

## ***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>1</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>1</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;**

Provisions of the Law (Article 3 of the Law on Protection of Competition (*Official Gazette of RS*, no. 51/09)) apply to all sectors of the economy, i.e. to all legal and natural persons who directly, or indirectly, continually, periodically, or only *ad hoc* trade in goods or services, regardless of their legal status, ownership, citizenship or nationality, as follows:

1) to all national and foreign companies and entrepreneurs;

2) to State authorities, authorities of territorial autonomy and local self-government;

3) to other natural and legal persons and associations of undertakings (trade unions, associations, sport organizations, institutions, cooperatives, intellectual property right holders, etc).

##### **b) public and private undertakings?**

Yes, provisions of the Law apply to both public and private undertakings (Art. 3) i.e. public enterprises, companies, entrepreneurs and other undertakings, performing the activities of public interest, or those that have been given the fiscal monopoly, through the act of the state authority in charge, except if through the application of this law, either lawfully or factually, they are prevented to perform these activities or tasks assigned by public authority.

#### **2. Does the law cover goods and services?**

Yes, the law applies both to goods and services (Article 3).

#### **3. Does the law incorporate the principles of Article 106(2) TFEU?**

Yes, provisions of the Law apply to both public and private undertakings (Art. 3) i.e. public enterprises, companies, entrepreneurs and other undertakings, performing the activities of public interest, or those that have been given the fiscal monopoly, through the act of the state authority in charge, except if through the application of this law, either lawfully or factually, they are prevented to perform these activities or tasks assigned by public authority.

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

#### **4. Does the law cover agreements, decisions of associations of undertakings and concerted practices?**

Yes, under restrictive agreements the Law (Article 10) foresees agreements, certain provisions of agreements, explicit or tacit arrangements, concerted practices, as well as decisions taken by associations of undertakings, in particular:

1) the purchase or sale prices or other conditions of trading are determined directly or indirectly;

2) the production, market, technical development or investments are limited and controlled;

3) unequal conditions of operations are applied in same activities for different undertakings, through which the undertakings are put into an unfavourable position in relation to their competition;

4) the contract or agreement is conditioned with acceptance of additional obligations. that by their nature and trading habits and practice are not connected with the subject of the agreement;

5) the markets or procurement sources are divided.

**5. Does the law contain a general prohibition of restrictive agreements?**

Yes, the Law prescribes that restrictive agreements are prohibited (Article 10).

**6. Does the law lay down the nullity of restrictive agreements, i.e. are they unenforceable before the courts?**

Yes, the Law lays down that restrictive agreements are null, thus unenforceable before the courts (Article 10).

**7. Does the law provide for an exception from the prohibition of restrictive agreements, or how are exceptions provided for?**

Yes, the Law foresees that Restrictive agreements may be exempted if they contribute to improvement of the production and trade, or facilitate a technical or economic progress, providing the consumers with a fair share of benefits, under condition they do not impose limitations upon undertakings that are not necessary for achieving the goal of the agreement, or they do not facilitate removing the competition on a relevant market or in its significant part (Article 11).

Exemptions may be individual and those made by the category of agreements (block exemptions) (Articles 12 and 13).

At the request of the restrictive agreement party, the Commission may exempt certain restrictive agreement from the prohibition. The burden of proof that requirements as in Article 11 of this law are met is upon the applicant of the request for individual exemption. The period to which individual exemption relates may not be longer than eight years. The Government shall further specify the content of the request under Paragraph 1 Article 12.

Decision on request for individual exemption of the restrictive agreement shall be taken not later than 60 days from the filing of the request. Decision on request for individual exemption shall particularly lay down the validity period for which an individual exemption has been granted, as well as the conditions of the exemption. The party may request extension of the individual exemption period through a separate request submitted not later than two months before the expiry of that period. Pursuant to such request the same or different requirements and individual exemption validity period may be determined. Applicant shall pay fee in the amount determined by the Tariff (Article 60) for the issuance of the decision on applicant's request.

Government Regulation on the content of the request for individual exemption (*Official Gazette of RS*, no. 107/2009) further prescribes the content of the request for exemption from the prohibition of restrictive agreements.

Also, the Law foresees a rule on exception for minor importance agreements (*de minimis*; Article 14 of the Law on Protection of Competition).

Namely, minor importance agreements are those between undertakings whose total market share on the relevant market of products and services on the territory of the Republic of Serbia, does not exceed:

1) 10% market share, provided parties to the agreement operate at the same production and trading chain level (horizontal agreements);

2) 15% market share, provided parties to the agreement operate at different production and trading chain levels (vertical agreements);

3) 10% market share, provided the agreement has characteristics of both horizontal and vertical agreements, or when it is difficult to determine if the agreement is vertical or horizontal;

4) 30% market share, when agreements concluded between different undertakings have similar influence on the market, provided individual market share of each of them does not exceed 5% on each individual market where agreement effects are exerted.

Minor importance agreements are permitted, unless horizontal agreement is aimed at fixing prices, or limiting the production, or sale, or dividing the supply market, as well as if vertical agreement is aimed at fixing prices, or dividing the market.

#### **8. Does the law provide for the possibility of block exemptions to be established (based on EU principles)?**

Yes, exemption from the prohibition on restrictive agreements may refer to certain categories of agreements (block exemptions), provided general conditions as specified in the answer to the previous question, as well as other particular requirements concerning the type and the content of the agreement, and/or its validity period, have been met (Article 13).

Serbian Government adopts Regulations determining the category of the agreement and further prescribing particular conditions for group exemptions. Annexed are the Regulation on agreements between undertakings exempted from prohibition who operate at different production, or distribution levels, (*Official Gazette of RS*, no. 11/2010), the Regulation on the agreements on specialization between undertakings exempted from prohibition and operating at the same production, or distribution levels, (*Official Gazette of RS*, no. 11/2010), Regulation on the research and development agreements between undertakings exempted from prohibition who operate at the same production, or distribution levels, (*Official Gazette of RS*, no. 11/2010).

#### **9. Do the conditions for exemptions from the prohibition of restrictive agreements (both individual and group) correspond to Article 101(3) TFEU?**

Yes, the conditions for group and individual exemptions from the prohibition correspond to the provisions under Article 101(3) TFEU (Article 11).

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

#### **10. Does the law contain a general prohibition of abuse of dominance?**

Yes, abuse of dominance on the market is prohibited (Article 16).

Abuse of dominance shall particularly be deemed if:

- 1) directly or indirectly unfair purchase or sale prices, or other unfair business conditions are imposed;
- 2) production, market, or technical development is limited;
- 3) dissimilar business conditions are applied to equivalent transactions with different undertakings, thereby placing them at a competitive disadvantage;
- 4) conditioning the contract with the other party accepting additional obligations, which, by its nature or by commercial practice have no connection with the subject of the contract.

#### **11. Does the law contain an exemption or defence for abuse?**

The law does not contain an option for an exemption or justification for abuse of the dominant position.

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

#### **12. Does the definition of mergers cover the establishment of control (including *de-jure* and *de-facto* control) and joint ventures?**

Yes, market concentration (Article 17) shall take place in cases of:

- 1) mergers and other status changes involving undertakings acquisitions within the meaning of the law governing companies;
- 2) direct, or indirect control gain by undertaking, or undertakings over the other undertaking, or undertakings;
- 3) joint venture by two or more undertakings for the purpose of creating a new undertaking or gaining joint control over undertaking operating on a long term basis with all functions typical of an independent undertaking.

Control over undertaking (Article 5) constitutes a possibility of having a decisive influence, legally or factually, on managing activities of the undertaking, in particular:

- 1) if through independent or joint actions the controlling party has the character of the controlling (parent) company, or controlling member or shareholder, under the regulations on affiliated companies within the meaning of the law governing companies,
- 2) based on property, or other property rights, or share of the property belonging to the other undertaking,
- 3) based on the rights deriving from a contract, an agreements, or securities,
- 4) by means of claims, collaterals, or terms of a particular business practice determined by the controlling undertaking.

### **13. Does the law provide for prior notification?**

Pursuant to Article 63 of the Law on Protection of Competition, notification of a concentration shall be submitted to the Commission for Protection of Competition (hereinafter referred to as the Commission) within 15 days after:

- 1) conclusion of a contract or an agreement,
- 2) announcement of the public bid, or submission of the offer, or public bid closing,
- 3) acquisition of control.

Notification may also be submitted once undertakings demonstrate serious intention to conclude agreement, by means of signing the letter of intent, announcing the intent to make a bid, or by other means.

Where control over the whole or shares of one or more undertakings is acquired by the other undertaking, notification shall be submitted by the undertaking acquiring the control, and in case of joint investment, notification shall be submitted jointly by all merging undertakings.

### **14. What are the criteria for notification (e.g. turnover)?**

Concentration must be notified to the Commission (Article 61) when:

1) total annual turnover of all parties to concentration on international market in the previous accounting year exceeds EUR 100 million, whereas at least one party to concentration on the market of the Republic of Serbia has turnover exceeding EUR 10 million, or

2) total annual turnover of at least two parties to concentration on the market of the Republic of Serbia exceeds 20 million EUR in the previous accounting year, whereas at least two parties to concentration on the market of the Republic of Serbia have turnover exceeding 1 million EUR each, in the same period.

When calculating total annual turnover, the turnover these undertakings had in mutual exchange shall not be taken into account.

The concentration carried out through the takeover bid within the meaning of the rules governing shareholding companies takeover, must be notified even if mentioned requirements were not met.

### **15. Does the notification have suspensory effect?**

Parties to concentration shall be obliged to suspend implementation of concentration until adoption of the Commission decision (Article 64).

When concentration is investigated *ex officio*, parties to concentration shall be obliged to suspend implementation of concentration from the date of the receipt of the conclusion on initiation of the procedure for concentration approval.

Obligation to terminate concentration shall not prevent the takeover as notified to the competent authority adhering to the law governing joint stock company takeover, and/or privatisation, provided concentration is notified in due time, and that the party acquiring control does not exercise its voting rights deriving from the rights acquired, or does so merely

to maintain the full investments value, based on the special approval of the Commission. President of the Commission shall decide upon the request for such approval.

The Commission shall decide within three months from the date of the initiation of the *ex officio* procedure of concentration investigation or within one month from the date of notification submission. Concentration shall be deemed approved if the decision has not been made within stated time limits.

**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?**

Article 19 of the Law, allows concentrations of undertakings, unless they would significantly restrict, distort, or prevent competition on the market of the Republic of Serbia, or its share, and particularly if they would result in establishing, or strengthening of dominant position.

Assessment on concentration admissibility is made in respect of:

- 1) structure of a relevant market;
- 2) actual and potential competition;
- 3) market position of concentration participants and their economic and financial power;
- 4) possibility to choose the suppliers and users;
- 5) legal and other barriers to entry the relevant market;
- 6) level of competitiveness of concentration participants;
- 7) supply and demand trends for certain goods or services;
- 8) technical and economic development trends;
- 9) interests of consumers.

The Law does not prescribe special national interest as a criterion.

**17. Are there provisions on divestitures or remedies?**

Yes, the Law prescribes option to dismantle the structure created by the parties to concentration, as well as option to issue conditional concentration approval (Articles 66 and 67).

Where the Commission finds that conditions for concentration approval are not fulfilled, it shall inform applicant of notification of the relevant facts, evidence and other elements essential for the Commission's decision, asking the party to state the position within the given period (*Statement of objections*).

In the statement the applicant of notification may propose particular conditions they are ready to accept aimed at meeting the requirements for the approval of concentration.

Having regard to proposed particular conditions, and if they are assessed as appropriate for the fulfilment of general requirements for concentration admissibility, the Commission shall adopt decision allowing concentration and determining special

requirements and time limits for their fulfilment, as well as the means to control the fulfilment of the conditions (*conditional approval*).

As a requirement, pursuing conditional approval, a measure may be imposed aimed at changing the structure undertakings, intended to eliminate the risks of restriction, distortion, or prevention of competition on the market of the Republic of Serbia, or its share.

If the Commission determines that concentration with no issued approval was implemented, or that requirements and obligations were not met where concentration was conditionally approved, it may adopt a decision to impose measures on undertakings which are needed for the establishment, or preservation of competition on the relevant market (deconcentration measures), thus ordering the parties to split the company, dispose of the stakes or shares, cancel agreement, or otherwise act as to establish the state prior to the concentration. This measure shall particularly include time limit and particular requirements to be met under the given order (Article 67).

### ***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.).**

As an autonomous and independent state authority the Commission for the Protection of Competition shall monitor application of the rules for the protection of competition (Articles 20-32 of the Law).

The Commission was established pursuant the law from 2005, while its powers and organizational structure were further developed by the law from 2009.

Under the jurisdiction of the Commission are the following groups or tasks:

- decision making: it shall decide on the rights and duties of undertakings, and impose administrative measures prescribed by the Law;
- regulation – initiative and participation: it shall lay down guidelines, instructions and other acts for the implementation of the Law, propose by-law acts for adoption by the Government, participate in drafting regulations in the field of competition, monitor and provide information on application of the legislation, and provide opinions on proposed regulations with effect on competition.
- cooperation with other state authorities;
- international cooperation;
- activities to raise awareness of the need for competition protection;
- keeping records on agreements, parties with dominant position, as well as on concentrations.

Bodies of the Commission are the Council and the President of the Commission.

President of the Commission, also chairing the Council, and 4 members constitute the Council. The Council shall take decisions on all issues under Commission jurisdiction, unless provided otherwise by the Law or the Statute. President of the Commission shall be the agent of the Commission, with jurisdiction to take decisions on issues set under his jurisdiction by the Law or Statute.

The Council and the President of the Commission shall be appointed and dismissed by the National Assembly, upon proposal by the competent parliamentary committee. The



candidates shall be determined based on public application procedure, while selection shall be made from separate lists for the President, and members of the Council. The President and members of the Council shall be elected for a five year tenure, with option to re-elect.

Persons providing expert services, and charged with preparatory inquiries are acting as officials in certain competition and concentration infringement investigation procedures and they constitute the Commission's Staff, managed by the Secretary as appointed by the Council.

### **Organizational structure of the Commission for the Protection of Competition**

<b>Organizational structure of the Commission</b>	<b>Number of employees:</b>
<i>Council</i>	5
Restrictive Practices Division	7
M&A Division	5
Legal Affairs Division	3
Economic Analysis Division	2
International and Domestic Cooperation Division	2
Financial Division	3
Division for Legal, HR and General Administrative Matters	6
<b>Total</b>	<b>28 + 5</b>

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

The Commission shall undertake necessary actions to collect evidence in order to properly ascertain factual basis of the case: particularly it shall collect statements from parties and witnesses, obtain expert opinion, collect data, documents and items, inspections and temporary dispossessions. (Articles 33-56 of the law).

Procedural powers in the investigative procedure are as follows:

- The Commission shall initiate investigation for competition infringement *ex officio* if, based on submitted initiatives, information and other available data it reasonably presume that competition infringement has occurred;
- The President of the Commission shall in each case appoint an authorized officer from the Staff to conduct the investigative procedure. The officer shall adopt procedural acts for evidence collection, except for those acts relating the examination

and expert opinions, which shall be subject to the decision of the President of the Commission.

- The Commission may order the party to the procedure to submit, i.e. make available the relevant data in written, electronic, or any other form, the documents, items containing the data, as well as other items which may be subject of evidence in the procedure, which party to the procedure is obliged or assumed to have in possession. In case the party does not submit, or make available the requested documents, data, or items until conclusion of the procedure, the Commission shall take a decision based on the state of evidence available in the case, and the suspicion resulting from the lack of the mentioned evidence shall be against the party not responding to the order;
- When there are grounds to suspect that requested data, items, or documents are in third party's possession, the Commission shall demand them through request for information submission, or availability. Recipients of such request are obliged to submit, or make available the data, documents and items which are subject matter of the request, except in the cases as prescribed by the Law. Request for information submission shall specifically include information on who and what it refers to, time limits to respond, as well as warning of the consequences in case of denied or incorrect information. Upon request of the person obliged to submit or make the data available, the Commission may review and collect data in the premises of that person;
- The Commission may deliver the request for information submission to other state authorities obliged to cooperate with the Commission, thus to act on this request within the given time limit, or to submit the data, documents, or other requested evidence at disposal, or to make a justified statement on the subject matter of the request. This obligation particularly refers to the authorities and organizations competent for statistics, tax authorities, local self government authorities and organizations, chambers of commerce and other organizations with public authorizations. In case of failure to act within given time or incomplete actions, or lack of actions, the Commission may respectively inform the authority supervising that authority or organization, or the supervising authority, and request necessary actions to be taken as to provide the requested data. In case of lack of cooperation following above mentioned actions, or Commission's multiple unsuccessful attempts to establish cooperation with a certain state authority or organization, the Commission may issue a public statement thereof.
- During inspection, authorised officer of the Commission may enter and examine business premises, vehicles, land and other premises in the seat of the party and other places where the party, or a third party carries out business and other operations; inspect business and other documents, regardless of the manner of storage of such data; to seize, copy, or scan business documents, and if not possible for technical reasons, authorised officer may seize business documentation and keep them for as long as it takes to make copies thereof; seal all business premises as well as business documentation in the course of the inspection; take oral or written statements from party's representatives or employees, as well as documents on facts which are subject matter of the investigation, and if a written statement is necessary, authorised person must specify the date when such statement must be submitted. If the party requests to attend the inspection, that must be allowed, except if such request is directed to prolong and hinder the procedure.
- Police shall be obliged to offer assistance in certain actions during the procedure, and particularly during inspection and temporary dispossession;

- If there is a palpable concern of danger from removing or altering the evidence which are in the party's or third party's possession, an unannounced inspection may be carried out.
- Unannounced inspection shall be carried out as a sudden control of premises or data, documents and items found in the place, whereof the party or holder of the premises and items shall be informed about that at the moment of the inspection and on the spot.
- If needed to carry out the inspection inside the party', or third party's premises, the Commission authorized officer carrying out the examination shall be obliged to present to the owner or holder of the premises his official identification document and provide order of inspection of that premise and to request entry to the premises. When it is needed to carry out the examination in the apartment or other premises used for the same or related purposes, and the owner, or holder opposes to that, the President of the Commission shall without delay request respective court order. Holder of the apartment or other premise is entitled, personally or through his authorised representative and with two adult witnesses, to attend the examination. In case the holder of the apartment or his representative is not present, the inspection shall be allowed in the presence of two adult witnesses;
- In case documents, items, or items containing data or other objects of significance in the procedure are found during the inspection, temporary seizure may be imposed thereof until all relevant data and facts contained in such documents, or items, are classified, but not later than until the end of the procedure. The person whose documents, or items were temporarily seized, shall be issued a specific certificate on the spot.

