

**THE GOVERNMENT  
AND STATE  
ADMINISTRATION SYSTEM  
IN THE REPUBLIC OF SERBIA**  
**COMPILATION OF LAWS  
AND EXPLANATORY ARTICLES**

# THE GOVERNMENT AND STATE ADMINISTRATION SYSTEM IN THE REPUBLIC OF SERBIA COMPILATION OF LAWS AND EXPLANATORY ARTICLES

*Written by*

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# FOREWORD

This publication contains the Government of the Republic of Serbia Act, the State Administration Act, the Public Agencies Act, and certain subsidiary instruments thereunder. In addition, there are comments made by the experts that were involved in the drafting of the previously mentioned regulations governing the functioning of the Republic of Serbia Government, state administration and public agencies. The Republic Legislation Secretariat, supported by foreign and national experts engaged within the framework of two projects of the European Agency for Reconstruction (EAR), drafted the said statutes and regulations. The first project, “Support to the Ministry of State Administration & Local Government of the Republic of Serbia” (in short: PARiSR – Public Administration Reform in Serbia) commenced in May 2003 and ended in April 2005. The ongoing “Technical Assistance for the Preparation and Implementation of Administrative Legislation – Phase II – the Republic of Serbia” project started in September 2005 and will end in March 2008. Improvement of the state administration system and easy embracement of the new civil service system was and still is the goal of both projects.

The initial attempts to outline the Bill on State Administration were made in the summer and the beginning of fall 2003 under the auspice of the Ministry of State Administration & Local Government, represented in the working group by Ms. Jasmina Damjanović. The PALGO Center and its expert team supported these efforts. On behalf of the PARiSR team, there were eminent experts for public administration reform: Prof. Gorazd Trpin, LL.D, an Administrative Law professor from the Ljubljana Law School, docent Slobodan Dujić, LL.D, international expert for public administration as well as the Director of the Insitute for Project Consultancy of Ljubljana, and Samo Godec, LL.M, EAR project team leader, all of them from Slovenia.

Because of the forthcoming parliamentary elections in Serbia, the work on outlining the bills slackened significantly until the formation of the new Government. Following the creation of the Government, in the early

spring of 2004, Mr. Zoran M. Balinovac was appointed the Principal of the Republic Legislation Secretariat. Soon thereafter, Ms. Jasmina Damjanović was appointed as Mr. Balinovac's deputy. Under their leadership, the work on drafting the Bill on State Administration quickly resumed. At that time, the PARI SR Steering Committee decided to admit the Republic Legislation Secretariat to the project as the second beneficiary. Furthermore, a decision was made that the project team start supporting the preparations of the Bill on Government, the Bill on Public Agencies, and the Bill on Inspectoral Oversight. New drafts of the Bill on State Administration, significantly improved in comparison to the 2003 ones, were produced in the early summer of 2004 with support and advice of docent Slobodan Dujčić and Professor Gorazd Trpin. At about the same time, the first outlines of the Bill on Government and the Bill on Public Agencies were produced under advice of Professor Gorazd Trpin and Samo Godec. In the fall of 2004, talks with other organizations providing technical law-making support, primarily SIGMA and the World Bank, commenced regarding the draft bills. At that time, docent Slobodan Dujčić assisted the first outlining of the Bill on Inspectoral Oversight. This piece of legislation has remained to be a draft and the work on its finalization has yet to resume.

An intensive effort to produce new versions of the draft statutes continued during the summer and September of 2004. In September and October 2004, a joint working group with the representatives of SIGMA, which frequently gathered under the leadership of Ms. Anke Freibert, the Programme Manager for CARDS Region, attuned the texts of the bills. The draft Bill on Government, and the draft Bill on State Administration were finalized by early November, and were subjected to an inter-ministerial harmonization through the Republic Legislation Secretariat by Mr. Zoran M. Balinovac and Ms. Jasmina Damjanović. Subsequently, the Government of the Republic of Serbia adopted the Bill on State Administration at its 43rd session of 11 November 2004, whereas the bills on the Government and the public agencies were adopted at the 44th session, on 19 November 2004.

The National Assembly passed the Public Agencies Act in February 2005. The Act entered into force on 3 March 2005. The Government Act was initially passed in May 2005 but the process had to be repeated as the President of the Republic did not assent to the Act. The second run was done in June 2005 when the Act entered into force. At the end, the State Administration Act was passed in September 2005 and it entered into force in the same month.

