breakdown of the total VAT receipts by VAT receipts levied on importation and VAT receipts levied within the country.

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<sup>62</sup> Reference to the response given under the Taxation Chapter (16) may be done, if applicable.

### ***III. GNI RESOURCE***

8. Are National Accounts and the compilation of GNI (Gross National Income) based on the definitions and accounting rules of the European System of National and Regional Accounts 1995 (ESA 95)? If not, please give details of the system currently applied.
9. Are National Accounts adjusted to cover the non-observed economy? What is the impact of these adjustments on the level of GNI?

### ***IV. ADMINISTRATIVE INFRASTRUCTURE***

10. Which Ministry and departments will have overall responsibility for financial and budgetary issues in your country?