Above powers are in compliance with the provisions of the Regulation 1/2003.

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

A measure for competition protection in the form of a fine up to 10% of the total annual turnover in the year preceding the one when investigation procedure was initiated may be imposed against undertakings infringing competition rules, i.e. abusing the dominant position on the relevant market, concluding or executing a restrictive agreement, as well as not executing or carrying out the measures for the removal of competition infringement or a de-concentration measure, or carrying out a concentration contrary to the obligation of suspension, or a concentration not approved to be carried out (Article 68).

The intention, weight, consequences and duration of the established competition infringement shall be taken into account when determining the amount of the fine pursuant to the measure for competition protection. Payment of the fine pursuing the administrative measure shall be made to the account of the budget of the Republic of Serbia. If fine is not paid in due time, enforced payment will be made by the tax administration according to the relevant tax legislation (Article 57 Paragraphs 2, 3 and 7).

Time limit for payment of the amount of the fine shall be determined by the same decision imposing that measure and shall not be longer than one year as of the date of the receipt of the decision. (Article 68 Paragraph 2).

## **21. Does the law provide for interim measures?**

Yes, when there is a threat from irreparable damage to persons directly related to the actions or acts which are subject of the investigation procedure, the Commission may order termination of some actions, or acts, and/or the obligation to undertake actions preventing or removing the detrimental consequences. Interim measures may last until adoption of the decision in that procedure (Article 56).

## **22. Does the law contain prescription periods?**

Competition protection measure may not be imposed or charged after a three year period following the date when the infringement action was performed, or the fulfilment of the obligation failed or from the last day of the period in which infringement took place. (Article 68).

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

Yes, upon request of the party, or applicant of the initiative to investigate competition infringement or a third party submitting or presenting the documents requested during the procedure, measure for protection of the source of all or specific information (protected information) may be imposed, if the interest of the request applicant is found to be justified and by its importance more significant than public interest as regarding the subject of the request (Article 45).

In addition, a separate procedural institute is provided for privileged communication, i.e. protection of information communicated between the party to the procedure and its authorised representatives through letters, notifications and other sources of communication, directly relating to the procedure and to which protected information rules apply (Article 51).

## **24. Does the law provide for sector inquiries?**

Yes, where fluctuation of prices or other circumstances indicate possible occurrence of the competition infringement, the Commission may analyse the state of the competition in a particular branch of industry or certain agreement categories in different branches of industry (sectoral analysis). For the purpose of implementation of sectoral analysis the Commission may request from undertakings to submit all necessary information or documents, and may conduct all necessary investigations, and may in particular request from undertakings to submit all agreements, decisions or notifications as regards concerted practices (Article 47).

The Commission is obliged to publish the report on implemented sectoral analysis in an appropriate manner, particularly on its web page, optionally inviting undertakings to comment on the report.

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

Yes, the procedure before the Commission shall comply with the administrative procedure rules as well as with special procedural rules for investigation procedure for competition infringement and concentration control. In accordance with the principle of the right of the party to be heard (Law on the General Administrative Procedure), the party must be allowed to make statement on the facts and circumstances of relevance for decision-making in that particular matter. This general rule is specified by the Law on Protection of

Competition, and its procedural provisions prescribe that before adoption of the decision in the competition infringement procedure, the Commission shall inform the party on significant facts, evidence and other elements establishing the decision, and asking to state their position within the given time limit (*statement of objections*) (Articles 38 and 66).

The party is entitled to view respective documents and to copy, on its own expense, certain parts thereof. Record on consultation and voting, official reports and decision drafts, documents denoted as confidential, as well as protected information cannot be viewed and copied. (Paragraphs 1 and 2 Article 43).

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

Third parties have no procedural option to directly participate in the procedure against a certain (or few) undertakings, due to its mainly inquisitory character, and its orientation against the party to the procedure. This legal solution is provided in order to prevent of abuse of the procedural rights by the party in the sense of initiating and directing the procedure against its competitors, causing harmful behaviour (concerning credibility, hindrance of market position and similar), enabling access to information otherwise a business secret, or for other purposes that are not in line with the goal of the competition rules and public interest, but rather with some particular interests of individual competitors.

Third persons entitled to submit the initiative for implementation of the competition infringement procedure, being applicants of the initiative, or providers of information in the course of the procedure, as well as other persons who present as likely their legal interest to follow the procedure, shall have the right to be notified on the course of the procedure, without the right to directly view the documents in the case.

Mentioned procedural rules as regards third parties do not preclude their legal protection in the civil legal proceedings (damage compensation).

Persons who submit an initiative for the inspection regarding the infringement of the competition, information providers and other persons able to prove their legally-founded interest in monitoring the procedure have the right to be informed about the course of the procedure (Paragraph 3 Article 43 of the law).

The order on the initiation of the infringement procedure includes an invitation to all natural and legal persons to send the Commission the documents and other relevant information they have (Article 35, Paragraph 2).

## **27. Does the law provide for judicial review?**

Yes, the procedure investigating the legality of the decision adopted under the procedure before the Commission shall be carried out upon legal action brought by the party to that procedure, before the Administrative Court, in compliance with to the procedure prescribed by the Law on Administrative Disputes (*Official Gazette of RS*, no. 111/2009).

Legal control of the acts adopted by the Commission pertains investigation of the legality of the Commission decision as a whole: in respect of the decision on existence of competition infringement *in meritum*, or of the decision on application of competition rules in the given case, as well as in respect of the legality of the administrative procedure carried out before the Commission, including the application of the Commission procedural and investigation powers, and in respect of the decision on the fine, contained in the administrative measure for competition protection.

Undertaking as the plaintiff against whom the Commission adopted the decision, and the Commission for the Protection of Competition, as the defendant, shall be parties to the court proceedings.

In the course of administrative dispute the court shall be deciding based on the facts established in the court hearing, unless the subject of the dispute obviously does not require hearing of the parties and particular establishment of facts of state, or if parties accept the decision to be adopted without holding a court hearing.

The court shall investigate legality of the disputed decision within the limits of the request under the claim, not being bound by the reasons contained therein. In case the court find the claim in favour of the plaintiff, its judgement shall annul the disputed decision as a whole or partially and return it to the Commission to reinvestigate.

Against the court judgement reached in the administrative dispute against the decision that was made in administrative procedure where party had no right to appeal, as in the procedure before the Commission for the Protection of Competition, an extraordinary legal remedy, a request to reconsider court judgement, may be filed, which shall be subject to the decision of the Supreme Court of Cassation.

If by its nature it is needed to take a new decision replacing the annulled one, the Commission shall be obliged to do so without delay, not later than 30 days as of the receipt of the judgement, thus being bound by the legal reasoning of the court, as well as by the court's objections concerning the procedure.

The Law on Protection of Competition includes special provisions on court proceedings in these matters as regards specifying the grounds for investigation of the amount imposed by the administrative measure and court's obligation to decide thereof in the same proceedings, if illegality of the disputed Commission's decision was determined solely in that part. In addition, special short time limits are prescribed for actions to be taken regarding the claim. Although claim against Commission decision, in general, as a rule does not delay its enforcement, it is provided for the Commission Council to, upon particular request from the party, optionally delay its enforcement until the court's final decision on the upon the claim of the party (Articles 71 and 72).

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

Yes, in addition to the mentioned obligation to publish sectoral analysis (see answer to question no. 24) it is also mandatory to publish decisions detecting competition infringement, as well as the conclusion on the procedure initiation *ex officio*, in the "Official Gazette of the Republic of Serbia", as well as on Commission web page. Exceptionally, conclusion on procedure initiation shall not be published where the President of the Commission evaluates that such publishing would jeopardise implementation of the procedure (Article 40).

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

Yes, in accordance with the general rules of the Law on Obligations. It is particularly prescribed that claims for damages caused by competition infringement shall be brought before the court of jurisdiction in the civil matters, whereas the court shall not be bound by the Commission's decision, reasons and amount of the damage (Article 73).

**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.).**

Note: Answer includes all information inclusive of the meeting of the Council held on 25/11/2010.

**RESTRICTIVE AGREEMENTS**

	<b>FILES</b>	<b>Initiated procedures</b>	<b>Completed</b>	<b>Underway</b>
1.	Restrictive agreements	11	9	2
2.	Detecting that a particular agreement is not prohibited	3	3	0
3.	Individual agreement exemptions from prohibition	11	11	0
	<b>Total</b>	<b>25</b>	<b>23</b>	<b>2</b>

Examples of recent decisions and listing of serious competition infringements:

**Year 2009**

**1.1. The Decision taken by the Association of Serbian Insurance companies for comprehensive motor vehicle insurance and Agreement of the members of the Association to adopt this Decision**

As requested by UNIQUA Non-life Insurance JSC, the procedure initiated against the Association of Serbian Insurers, was appended to the procedure initiated *ex officio* against the members of the Association.

The Commission established that the Decision of the Board of Directors of the Association of Serbian Insurers, of 5<sup>th</sup> June 2008, and the Agreement on adoption of this Decision by the members of the Association, were acts aimed at significant competition prevention and restriction on the market of comprehensive insurance services for motor vehicles leasing purchased, or that adhering to Article 7 of the Law on Protection of Competition (*Official Gazette of RS*, no. 79/05), were prohibited and null.

Pursuant to the Decision of the Board of Directors, which was distributed to all comprehensive motor vehicle insurers for a written statement of acceptance, and which was applied as of 16<sup>th</sup> June 2008, the Association laid down business conditions for insurers – members of the Association, recommending them to waive accounting and billing of the comprehensive insurance premium as single and advanced payment for a multi-annual insurance period, thus to apply former annual accounting, whereby interfering with business policy of undertakings.

Administrative dispute is underway, while infringement procedure was terminated by the Decision of the City Magistrate, which was appealed against before the Magistrate's Council. The Commission's appeal against the City Magistrate's Decision discarding the request for procedure initiation, was rejected by the Decision of the High Infringement Court in Belgrade, as of 9<sup>th</sup> March 2010.

## **1.2. Decision of the Association of Serbian Insurers on auto liability insurance and implementation of this Decision by Association members**

The procedure was initiated *ex officio*.

The Commission established that the Decision of the Board of Directors of the Association, as of 23<sup>rd</sup> July 2008, with premium tariff X-AO for insurance of owners and users of motor and ancillary vehicles from liability for damages caused to third parties (insurance from auto liability), as of 11<sup>th</sup> August 2008, stands for an agreement significantly preventing and restricting competition on the market of insurance services rendered to owners and users of motor and ancillary vehicles, thus prohibited in the sense of Article 7 of the Law.

Adhering to the rules valid at the time, the Association was empowered to determine solely technical premium, while insurers independently decided, within prescribed limits, on the amount to be added on account of contributions for prevention and overhead expenses. However, contrary to the rules, the Association determined minimum premium amount, i.e. service sale price, hence interfering with the business policy of the undertakings and preventing them to independently undertake business activities.

Companies Dunav Insurance and Uniqua appealed against the Commission's final Decision and the dispute is underway. Infringement procedure was finalized by the Decision of the Magistrate in Belgrade, as of 15<sup>th</sup> March 2010, rejecting the request for procedure initiation.

## **Year 2010**

### **1.1. Agreements on trading conditions concluded between companies Metro Cash & Carry ltd Belgrade and INVEJ ltd Belgrade**

The procedure was initiated *ex officio* in October 2009.

The decision, which was adopted on 26<sup>th</sup> February, determined that Agreement annexes (concluded in 2008 and 2009) included a provision settling an additional rebate for compliance with recommended prices, aimed at determining the sale price in future sales (Resale Price Maintenance), which is prohibited per se. Mentioned provisions stand for an agreement aiming at, or resulting in, significant competition restriction, which is the reason why such acts are prohibited and null.

Administrative dispute is underway. Request for infringement procedure initiation was rejected by the Decision of the Magistrate Court.

### **1.2. Agreements on trading conditions between DIJAMANT JSC and 24 retailers**



The Commission initiated procedure against Dijamant JSC and its 24 buyers *ex officio*, based on their notification on the prohibited agreement, with reference to provisions on immunity from imposed penalty. The agreement was reported because of the provisions approving additional rebate of 0.5% for compliance with the minimum sale price for edible sunflower oil.

The Commission adopted as of 4<sup>th</sup> October 2010 the decision establishing that agreements between Dijamant JSC and 24 retailers contained the provisions binding the buyers to apply the minimum, fix and/or recommended price in future sales, which is as such prohibited and null based on the Law on Protection of Competition.

### **1.3. Swisslion Group LLC and IDEA LLC**

While Swisslion is among the biggest manufacturers of confectionery products in Serbia, IDEA is one of the biggest retailers and wholesalers on Serbian market. Swisslion and IDEA informed the Commission (by the end of October 2009) on the Sales Contract they concluded for 2009, which included provisions on application of the recommended minimum resale prices with established scheme for determining the retail price and formula for calculation of the sale price in different outlets of IDEA chain. In the notification on prohibited agreement, the parties made reference to provisions of the Law from 2005 on immunity from imposed penalty.

The Commission initiated the procedure *ex officio* based on Article 10 of the Law on Protection of Competition, as applied since 1<sup>st</sup> November 2009.

The procedure is underway.

## **ABUSE OF DOMINANT POSITION**

<b>Initiated procedures</b>	<b>Completed procedures</b>	<b>Identified abuse</b>	<b>Underway</b>	<b>Submitted initiatives for initiation of the procedure</b>
<b>6</b>	<b>3</b>	<b>2</b>	<b>3</b>	<b>15</b>

Examples of recent decisions and listings of serious competition infringements:

### **1) Eki Transfers/Tenfore**

Eki Transfers and Tenfore, representing Western Union in Serbia, developed a network of long term sub-agency agreements with 24 out of the total of 32 banks on the territory of the Republic of Serbia, authorized for foreign exchange transactions. With two more banks - Societe General and Postal Savings Bank, which concluded direct agency agreements with Western Union, the number reached 26 banks out of the total of 32 banks,

whereby the four agents gained a group dominant position in the market of cross border quick money transfer among natural persons.

Eki Transfers and Tenfore abused the dominant position agreeing restrictive provisions, such as “loyalty commitment”, i.e. “exclusivity”, which were valid for the period of agreement duration, as well for a certain period after expiration, or agreement termination (lasting 18 months, depending on the bank). The above provisions constrained the banks not to render services of quick money transfer to Western Union competitors within the period of the agreement, and during the given period after its expiration, or termination. In addition to the above mentioned, most contracts concluded by the Eki Transfers, provided for an additional bank obligation in cases of disrespected exclusivity, involving payment of penalty amounts.

The “loyalty commitment”, i.e. “exclusivity” obligation agreed by the Western Union agents was long term binding for business banks. Obligation to pay penalties where undertaken loyalty obligation was infringed was additionally discouraging for the termination of the contract with Western Union agent, or for concluding contract with its competitor. That way entry of a potential competitor was prevented and additional market barriers were created. The most significant non-regulatory barrier to new operators entry onto the relevant market was their inability to realise economy of scale.

Hence, the Commission evaluated that the contracted restrictive provisions as above mentioned resulted in complete market foreclosure for Western Union competitors.

The Commission ordered Eki Transfers and Tenfore to conclude annexes to contracts with banks thus amending current contracts by deleting all restrictive provisions which required the banks on long term basis to render services exclusively to Western Union.

## **2) Companies: Imlek and Mlekara Subotica**

The decision which was adopted in the repeated procedure conducted adhering to the Supreme Court Decision, established abuse of the dominant position by the shareholding companies Mlekara Subotica (producer of milk and dairy products from Subotica) and Imlek (producer of milk and dairy products from Padinska Skela, Belgrade), both majority owned by the DANUBE FOODS GROUP B.V, which was the reason why they were considered as a single undertaking. The decision established that the above companies abused their dominant position on the market of raw milk purchase, imposing unfair business conditions and applying unequal business conditions on undertakings. Act of abuse was reflected in restrictive provisions agreed in standard form contracts which the company concluded with raw milk producers. Such provisions specified that producers were obliged to, without delay, inform the dairy on contacts with other dairies and milk purchasers as well as on any business offers received from other dairies; to test raw milk quality solely in the dairy's laboratory, and, that for contractual purposes the parties agreed to consider the findings of the dairy's laboratory as final; to fix purchase price based on the price list attached to the contract, whereas the contract did not foresee the conditions needed to make changes in the the price list, and the producer's right to unilaterally terminate the contract, under reasonable conditions, in case the producer was dissatisfied with the purchase price. Likewise, producers were required, under credit agreements and heifers distribution, to undertake delivery of entire quantity of produced milk for a fixed period, instead of the quantities produced only from purchased/distributed heifers. The contracts also provided for unfair conditions of contract termination, to the detriment of the raw milk producers.

On the grounds of its decision, Commission ordered those companies to amend restrictive provisions of the contracts concluded with raw milk producers, as to enable producers to be informed about their rights regarding the selection of an independent laboratory for raw milk quality testing, and to have a transparent process of setting up the purchase price and to provide for a unilateral termination of contract under equal conditions for both contractual parties. As regards contracts on heifers distribution, it was ordered to amend them so that producer could be obliged to deliver only the quantity of milk produced from distributed heifers and only within the period until their return, i.e. credit contracts were binding for producers only in respect of the quantity of milk sufficient for the settlement of the undertaken credit obligation within the period of credit indebtedness.

Administrative Court judgment dismissed the action brought by the Mlekara Subotica and Imlek, thus confirming the Commission Decision.

### **3) Sectoral analysis - Investigation of competition conditions on the market of liquid petroleum gas**

Division for Monitoring Abuse of Dominant Position, in the course of 2009, conducted an investigation of competition conditions on the market of liquid petroleum gas in Serbia. Upon completion of the procedure, the Commission developed a report which was presented to undertakings in the Chamber of Commerce and published on the Commission's website. In its report the Commission evaluated competition conditions on the market addressing recommendations to NIS TNG, undertaking with significant market share, not to undertake actions possibly contrary to the Law on Protection of Competition, as well as to all undertakings suggesting that "parallel practice" relating to fixing of the retail price by TNG was not in accordance with free competition principles and that it was needed to cease such practice.