Soon after the passage of the Government Act, several organizational regulations (pertaining to the Cabinet of the President of the Government, the Cabinet of the Vice-President of the Government, the Government Secretariat-General, the governmental services and bureaus) were drafted within the Republic Legislation Secretariat, and were subsequently passed by the Government at its 88th session of 25 August 2005. The regulatory framework for the functioning of the Government was consolidated thereby. The remaining issues concerning the internal organization of work

and the decision-making process were regulated by the Government Rules of Procedure, also drafted by Mr. Zoran M. Balinovac, the Director of the Republic Legislation Secretariat, and passed at the 104th session of the Government, on 17 November 2005.

At that time (September 2005), the new EAR project “Technical Support to the Preparation and Implementation of Administrative Legislation – Phase II – Republic of Serbia” (in short: DIAL – Drafting and Implementing Administrative Legislation) kicked off. Its project team managed to contribute to the preparation of the previously mentioned secondary legislation at the very end of the drafting. The same applies to the drafting of the regulation based on the State Administration Act. The Regulation on Administrative Districts and the Regulation on Work of Administrative District Councils were passed at the 122nd session of the Government, on 24 February 2005. The amended Regulation on Principles for Internal Organizing and Staffing Tables of the Ministries, Special Organizations, and Services of the Government was passed at the 125th session of the Government, on 16 March 2005.

The idea to publish a kind of publication like the present one emerged simultaneously with the drafting and adoption of the aforementioned regulations. The purpose is to have all the regulations governing the new governmental and state administration system in one place together with the comments of their authors, and all of them in two languages, Serbian and English. The English translations of the statutes and subsidiary instruments done by Aleksandra Čavoški, LL.D, and Dejan Vuruna, LL.M, local DIAL experts, are particularly valuable.

In the first part of the book, there are comments on the Government Act, the State Administration Act, and the Public Agencies Act by Mr. Zoran M. Balinovac and Ms. Jasmina Damjanović who were, on behalf of the Republic Legislation Secretariat, chief initiators and creators of all the pieces of legislation during the last three years. I would like to point out that the articles were written prior to the adoption of the new constitution of the Republic of Serbia. That is why all the citations refer to the old constitution. However, I think this does not diminish the relevance of their texts.

By publishing this book, together with the book titled “The Civil Service System in the Republic of Serbia”, DIAL, with EAR support, continues its activities aimed at campaigning for the state administration reform. In the same context, the “Manual on appraisal of civil servants” by Hans-Achim Roll, LL.D, has been already published and other manuals pertaining to other essential elements of the new civil service system (human resources planning, internal and public job competitions, etc.) will follow. The manuals, books and other publications will serve as helping tools in the training of civil servants, the recently established Human Resources Management Service being responsible therefor, as well as a direct assistance to all civil servants, particularly managing ones while being involved in personnel procedures.

The passage of the legislative framework governing the Government and the state administration of Serbia is a decisive step in the reform process, which places Serbia in the forefront position among the reformist countries of the region. Now, a more challenging and difficult task lies ahead – a proper implementation of the new regulatory framework. The authors of the texts in this book wish this publication to help an easier implementation of the new regulations within Serbia’s state administration.

Samo Godec, LL.M  
Team Leader

A handwritten signature in black ink, appearing to be 'S. Godec', written in a cursive style.

# **WHAT WAS NOT REGULATED BY THE GOVERNMENT ACT**

**ZORAN M. BALINOVAC**

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Zoran M. Balinovac, Director of Republic Secretariat for Legislaton of the Government of the Republic of Serbia

## INTRODUCTION

Drafting of the law regulating the status of the Government and its work is not an easy task. The line separating law and politics is very thin. The responsibility of the Government mainly evades legal sanction. There is always a danger in regulating, by a legal provision, a relationship which is of a purely political nature and thus a legal provision is subjected to political criteria and it becomes unnecessary and weak. On the other hand, insufficient regulation of the Government by legal provisions leads to a loss of legal criteria for estimation of how the Government observes the principles of the Rule of Law. Essentially, the position of the Government in a state depends on the political tradition and democratic climate more than on legal provisions.

The Constitution of Serbia of 1990 prescribed the principle of separation of powers. Until then, the system of unity of powers was present, in which the National Assembly determined and led state politics, while the Government was the executive body of the Assembly (it was not even called the Government but the "Executive Council of the Assembly" and as such it did not have an autonomous responsibility for the situation in the country. In practice, the power was not in the state institutions. Elites of political bureaucracy were in power, embodied in the League of Communists (not only in Serbia but in all former Yugoslav republics). The National Assembly and the Executive Council of the Assembly and, occasionally, courts were the mere executors of what was decided by the apex of the League of Communists. The Constitution of 1990 provided for the very powerful institution of the President of the Republic (who is almost irreplaceable) and the real power is moved from the institution of the National Assembly and the Government to the institution of the President of the Republic. This was also facilitated by the fact that a political party, whose member was the President of the Republic, with or without coalition had a majority in the National Assembly; thus, the National Assembly and the Government were under the control of the President of the Republic.