## **CONCENTRATIONS**

<b>Total number of decisions:</b>	<b>Decisions in summary procedure:</b>	<b>Decisions in investigative proceedings:</b>	<b>Conditionally approved concentrations</b>
<b>141</b>	<b>138</b>	<b>3</b>	<b>2</b>

Examples of recent decisions:

#### **1. Concentrations approved in investigative proceedings:**

*1) Concentration of companies "Victoria Group" JSC NoVi Sad and "Soja promet" JSC Becej*

Having completed investigative proceedings in February 2010, the Commission for the Protection of Competition took the decision approving concentration of undertakings on the market derived from the control which was gained after the target company "Soja protein"

JSC from Becej was taken over by the company "Victoria Group" JSC, registered office in Novi Sad. Investigative proceedings was initiated having in mind that the target company, even prior to concentration, already held dominant position over particular relevant market products (soya, crude soya oil and soybean meal markets) so that it was necessary to evaluate whether implementation of this concentration would distort competition on the said markets. During investigative proceedings, relevant data and statements were collected from concentration players, main market competitors, as well as from the Association of Agriculture, Food-processing and Tobacco and Water Industry of the Serbian Chamber of Commerce and Statistical Office of the Republic of Serbia, and Customs Administration. Authorized persons from the Statistical Office of the Republic of Serbia, and Customs Administration were interviewed. Dominant position of the target company was founded in the fact that since its incorporation, it opted for production and processing of soya exclusively, as opposed to the competitors whose presence on those markets (production of soya, crude soya oil and soybean meal) presented neither their main, nor prevailing activity. The Commission concluded that there was no threat from respective markets foreclosure resulting from implementation of this concentration, since by that time the target company had not abused its dominant position, there was no distortion of competition, and there was no economic interest of concentration players to modify their future business activities in relation to their market competitors. The Commission evaluation took into account inter alia the possibility competitors had to exploit alternative supply sources in future, through import (customs duty rates for relevant products range from 0-30%, while import rates from EU countries are being annually reduced).

## ***2) Concentration of companies Delta Maxi ltd Beograd and T.P. Srbija, Kragujevac***

In December 2009, after completion of the investigative proceedings, a decision was taken to conditionally approve implementation of the concentration resulting from gaining control by the company Delta Maxid.o.o. Beograd over company T.P. Srbija from Kragujevac. With the aim to define the relevant market correctly and to obtain the data for evaluation of the effects of this concentration implementation on the market, the Commission initiated investigative proceedings. The Commission defined relevant product market as market for retail trade in non specialized shops with mainly food, beverages and tobacco, more specifically, the market was defined according to categories of retail outlets where respective activity was carried out (outlet format). The Commission defined the territory of the town of Kragujevac as the relevant geographic market (geographic market of respective business activities, as a rule is always local). Within the proceedings, retail market investigation was inter alia carried out by the Faculty of Economics – University of Kragujevac thus representing the grounds for the study "Analyses of the market of non-specialized retail sale, mainly food, beverages and tobacco in the town of Kragujevac". Based on the analysis of all data obtained within the investigative proceedings, the Commission evaluated that implementation of this concentration could create factual barriers for entry into the relevant market relating to retail outlet categories holding over 400 square meters of sale space. Implementation of this concentration would bring about commutation of market shares, as the concentration undertakings were involved on the same market. Implementation of this concentration would allow the company gaining control, to acquire significant additional space for its respective activities, and establish important advantage as regards its competition. Having in mind that majority of outlets of the target company falling under this category of retail outlets, were leased, the Commission deemed that restrictive competitive

effects could be prevented through conditions prescribing the acquirer to keep valid the existing agreements on lease concluded between the target company as a lessor and third parties. Validity time period of prescribed conditions was 3 years, with optional Commission's reviewing of the competition conditions, within this period, and pursuant to that, amending the conditions and time period of the measure.

## Opinions

Total number of delivered opinions: 66

Out of which:

Total number of opinions on whether there existed obligation to submit request for approval issuance as regards concentration implementation/concentration notification in a specific individual case: 47;

Total number of opinions relating to interpretation of individual provisions of the Law: 19.

## Sectoral analysis

During 2009, Commission conducted sectoral analysis of competition conditions in the market of liquid petroleum gas in Serbia.

Two sectoral analysis are underway:

- Sectoral analysis of competition in import, processing, wholesale and retail sector of naphtha and its derivatives market and
- Sectoral analysis of competition conditions in the dairy sector.

## 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*)?**

Legal framework basis in the field of State aid control is laid down in the Law on State Aid Control, which was adopted in July 2009 (*Official Gazette of RS*, no. 51/09), and whose enforcement was foreseen as of 1<sup>st</sup> January 2010.

For the purpose of implementation of the Law, in March 2010, the Government adopted Regulation on Rules for State Aid Granting (*Official Gazette of RS*, no. 13/10) and the Regulation on Rules and Procedure for State Aid Notification (*Official Gazette of RS*, no. 13/10). The regulations came into effect on 20<sup>th</sup> March 2010, establishing a legislative framework allowing full enforcement of the Law and a system for State aid control that is in compliance with the field related EU rules.

Given that direct enforcement of the provisions of the Law itself would have created a certain level of legal insecurity in enforcement of the Law on State Aid Control by the

Commission, adoption of the two above regulations paved way for a functional legal framework for State aid control.

In December 2009 the Government adopted Decision on Establishing of the Commission for State Aid Control (*Official Gazette of RS*, no. 112/2009). The Commission became operational in March 2010, when it held the first constitutive session.

The Commission for State aid control adopted legal opinion to evaluate compliance with the Law of only those individual aids and aid schemes adopted after 20<sup>th</sup> March, while other State aids should be subject to harmonization based on the Programme of Compliance of Existing State Aids with the Law, which shall, adhering to Article 25 of the Law, be adopted by the Government.

Ministry of Finance, pursuant to the obligation stipulated under Article 23 of the Law, adopted the Rulebook on Methodology for Drafting Annual Report on State Aid Granted, which inter alia prescribed the time limit for submission of the data to the Ministry, as well as the time limit for submission of annual report to the Government.

The Law and by-laws transposed rules and criteria from the EU *acquis (acquis communautaire)*, in the field of State aid thus fulfilling the obligations contained in the SAA and Interim Agreement. Provision under Article 1, Paragraph 2, of the Regulation on Rules for State Aid Granting foresees that in the course of State aid granting process the State aid grantor, and the proposer of the regulations constituting the basis for State aid granting shall also be bound to adhere to the rules contained in concluded international agreements relating to State aid, and not included in that regulation.

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

The Law defines State aid as “any actual or potential public expenditure or realised decrease in public revenue which confers to state aid beneficiary a more favourable market position in respect to the competitors and as a result causes or threatens to cause distortion of the market competition.”.

The Law and the Regulation on Rules for State Aid Granting define the rules which must be respected when granting State aid, while the Regulation on Rules and Procedure for State Aid Notification defines the procedure for notifying the State aid to the Commission for State Aid Control. The Commission for State Aid Control shall decide on compliance of the notified, or granted State aid with the Law, in the procedure of *ex ante* and *ex post* control.

Article 11 of the Law on State Aid Control foresees general obligation of notification of State aid to the Commission before granting, as well as obligation of notification of every change relating to the already notified State aid. The Commission shall then review, evaluate and decide on compliance of the notified State aid within 60 days as of the date of complete application submission.

During controlling process the Commission may request additional information from the State aid grantor. In case that, after receiving a complete notification, the Commission finds that notified State aid complies with the Law, it shall adopt a decision where such State aid shall be deemed allowed.

In case the Commission finds that State aid is fully, or partially, incompatible with the provisions of the Law, it shall adopt a conclusion laying down recommended measures and time limit for elimination of irregularities. In case State aid grantor fails to act on

Commission's conclusion, the Commission shall adopt a decision deeming the State Aid not allowed.

Pursuant to Article 10 of the Law on State Aid Control, the Ministry of Finance provides specialist, administrative and technical support to the Commission.

**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.**

According to Article 25 of the Law, the Government of the Republic of Serbia shall adopt the Programme of Compliance of the Existing Aids with the Law, Ministry of Finance started with data collection for producing the inventory of existing State aids, and to that end on 14<sup>th</sup> October 2010 it addressed all State aid grantors asking them to submit data on existing State aids within their jurisdiction. Inventory of existing state aids shall be the basis for the development of the Programme of Compliance.

Measures that were effective until 20<sup>th</sup> March 2010 and that continue to be so after the date of commencement of the full application of the Law shall be regarded as existing State aids. After producing the inventory of existing State aids and their harmonization with the Law, the Republic of Serbia shall have fulfilled the obligation from Article 38 of the Interim Agreement.

The Republic of Serbia has been producing annual reports on granted State aid since 2003.

The last annual report on granted State aid was compiled for 2009 and adopted by the Commission in June 2010. It was translated into English and published on the website of the Ministry of Finance. The report which was developed based on the data collected from State aid grantors, contained data on State aids granted before Law enforcement began.

In January 2011, the Ministry of Finance adopted the the Rulebook on Methodology for Drafting Annual Report on State Aid Granted, prescribing the methodology for annual report drafting and classification of aids contained in the report which are fully in line with the European practice.

State aid categories grantable pursuant to the Regulation on Rules for State Aid Granting are as follows: regional, horizontal, sectoral and state aid of small value (*de minimis* State aid).

Primary granting goals, based on which horizontal State aid was categorized, are prescribed under Article 3, of the Regulation. Separate rules for granting sector-specific State aids are prescribed for the following sectors: steel, coal and transport.

**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?**

Pursuant to Article 25 of the Law on State Aid Control, the Government formed Commission for State Aid Control, operationally independent in its work. Operational independence is guaranteed by Article 6 of the Law on State Aid Control. The Commission consists of five members appointed by the Government and proposed by authorised proposers.

Additional guarantees for Commission's independence are supported by the following facts: member of the Commission must hold no lower than university diploma and have the needed expertise in the field of State aid, competition or/and EU law; Commission members' mandate shall last five years with optional reappointment on proposal of the same proposer and may terminate only ensuing lawfully listed reasons (Article 8 of the Law on State Aid Control), funds for Commission's operations shall be provided from the budget of the Republic of Serbia. Members of the Commission are remunerated for their engagement in the Commission, as determined by the Government.

Authorized proposers of Commission members shall be the ministry responsible for finance, the ministry responsible for economy and regional development, the ministry responsible for infrastructure, the ministry responsible for environmental protection and the Commission for the Protection of Competition. In case member of the Commission is at the same time representative of the State aid grantor, he shall not have the right to participate in the decision making process.

The Commission shall decide on compliance of the notified State aid with the Law, as well as on the compliance of the State Aid for which the Commission possesses information that it was granted, but which was not notified, or the State aid that is used or was used contrary to the provisions of the Law. In the decision-making process on the compliance of the State Aid with the Law, the Commission shall assess influence of the aid on competition on the relevant market.

The Commission may order return of the unlawful State aid.

Pursuant to Article 10 of the Law, specialist, administrative and technical support shall be provided to the Commission by the Department for State Aid Control under the Sector for Economy and Public Undertakings of the Ministry of Finance. The Ministry of Finance shall keep records on State aids based on the EU classification.

Commission for State Aid Control submits annual report on state aid granted to the Government.

All Commission decisions shall be published on the website of the Ministry of Finance and available to all interested parties.

**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:**

Competencies of the Commission for State Aid Control are as follows: in the procedure of ex ante control it shall decide on compliance of notified State aid with the Law; in the procedure of ex post control it shall decide on compliance of granted State aid with the Law; adopts decisions and conclusions in the procedure of ex post control; submits annual report on State aid granted in the Republic of Serbia to the Government; cooperates with



Supreme Audit Institution, the Republic authority for budget inspection, the autonomous province department, namely department of the local self-government unit responsible for budget inspection, and with other domestic and international authorities, and, organizations and institutions in performing operations under its jurisdiction; publishes on its internet presentation decisions adopted in the procedure of ex ante and ex post control and annual report on State aid granted in the Republic of Serbia, as well as other data and information that it deems to be relevant for the enforcement of the Law; carries out other tasks in compliance with the Law.

**a) To what extent are its decisions on State aid binding on all parties?**

Commission's decisions, pursuant to Article 20 of the Law, are final and binding for all parties. Administrative dispute proceedings may be initiated against them, but the action brought shall not withhold execution of the decision (action shall not have suspensory effect).

**b) Can it ask for the recovery of unlawfully paid state aid?**

In case the Commission for State Aid Control, in the procedure of ex post control identifies cases of unallowed aid, State aid grantor shall be ordered, pursuant to Article 18 of the Law, to without delay take measures to recover the allocated amount of the State aid, increased by the default interest prescribed by law, from the day of using such aid until the date of recovering the used amount, as well as to suspend further granting of the amount not used.

**c) Can it take *ex officio* actions?**

In case the Commission finds that proposed State aid is contrary to the Law, or that State aid was granted without Commission's approval, or if, while conducting the procedure of ex post control it finds irregularities, the Commission may ex officio undertake measures aimed at enforcement of the Law.

The Commission shall, pursuant to Articles 9 and 16 of the Law be competent for enforcement of the ex post State aid control.

**d) Will the authority also be able to control existing State aid?**

The Commission for State Aid Control adopted legal opinion to evaluate compliance with the Law of those individual aids and aid schemes granted after 20<sup>th</sup> March 2010, while State aids established before the date of the commencement of the full application of the Law shall be subject to harmonization, in accordance with Article 25 of the Law.

**36. Is there a system in place which foresees a prior notification and a standstill clause?**

Pursuant to Article 11 of the Law on State Aid Control, grantor of the state aid shall be obliged, before granting the State aid, to submit State aid notification to the Commission. Likewise, proposer of the regulation constituting the basis for State aid granting, shall be obliged to notify the Commission about the draft, or proposed draft regulation, before its referral for adoption. In case of changes in the notified State aid after submission of the notification, State aid grantor, or proposer of regulation, shall be obliged to notify the Commission about this change.

Notified State aid may not be granted before finalization of the ex ante control procedure and adoption of the Commission decision (Article 15 of the Law on State Aid Control).

In case the Commission adopts a decision that the notified State aid is not allowed, the State aid may not be granted.

**37. Is there a system in place which foresees complaints by third parties?**

Every person with legal interest may submit request to the Commission for initiation of the ex post control procedure, as foreseen under Article 17 of the Law on State Aid Control.

Commission's decision in the procedure for evaluation whether State aid is in compliance with the Law shall be final, but it shall be possible to initiate administrative dispute proceedings against it. Administrative dispute may be initiated even if the Commission did not adopt the decision within 60 days from the receipt of the complete notification. Every person with legal interest may initiate administrative proceedings against Commission's decision (Article 11 of the Law on Administrative Proceedings).

**38. Are fiscal aid measures as well as aid to sensitive sectors (for instance steel sector, synthetic fibres) subject to comprehensive State aid control?**

Regulation on Rules for State Aid Granting defines rules for granting regional State aid (Articles 7-17), horizontal State aid (Articles 18-87) and sectoral State aid (Articles 88-94), as well as specific instruments for granting State aid (Articles 98-100).

The criteria for State aid granting in the sector of steel are prescribed by Article 88 of the Regulation on Rules for State Aid Granting, and in the sector of coal extraction by Article 89 of the same Regulation.

Fiscal State aid is covered by the definition of the State aid under the Law on State Aid Control and shall be subject to control.

Article 73 Paragraph 8 of the Stabilization and Association Agreement, and Protocol 5 to the SAA, lay down the rules which shall be applied in case aid for restructuring was allocated to steel industry.

**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.**

Endeavoring to relax the consequences of the world economic crisis to the economy of the Republic of Serbia, in 2009, state aid has been granted through the following instruments:

- subsidies,
- tax incentives (tax credit, cessation of tax liability, tax write-off),
- loans - favourable credit.

In 2009, through various forms of state aid, a total of RSD 37,071 million has been approved (≈EUR 351.4 million) in loans (RSD 36,013 million (≈EUR 341.4 million) in loans and RSD 1,068 million (≈EUR 10.1 million) in debts written off).

The biggest provider of state aid in the form of subsidies, according to the number of users and the scope of activity in 2009 has been the Ministry of Economy and Regional Development (MERD). The aforementioned aid has been granted for individual projects to solve the problem of redundancy through the realisation of the social programme in the process of restructuring and sanation of undertakings, incentives for employment, development of small and medium-sized undertakings, and the development of clusters and business incubators.

This Ministry has, during 2009, granted subsidies in the amount of RSD 13,257 million (≈EUR 125.7 million), for the following: employment in the amount of RSD 5,057 million (≈EUR 47.9 million), encouragement of the development of small and medium-sized undertakings in the amount of RSD 4,036 million (≈EUR 38.3 million), encouragement of clusters and business incubators in the amount of RSD 60 million (≈EUR 0.6 million), incitement of production to overcome financial difficulties arising from the global financial crisis in the amount of RSD 595 million (≈EUR 5.6 million), subsidization of interest on approved bank loans in the amount of RSD 3,509 million (≈EUR 33.3 million).

According to the categories of state aid, within the horizontal state aid, during 2009, in the Republic of Serbia, a total of RSD 53,021 million has been granted (≈EUR 502.6 million) as follows: on the basis of subsidies RSD 13,409 million (≈EUR 127.1 million), on the basis of tax incentives RSD 31,171 million (≈EUR 295.5 million), and on the basis of favourable loans RSD 8,441 million (≈EUR 80 million). Within the jurisdiction of the Ministry of Economy and Regional Development (MERD), a part of this aid has been granted for the employment, sanation and restructuring, as well as the development of small and medium-sized undertakings and the encouragement of export. Within the state aid granted to different sectors, in the field of tourism, RSD 76 million (≈EUR 0.7 million) has been granted, and, on the basis of regional state aid, a total of RSD 3,020 million (≈EUR 28.6 million) has been granted.<sup>2</sup>

The Serbian government adopted a programme of measures to mitigate the adverse effects of the world economic crises. Therefore, at the beginning of 2010, the Regulation on support measures to construction industry through subsidizing interest rates of loans for financing the construction of residential buildings in 2010 (*Official Gazette of RS*, no. 4/10 and 91/10) was passed. Under the conditions stipulated by the Regulation, the Ministry of

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<sup>2</sup> Source: Report on state aid granted in the Republic of Serbia in 2009, adopted by the Commission for State Aid Control, in July 2010

Environment and Spatial Planning will subsidize the interest rate on the loans for financing the construction of residential buildings and pay a 7% interest rate. Pursuant to Article 8 of the aforementioned Regulation, the entire amount of the subsidy will be paid to the commercial banks by the Ministry as a grant by means of a lump sum payout. In this manner the beneficiaries of this subsidy programme, the investors, will have an opportunity to get favorable loans for construction of residential buildings. Furthermore, the end beneficiaries of this programme are the buyers of the apartments since the state kept the right to limit the price of the apartments depending on a city and the zone. In 2010 the following sums have been paid to the following commercial banks for the purpose of subsidizing interest rates: 1) RSD 30,126,891.00 (≈EUR 285,562.9) to Erste Bank; 2) RSD 219,769,175.8 (≈EUR 2,083,120.1) to Komercijalna Bank; 3) RSD 1,104,799,664.62 (≈EUR 10,472,034.7) to AIK Bank; 4) RSD 24,461,457.98 (≈EUR 231,862.2) to Intesa bank; which leads us to the total amount of RSD 1,379,157,188.98 (≈EUR 13,072,579.9).

The Parliament of the Republic of Serbia adopted the Law on stimulating construction industry of the Republic of Serbia in a response to the new conditions of the economic crisis (*Official Gazette of RS*, no. 45/10) in June 2010. Based on the aforementioned Law, two bylaws were also passed that further regulate the implementation of the Law: the Regulation on the project proposals whose implementation has been set with the construction industry of the Republic of Serbia and monitoring the dynamics of financing these projects (*Official Gazette of RS*, no. 50/10, 60/10, 64/10 and 91/10) and the Regulation on criteria for determining the bidder eligible to participate in implementation of projects as prescribed by the Law on stimulating construction industry of the Republic of Serbia in a response to the new conditions of the economic crisis. Projects that are funded and implemented in accordance with this Law are related to the construction of schools and kindergartens, hospitals, sports facilities, facilities for the performance of activities related to culture and other objects of public importance. Further to the above, where the project is nominated by the authorized proponents, i.e. the Capital Investment Fund of Vojvodina or the competent local self-government unit, the contractor for the above noted projects shall be the Ministry of Environment and Spatial Planning. The Ministry shall fund the projects through Development Fund of the Republic of Serbia in the maximum amount of up to 50% out of the total investment. However, during 2010 no funds, referred to in the Law, were disbursed. The full application of the Law is expected in 2011.

#### **40. Please provide detailed information (beneficiaries, amounts, forms of aid) on State aid measures provided to the financial sector since 2008.**

In order to prevent and mitigate the effects of the global financial crisis to the financial stability of the country, in accordance with the arrangement with parent banks, the National Bank of Serbia, on 5 May 2009, reached the Decision on Special Facilities Supporting The Country's Financial Stability (*Official Gazette of RS*, no. 34/2009, 36/2009, 51/2009, 83/2009, 95/2009, 104/2009 and 12/2010). This Decision enables banks to use special benefits under the condition of maintaining of prescribed exposure of the bank group to the Republic of Serbia, the maintaining of the prescribed indicator of capital adequacy and the liquidity indicator, the relaxation of obligations to the bank debtors, etc. Special support facilities encompassed the approval for a short-term dinar loans, swap transactions with the National Bank of Serbia and benefit relating to the establishment of the currency structure of the required reserves. This Decision prescribes that the above mentioned facilities can be used until 31 December 2010 at the latest, apart from the benefit for required reserves, and/or enabling banks to apply the percentage of 20% to the corresponding part of the reserves

instead of the percentage of 40%, while establishing the currency structure of the required reserves base in foreign currency, prescribed by the decision on the required reserves.

Since 18 March 2010, the aforementioned benefit for the required reserves has been used by 27 out of 34 banks, and since 18 August 2010, by 26 out of 34 banks.

The closely defined conditions for the approval and use of loans to banks have been regulated by the Decision on Terms and Conditions of Granting Short-Term Dinar Loans to Banks (*Official Gazette of RS*, no. 34/2009 and 94/2010), issued by the Monetary Policy Committee on 5 May 2009. This Decision enabled banks to use a short-term dinar loan, with the maturity of twelve months at the longest, on the basis of the pledge of the National Bank of Serbia's securities, state securities and the pledge in free foreign exchange. Since 26 May 2009, the National Bank of Serbia has organised regular auctions for the approval of these loans. However, banks have not used short-term dinar loans to a significant extent. During 2009, 8 auctions have been organised, and in 3 of those auctions only one bank submitted the request for the use of loans. All of the approved loans in 2009, in the amount of RSD 587,842,380.00 million ( $\approx$ EUR 5,571,965.7 million), have been returned before the maturity of these loans. During 2010, 12 auctions have been organised, and in 2 of those auctions only one bank submitted the request for the use of loans. The total amount of approved loans in 2010 was RSD 551,317,860.00 million ( $\approx$ EUR 5,225,761.7 million), and all of the approved loans have been returned.

The closely defined conditions for the swap transactions to secure bank liquidity in dinars, and/or foreign currency, have been regulated by the Decision on Terms and Conditions of Foreign Exchange Swap Trading between the National Bank of Serbia and Banks (*Official Gazette of RS*, no. 34/2009), issued by the Governor on 5 May 2009. In accordance with this Decision, the National Bank of Serbia has regularly organised swap auctions of foreign currency, starting from 18 May 2009, with the standard maturity of 14 days (it has organised auctions on Mondays, where it has sold foreign currency by swapping, and on Wednesdays it has organised auctions for purchasing of foreign currency by swapping). During 2009, a total of 66 auctions has been organised (33 auctions for purchasing and 33 auctions for selling of foreign currency by swapping). Realisation took place only at the first two auctions. In the first, the National Bank of Serbia sold EUR 1 million by swapping, and at the other, it purchased EUR 2 million by swapping. During 2010, up to and including 1 December, there has been a total of 96 auctions organised (48 auctions for selling and 48 auctions for purchasing of foreign currency by swapping), where no banks showed interest in these transactions.

Even though the National Bank of Serbia has enabled banks to regularly use the special support facilities, approval of short-term credits and swap transactions, at the auctions held in accordance with the previously determined calendar, they have not used these benefits in a significant quantity. Therefore, the Executive Board of the National Bank of Serbia, on 9 December 2010, issued the decisions to stop the validity of these measures, with the date of 1 January 2011, except for the benefit for the required reserves of banks which is still being applied.

Having in mind the influence of the economic crisis on the stock exchange, and the possible influence on the value of investments of insurance undertakings, the National Bank of Serbia, in late 2008, reached the Decision on Temporary Measures for Preserving Financial Stability (*Official Gazette of RS*, no. 116/2008, 12/2009, 43/2009, 104/2009 and 111/2009), which increases the limits for investments in technical reserves of insurance undertakings for insurance in bank deposits from 30 to 35%, i.e. from 35 to 40% for the life insurance, and/or non-life insurance, respectively, and it has changed criteria which the shares traded with in the organised market should fulfil in order for them to be used to cover technical reserves. Also, in late 2009, these criteria have been adjusted to the current changes in the market.

In late 2009, the Decision on restrictions on specific forms of depositing and investing technical reserve assets and on maximum levels of specific deposits and investments of guarantee reserves of insurance companies (*Official Gazette of RS*, no. 35/2008 and 111/2009) established the advances against policies (advance payment of the sum insured up to the level of repurchase value specified in the life insurance contract), as a form to cover technical reserves of life insurances.

The Ministry of Finance has, in order to combat negative effects of the world economic crisis, which has primarily influenced the financial sector, reached an economic policy measure to instigate foreign exchange savings. Namely, after the first impact of the crisis, the population has begun to withdraw foreign exchange savings. The Ministry of Finance, in accordance with the corresponding legislation, has introduced temporary exemptions from tax on savings. This measure lasted from 30 January to 21 December 2009.

Apart from this, in late 2008, the Law on Deposit Insurance has been changed to increase the guarantees from EUR 3,000 to EUR 50,000 per investment, as a means to support the financial and banking sector.

#### **41. The methodology for drafting State aid inventory aligned with EU survey on state aid?**

Annual reports on State aid granted in the Republic of Serbia have been drafted since 2003. The Commission for State Aid Control adopted the Annual Report on State Aid Granted in the Republic of Serbia in 2009, on 23<sup>rd</sup> July 2010.

The Ministry of Finance, pursuant to Article 23 of the Law on State Aid Control adopted the Rulebook on Methodology For Drafting Annual Report on State Aid Granted, prescribing the time limit for submission to the Ministry of the data on granted State aid as well as the time limit for submission of the report to the Government.

Adoption of this Rulebook harmonizes the methodology for report drafting with the Commission Regulation (EC) No 794/2004.

### ***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?**

The rules on state aid control shall not be applied to public undertakings in the transitional period of three years from the beginning of the application of the Interim Trade Agreement, which is in accordance with the Stabilisation and Association Agreement (Article 74) and the Interim Trade Agreement (Article 39). Serbia has begun to apply the Interim Trade Agreement on 1 January 2009, and the rules on State aid control shall be applied to public undertakings starting from 1 January 2012. Public undertakings and undertakings with special or exclusive rights shall be subject to State aid control in accordance with Article 106 of the Treaty on the Functioning of the European Union and the EU secondary legislation.

Also, the answer to this question was given in more detail in the answers to questions 1 and 3 of this Chapter.

#### **43. Which public or private undertakings have been granted exclusive or special rights?**

According to the general Law on Public Enterprises and Performance of Activities of General Interest (*Official Gazette of RS*, no. 25/00, 25/02, 107/05, 108/05, 123/07), a public enterprise is an undertaking which performs an activity of general interest, founded by the state, and/or a local self-government unit. All the public enterprises have been founded in accordance with special laws. The general interest activities, within the meaning of this law, are the activities which have been determined as such by the law in the following fields: production, transmission, and distribution of electricity; coal production and processing; exploration, production, processing, transport and distribution of oil and natural and liquid gas; trade in oil and petroleum products; railway, postal and air traffic; telecommunications; publication of the Official Gazette of the Republic of Serbia; information; publication of textbooks; using, managing, protecting and developing goods of general interest (water, roads, mineral raw materials, forests, navigable rivers, lakes, coasts, spas, wildlife), and communal activities. Activities within the meaning of Paragraph 1 of this article are also the activities with strategic importance for the Republic of Serbia, as well as the activities necessary for the functioning of state bodies and bodies of local self-government units, established by the law.

The Ministry of Finance, through the Department of Public Enterprises gives its opinion in the procedure for giving the Government's consent to the financial plans of undertakings which perform activities of general interest, some of which have been granted exclusive or special rights:

1. PE for Shelters (JP za skloništa)
2. PE "Official Gazette" (JP "Službeni glasnik")
3. PE "Srbijagas" (JP "Srbijagas")
4. PE "Transnafta" (JP "Transnafta")
5. PE "Yugoimport SDPR" (JP "Jugoimport SDPR")
6. NPPE - Newspaper Publishing Public Enterprise „Panorama”, Pristina (NIJP "Panorama", Priština)
7. PE „Elektroprivreda Srbije" (JP „Elektroprivreda Srbije")
8. PE „Elektromreža Srbije" (JP „Elektromreža Srbije")
9. PE for Underground Coal Exploitation "Resavica" (JP PEU "Resavica")
10. PE "Srbijasume" (JP "Srbijašume")
11. PE "Serbian Railways" (JP "Železnice Srbije")
12. PE of PTT Communications "Serbia" (JP PTT saobraćaja "Srbija")
13. PE "Ski Resorts of Serbia" (JP "Skijališta Srbije")

14. PE National Park Kopaonik (JP Nacionalni park Kopaonik)
15. PE National Park Djerdap (JP Nacionalni park Đerdap)
16. PE National Park Fruška Gora (JP Nacionalni park Fruška Gora)
17. PE National Park Tara (JP Nacionalni park Tara)
18. Serbian State Company for Textbooks (JP Zavod za udžbenike)
19. PE for Development of Mountain Tourism “Stara Planina” (JP “Stara Planina”)
20. PE News Agency TANJUG (JP NA TANJUG)
21. Public Water Management Company “Srbijavode” (JVP “Srbijavode”)
22. PE “Roads of Serbia” (JP “Putevi Srbije”)
23. PE National Park Sara Mountain (JP Nacionalni park Šar planina)
24. PE Nuclear Facilities in Serbia (JP Nuklearni objekti Srbije)
25. PE “Broadcasting Technology and Links” (JP “Emisiona tehnika i veze”)
26. JAT ENGINEERING ltd (JAT TEHNIKA d.o.o.)
27. Education Survey ltd. (Prosvetni pregled d.o.o.)
28. National Park Mokra Gora ltd. (Park prirode Mokra gora d.o.o.)
29. Dipos ltd – Diplomatic Housing Enterprise (Dipos d.o.o.)
30. Corridor X ltd (Koridor X d.o.o.)
31. National Corporation for Tourism Development ltd. (Nacionalna turistička razvojna korporacija d.o.o.)
32. Joint stock company „Telekom Srbija” (Telekom Srbija a.d.)
33. Joint stock company JAT Airways (JAT Airways a.d.)
34. Joint stock company Nikola Tesla Airport (Aerodrom Nikola Tesla a.d.)

Apart from the undertakings mentioned above, the following undertakings are also included:

- Serbian State Lottery (Državna lutrija Srbije)
- Public Water Management Company “Vode Vojvodine” (JVP „Vode Vojvodine“)
- Public Water Management Company “Beogradvode” (JVP „Beogradvode”)
- Federal Public Institution - Yugoslav Survey (SJU Jugoslovenski pregled)
- Federal Public Institution - Radio Yugoslavia (SJU Radio Jugoslavija)
- Republic Broadcasting Institution “Radio televizija Srbije (RTS)”
- Broadcasting Institution of Vojvodina “Radio televizija Vojvodine (RTV)”
- PE Vojvodinašume (JP Vojvodinašume)
- PE Borjak, Vrnjacka Banja (JP Borjak, Vrnjačka Banja)

Public Utilities are generally granted the exclusive rights to perform particular utility services. Depending on the nature of the utility service, apart from public utility enterprises, other undertakings or entrepreneurs such as mixed-ownership companies, companies with majority private ownership or privately owned companies can be granted exclusive rights to perform particular type of utility service. In the Republic of Serbia, public utility enterprises are dominant, although, recently, commercial business organizations (in private ownership) have started to perform utility services mainly concerning municipal waste management.

#### **44. What are the subject, scope and duration of the relevant exclusive or special rights?**

##### **Energy**



The Regulation on the Conditions and Manner of Import and Processing of Crude Oil and Petroleum Products (*Official Gazette of RS*, no. 92/07 and 93/07–corrigendum), in Article 6 gave permission until 31 December 2010 to the Joint stock company for exploration, production, importing, processing, distribution and trade in oil and petroleum products **"Petroleum Industry of Serbia"** (**"Naftna industrija Srbije"** a.d. Novi Sad - hereinafter referred to as: **NIS**) to import certain basic petroleum products (motor gasoline, diesel and fuel oil) in order to secure regular supply in the domestic market. In accordance with the aforementioned regulation, other petroleum products have been imported freely.

This Regulation has been repealed on 31 December 2010.

In accordance with article 171 of the Law on Energy (*Official Gazette of RS*, no. 84/04), in the electrical power sector, by the Decision of the Government of the Republic of Serbia on the Founding of the Public Enterprise for Electrical Power Generation, Electrical Power Distribution and Electrical Power Trade (*Official Gazette of RS*, no. 12/05 and 54/10), the **Public Enterprise "Elektroprivreda Srbije" (PE EPS)** was founded, and by the Decision of the Government of the Republic of Serbia on the Founding of the Public Enterprise for Electrical Power Transmission and Transmission System Operation (*Official Gazette of RS*, no. 12/05 and 58/05), the **Public Enterprise "Elektromreza Srbije" (PE EMS)** has been founded.

In accordance with article 172 of the Energy Law, the Government of the Republic of Serbia, by the Decision on the Foundation of the Public Enterprise for the Pipeline Transport of Crude Oil and Petroleum Products (*Official Gazette of RS*, no. 60/05 and 83/05), has founded the **Public Enterprise "Transnafta"**, and by the Decision on the Foundation of the Public Enterprise for Transport, Storage, Distribution and Trade in Natural Gas (*Official Gazette of RS* No. 60/05, 51/06, 71/09 and 22/10), it has founded the **Public Enterprise "Srbijagas"**.

Public Enterprise "Transnafta" is obliged, in accordance with the law, plans for work and development and the business programme, to provide the following: conditions for work and smooth functioning of the transportation system; security, regular maintenance, development and technical and technological connecting into a single pipeline transport system for oil and petroleum products in the Republic of Serbia, and the taking of measures to contribute to the connection of these systems with the systems of other countries for the transport of oil and petroleum products.

Public Enterprise "Srbijagas" is obliged, in accordance with the law, plans for work and development and the business programme, to provide the following: conditions for smooth functioning of the transport, distribution and storage system for natural gas and the conditions for the work of the operators of these systems; safe operation of the transport and distribution network in the transport and distribution system for natural gas; regular maintenance and development of transport, distribution and storage capacities and their technical and technological connection to a single gas pipeline system of the Republic of Serbia, and the taking of measures and activities to contribute to the connection of this system with the gas pipeline systems of other countries.

### **Postal services**

Pursuant to Article 3(1)(3) of the Law on Postal Services (*Official Gazette of RS*, no.

18/05 and 30/2010), the reserved postal services are the services guaranteed by the state to the postal operator of the universal postal service, as exclusive rights within the framework of the certain limit according to weight and cost.

Pursuant to Article 19(4) of the Law on Postal Services, the reserved postal services are performed by the public postal operator, on the basis of Article 106 of the same Law, “until the Government reaches the Decision to establish the public postal operator on the basis of Article 31(3) of the Law on Public Enterprises and Performance of Activities of General Interest (*Official Gazette of RS*, no. 25/00 and 25/02), the Public Enterprise of PTT Communications ‘Serbia’ (JP PTT saobraćaja “Srbija”) shall be considered to be the public postal operator, within the meaning of this law.”

The Law on Postal Services and the Law on the Validation of the Universal Postal Union acts (*Official Gazette of RS*, no. 42/2009), oblige our country to provide universal postal service.