Consequently, from October 2000, each authority emphasized the long lasting deprivation of their real constitutional power and demanded the restoration of their competences: both the National Assembly and the Government were elected in January 2000. Under the excuse of a need for a rapid, operational and dynamic action, in order to reform Serbia and

modernise the Government, the Government by a series of unconstitutional measures made the National Assembly to be the executive body of the Government. From 30 December 2002, when the term of office of the President of the Government elected in 1997 ended, Serbia did not have the President of the Republic until 27 June 2004 and the competences of the President were taken over by the Government through the "acting President of the Republic", that is the Government's President of National Assembly. During that time, neither the new Constitution, nor the Government Act (the previous act from 1991 stayed in force), nor the State Administration Act (the one from 1992 remained in force) were passed; the civil servants system was not introduced (the obsolete law from 1991 was still in force). At least, the legal reform of the basic institutions was not dealt with by the former Government.

Finally, the Constitution of 1990, which is still in force, contains many confusing provisions and gaps related to the work and functioning of the term of office of the Government, which increases the risk of evaluating the legal provisions as unconstitutional and demands caution on the side of the legislator.

The new Government Act was drafted under the said circumstances. Therefore, some of the provisions did not find their place in the Act although they should have. This paper presents some of them.

## WHO MAKES POLICY IN THE REPUBLIC OF SERBIA

Parliamentary systems differ from the system of unity of powers by ensuring that each branch of power – legislative, executive and judicial – is supreme in its domain. The instruments for joint action and cooperation are established between branches of government; otherwise this would impede the functioning of the state.

The executive branch does not entail only law enforcement. In the parliamentary system the Government is an active branch of power which, in direct contact with the social system, tries to find solutions for resolving weaknesses of the society. On that basis, the Government above all prepares draft laws and submits them to the Parliament, which is, by passing laws, the only competent authority to resolve the most important strategic social issues.

The Government conducts the policy of the Republic of Serbia (Article 90, paragraph 1 of the Republic of Serbia Constitution). The Constitution does not have any provision on who is making policy. The policy-making would at least entail determination of main political goals, while the conduct of policy would entail the execution of determined goals.<sup>1</sup> It would be appropriate for the parliamentary system that the Government Act contains a provision “the

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<sup>1</sup> The interpretation according to which “determination” of policy is a “part of policy-making” was stipulated in the Constitutional Charter of the State Union of Serbia and Montenegro. “The Council of Ministers...determines and pursues the policy of Serbia and Montenegro” (Article 33, subparagraph 1).

Government makes and conducts policy". However, this provision was not included in the Government Act since there is a feeling in the parliamentary practice of Serbia, that the National Assembly makes policy (that the National Assembly is the highest authority). This is a reflection of the opinion which comes from the times of the unity of power. The Government is accountable for its work to the National Assembly and, thus, for its policy-making. This is confirmed in the Serbian practice. The Government sometimes, when it concerns the major political decisions, seeks the support of the National Assembly in order to confirm that it has the support of the Assembly. This represents the mode for the Government to introduce the vote of confidence in the National Assembly.

Metaphorically speaking, the support or not giving the support to the Government is the only way in which the National Assembly "makes" policy of Serbia.

## **POSITION OF THE GOVERNMENT WHICH FAILED IN THE VOTE OF CONFIDENCE**

The Government itself may ask for a vote of confidence in the National Assembly, that is to ask the members of the Parliament to vote whether the Government still enjoys their confidence (Article 93, paragraph 5 the Republic of Serbia Constitution). While a vote of no-confidence in the Government is the way for members of the Parliament to put pressure on the Government, the vote of confidence represents a pressure of the Government on the National Assembly. The Constitution does not answer two questions. Firstly, what is the majority necessary for the vote of confidence? Secondly, what are the consequences of a decision of the National Assembly to withdraw its supports to the Government?

The Government Act regulates the first question only and it prescribes that the vote of confidence is passed, if there are 126 votes from the total number of the members of the Parliament (Article 19, paragraph 2). The second question was not answered. Although it is inherent in the parliamentary system that the term of office of a Government in which a vote of no-confidence was passed ceases, in Serbia this is prevented by the Constitution. The Constitution enumerates the reasons for the termination of the term of office of the Government: a vote of no-confidence, the resignation of the Government and the dissolution of the National Assembly (Article 93, paragraph 9 of the Republic of Serbia Constitution). It does not prescribe the failure in the vote of confidence as a reason for the termination of the term of office of the Government. Thus, the statutory stipulation of the termination of office of the Government which did not pass a vote of confidence would be problematic from the aspect of the Constitution. It seems that the constitutional solution – which is without any doubt a flaw – made the failure to vote the confidence in the Government to be a moral and political

and not a constitutional institution. The question of survival of the Government in this case remains in the domain of wider political relations and, at least formally, it is left to the estimation of the Government. Since it kept the mandate, the Government may advocate with the President of the Republic the dissolution of the National Assembly and thus the new elections will be held. Instead of the fall of the Government both, the Government and the National Assembly, would fall.