Universal postal service represents a set of postal services that are performed continuously throughout the territory of the Republic of Serbia, within the framework of the prescribed quality, at affordable prices and on equal terms to all users, without discrimination. The service is developed in accordance with technological and economic development and users’ needs.

Pursuant to Article 15(1) of the Law on Postal Services, universal postal service shall be provided by the public postal operator, whereas other postal operators can provide Universal postal service, excluding reserved services, solely based on the licence.

Public postal operator is obliged to provide density of access points which meets the customers’ needs, and which is in line with technological and economic development. On the basis of contract, other entities may perform certain services from the scope of universal postal service, in the name of and on behalf of the public postal operator.

Universal postal service shall be performed every working day, not less than five days a week, except in cases of public and religious holidays, force majeure and jeopardized health and safety of the operator’s employees.

Pursuant to Article 3(1)(3) of the Law on Postal Services, reserved postal services shall be the services guaranteed by the state to operator of the universal postal service, as exclusive rights within the scope of limited weight and cost.

Within the meaning of Article 19 of the Law on Postal Services, reserved postal services shall include:

- clearance and/or transmission and/or delivery of letter items, up to a stipulated limit regarding weight and price;
- clearance and/or transmission and/or disbursement of money orders in ordinary and electronic form.

Reserved postal services shall also include clearance and/or transmission and/or delivery of documents in judicial, administrative and infringement proceedings, regardless of limits.

Reserved postal services shall be provided by the public postal operator.

With the consent of the Government of the Republic of Serbia, Agency for Postal Services shall determine the limits regarding weight and price, whereby those cannot exceed

the weight of 350 grams and five times the public tariff for an item in the first weight rate of the fastest standard category.

Pursuant to Action Plan for implementation of the development Strategy for postal services in Serbia (*Official Gazette of RS*, no. 23/08 and 21/10) the Government and the Republic Agency for Postal Service shall be authorized for implementation of the activities on gradual and controlled reduction of the limits for reserved postal services. The activity is planned to be carried out in the first quarter of 2011. The Decision does not set the duration.

### **Telecommunication services**

By reaching the Decision on the Foundation of the Public Enterprise for Broadcast Infrastructure Management (*Official Gazette of RS*, no. 84/2009 of 9 October 2009), the Government of the Republic of Serbia has founded the **Public Enterprise “Broadcasting Technology and Links” (JP „Emisiona tehnika i veze“)**.

Article 104 of the Law on Electronic Communications (*Official Gazette of RS*, no. 44/10) prescribes that the PE “Broadcasting Technology and Links” has been founded to manage the broadcasting infrastructure and to establish an electronic communications network for multiplexing, distribution and broadcasting of digital television programme. Also, PE “Broadcasting Technology and Links” is obliged to enable the access to the multiplex for the licence holders within the multiplexing network, the distribution and broadcasting of digital television programme in accordance with the licences issued for the broadcasting of programme.

PE “Broadcasting Technology and Links” provides the following:

- conditions for the undisturbed functioning of the broadcasting infrastructure in the territory of the Republic of Serbia;
- secure work of resources and facilities of the broadcasting infrastructure in the programme broadcasting function;
- regular maintenance and development of the broadcasting infrastructure capacity and of the connection system and their technical and technological connecting into a single system;
- taking measures and activities to contribute to the harmonisation of the operations of the broadcasting infrastructure of the Republic of Serbia with the broadcasting systems and connection systems of other countries;
- introduction of digital television and
- handling of other affairs.

The obligation of the PE “Broadcasting Technology and Links” is to provide broadcasting services of radio and television programmes of the Radio Televizija Srbije Broadcasting Corporation. Apart from this, PE “Broadcasting Technology and Links” continues to provide broadcasting services to the users of broadcasting services of the Radio Televizija Srbije Broadcasting Corporation, in accordance with the corresponding contracts.

The Ministry of Finance announced on 20 October 2010 the public invitation for participation in the tender for the sale of 51% of shares of the “**Telekom Srbija**” Company, out of 80% of shares that the Republic of Serbia has in the Telekom Company.

After reviewing the submitted documentation, the tender commission has concluded that all 7 companies (Deutsche Telekom, France Telecom, Telekom Austria, America Movil, Weather Investments, Turkcell and Vimpelcom) are qualified for the participation in the tender. The next step in the sale of the majority package of stock is the payment and the delivery of evidence on the payment of funds which shall enable insight in the Telekom Srbija documentation.

All of the companies have until 21 February to provide the binding offer. If there are several offers, in late February a public auction shall be organised.

The buyer shall be the company that offers the highest price at the auction. If only one binding offer arrives, the stock shall be sold according to the price offered. The buyer of the majority share in the Telekom Company shall have to obtain the assent of the anti-monopoly commissions in Serbia, Bosnia and Herzegovina and Montenegro, where the Telekom Company is the owner of telecommunication companies. After these permits are received, the payment shall take place.

The Law on Electronic Communications, adopted by the National Assembly on 29 June 2010, has been fully harmonised with the EU regulatory framework from 2002, and partially with the amendments of the EU regulatory framework from November 2009, in particular with respect to instruments necessary to ensure a competitive market and customer protection. Pursuant to this Law, all activities in the field of electronic communications are placed under the general authorisation regime in accordance with EU framework of 2002, with the exception of provision of voice services by means of the fixed network which shall remain under the regime of licence until 31 December 2011. After this date, the entire electronic communications market shall be completely liberalised.

In order to ensure further liberalisation in the field of electronic communications in the Republic of Serbia, the Managing Board of the Republic Agency for Electronic Communications (hereinafter referred to as: RATEL) issued on 22 January 2010 decision to grant the licence for the public fixed telecommunications networks and services in the territory of the Republic of Serbia to Telenor d.o.o. company. This decision has been adopted on the basis of the procedure of public bidding, initiated by RATEL on 20 November 2009, in accordance with the Telecommunications Law and the Rulebook on the amount and period for the issuing of licences for public fixed telecommunications networks and services, and on the minimum conditions for the issuing of licence and the smallest amount of the lump sum for the issuing of licence (*Official Gazette of RS*, no. 87/09). The licence has been issued for the period of ten years, with the possibility of extension for another ten years. Telenor Company is obliged to begin with commercial provision of services within one year from the day the licence was issued. The issuing of the licence for the second operator of public fixed telecommunications network and services enables the expanding of the set of services available to users and the development of alternative telecommunications infrastructure, and/or the development of broadband access.

## **Agriculture**

In the water management field, there are three public water management companies: “**Srbijavode**”, “**Vode Vojvodine**” and “**Beogradvode**”.

The scope of public water management companies is the management of water, as an activity of general interest, in the territory for which the public water management company has been founded.

The Public Water Management Company “Srbijavode” has been founded to perform water management in the territory of the Republic of Serbia, except for the territories where this activity is performed by other water management companies.

The Public Water Management Company “Vode Vojvodine” has been founded to perform water management in the territory of the Autonomous Province of Vojvodina.

The Public Water Management Company “Beogradvode” has been founded to perform water management in the territory of the City of Belgrade.

Since the public water management companies have been founded by law, and/or the decisions of the Assembly of the Autonomous Province of Vojvodina and the Assembly of the City of Belgrade, the durations of rights do not have a time limit. This means that the aforementioned companies shall perform the activity which they had been founded for until they, and/or the decision on their foundation are rendered invalid.

Forests owned by the state, which are encompassed by the forest area, and/or the area of the national park are managed by a public enterprise, and/or undertakings founded by the Republic of Serbia, and/or the autonomous province, and which fulfil the conditions laid down in the Law on Forest (*Official Gazette of RS*, no. 30/10 of 7 May 2010) and in special regulations.

Forests owned by the state, which are not encompassed by the forest area, can be managed by a legal person founded by the Republic of Serbia, and/or the Autonomous Province, that fulfils the conditions established by this Law and special regulations (Article 70 of the valid Law on Forest).

In the territory of the Republic of Serbia, there are several undertakings which manage state forests (2 public enterprises for forest management and 5 national parks).

Privately owned forests (private forests) larger than 100 ha, are managed by the forest owners, whereas private forests smaller than 100 ha are managed by the public enterprises for forest management or the associations of forest owners (Article 71 of the Law on Forest).

## **Environment**

The subject, framework and duration of public jurisdiction (exclusive and special rights) in the field of environment protection are the following:

- 1) forest management;
- 2) protection, breeding, development and usage of hunting and fishing fauna;
- 3) management of construction sites transferred for their usage;
- 4) organised research in the field of protection and development of the national park;
- 5) presentation and popularisation of the national park and its natural values and cultural goods;

6) design, construction and maintenance of facilities which serve to protect, develop and represent natural and cultural goods of the national park.

The public enterprise can perform other activities determined by the statute, if this does not interfere with the activities from paragraph 1 of this Article.

In the activities to protect and develop the national park, the public enterprise does the following:

1) establishes the manner and conditions for the usage of natural goods, allows the use of natural goods it manages, gives assent for scientific research, performance of research work, film making, setting of temporary facilities at the surfaces in the national park and gives other approvals determined by the law;

2) performs professional activities which relate to the protection of the environment in the area of the national park for the following needs: keeping of records which bear significance for the planning and management of the national park area; performance of analyses and other documentary foundations within its framework for the preparation of spatial and urban planning for the area of the national park; preparation of conditions to regulate locations in the construction sites whose usage and management has been transferred to the public enterprise;

3) leases land and facilities it manages;

4) keeps records on the following: protected natural values and cultural goods; types of flora and fauna in the national park; scientific research projects and research works (geological, hydrological, etc.) conducted, which are of interest for the protection and development of the national park.

The duration of the jurisdiction mentioned above has not been restricted.

The exclusive rights are generally assigned to the operators of the following utility services:

1) purification and distribution of water;

2) treatment and disposal of rainwater and wastewater;

3) production and supply of steam and hot water;

4) transportation of passengers in public transport;

5) maintaining cleanliness in the towns and villages in the municipality;

6) organization and maintenance of parks, green and recreational areas;

7) maintenance of streets, roads and other public areas and public lighting in towns and other settlements;

8) maintenance of landfills;

9) organization and maintenance of cemeteries and burial.

In addition to aforementioned services, local government units can assign other activities to public enterprises which are considered as the activities of public interest (chimney sweeping services, maintenance of public toilets, maintenance of public bathrooms, running and maintenance of local animal shelters, maintenance of public parking lots,

running and maintenance of public marketplaces, maintenance of public wells and drinking fountains, as well as other activities of public interest).

The competent body of a local self-government unit (municipality) decides on the types, manner and operating of utility services on its territory. Certain types of public utility services, such as municipal waste management, can be performed on the territories of several local self-government units only if each of the local self-government units that participate in this arrangement gives its approval.

Public enterprises which hold rights to perform utility services mentioned in points 1 to 9 above, do so for an indefinite period of time. Where these services are delegated to commercial business organizations, these enterprises have right to perform the services for 5 years, or in cases where the responsibility of the commercial business organization is investing in necessary equipment and infrastructure necessary for provision of utility services - 25 years.

Purification and distribution of water, treatment and disposal of rainwater and wastewater, production and supply of steam and hot water, transportation of passengers in public transport can only be performed by a public enterprise, unless the establishing of such public enterprise is economically or otherwise irrational due to number of service users or inadequate scale of activities. Where this is the case municipality can award a contract for carrying out of mentioned services to some other enterprise or entrepreneur.

### **Infrastructure**

The Law on Railway (*Official Gazette of RS*, no. 18/05) regulates the management of the public railway infrastructure and the performance of public transportation in the railway traffic. Currently, public railway infrastructure management and the performance of public transport of passengers and goods in the territory of the Republic of Serbia have been entrusted to the **Public Enterprise “Serbian Railways” (JP “Železnice Srbije”)**.

The subject of entrusted rights is the management of the public railway infrastructure and the performance of public transportation of passengers and goods in the territory of the Republic of Serbia.

In accordance with the Law on Railways, the activities such as the maintenance of railway infrastructure and the regulation of railway traffic, as well as the construction, reconstruction and modernisation of the public railway infrastructure has been entrusted to the Public Enterprise. At the moment, those affairs are handled by the PE “Serbian Railways”.

Public transportation of passengers and goods in the territory of the Republic of Serbia is for now only performed by the PE “Serbian Railways”.

When all the conditions laid down by the law for the use of public railway infrastructure are fulfilled, i.e.: (1) the Network Statement is published with the basic principles on which the fee regime for the usage of infrastructure is based, (2) the model of the contract between the manager of the infrastructure and the transporters is established and (3) the complete restructuring of PE “Serbian Railways” is performed, the transporters that have obtained licences for transport and certificates on safety shall have the possibility to access the railway infrastructure.

The activities of the **Public Enterprise „Roads of Serbia” (JP “Putevi Srbije”)** are, according to the Law on Public Roads (*Official Gazette of RS*, no. 101/05 and 123/07), the following: management of state roads (usage, protection, planning; investment in construction,

reconstruction, maintenance and protection of state roads, keeping records on state roads, management of traffic, and the performance and organisation of the counting of vehicles on state roads...).

**Joint Stock Company “Nikola Tesla” Airport (Aerodrom „Nikola Tesla“ a.d.)** Belgrade provides airport services and manages the Airport in Belgrade. Civil Aviation Directorate, in accordance with the Law on Air Traffic (*Official Gazette of RS*, no. 73/2010) keeps the Register of Airports of the Republic of Serbia, where an undertaking, another legal person or an entrepreneur with the permission to use an airport can be entered.

## **Tourism**

**“National Corporation for Tourism Development” Ltd. (“Nacionalna turistička razvojna korporacija d.o.o.”)** handles affairs established by the Law on Tourism (*Official Gazette of RS*, no. 36/2009 and 88/2010).

Article 23 of the Law on Tourism prescribes the affairs which hold special significance for the development of tourism. Article 7 of the Decision on the Establishment of the National Tourism Development Corporation (*Official Gazette of RS*, no. 50/2009) prescribes that, apart from the main activity of engineering, the “National Tourism Development Corporation” Ltd. also handles affairs which are defined in the Law on Tourism as activities of special significance for the development of tourism, such as: the creation of real estate projects; research, development and making of plans for the sustainable use and management of tourist areas; completion of feasibility studies and concepts for tourist location development, and/or spatial and technical units significant for the tourism development; management of projects for tourist infrastructure and tourist suprastructure significant for the development of tourism; management of vacation areas as an entire resource with the provision of common promotion and sale of the tourist product as the place for holiday; spatial planning, protection of the environment, tourist signalisation etc.; financing and realisation of construction projects and the regulation of the construction sites and projects for the construction of tourist infrastructure to realise tourist projects; the financing of projects for tourist infrastructure and tourist suprastructure and the management of tourist suprastructure facilities.

**The Public Enterprise “Ski Resorts of Serbia” (JP „Skijališta Srbije”)** performs the activities of general interest prescribed by the Law on Public Ski Resorts (*Official Gazette of RS*, no. 46/2006) in accordance with the Law on Public Enterprises and Activities of General Interest.

Article 5 of the Law on Public Ski Resorts prescribes that the regulation, equipping, maintenance, usage and management of public ski resorts, as well as the management of areas suitable to become ski resorts, within the meaning of the Law, are to be considered as the activities of general interest, and that for the performance of activities from paragraph 1 of this Article, the ski centre is founded as a public enterprise, and that for the regulation, equipping, maintenance, usage and management of other specifically regulated areas intended for skiing and specialised winter sports activities, the ski centre is founded as an undertaking, and/or as a different form of an enterprise or an entrepreneur.

Article 4 of the Decision on the establishment of the public enterprise for management of public ski resorts, as well as other specially organized areas specifically



designated for skiing and specialized winter sports activities (*Official Gazette of RS*, no. 49/2006), prescribes the activities of public enterprises: management of public resorts, and other specially organized surfaces designed for skiing and specialized winter sports activities that involve: performing the functions of the investor on the construction and reconstruction of ski resorts and mountain tourism facilities, organizing and carrying out professional activities in construction, reconstruction, maintenance, procurement and protection of ski resorts, recruitment and management of areas suitable for organized of ski resorts, the use of ski resorts, that is the area managed in the winter and summer period (organization and control of charge of remuneration for the use of ski resorts, providing of services in the ski resort and the like), the protection of the ski resorts, or areas under its management; assignment of works for marking and maintaining the resort; organization of professional supervision over the construction, reconstruction, maintenance and protection of ski resorts, keeping track of ski resorts, planning construction, reconstruction, maintenance and protection of ski resorts, marking and signposting on the ski slopes, construction land management, utilities, traffic, touristic and other infrastructure on the territory of the resort or space suitable for organizing of ski resort, if entrusted with accordance with the law; ensuring of security and order in the ski resort, rental or the use of space, equipment or facilities operated, organize study and research work in the field of development of ski resorts and mountain tourism.

Pursuant to Article 4, paragraph 7 of the Law on Public Ski Resorts, the Government identifies public ski resorts, and/or areas suitable to be ordained as public ski resorts, which have a special significance for the development of winter sports activities and mountain tourism in the Republic of Serbia, at the proposal of the ministry competent for tourism.

On the basis of the powers arising from the Law on Public Ski Resorts, the Government adopted the Decision to identify the area on Mt. Stara Planina, in the locations of Golema, Konjarnik, Babin Zub, Topli Do, Leskovo and Jabucko Ravniste, as suitable for a public ski resort (*Official Gazette of RS* no. 62/2006) and the Decision to determine the area on Mt. Stara Planina in Jabucko Ravniste as suitable for a public ski resort (*Official Gazette of RS* no. 88/2006) where the Public Enterprise “Ski Resorts of Serbia” performs a general interest activity within the “Stara Planina” Ski Centre.

**The public enterprise for Development of Mountain Tourism "Stara Planina" (JP „Stara Planina“)** performs the activities of development of tourism in the region of eastern Serbia on the basis of the acts of the Government of the Republic of Serbia, namely: Tourism Strategy of the Republic of Serbia (*Official Gazette of RS*, no. 91/2006), Decision on identifying the area on Stara Planina, on the location of Jabucko Ravniste as an area suitable for the management of public ski resort (*Official Gazette of RS*, no. 88/2006), the Regulation on the establishment of the Programme of development of mountain tourism in Stara Planina (*Official Gazette of RS*, no. 85/2007) and the Area plan of the nature park and the tourist region of Stara Planina (*Official Gazette of RS*, no. 115/2008).

## **Defence**

**The Public Enterprise “Yugoimport – SDPR” (JP „Jugoimport-SDPR“)** has been founded on the basis of the Law on the Public Enterprise “Yugoimport – SDPR” (*Official Journal of FRY*, no. 46/96).

PE “Yugoimport-SDPR”, under the conditions and in the manner laid down by this Law, handles affairs, and/or performs activities of general interest in the field of foreign trade in weapons and military equipment.

The affairs, and/or activities of general interest in the field of foreign trade in weapons and military equipment performed by Yugoimport-SDPR, have been laid down in Article 4 of this Law. Affairs, and/or activities of the enterprise are the following:

- 1) export and import of weapons and military equipment, and/or the equipment for the production of weapons and military equipment, intermediary goods, components, raw and reproductive materials used for the production of weapons and military equipment;
- 2) business and technical cooperation, production cooperation, obtaining and transferring of property rights on the basis of technologies in the field of production of weapons and military equipment;
- 3) design, construction and fitting out of facilities for the production of weapons and military equipment and other military facilities abroad;
- 4) representation of foreign companies, brokerage, overhauling and other services in the foreign trade in weapons and military equipment.

PE “Yugoimport-SDPR”, in accordance with the provision of Article 12, paragraph 1 of the Regulation on Special Purpose Funds (*Official Gazette of RS*, no. 82/08 and 47/10), handles in its own name, and on the behalf of the Ministry of Defence, the following affairs: research of the weapons and military equipment market abroad; temporary import and export of movables with special purpose; foreign trade which is the object of special contracts on military and military-technical cooperation with governments and ministries of other countries; realisation of donations from abroad; conclusion of foreign trade treaties and foreign trade activities which relate to the acquisition of complex combat systems and associated services and the acquisition and sales which have been classified by the Minister of Defence as state secret and highly confidential.

The foreign trade affairs not mentioned in Article 12, paragraph 1 of this Regulation, shall be conferred to other persons registered for the foreign trade in weapons, military equipment and dual-use goods.

The subject, framework and duration of relevant rights, and/or obligations of the PE “Yugoimport-SDPR”, have been defined by the provision in Article 12, paragraph 1 of the Regulation on Special Purpose Funds, which states the following:

“Research of the weapons and military equipment market abroad; temporary import and export of movables with special purpose; foreign trade which is the object of special contracts on military and military-technical cooperation with governments and ministries of other countries; realisation of donations from abroad; conclusion of foreign trade treaties and foreign trade activities which relate to the acquisition of complex combat systems and associated services and the acquisition and sales which have been classified by the Minister of Defence as state secret and highly confidential, is performed in its own name, and on the behalf of the Ministry by the Public Enterprise founded for the performance of such activities, as activities of general interest.”

The funds for the performance of the activity conferred to the **Public Enterprise for Shelters (JP za skloništa)** are obtained from the lease for the peacetime use of shelters and

from the fees for the construction and maintenance of shelters, paid for by the investors of the construction of business and residential facilities, which, in accordance with the urban planning documentation do not construct shelters. This enterprise is not financed from the budget of the Republic of Serbia.

In accordance with the Law on Emergency Situations (*Official Gazette of RS*, no. 111/09), the construction, maintenance, technical inspection and peacetime use of public shelters and shelters belonging to groups of buildings, is performed by the Public Enterprise for Shelters. PE for Shelters uses public shelters and shelters belonging to groups of buildings as public-owned resources, and manages them.

In accordance with this Law, if an emergency situation is declared, the shelters used in peacetime can be emptied, and if the state of emergency of war is declared, they have to be emptied and enabled for protection within the deadline determined by the emergency headquarters, but within 24 hours at the latest.

In accordance with this Law, the Ministry of the Interior is responsible for laying down technical regulations for the construction and maintenance of shelters and the adaptation of communal, traffic and other underground facilities for sheltering purposes.

### **Official Gazette**

The activities of the **Public Enterprise “Official Gazette” (JP „Službeni glasnik“)** are the following: publication of the “Official Gazette of the Republic of Serbia”, issuing of forms whose form and content have been determined by the national regulations, and the issuing of publications of interest for the functioning of national authorities.

Namely, the “Official Gazette of the Republic of Serbia” publishes laws, other regulations and general acts of state authorities, as well as other single acts of these authorities. The aforementioned documents are published in three issues - in the regular issue and two special issues, entitled: “Official Gazette of the Republic of Serbia – International Treaties” and “Education Gazette”.

In the “Official Gazette of the Republic of Serbia”, the following shall be published:

- 1) Constitution of the Republic of Serbia; constitutional amendments and the constitutional law for the implementation of the Constitution; spatial plan of the Republic of Serbia; programmes, decisions, declarations, resolutions and recommendations of the National Assembly; the National Assembly’s Rules of Procedure; authentic interpretations of acts reached by the National Assembly; documents on the selection, and/or appointment and dismissal of officials appointed by the National Assembly and other National Assembly acts which the National Assembly decides to publish in the “Official Gazette of the Republic of Serbia”;
- 2) regulations on the proclamation of laws, regulations on the awarding of orders, decorations and medals and other acts of the President of the Republic which are required to be published by the law, or which the President of the Republic decides to publish in the “Official Gazette of the Republic of Serbia”;
- 3) regulations, decisions, Rules of Procedure of the Government, other general acts and decisions of the Government, and other Government acts which are required to be published by the law, or those which the Government decides to publish in the “Official Gazette of the Republic of Serbia”;

- 4) regulations which are adopted, in accordance with the law, by the ministries and special organisations (rulebooks, orders and guidelines);
- 5) decisions and other acts of the Constitutional Court of Serbia and the acts of judicial authorities required to be published by the law;
- 6) general acts of the National Bank of Serbia and other organisations, when these acts, on the basis of the authorities set by the law, regulate rights and obligations of citizens and organisations;
- 6a) verdicts of the European Court of Human Rights which relate to the Republic of Serbia;
- 7) other acts which are required to be published by the law.

The "Official Gazette of the Republic of Serbia – International Treaties" publishes confirmed international contracts and other international agreements which are required to be published by law or by other regulations.

In the "Education Gazette", the national regulations are published which lay down curricula and programmes for education, space for education, equipment and teaching aids, and the programme for internship and programmes for the training of teachers and associates in primary schools and secondary schools, as well as other acts which are required to be published in the "Education Gazette" by the law.

### **Media sector**

Law on **Public Enterprise News Agency Tanjug (JP NA TANJUG)** (*Official Journal of FRY*, no. 11/95, adopted on 28 February 1995) prescribes that PE NA Tanjug handles affairs, and/or activities of general interest in the field of public information (Article 2). The affairs, and or activities of general interest (Article 5 of this Law), performed by Tanjug are the following:

- 1) production, circulation and broadcasting of information for the domestic and foreign media and other users of information regarding the events that take place in the country and in the world;
- 2) provision and placement of information and other information material for the needs of national authorities on the events that take place in the country and in the world;
- 3) providing of services for the national authorities in the field of news agency activities;
- 4) providing of professional services to the journalists accredited in the country.

Law on the Foundation of the **Newspaper Publishing Public Enterprise (NPPE) "Panorama" (NIJP „Panorama“)** (*Official Gazette of RS*, no. 80/92) prescribes, in Article 1, that in order to provide for and fulfil the needs of citizens and organisations in the field of public information in the Serbian language and the languages of minorities in the Autonomous Province of Kosovo and Metohija, the public enterprise is founded to perform the newspaper publishing activity, as a general interest activity for the Republic of Serbia.

The basic activity of NPPE "Panorama" (Article 3 of the Law) is the following:

- 1) publication of informative and political journals in Serbian and Albanian, a weekly magazine in Turkish and other publications;
- 2) publication of books and magazines in the Serbian language and the minority languages;
- 3) performance of graphical services;
- 4) placement, sales and transport of newspapers, magazines, books and printed materials.

In the field of public information, the state also has founder's right in two institutions whose founder's rights have been transferred to the state following the dissolution of the State Union of Serbia and Montenegro: **Federal Public Institution – Yugoslav Survey (SJU Jugoslovenski pregled)** and **Federal Public Institution - Radio Yugoslavia (SJU Radio Jugoslavija)**.

Regulation on the Federal Public Institution – Yugoslav Survey (*Official Journal of FRY*, no. 3/2002, adopted on 15 January 2002) foresees that FPI Yugoslav Survey should perform activities in the field of public information on the events which take place in the Federal Republic of Yugoslavia and in the world, and to perform other types of information activity of interest for the implementation of the jurisdiction of the Federal Republic of Yugoslavia (Article 1). The activities of general interest (Article 3 of this Regulation), performed by Yugoslav Survey are the following:

- 1) publishing of the magazine “Yugoslav Survey” in Serbian and English;
- 2) publishing of books and other publications of interest for the implementation of the informative function of the Federal Republic of Yugoslavia;
- 3) translation and publication of federal laws and other regulations for the needs of federal authorities and organisations;
- 4) writing of technical texts on the Federal Republic of Yugoslavia for foreign publications and magazines;
- 5) international cooperation with the publishing, scientific, cultural and other institutions.

Regulation on the Federal Public Institution - Radio Yugoslavia (*Official Journal of FRY*, no. 3/2002 and 29/2002 adopted on 15 January 2002) foresees that FPI Radio Yugoslavia should perform activities in the field of public information regarding the events which take place in the Federal Republic of Yugoslavia and in the world, and to perform other types of public information which are of interest for the implementation of the jurisdiction of the Federal Republic of Yugoslavia (Article 1). The activities of general interest (Article 3 of this Regulation), performed by Radio Yugoslavia are the following:

- 1) making of and broadcasting abroad of the radio programme in foreign languages and in Serbian, for the needs of the Federal Republic of Yugoslavia;
- 2) transmission and broadcasting of radio programmes through a network of transmitters, repeaters, satellites, cable networks and other devices in the frequency which belongs to Radio Yugoslavia;

- 3) creation and production of radio programmes for the citizens of the Federal Republic of Yugoslavia and broadcasting on a network within the VHF range with the population coverage of less than 80%;
- 4) creation of programmes to be broadcasted through foreign broadcasting organisations;
- 5) exchange of radio programmes and the participation in common programmes with other organisations;
- 6) cooperation with the corresponding broadcasting organisations in the country and abroad, and with international organisations that deal with information, in order to exchange information;
- 7) provision of technical services and the leasing of the broadcasting facilities in the country and abroad;
- 8) training for operation during wartime, immediate war danger or the state of emergency.

There are also two public broadcasting services: **Republic Broadcasting Institution “Radio televizija Srbije (RTS)”** and the **Broadcasting Institution of Vojvodina “Radio televizija Vojvodine (RTV)”**.

The Law on Broadcasting (*Official Gazette of RS*, no. 42/02, 97/04, 76/05, 79/05 - other law, 62/06, 85/06, 86/06 - corrigendum, and 41/09) prescribes that the public broadcasting service institutions in the Republic of Serbia are the republic and provincial broadcasting institutions which produce and broadcast radio and television programme of general interest, that include information program, cultural program, artistic, educational, religious, scientific and children program, entertainment, sports and other contents, which ensure that citizens' and other subjects' needs are met and that they can exercise their rights in the domain of broadcasting. Obligations of the public broadcasting services to achieve general interest have been laid down in Articles 77, 78 and 79 of the Law on Broadcasting.

### **Education**

The right to prepare and publish textbooks has been prescribed by provisions related to pre-school, primary and secondary education of the Law on the Foundations of Education System (*Official Gazette of RS*, no. 72/09 of 3 September 2009) and the Law on Textbooks and Other Teaching Materials (*Official Gazette of RS*, no. 72/09).

**The Public Enterprise “Zavod za udzbenike”** (Serbian State Company for Textbooks) has been founded by the Government Decision on the foundation of the public enterprise for the publishing of textbooks and teaching materials (*Official Gazette of RS*, no. 44/06 and 114/06). This Public Enterprise has been given the right to handle the affairs of preparation and publication of textbooks and other teaching materials and publications. “Serbian State Company of Textbooks” has a special right, but not an exclusive right to publish textbooks.

### **Science**

In accordance with Article 48a of the Law on Ionizing Radiation Protection and on Nuclear Safety (*Official Gazette of RS*, no. 36/09, hereinafter referred to as the Law),

management of nuclear facilities in the Republic of Serbia is a general interest activity. For the performance of this activity, the public enterprise for the management of nuclear facilities in the Republic of Serbia has been founded, entitled “**Nuclear Facilities of the Republic of Serbia**” (JP „**Nuklearni objekti Srbije**“) (Decision on the Foundation of the Public Enterprise to Manage Nuclear Facilities in the Republic of Serbia, *Official Gazette of RS*, no. 50/09 - hereinafter referred to as: PE NFS). Funds for the operation of this public enterprise are state-owned.

Special rights which have been assigned for the management and maintenance of nuclear facilities in the Republic of Serbia, in accordance with the Decision on the Foundation of PE Nuclear Facilities of Serbia (hereinafter referred to as PE NFS), encompass the following:

- 1) Performance of nuclear activities in accordance with the Law on Ionizing Radiation Protection and the Law on Nuclear Safety;
- 2) performance of radiation activities which relate to safe use of ionizing radiation sources, radioactive and nuclear material;
- 3) taking radiation and nuclear safety measures in the location of nuclear facilities in accordance with the law (ionizing radiation dosimetry, quality system, decontamination of people and of the work and living area, systematic examination of radioactivity in the environment at the location of nuclear facilities, measuring internal radioactivity, medical treatment of professionally exposed persons);
- 4) provision of prescribed conditions for the locating, designing, construction, trial run, commissioning, operation and permanent shutdown of a nuclear facility;
- 5) managing radioactive waste;
- 6) implementation of measures to prevent radioactive waste from contaminating the environment;
- 7) provision of physical protection, protection against fire and other safety measures for nuclear facilities, nuclear material and radioactive waste, including safety measures for the transportation of nuclear material;
- 8) decontamination of the work and residential area;
- 9) systematic examination of radioactivity in the environment surrounding the nuclear facility;
- 10) keeping records on the sources of ionizing radiation, professionally exposed persons and radioactive waste;
- 11) organisation of research studies in the field of nuclear technology development;
- 12) cooperation with the International Atomic Energy Agency and other international bodies and competent authorities of other countries, in cooperation with the competent state authorities, relating to the activities of the Public Enterprise.

There are no limitations to the duration of special rights.

### **Games of chance**

“**Serbian State Lottery**” (**Državna lutrija Srbije**) has the right to organise games of chance through the Internet, telephone or any by any other telecommunications network,

according to Article 22 paragraph 1 of the Law on Games of Chance (*Official Gazette of RS*, no. 84/04, 85/05 – other law and 95/10). The duration of this right has not been restricted.

For more detail, see question 8 in Chapter 3.

#### **45. According to which procedure have the exclusive and special rights been granted?**

##### **Energy**

The exclusive right has been granted to NIS by the Decree on the Conditions and Manner of Import and Processing of Crude Oil and Oil Derivatives (*Official Gazette of RS*, no. 92/07 and 93/07–corrigendum). This Regulation has been repealed on 31 December 2010.

For PE EPS and PE EMS, the procedures have been stated in the answer to the previous question (Law on Energy, Decision on the Foundation of the Public Enterprise for Electrical Power Generation, Electrical Power Distribution and Electrical Power Trade in Electricity and the Decision of the Government of the Republic of Serbia on the Foundation of the Public Enterprise for Electrical Power Transmission and Transmission System Operation).

##### **Postal services**

The reserved postal services have been laid down by The Law on Postal Services (*Official Gazette of RS*, no. 18/05 and 30/2010). For more detail, see the previous question and Chapter 3 (questions 9-31).

##### **Telecommunication services**

Management of broadcasting infrastructure is regulated by the Law on Electronic Communications. More details are given in the previous question.

##### **Agriculture**

In the water management field, the following public enterprises have been founded: Public Water Management Company “Srbijavode” has been founded in accordance with the Law on Waters (*Official Gazette of RS*, no. 30/10); the Public Water Management Company “Vode Vojvodine” has been founded in accordance with the decision of the Assembly of the Autonomous Province of Vojvodina (*Official Journal of APV*, no. 7/02 and 8/03) and the Public Water Management Company “Beogradvode” has been founded in accordance with the Decision of the Assembly of the City of Belgrade (*Official Gazette of the City of Belgrade*, no. 2/08).

##### **Environment**

Based on the Environmental protection study made by the Institute for Nature Conservation of Serbia which sets out the rules for the management of the protected areas and the requirements that the manager of the protected area must fulfill (Article 42 of the Law on Nature Conservation (*Official Gazette RS*, no. 36/2009 and 88/2010)) and on the aforementioned Law on Nature Conservation, National Assembly of the Republic of Serbia passed the Law on National Parks (*Official Gazette of RS*, no. 39/93, 44/93, 53/93, 67/93,



48/94 and 101/05) that regulates the responsibilities of the following public enterprises (hereinafter PE): **PE National park Tara, PE National park Kopaonik, PE National park Fruska Gora, PE National park Djerdap and PE National park Sar Mountain.**

The exclusive and special rights have been granted on the bases of existing laws (Law on Public Utility Service (*Official Gazette of RS*, no. 16/97 and 42/98) and the Law on public enterprises and performing economic activities of public interest (*Official Gazette of RS*, no. 25/2000, 25/2002, 107/2005, 108/2005 and 123/07) adopted by the Parliament of Serbia which regulate particular areas of public interest that, as a rule, require establishment of public companies with the right to provide certain service upon the decision of local self-governments. If the utility service provision is assigned to undertaking or entrepreneur other than the public enterprise, this is done on the bases of the Law on Public Utility Service and the decision of a local self-government, after closing of a public tender.

### **Infrastructure**

The Law on Railways (*Official Gazette of RS*, no. 18/05) lays down the activity of public railway infrastructure management and the activities of public transportation in the railway traffic.

Exclusive and special rights have been granted to the PE “Roads of Serbia” on the basis of the Decision on the Foundation of the Public Enterprise for State Roads Management by the Government of the Republic of Serbia (*Official Gazette of RS*, no. 101/05).

### **Tourism**

“National Corporation for Tourism Development” ltd. was established by the Decision on the establishment of the National Tourism Corporation (*Official Gazette of RS*, no. 50/2009).