Therefore, the Bill on Government Act kept the provision according to which “the Government which failed of a vote of confidence may resign” (Article 19, paragraph 4). Ratio legis of this provision was to create legal pressure on the Government who was voted no-confidence to think whether there are moral grounds to stay in office; this provision had the aim to clarify to the National Assembly and the Government, as well as to the public, a situation when the Government was failed of a vote of confidence. These were the nuances that were not noticed in the parliamentary discussion. Criticism of members of the parliament was based on the statement that the Government may always submit a resignation and there are no reasons to especially separate just one situation. The Government accepted the criticism of members of the Parliament.

Thus, the Government Act finally does not contain a provision which would regulate the cessation of term of office of the Government which was failed a vote of confidence (which is a constitutionally problematic solution) as well as provision which would explain that the institution of the vote of no-confidence in the Government has moral and political and not legal implications.

## **THE POSSIBILITY OF OBSTRUCTING THE FORMATION OF A NEW GOVERNMENT**

At the proposal of the Government containing justified grounds, the President of the Republic may decide to dissolve National Assembly (Article 89, paragraph 1 the Republic of Serbia Constitution). The proposal of the Government is a procedural condition without which the President cannot dissolve the National Assembly. The President of the Republic is not obliged to dissolve the National Assembly; he or she, according to his or her own estimation, decides whether to accept or reject the proposal of the Government.

The Constitution is explicit on several issues. In the event of the dissolution of the National Assembly, the election for a new National Assembly must be held within 60 days of its dissolution (Article 89, paragraph 4 the Republic of Serbia Constitution).

The existence of a state of war or a state of emergency is the only constitutional restriction of the right of a President of the Republic to dissolve the National Assembly. The Constitution does not prescribe any other restriction.

Thus, in Serbia it is possible that the President of the Republic and the Government – if they come from the same party or coalition – obstruct the establishment of the new Government. The steps are clear. If the Government loses the support of the National Assembly by creating a majority coalition which may compose a new Government (without the previous elections), the first thing that the new majority must do is to hold a vote no-confidence in the existing Government.<sup>2</sup> However, the President of the Republic may in the procedure of vote of no-confidence dissolve the National Assembly upon the proposal of the Government whose confidence is being voted. The consequence of the dissolution of the National Assembly is new parliamentary elections. By the dissolution of the National Assembly in this case the vote of no-confidence in the Government and the composition of the new Government are prevented and new parliamentary elections are called instead and the term of office of the Government which was about to be voted no-confidence is extended.

As of 1990, in the parliamentary practice in Serbia the National Assembly was dissolved twice, both times before the vote of confidence in government and upon proposal of the Government. It happened for the first time on 20 October 1993 and for the second time on 13 November 2003.

The way of preventing the possibility of obstructing the establishment of the new Government in the same term of office of the National Assembly may be guaranteed with the following provision: “The Government may not propose to the President of the Republic the dissolution of the National Assembly, until the procedure of discussing and voting of no-confidence in the Government is terminated.” However, the introduction of this provision in the Government Act may be interpreted as a limitation of the constitutional right of the Government to submit to the President of the Republic the proposal for the dissolution of the National Assembly and the limitation of the right of the President of the Republic to, upon the proposal of the Government, dissolve the National Assembly. This is even more obvious, bearing in mind that the Constitution prescribes only one exception (the prohibition to dissolve the National Assembly in the state of war or state of emergency or the state of immediate danger of war), which means that the stipulation of the second exception may be interpreted as a direct violation of the Constitution.

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<sup>2</sup> Following this, the President of the Republic should confer to the National Assembly a mandate to compose a new Government. The constitutional system in Serbia does not vest in the National Assembly a right to, after the first election of the Government, choose itself a new President and the members of the Government, without the mediation of the President of the Republic (as in a system of a constructive vote of no-confidence in the Government).

## DURATION OF THE DISCUSSION OF A VOTE OF NO-CONFIDENCE IN THE GOVERNMENT

The possibility to hold a vote of no-confidence in the Government is the most efficient form of parliamentary control of the Government. The proposal for a no-confidence vote in the Government or in one of its members may be submitted by at least 20 members of the Parliament (Article 93, paragraph 3 the Republic of Serbia Constitution).

The National Assembly has 250 members. The Constitution does not in any way restrict the right of a member of the Parliament to submit the proposal for the vote of no-confidence in the Government as a whole or an individual member of the Government. Less than 1/10 of the members of the Parliament may inhibit the work of the National Assembly and the Government. A solution may be found in the limitation of the right of members of the Parliament to propose a vote of no-confidence for a certain period of time after the failure of the previous proposal. However, this would be in contradiction to the Constitution.<sup>3</sup> Thus, the possibility to propose a discussion on no-confidence is left to the estimation of the parliamentary parties that asses the likelihood of political damage, if their proposal fails.

The parliamentary practice in Serbia entails that the proposal for the vote of no-confidence in the Government is included in the proposal of the agenda of the Assembly session in order to vote on this issue, as if it were any other issue on the agenda. The vote concerns whether the proposal of no-confidence in the Government will be included in the agenda of the session of the National Assembly. Of course, this cannot happen when the Government has a majority. The practice is not in accordance with the Constitution and it is based on the relic of the system of unity of powers. The right to request a discussion regarding a vote of no-confidence in the Government is above all the right of the minority in the Assembly. This is due to the fact that the majority may out vote the minority in the decision on the proposal of the agenda of the parliamentary session; the right to discuss and vote on the confidence of the Government is a right which is achieved according to the Constitution; in determining the agenda there should be voting on the proposal, the proposal should be according to the Constitution (ex lege) included in the agenda.

“A vote of no-confidence in the Government may be held only three days after submitting the proposal for the vote no-confidence.” (Article 93, paragraph 4 the Republic of Serbia Constitution). The law proposal

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<sup>2</sup> It is interesting that the Rules of Procedure of the National Assembly did not omit to prescribe the following after the first passing of the Government Act (since the President of the Republic refused to sign for the first time the decree on the proclamation of the Government Act): “The proposal for a vote of no-confidence in the Government or one of its members may not be submitted again during the same sitting of the National Assembly” (Article 204, paragraph 5). The first regular session shall begin on the first working day in March, and the second regular session shall begin on the first working day in October. A regular session may not exceed 90 days (Article 79, paragraph 2 the Republic of Serbia Constitution).

contained three provisions: first “Not less than 3 and not more than 15 days may expire after the submission of the proposal of the vote of no-confidence in the Government until the actual voting” (Article 18, paragraph 2 Bill on Government); second “Not less than 5 and not more than 20 days may expire after the submission of the proposal of vote of no-confidence in the Government until the actual voting” (Article 19, paragraph 2 Bill on Government) and the third “Not less than 3 and not more than 15 days may expire after the submission of the proposal of vote of no-confidence in the Government until the actual voting” (Article 22, paragraph 4 Bill on Government).

The drafters of the Government Act started from the position that the right to submit a proposal for a vote of no-confidence in the Government is a constitutional right of members of the parliament and that the proposal is by the force of the Constitution included in the agenda of the National Assembly; that the right of members of the parliament is unlimited, that they can exercise this right, theoretically, as many times as they want during their term of office; that the right to submit a proposal for the vote of no-confidence in the Government belongs to only 20 members of the parliament. The outcome of the constitutional solutions leads to the possibility of having the work of the Government and the National Assembly blocked, thus the Constitution opened the door to the obstruction of work of the Assembly and the Government.

However, the provision of the Bill on Government by which the duration of the discussion on the vote of no-confidence in the Government as whole or of an individual member of the Government is limited provoked great criticism of opposition members of the Parliament. The essence of the criticism entails the statement that the proposal of the law argues for regulating an issue which should be regulated by the Rules of Procedure of the National Assembly; that the determination of the duration of the discussion is the attempt of the executive power to restrict the right of the legislative power; that the National Assembly may, if thinks it is necessary, to discuss the proposal to hold a vote of no-confidence in the Government for weeks.

It was missed that the Government is very interested in the duration of the discussion on the proposal for the vote of no-confidence in the Government, since it is the rule that the all members of the Government participate in the discussion. Thus, the duration of the discussion on the vote of no-confidence in the Government is important for the efficiency and the functioning of the Government.

The Government accepted the amendments of the members of the Parliament and left the questionable provisions out.

## PRECEDENCE IN DISCUSSING THE DRAFT LAW

One of the drafts of the Bill on the Government contained the following provision: “If in the same field in the legislative procedure there are two or several draft laws the National Assembly primarily decides on the Government’s proposal”. This should have meant that the Government proposal on some question from the field in which the member of the Parliament already submitted a proposal should have precedence in discussion in the National Assembly.

The arguments in favour of these provisions were the following: the Government is accountable to the National Assembly for policy-making and the strategic legal acts by which the policy is shaped are the laws; thus, it is logical that the accountability of the Government results in its precedence in proposing the laws. Besides, immediately upon the acknowledgment that the Government prepares a law proposal, a member of the Parliament may propose to the National Assembly the same or similar law proposal and in this way he or she diverts the Government; the opposite situation is more difficult to imagine.