The Public Enterprise “Ski Resorts of Serbia” was established by the Decision on the establishment of the public enterprise for management of public ski resorts, as well as other specially organized areas specifically designated for skiing and specialized winter sports activities (*Official Gazette of RS*, no. 49/2006).

The assembly of the municipality of Knjaževac rendered the Decision on the transfer of founder's rights in the public enterprise for the development, construction and management of touristic place „Babin zub” in Stara Planina, from the municipality of Knjazevac to the Republic of Serbia. In accordance with this Decision and the Conclusion of the Government, on 10 April 2008, the Contract on transfer of founder's rights in the public enterprise for the development, construction and management of tourist place "Babin zub" in Stara Planina, Knjazevac from the municipality of Knjaževac to the Republic of Serbia, was concluded between the Republic of Serbia and the municipality of Knjaževac.

### **Defence**

Public Enterprise “Yugoimport – SDPR” has been founded on the basis of the Law on the Public Enterprise “Yugoimport – SDPR” (*Official Journal of FRY*, no. 46/96).

## **Official Gazette**

The activity of the PE „Official Gazette” has been established by the Law on the Publication of Laws and other Regulations and General Acts and on the Publication of the Republic of Serbia Official Gazette (*Official Gazette of RS*, no. 72/91, 28/92 – Constitutional Court, 22/93 – Constitutional Court, 30/10).

## **Media sector**

Law on **Public Enterprise News Agency Tanjug** lays down the activities and organisation of Tanjug.

Newspaper Publishing Public Enterprise “Panorama” has been formed by the Law on the Foundation of the Public Enterprise for Newspaper Publishing "Panorama" and this Law determines the activity and organisation of „Panorama”.

On the basis of the Regulation on the Federal Public Institution Yugoslav Survey (*Official Journal of FRY*, no. 3/2002, adopted on 15 January 2002), the rights for the Federal Public Institution Yugoslav Survey (FPI Yugoslav Survey) have been determined.

On the basis of the Regulation on the Federal Public Institution Radio Yugoslavia (*Official Journal of FRY*, no. 3/2002 and 29/2002, adopted on 15 January 2002), the rights for the Federal Public Institution Radio Yugoslavia (FPI Radio Yugoslavia) have been determined.

Rights for the public broadcasting services have been laid down according to the Law on Broadcasting (*Official Gazette of RS*, no. 42/02, 97/04, 76/05, 79/05 – other law, 62/06, 85/06, 86/06 – corrigendum and 41/09).

## **Education**

Publication of textbooks is approved to a public enterprise (public publisher) and to other legal or natural persons or entrepreneurs (private publisher) who have a licence to publish textbooks according to the Law on Textbooks and Other Teaching Materials and the By-law on the licence to publish textbook (*Official Gazette of RS*, no. 6/10).

The licence can be granted to the publisher registered for the publishing activity, if they fulfil the conditions laid down by the Law.

## **Science**

On the basis of the Law on Ionizing Radiation Protection and the Law on Nuclear Safety and the Decision on the Foundation of the Public Enterprise for Managing Nuclear Facilities in the Republic of Serbia.

## **Games of chance**

"Serbian State Lottery” has the right to organise games of chance through the Internet, telephone or by any other telecommunications network, according to the Law on Games of Chance (*Official Gazette of RS*, no. 84/04, 85/05 – other law and 95/10).

#### **46. What is the justification for granting the exclusive rights?**

##### **Energy**

During the NATO bombing of 1999, over 70% of domestic refinery facilities have been destroyed.

In the period after the bombing, the import of petroleum products has been completely liberalised. The liberalisation of import lasted from 1999 to 2001. In this period, the goal was to enable the destroyed refineries to function again and to restart the domestic oil industry. The available level of investment was not sufficient for the successful recovery of the domestic oil industry, seeing that the direct material damages in the Oil Refinery in Pancevo had been estimated to more than USD 360 million, whereas the material damage in the Oil Refinery in Novi Sad had been estimated to around USD 320 million. This energy sector, unlike others, has never received donations, even with the enormous damage inflicted during the NATO bombing. The renewal of the oil and gas economy sector took place exclusively on the basis of financial funds generated within this sector.

In 2001, the Government of the Republic of Serbia was faced with a high degree of crime, which was at that time present at the liberalised market of oil and petroleum products. Around 85% of the total consumption in the Republic of Serbia came from the black market. The inflow of funds from customs duties and other fiscal benefits has been minimal, and according to estimates, it amounted to 30% below the expected billing.

Having in mind the dominant influence of the black market, the Government of the Republic of Serbia reached the Regulation on Special Conditions and Manner of Importing and Refining Oil and Oil Products (hereinafter referred to as: the Regulation), with the aim to introduce order to this market.

Apart from the significant results achieved by the implementation of the Regulation Decree in the field of fiscal commitment billing and combat against the black market, significant progress has been achieved in the meaning of bringing partially recovered refinery capacities back to operation. At the same time, the Regulation has enabled the partial provision of funds for the necessary investment in the renewal of the oil industry from the price of refining. However, these funds were not sufficient for complete renewal and modernisation, and consultations were held with the representatives of the European Commission.

During the negotiations, it has been decided to keep the NIS exclusive rights until the end of 2010, with the adaptation of these exclusive rights to the rules of the World Trade Organisation (XVII State Trading Enterprises, General Agreement on Tariffs and Trade – GATT). This was performed by the adoption of the new Regulation on the Manner and Conditions of Oil and Petroleum Products Import (*Official Gazette of RS*, no. 92/07 and 93/07 – corrigendum).

Exclusive rights in the energy sector are justified by the provision of conditions for security of supply of the tariff consumers with electricity in the territory of the Republic of Serbia, and by the securing of conditions for smooth functioning of the transmission system, safe operation of the transmission network, harmonisation of the operation of the transmission system of the Republic of Serbia with transmission systems of other countries and systems for electrical power distribution. Also, PE EMS is the member of the European Network of Transmission System Operators for Electricity (ENTSO-E).

### **Postal services**

Universal postal service is a general interest service which represents a set of postal services performed continuously throughout the territory of the Republic of Serbia, within the framework of the prescribed quality, at affordable prices and on equal terms to all users, without discrimination. The service is developed in accordance with technological and economic development and users' needs.

The Law on Postal Services and the Law on Validation of the Universal Postal Union acts (*Official Gazette RS*, no. 42/2009), oblige our country to provide Universal postal service.

Reserved postal services are those services which the state guarantees to the postal operator, the provider of the universal postal service.

### **Telecommunication services**

Based on the Final Acts of the Regional Radiocommunication Conference for planning of the digital terrestrial broadcasting service in parts of Regions 1 and 3, in the frequency bands 174-230 MHz and 470-862 MHz (RRC-06) the Republic of Serbia was awarded seven multiplexes for digital broadcasting of radio and television programs on the territory of the Republic of Serbia. Considering the big absorption of radio frequency spectrum and the number of television programs in the Republic of Serbia, it was decided to put into use two multiplexes. The date for the switchover to digital television broadcasting in the Republic of Serbia was set for April 4<sup>th</sup> 2012. Given the foreseen time period for the switchover to digital broadcasting, the current state of broadcasting infrastructure and the major financial implications of the digitalization process of television programs in the Republic of Serbia, establishment/setting up of networks for digital broadcasting and management of multiplexes has been allocated to the Public enterprise "Emisiona tehnika i veze" to ensure a successful switchover to digital broadcasting as planned. Therefore, the Serbian Government decided to separate the broadcasting infrastructure from the public broadcasting service and has set up Public enterprise "Emisiona tehnika i veze" which will manage the broadcasting infrastructure and establish an electronic communications network for multiplexing, distribution and broadcasting of digital television programs, as set out in the Strategy for the switchover from analog to digital broadcasting of television programs in the Republic of Serbia (*Official Gazette of RS*, no. 52/09) and on the basis of Article 104 Law on Electronic Communications (*Official Gazette of RS*, no. 44/10).

After the switchover from analog to digital broadcasting of television programs on the territory of the Republic of Serbia, consistent with the needs originating from the appearance of new broadcasters, with the increasing flow for SDTV, with the introduction of high-definition television as well as other circumstances, remaining multiplexes will be made available and allocated via public competition.

### **Official Gazette**

The provision in Article 2 of the Law on Public Enterprises and Performing Economic Activities of Public Interest, as one of the general interest activities for the Republic of Serbia, lays down the publication of the official gazette of the Republic of Serbia. In accordance with this Law and the Law on the Publication of Laws and other Regulations and General Acts and

on the Publication of the Republic of Serbia Official Gazette, the PE “Official Gazette” has been founded.

### **Environment**

Protection, monitoring, management, sustainable use of major resources and especially the management of the most valuable natural wealths and protected areas are in charge of the state or under significant state control as it is in all member states of the European Union. Conservation of the ecosystems, various plant and animal species, maintenance of healthy environment and reduction of harmful consequences of anthropogenic influences is the common interest that is indisputable in all European legislatures. The Republic of Serbia belongs to those European countries that grant the exclusive rights to manage the national park to public companies due to special needs for unified and permanent management of the resources of particular interest that have special protection.

The granting of exclusive rights to public companies is based on the fact that public utility services are generally linked to natural or operating monopolies and thus it is hard to create competitive market and fair competition in public utilities sector.

### **Infrastructure**

Law on Railways regulates the management of the public railway infrastructure and the performance of public transportation in the railway traffic, based on the principle which separates these operations. The law prescribes that the management of railway infrastructure, apart from the public enterprise, can be performed by other enterprises, other legal persons or entrepreneurs, under the conditions and in the manner determined by the law. This Law also prescribes that the transportation of passengers, persons and goods by rail can be performed by the transport operator with the corresponding transport licence, the transport safety certificate and the contract on use of railway infrastructure, which is concluded with the infrastructure manager. It has been prescribed that the path allocation is conducted by the public railway infrastructure manager on equal terms and conditions specified by the Law, for all transport operators.

### **Tourism**

"National Corporation for Tourism Development" ltd. performs tasks that are regulated by the Law on Tourism (*Official Gazette of RS*, no. 36/2009 and 88/2010) defined as activities of special importance for tourism development. Due to the above mentioned special importance of these tasks, there was the necessity of entrusting the same to the specialized subjects, and the Law on Tourism, provided that the Government established a national tourism corporation as a company, if none of the existing companies do not meet the requirements prescribed by law.

Taking into account the general public interest that the management of ski resorts has to entrusted to the public enterprise, the performance of these and other important activities

with the aim of maintaining and development of ski resorts, is entrusted to the public enterprise "Ski resorts of Serbia".

Public enterprise for the development of mountain tourism "Stara Planina" performs the activities of tourism development in the region of eastern Serbia. Considering low usage of natural resources in Eastern Serbia, undeveloped infrastructure and lack of the investors in that region, performance of the activities of development of tourism in this region has to be performed through public enterprise.

### **Defence**

"Yugoimport – SDPR", as a public enterprise founded by the Government, performs general interest activities which relate to foreign trade in arms and military equipment from Article 12, paragraph 1 of the Regulation on special purpose funds, since these operations are directly connected to the defence of the country, the fulfilment of international obligations and they contain an element of secrecy and confidentiality.

### **Media sector**

The justification for the granting of special rights to PE NA Tanjug can be found in Article 2 of the Law on PE News Agency Tanjug, which lays down that PE NA Tanjug performs the activity, and/or activities of public interest in the field of public information.

State agency Tanjug, in order to timely and completely inform the public, provides information on all aspects of the functioning of state authorities and on other issues of general public interest. Since the performance of these activities is not always commercially beneficial, this contributes to the better quality of information for all citizens.

The justification for the granting of special rights to Newspaper Publishing Public Enterprise "Panorama" can be found in Article 1 of the Law on the Foundation of the Public Enterprise for Newspaper Publishing "Panorama", which prescribes that in order to secure and fulfil the needs of citizens and organisations in the field of public information in the Serbian language and the languages of minorities in the Autonomous Province of Kosovo and Metohija, the public enterprise is founded to perform the newspaper publishing activity, as a general interest activity for the Republic of Serbia.

The justification for granting special rights to SJU Jugoslovenski Pregled lays in Article 1 of the Regulation on the Federal Public Institution Jugoslovenski Pregled, which foresees establishment of Jugoslovenski Pregled as a federal public institution to perform activities or business in the area of informing the public about events in the Federal Republic of Yugoslavia and the world, as well as other forms of public information of interest for the jurisdiction of the Federal Republic of Yugoslavia.

The justification for granting special rights to SJU Radio Jugoslavija lays in Article 1 of Regulation on the Federal Public Institution Radio Jugoslavia, which foresees establishment of Radio Jugoslavia as a federal public institution that conducts activities or business in the area of informing the public about events in the Federal Republic of Yugoslavia and the world, and realizing other forms of public information of interest for the jurisdiction of the Federal Republic of Yugoslavia.

The justification for granting special rights for the Serbian Broadcasting Institution lays in Article 85 of the Law on Broadcasting, which stipulates that, for the purpose of

conducting activities of public broadcasting service for the territory of the Republic of Serbia, the Broadcasting Institution of Serbia is established, with the headquarters in Belgrade.

The justification for granting special rights to the Broadcasting Institution of Vojvodina lays in Article 94 of the Law on Broadcasting, which stipulates that for the purpose of conducting activities of public service broadcasting in the territory of the Autonomous Province the Broadcasting Institution of Vojvodina is established in Novi Sad.

### **Education**

In the field of textbook publishing, PE “Zavod za udzbenike“ does not have an exclusive right, i.e. the monopoly to publish textbooks, since the possibility exists for competition between all publishers with licences. It has a special right as a public enterprise which performs a general interest activity, and as such it has the obligation to secure the publishing of textbooks with low circulation, if no other publisher has foreseen by their publishing plan the publishing of low circulation textbooks, and/or if no publisher with the licence participates in the organised tender.

The State Company of Textbooks performs this with the funds which all the publishers are obliged to set aside for the publishing of textbooks with low circulation (textbooks in the minority languages, textbooks for the students with disabilities, textbooks intended for pilot or special programmes).

### **Science**

The justification for the granting of special rights to the PE Nuclear Facilities of Serbia can be found in the following Articles of the relevant Law: Article 76 states that the inspection of the implementation of measures of protection against the ionizing radiation is performed by the ministry competent for the protection of ionizing radiation, by the inspector for the protection against the ionizing radiation. The inspection of the implementation of nuclear safety measures is performed by the ministry competent for nuclear safety and management of radioactive waste, by the inspector for nuclear safety and management of radioactive waste; Supervision over expert tasks (Article 77 of the Law); Rights and obligations of inspectors for the protection from ionizing radiation (Article 78 of the Law); Jurisdiction of the inspectors for the protection from ionizing radiation (Article 79 of the Law); Rights and obligations of inspectors for nuclear safety and radioactive waste management (Article 80 of the Law); Jurisdiction of inspectors for nuclear safety and radioactive waste management (Article 81 of the Law).

### **Games of chance**

Games of chance through the Internet, telephone or by any other telecommunications network can be considered a more dangerous form of these games than the traditional ones, considering the prevention of fraud and crime, and considering the protection of participants in the games from gambling addiction. It has been noted that the involvement of organised crime in games of chance is increasing, including the problems of money laundering, fixing of matches and other forms of corruption and criminal activity.

**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.**

**Energy**

PE EPS performs activities of general interest for the power generation and power distribution, distribution system operation and trade in power for tariff consumers energy supply, in order to provide conditions for security of supply of electricity for the tariff consumers in the territory of the Republic of Serbia.

PE EMS performs the general interest activity of power transmission and transmission system operation.

**Postal services**

The public postal operator has the obligation to fulfil the task of general economic interest.

Pursuant to Article 15(1) of the Law on Postal Services, universal postal service shall be provided by the public postal operator, whereas other postal operators can provide Universal postal service, excluding reserved services, solely based on the licence.

Pursuant to Article 12 of the aforementioned Law, universal postal service is a service of general interest.

The general interest is reflected in the provision of service which covers the entire territory of the Republic of Serbia; in the identity/uniformity of the service provided to the users under unique conditions and at affordable price; in compliance with prescribed standards of quality; in the availability of service within the meaning of spatial, time and personal availability, without any form of discrimination; and in the reliability and security of services without interruption, except in the events provided for by the law.

**Agriculture**

The general economic interest fulfilled by public water management companies relates to the protection of water and the protection from negative effects of water.

**Environment**

PE National Park Tara, PE National Park Kopaonik, PE National Park Fruska Gora, PE National Park Djerdap and PE National Park Sara Mountain are obliged to fulfil the task of general economic interest, since they are obliged to implement the usage of the National Park values (timber stock and others) according to general economic principles and conditions, economy and on the basis of the achieved income to implement protective measures.

The public utility enterprise or other undertaking responsible for provision of utility services must fulfill the following tasks of public interest:

- 1) consistency, that is continuous provision of utility services;
- 2) adequate scope of needed types of utility services and products that fully satisfy the needs of service users;



- 3) satisfactory quality of utility services and products, especially: adequate level of health and hygiene in line with the existing standards and regulations, punctuality concerning delivery deadlines, safety of users concerning utilization of services, reliable and environmentally friendly services.
- 4) development and improvement of the service quality and range, efficient operational organization, cost - effectiveness as well as other conditions for deliverance of quality services;
- 5) order of priorities concerning delivery of services in case of force majeure and in accordance with the municipal regulations;
- 6) safety measures and securing of utility's facilities, equipment and installations;
- 7) permanent functional ability of the facilities, maintenance of the infrastructural and other objects, plants and equipment that are used for provision of utility services.

### **Infrastructure**

Public enterprise for the public railway infrastructure management and public carriage operations in rail transport, which operates under the title Public Enterprise "Serbian Railways" was established by the Decision of the Government of the Republic of Serbia (*Official Gazette of RS*, no. 78/2004, 19/2005), which establishes that the railway enterprise is obliged to provide permanent, continuous and quality maintenance and protection of public railway infrastructure, smooth usage of the facilities of the public railway infrastructure and other work resources for railway traffic, safe and smooth railway traffic, and quality and timely transport of passengers and goods by rail and the quality maintenance of railway rolling stock.

### **Tourism**

The establishment and operation of "National Corporation for Tourism Development" Ltd, the Public enterprise for the development of mountain tourism "Stara Planina" and the Public enterprise "Ski resorts of Serbia" have its function of development of tourism as an industry. The specific tasks of these entities were mentioned in answer to question number 44.