In the parliamentary practice of Serbia the proposal of laws of the Government have precedence. However, it is not based on any provision. Everything, as in the case of the vote of no-confidence to the Government is about voting according to the agenda of the Assembly session. The practice is based on the view that the Assembly may decide on each issue by voting, thus also about whether the proposal of the member of the parliament should be included in the agenda of the session of the National Assembly. By not going into deeper analysis of the Constitution and the Rules of Procedure of the National Assembly of the Republic of Serbia this practice seems to be in contradiction with the Constitution. The right of a member of the Parliament to propose, guaranteed by the Constitution (Article 80, paragraph 2 the Republic of Serbia Constitution) is not exhausted in the right to propose a draft law to the National Assembly. It contains the right of the member of the Parliament to have the National Assembly discussing whether to accept or to reject the law proposal. Therefore, the parliamentary practice damages primarily the opposition members of the Parliament.

The drafters of the Government Act believed that the right of the member of the Parliament to propose legislative acts entail his or her right to have the National Assembly discussing the proposal he or she submitted. This directly opened the constitutional problem of a possible conflict of statutory prescription of the legislative precedence of the Government with the right of legislative initiative belonging to the member of the parliament. Thus, the drafters of the Government Act believed that the arguments in favour of the precedence of the Government are too abstract and decided to give it up.

## **RIGHT OF A MEMBER OF THE PARLIAMENT TO ACCESS THE DOCUMENTS OF THE GOVERNMENT**

The Government Act regulates, among other issues, the relationship between the Government and the National Assembly. It derives from the Constitution and it is based on the principle of the separation of powers. It concerns the public field which is characterised with a series of legal characteristics (of course, the principle of division of powers which includes the cooperation and mutual overlapping of the different branches of power).

The draft Government Act contained the provision according to which “Actual documents and files of the Government and state administration authorities must be submitted to the National Assembly, only upon the request of the review committee” (Article 39, paragraph 2 Bill on the Government). This provision had provoked a debate in public before the parliamentary debate on the draft law began. Its opponents claimed that the provision was in contradiction with the Act on Free Access to Information of Public Importance and that it puts members of the Parliament in a more difficult position than would be the case with ordinary citizens. Briefly, the members of the parliament according to the critics are citizens and, thus, they have to have all rights as other citizens.

Argumentation seems plausible only at first sight. The purpose of the Act on Free Access to Information of Public Importance is to render the work of state authorities’ public and accessible to citizens and other interested persons who are outside the governmental system. Besides, the public accessibility of data is also an instrument by which citizens supervise the work of the Government.

A member of the Parliament is a citizen. However, he or she is more than that. A member of the parliament is a protagonist of state power and a member of a collective legislative body. The relationship between the National Assembly and the Government is primarily regulated by the Constitution. The rights of a member of Parliament, as a part of the National Assembly must derive from the relationship between the National Assembly and the Government. The National Assembly controls the work of the Government. It is about the political control, to which the Government is subjected, both as a whole as well as the work of individual members of the Government. The forms of political control are the following: parliamentary question, interpellation, review committee, vote of no-confidence in the Government, etc. According to the law proposal, the Government and each member of the Government are obliged to submit to the National Assembly all reports and information that the Assembly needs (according to the estimation of the National Assembly), always when it concerns the issues relating to the work of the Government or one of its members (Article 39, paragraph 1 of the Bill on the Government; this became the provision in the Government Act in force - Article 39).

The Government, however, accepted amendments of the member of the Parliament and the provision stating: “The Government and state

administration authorities must submit actual documents and files to the National Assembly only upon the request of the review committee” was omitted from the Act.

## **DOES ONE RULE HAVE TO BE REGULATED BY LAW**

The Constitution does not regulate the time in which the Government must be elected and thus, neither the consequences of over passing the time limit for the election of the Government. Neither does the Constitution determine the competences of the Government after the termination of the mandate until the election of the new Government.

The Government Act prescribed the competences of the Government whose term of office has ceased (Article 17, paragraphs 1 and 2 of the Government Act). Finally, the Act contains the rule which seems superfluous: The Government whose term of office is terminated may not propose the dissolution of the National Assembly to the President of the Republic. (Article 17, paragraph 3 of the Government Act). The overview of a logically impossible situation and the constitutional crises, which may arise in Serbia due to constitutional imprecision is the following. The overview at the same time represents the explanation of the quoted rule of the Government Act.

Case I – The term of office of the Government may terminate, while the National Assembly still keeps its term of office. This will be the case if the term of office of the Government ceases, due to the resignation of the Government or of the President of the Government or if the Government fails a vote of confidence. It is incumbent on the National Assembly to, in this case, elect new Government, whose Prime Minister Elect is determined by the President of the Republic. It may happen that the National Assembly does not succeed to elect the new Government and that there is inhibition in the achievement of the constitutional order. The only solution is the new parliamentary elections. However, according to the Construction, new elections are possible only if the president of the Republic, upon the proposal of the Government, dissolves the National Assembly. However, the Government whose term of office has ceased cannot submit a proposal for the dissolution of the National Assembly. Primarily due to the ratio legis of the institution of the dissolution of the National Assembly which is the electoral resolution of conflict between the Government and the National Assembly, while the Government whose term of office has ceased cannot be in conflict with the National Assembly. Moreover, no Government in general, including a Government whose term of office has ceased does not have to submit a proposal to the President of the Republic for the dissolution of the National Assembly; the lack of this obligation enables the Government whose term of office has ceased to at least theoretically,

continue to, with less powers, rule as long as the circumstances allow it. Finally the Constitution is at least clear in one instance: "With the dissolution of the National Assembly the Government's mandate shall also be terminated." (Article 89, paragraph 2). This means that the term of office would have expired twice for the Government whose term of office already ceased. The first time would be the vote of no-confidence or the resignation of the Government or the President of the Government and the other time would be due to the dissolution of the National Assembly.

Case II – The term of office may simultaneously end for the Government and the National Assembly. This would be the case when the four year term of the National Assembly expires or the Assembly is dissolved. Consequently, the elections for the National Assembly are the next step. After the election it may happen that the new National Assembly cannot choose the new Government. Here we have the Government whose term of office expired and the newly elected National Assembly. There is no connection between them and it did not exist in the past: the Government was elected by the previous National Assembly. The exit from the crisis would be new parliamentary elections. They may happen only if the President of the Republic, upon the proposal of the Government, dissolves the National Assembly. The Government whose term of office ended before the parliamentary elections should propose to the President of the Republic to dissolve the newly elected National Assembly, which is not an obligation of the Government. The dissolution of the National Assembly would imply that the term of office of the Government would end for the second time.

It is obvious that the solution of these situations may be found in the political agreement which would enable the overcoming of the constitutional crisis and not within the institution of the dissolution of the National Assembly.

Finally, it is even more obvious that Serbia needs a new Constitution.

# OVERVIEW OF THE STATE ADMINISTRATION ACT

JASMINA DAMJANOVIĆ

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## **PRINCIPAL PROVISIONS**

The former State Administration Act was in many ways incomplete and imprecise. The legislative framework for the removal of the existing weaknesses in the organisation and functioning of the state administration, as well as for its work on the new bases, in the extent determined by the Constitution, is created by the new State Administration Act.

The Constitution of the Republic of Serbia determines that the affairs of the state administration shall be conducted by ministries (Article 94, paragraph 1 Constitution of the Republic of Serbia). The ministries shall implement the laws and other regulations and general enactments of the National Assembly and the Government, as well as the general enactments of the President of the Republic, shall decide in administrative matters, carry out supervision and attend to other administrative business as provided for by statute (Article 94, paragraph 2 Constitution of the Republic of Serbia). Departments shall be established within the ministries to carry out specific administrative affairs, and special organisation shall be set up to attend to particular professional matters (Article 94, paragraph 4 Constitution of the Republic of Serbia). Organisation and competence of the ministries, their departments and special organisations are established by statute (Article 94, paragraph 5 Constitution of the Republic of Serbia). The Government determines principles for the internal organisation of the ministries and other administrative agencies and special organisations; appoints and dismisses high-ranking officials in the ministries and special organisations; guides and coordinates the work of the ministries and special organisations; effects supervision over the work of the ministries and special organisations; annuls or abolishes their regulations that are at variance with the laws and regulations enacted by the Government (Article 90, subparagraphs 5, 6 and 7 Constitution of the Republic of Serbia).

Accordingly, the State Administration Act defines the state administration as a part of the executive branch of the Republic of Serbia performing administrative tasks derived from the powers and responsibilities of the Republic of Serbia (Article 1, paragraph 1 State Administration Act). The State Administration consists of ministries, administrative authorities within ministries (hereafter: integrated authorities) and special organizations (Article

1, paragraph 2 State Administration Act). The State administration is defined as a system of authorities, whose task is to perform special and specific tasks. State administration authorities shall be established by a statute and their domains are regulated by a statute. (Article 2 State Administration Act). The regulation of the organisation of the state administration and its competences by law derives from the Constitution, although, in essence, it represents a deviation from the constitutional principle of separation of powers, since it prevents the Government from regulating the organisation of state administration towards its needs and makes it accountable before the National Assembly.