### **Defence**

The object, framework and duration of relevant rights, and/or obligations of the PE "Yugoimport-SDPR", have been defined by the provision in Article 12, paragraph 1 of the Regulation on Special Purpose Funds, which states the following:

"Research of the weapons and military equipment market abroad, temporary import and export of movables with special purpose; foreign trade which is the object of special contracts on military and military-technical cooperation with governments and ministries of other countries; realisation of donations from abroad; conclusion of foreign trade treaties and foreign trade which relates to the acquisition of complex combat systems and associated services and the acquisition and sales which have been classified by the Minister of Defence as state secret and highly confidential, is performed in its own name, and on the behalf of the Ministry by the Public Enterprise founded for the performance of such activities, as activities of general interest."

### **Official Gazette**

PE “Official Gazette” performs general interest activities, i.e. the publication of the official gazette of the Republic of Serbia. The general interest is reflected in the publication of acts mentioned in the answer to question no. 44, in the gazettes which are unique and available in the entire territory of the Republic of Serbia, under the same conditions and equal prices, without any form of discrimination.

### **Education**

“Education Survey” ltd. Belgrade (“**Prosvetni pregled d.o.o.**”) has been founded by the Government by the Decision on the foundation of the public enterprise “Education Survey” Belgrade (*Official Gazette of RS*, no. 110/07).

“Education Survey” Belgrade prepares and publishes the magazine for teachers in the Republic of Serbia and other publications which ensure public information on the educational processes on all levels of education, and the printing of forms for school records, and public documents, in accordance with the law.

The Minister of Education, on the basis of special laws in the field of preschool, primary and secondary education, approves the publication of forms, records and documents, and determines the publisher by decrees.

### **Media sector**

Enterprises with granted special rights in the area of information are not obliged to fulfill the tasks of general economic interest.

### **Science**

Exclusive rights relate to the following: performance of nuclear activities, in accordance with the law; performance of radiation activities which relate to the safe usage of sources of ionizing radiation, and the trade in the sources of ionizing radiation, radioactive and nuclear material; taking measures for radiation and nuclear safety in the location of nuclear facilities in accordance with the law; provision of prescribed conditions for the locating, designing, construction, trial run, commission, operation, permanent shutdown and decommission of a nuclear facility; radioactive waste management; implementation of measures to prevent the contamination of the environment by radioactive waste; provision of physical protection, fire protection and other security measures of a nuclear facility, nuclear material and radioactive waste, including safety measures within the nuclear material transport; decontamination of the working and residential area; systematic examination of radioactivity in the environment surrounding the nuclear facility; and keeping records on the sources of ionizing radiation, on the professionally exposed persons and on radioactive waste.

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

### **Energy**

Regulatory and commercial functions have been entrusted to bodies that are independent of each other.

Pursuant to Article 10 of the Law on Ministries (*Official Gazette of RS*, no. 65/08, 36/09 – other law and 73/10 – other law), the Ministry of Mining and Energy performs the state administration activities which relate to energy policy and energy development planning.

Article 10 of the Law on Energy establishes the Energy Agency of the Republic of Serbia as a regulatory body to improve and direct energy market development according to principles of non-discrimination and effective competition, monitoring the implementation of regulations and energy systems operation codes, adjusting the activities of energy entities in ensuring the regular supply of energy and services to consumers and their protection and equal position.

Article 15 of the Law on Energy prescribes that the Energy Agency of the Republic of Serbia handles the following affairs:

- 1) adopt tariff systems for pricing electricity and natural gas for tariff consumers, as well as tariff systems for pricing access to and the use of energy transmission, transportation, i.e. distribution systems and natural gas storage facilities and other services; ;
- 2) specify the methodology for the determination of tariff elements for the calculation of electrical power and natural gas prices for tariff consumers, including the prices of generated electrical power, i.e. natural gas for tariff consumers, as well as the price calculation methodology for heat produced in electrical power and heating plants (combined heat and electrical power generation) and delivered to energy entities for supplying tariff consumers with heat;
- 3) specify the criteria and methods for determining the costs of energy transmission, transportation, transportation and distribution system connections;
- 4) issue licenses for conducting energy activities and adopt a decision on license revocation, under the conditions stipulated herein, except for activities of distribution and production of heat in district heating plants and keep a register of issued and revoked licenses;
- 5) approve grid codes, the energy market code and operation code for natural gas storage systems;
- 6) decide appeals against decisions of a transmission, transport and distribution system operator refusing access, as well as appeals against energy entity decisions refusing access, i.e. failure to adopt a decision on a submitted application for connection to the system, as well as appeals against decisions refusing access to and energy entity for natural gas storage;
- 7) determine minimum annual energy consumption for acquiring eligible consumer status, determine eligibility for granting the status of an eligible consumer and keep a register of eligible consumers.

Tasks from Article 15, paragraph 1, point 4) and 6) are executed as conferred tasks.

Apart from the tasks from Article 15, paragraph 1 of the Law on Energy, the Energy Agency of the Republic of Serbia handles the following affairs: monitor the implementation of tariff systems, collect and process data on energy entities regarding the implementation of energy activities, monitor the procedure of account separation and consumer protection of energy entities. In accordance with Article 40 of the Law on Energy, the energy activity, and/or the business functions in the field of energy, can be performed by undertakings, and/or

other legal persons or entrepreneurs which have been entered into the corresponding register and who have the licence for the handling of energy affairs.

### **Postal services**

Regulatory and business functions have been entrusted to bodies that are independent of each other.

Pursuant to Article 62 of the Law on Postal Services, the authorisation and jurisdiction in the field of postal services are implemented by the Government, the ministry competent for postal services and the National Agency for Postal Services and the public postal operator as well.

The Government determines the policy and strategy for development, basic orientations and principles of the provision of postal services, guided by the public interest in this field, professional principles of postal profession, principles of the Universal Postal Union, other international organisations and the international commitments undertaken.

The Ministry implements the Government policy in the field of postal services, prescribes and establishes conditions to commence the performance of tasks, prescribes conditions for maintenance and development of the universal postal service and monitors the implementation of the law and regulations reached on the basis of the law. The Ministry also adopts the plan for issuing commemorative postal stamps and postal stationeries, and the motifs for the regular issues of postal stamps and postal stationeries.

The National Service for Postal Services is an independent regulatory body. The Agency is an autonomous legal entity and it is in terms of its work independent of any state body as well as of any organization or person involved in postal services. The Agency is obliged, with its actions, and in accordance with the law, to enable competition and to prevent any form of monopoly in the postal services market.

Universal postal service shall be provided by the public postal operator, whereas other postal operators can perform universal postal service, except reserved ones, based on the licence. The public postal operator has the exclusive right to use the word or parts of the word “post” in any language or in any writing, in the title of the company or business. Apart from the universal postal service, the public postal operator also performs commercial postal services.

### **Telecommunication services**

The Law on Electronic Communications defines the division of competencies in the field of electronic communications between the Government, the Ministry of Telecommunications and Information Society (hereinafter referred to as: the Ministry) and the Republic Agency for Electronic Communications (hereinafter referred to as: RATEL) in the Articles laying down the activities within the competence of the said institutions (Articles 5-7).

RATEL is an independent organisation with the status of a legal entity, which exercises public authorities for the purpose of efficient implementation of the policy set within the field of electronic communications, promoting the competition of electronic

communications networks and services, improvement of their capacity and quality of services, securing the development of electronic communications market, and the protection of the interests of the electronic communications consumers.

Pursuant to the Law on Electronic Communications RATEL shall: adopt by-laws; decide on the rights and obligations of operators and users; cooperate with agencies and organisations in charge of broadcasting, competition protection, consumer protection, personal data protection and other agencies and organisations on issues relevant for the electronic communications sector; cooperate with the relevant regulatory and expert bodies of the European Union Member States and other states for the purpose of harmonizing the practice of implementing the electronic communications sector regulations and promoting the development of cross-border electronic communications networks and services; participate in the work of international organisations and institutions within the electronic communications sector in the capacity of the national regulatory authority within the electronic communications sector and perform other activities in accordance with the Law on Electronic Communications.

### **Agriculture**

In the field of water management, regulatory and commercial functions have been entrusted to bodies that are independent of each other. Undertakings which perform commercial functions are autonomous and independent with regard to state authorities, which perform the regulatory function. Public water management companies give their opinion in the procedure of water acts issuing, but they do not have commercial functions. The funds to realise their programmes are granted by the founder and those funds have a specified purpose and cannot be used for other purposes apart from those determined after the foundation of the water management company (answers to questions 44 and 45). Assent to the work programme of the public water management company is also given by the founder.

### **Environment**

Public enterprises National park Tara, PE National park Kopaonik, PE National park Fruska Gora, PE National park Djerdap and PE National park Sara Mountain, within the scope of their entrusted statutory powers, independently deliver official documents, programs, plans, rule books and decisions that, following the defined procedure, are delivered to the competent authorities or state institutions for approval or issuing of expert opinion. Commercial operations as well as operations on the goods and services market are done independently, under market terms and conditions.

The Government of the Republic of Serbia gives consent to the Management plan of a national park. However, as far as the official documents that regulate conservation of particular resources (waters, forests, hunting, fishing and other resources) are concerned the consent is given to the national park manager by the competent Ministry. The Ministry of finance gives consent to financial plans and programs.

Assembly of the local self-government unit has the regulatory function concerning the utility sector. For example, assembly of the local self-government unit gives consent to pricing policy and change of prices of utility services as well as work plans and schedules of the public utility companies. Public utility companies are run by the managing board and a CEO (chief executive officer) delegated by the assembly of the local self-government unit.

Privately owned companies that perform utility services chose their own management (this is usually done by the company owner or company's founders).

### **Infrastructure**

(see answer to Chapter 14, question 25)

The Railways Directorate was established by the promulgation of the Law on Railways, as a separate organisation having properties of legal person and uniting certain competencies of the regulatory body, safety authority and a licencing authority. Investigation body and Notified body have not been established yet.

The Railways Directorate has the authority to issue the following licences and certificates: safety certificate on public railway infrastructure management and/or industrial railway; public transport safety certificate; licence for use of newly constructed rolling stock and new types of parts and equipment for rolling stock; licence for new types of devices, parts and equipment of the railway infrastructure.

The Railways Directorate is authorised to decide on entered objections to a rejected or altered or amended offer for the conclusion of contract on use of the railway infrastructure. In practice, however, these regulatory activities are not conducted, as the provisions of the Law on Railways relating to the market opening and access to infrastructure were never implemented.

Regulatory functions in the field of public roads are performed by state authorities (Ministry of Infrastructure (on the basis of the Law on Public Roads), the Ministry of the Environment and Spatial Planning (on the basis of the Law on Planning and Construction)).

### **Tourism**

The Ministry of Economy and Regional Development performs state administrative affairs related to: strategy and policy of tourism development, integrated planning of development of tourism and complementary activities, development and sustainable use of space and tourist destinations of importance to tourism, the implementation of incentive measures and providing financial and other conditions to encourage the development and promotion of tourism, taxes and remunerations fees in tourism, property and legal issues in tourism, the improving of system value and competitiveness of tourism products, tourism market research and development of the tourist information system, the conditions and manner of performing activities of travel agencies, hospitality activities, nautical activities, as well as providing services in tourism, planning, maintenance and equipping of public ski resort and providing services at the ski resort, organization, maintenance, equipment and providing services to spa centers, theme parks and public beaches; inspection surveillance in the field of tourism. Within the scope of the authority in the field of tourism, the Ministry of Economy and Regional Development performs regulatory and non-commercial functions in the field of tourism.

### **Defence**

Regulatory affairs are conducted in accordance with the Law on Foreign Trade in Weapons, Military Equipment and Dual-Use Goods (*Official Journal of SCG*, no. 7/05, 8/05)

– corrigendum), by the equal direct participation of 4 ministries: Ministry of Economy and Regional Development, Ministry of Foreign Affairs, Ministry of Defence and Ministry of Interior, with the precisely defined jurisdiction in the implementation of regulatory activities.

### **Media sector**

In the field of public information, in accordance with European practice, the regulatory body monitors the work of only the electronic media.

The Republic Broadcasting Agency was founded under the Law on Broadcasting, and its jurisdiction has been prescribed in Article 8 of this Law. In Chapter 10 – Information Society and Media, Audiovisual policy, everything concerning the jurisdiction and the manner of functioning of the Republic Broadcasting Agency (RBA) has been provided for in detail.

### **Education**

The Minister competent for education adopts by-laws which regulate the procedure of the granting and revoking of licences for publishing textbooks. The procedure of granting and revoking of licences is performed by the ministry competent for education, and administrative litigation can be initiated against the decision reached in the procedure.

The publisher can file the request for the approval of textbooks only after the granting of the licence, together with the necessary documentation to the Ministry of Education, by 1 October at the latest in the school year preceding the school year for which the textbook shall be approved. The procedure for the approval of textbooks is the same for all publishers, including PE “Zavod za udzbenike”.

The assessment of manuscripts for textbooks is performed by the Institute for Improvement of Education, as an expert institution, and the professional assessment of the manuscript quality is considered by the National Education Council, which gives the final proposition on the acceptance of a certain manuscript. The law enables the possibility for a foreign textbook to be approved as well.

Textbooks are approved by the Minister of Education. Besides the proposition of the National Education Council, the positive opinion of the Commission for Religious Education in Serbia (when textbooks for religious education are considered) is required, as well as of the national council of the minority (when textbooks in the minority languages are approved, or a textbook for subjects which hold interest for minorities).

### **Science**

In accordance with Article 5 of the Law on Ionizing Radiation Protection and on Nuclear Safety, and in order to provide conditions for quality and efficient implementation of protection measures against the ionizing radiation and nuclear safety measures when performing radiation operations and nuclear activity, the Government has founded the Agency for Ionizing Radiation Protection and Nuclear Safety of Serbia - SRPNA (*Official Gazette of RS*, no. 76/09), as an independent regulatory body which implements public authorities in accordance with the law. Provisions of the Law on Public Agencies (*Official*

*Gazette of RS*, no. 18/05 and 81/05 – corrigendum) apply to the foundation and legal position of the Agency.

#### **49. Which State monopolies exist?**

##### **Energy**

PE EMS performs the activity of electrical power transmission and transmission system operation. PE EPS performs the activity of electrical power distribution and distribution system operation.

##### **Postal services**

Pursuant to Article 15(1) of the Law on Postal Services, universal postal service shall be provided by the public postal operator, whereas other postal operators can provide Universal postal service, excluding reserved services, solely based on the licence.

In the Republic of Serbia, the universal postal service is performed by the Public Enterprise of PTT Communications “Srbija”, and the Republic Agency for postal services so far has not received the request by a different postal operator for the licence which relates to the performance of this service.

In accordance with the recommendation in the Directive 97/67/EC that there should be services which every country can reserve for the provider(s) of the universal postal services to the extent necessary to secure the maintenance of the universal postal service, in the Republic of Serbia, the reserved service has been assigned to the Public Enterprise of PTT Communications “Srbija”, since this enterprise also performs activities of a general interest.

##### **Infrastructure**

The public transportation of passengers and merchandise in the territory of the Republic of Serbia is currently performed only by the PE “Serbian Railways”, which is in the process of restructuring, until all the conditions foreseen by the Law are reached for the establishment of free access to the railway infrastructure, which has been explained in more detail in Chapter 14, II, B – Rail Transport.

##### **Defence**

PE “Yugoimport-SDPR”, in accordance with the provision of Article 12, paragraph 1 of the Regulation on Special Purpose Funds, performs in its name, and on the behalf of the Ministry of Defence, the following activities:

“Research of the weapons and military equipment market abroad; temporary import and export of movables with special purpose; foreign trade which is the object of special contracts on military and military-technical cooperation with governments and ministries of other countries; realisation of donations from abroad; conclusion of foreign trade treaties and foreign trade which relates to the acquisition of complex combat systems and associated services and the acquisition and sales which have been classified by the Minister of Defence as state secret and highly confidential, is performed in its own name, and on the behalf of the Ministry by the Public Enterprise founded for the performance of such activities, as activities of general interest.”



Article 12, paragraph 4 of the Regulation prescribes that foreign trade, which was not encompassed in paragraph 1 of this Article, can also be assigned to other persons, registered for foreign trade in weapons, military equipment and dual-use goods in accordance with the Law, which demonstrates that there is no state monopoly in this field.

### **Games of chance**

The right to organise games of chance belongs to the Republic of Serbia, and it transfers it to legal persons through the issuing of licences, approvals and assent.

The permit to organise special games of chance in the casinos is granted based on the public invitation, published in daily newspapers distributed at the entire territory of the Republic of Serbia, in the “Official Gazette of the Republic of Serbia”, “Financial Times”, and on the website of the Ministry of Finance. The procedure between the public invitation and the granting of the licence lasts 70 days, after which the contract is concluded to transfer rights for the organisation of special games of chance in casinos, 45 days after the day the licence was granted, at the latest.

The procedure for the issuing of the licence has been prescribed in the provisions of the Regulation on the Closely Defined Conditions, Manner and Procedure for the Issuing of the Licence to Organise Special Games of Chance in Casinos (*Official Gazette of RS*, no. 77/05, 69/06, 85/08, 104/08-Constitutional Court and 7/09).

Article 40, paragraph 3 of the Law on Games of Chance prescribes that the fee for the obtaining of the licence cannot be less than RSD 52,750,000.00 (≈EUR 500,000) in RSD equivalent according to the middle exchange rate, on the day of the filing of the application to the public invitation. Along with the application to the public invitation, participants supply, among other things, the proposition for the fee for the licence, which is one of the elements taken into consideration when determining the rank-list.

Approval for the organisation of special games of chance in machines is granted at the request of a legal person within 15 days, pursuant to Article 62, paragraph 2 of the Law. The organiser pays the fee for the granted approval in the amount of RSD 2,638.00 (≈EUR 25) per month equivalent in RSD per machine, in accordance with Article 68, paragraph 1 of the Law.

Approval for the organisation of special games of chance - betting is granted at the request of a legal person within 15 days, pursuant to Article 75, paragraph 2 of the Law. The organiser pays the fee for the granted approval in the amount of RSD 10,550.00 (≈EUR 100) per month equivalent in RSD per place of payment.

“Serbian State Lottery”, founded by the Republic of Serbia has the exclusive right – monopoly to organise games of chance through the internet, telephone or by any other telecommunications network.

### **B. Sectoral aspects**

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