The work of state administration authorities is supervised by the Government (mainly legislative supervision) and the National Assembly (a political supervision, which is achieved indirectly through the supervision done by the National Assembly over the work of the Government and the members of the Government). The work of the state administration is subjected to supervision by courts, mainly through administrative lawsuits (Article 3 State Administration Act). No authority or body is subjected to such different forms and means of supervision as the state administration. This fact gives an insight in the special and delicate role of the state administration in modern societies.

Certain state administration tasks may be conferred to autonomous provinces, municipalities, cities, the City of Belgrade, public companies, institutions, public agencies and other organizations by a statute (Article 4 State Administration Act). It is about the constitutional institution by which the state disengages, in organisational terms, part of its powers (delegates certain state administration tasks to other authorities instead to other state administration authorities). Following the conferral of state administration tasks, the Government and state administration authorities still remain accountable for the execution of the conferred tasks (Article 51, paragraph 2 State Administration Act), due to which the Government and the state administration authorities have special supervisory powers over the authorities to which the state administration tasks are conferred. Authorities and organisations to which the performance of state administration tasks is delegated are called by the statute “the holders of public powers”.

The Republic of Serbia shall be liable for damage caused to natural and legal persons by unlawful and/or improper operations of state administration authorities (Article 5 State Administration Act).

## **MODE OF FUNCTIONING OF STATE ADMINISTRATION AUTHORITIES**

The EU *acquis communautaire* does not contain any legislation concerning the state administration. However, there is a whole range of principles of state administration that are accepted by the member states and

were consequently developed by the European Court of Justice and that are the elements of the European administrative space. Countries which apply for the membership to the European Union must ensure the incorporation of these principles during the drafting of their legislation. The European Court of Justice defined a great number of principles by invoking the general legal principle of the administrative law. The functioning of the state administration is established upon the model of principles of the administrative law as principles that represent guidelines and that are binding.

The State Administration Act contains special provisions on principles concerning the functioning of the state administration. The principles of functioning of the state administration are based on the constitutional principles and the principle of administrative law that are the basic principles of the European administrative space. The main principle regarding the functioning of the state administration is the principle of legality. It entails that state administration authorities are autonomous in the execution of their tasks, and shall act within and in accordance with the Constitution, statutory legislation, other regulations and acts of general applicability (Article 7 State Administration Act). It is a principle without which the existence of the modern state is unthinkable but is not sufficient as being the only principle; it can be overruled if the state administration does not act according to the rules of profession, impartially and politically neutral (Article 8 State Administration Act). State administration authorities are obliged to allow the parties to exercise their rights and legal interests speedily and efficiently (Article 9 State Administration Act). Whenever adjudicating in an administrative procedure and undertaking administrative actions, state administration authorities are obliged to employ the means that are both the most favourable to the parties and that provide for achievement of the purpose and goals of the law (Article 10, paragraph 1 State Administration Act). The last principle (principle of proportionality) was developed by the European Court of Justice on the basis of the German legislative model. The aim is to avoid the endangering of citizens more than necessary to achieve a lawful solution. State administration authorities are obliged to respect the personality and dignity of parties (Article 10, paragraph 2 State Administration Act). The functioning of state administration authorities shall be open to public. State administration authorities are obliged to allow the public to access [information on] their functioning, in accordance with the statute regulating free access to information of public importance (Article 11 State Administration Act).

## **STATE ADMINISTRATION TASKS**

In the determination of the state administration tasks the former State Administration Act mainly had in mind those tasks that entail the authoritative enforcement of law. It argued for the concept of state administration in which the performance of state powers was dominant.

The modern concepts of administration that are contrary to the said approach start from the idea of the social function of administration; these concepts are based on the premise that state administration activities do not essentially entail to execution of state power. The execution of state powers above all entails public services that establish and enable the conditions for daily life and work of citizens and contribute the general development of the society as a whole. The administration achieves its social function by primarily becoming the regulator of the social process and not the instrument of power. Administration tasks become more numerous and more complex, while the attributes of power, although they did not disappear, are no longer the basic element of the administrative activity of the state.

The new State Administration Act defines state administration tasks in a significantly different way.

*Involvement in the Government's Policy-Making* – The Act gives a special importance to the strategic role of the state administration that is to its role in the Government's policy making. The state administration authorities prepare draft statutes, other regulations and acts of general applicability for the Government, as well as propose development strategies and other measures to the Government by which Governmental policy is shaped (Article 12 paragraph 1 State Administration Act).

*Situation monitoring* – Involvement in the Government's Policy-Making represents the concept for all state administration tasks that are of a strategic and non-routine nature. The situation monitoring is directly connected to the involvement in Government policy-making and it represents a subsequent state administration task. State administration authorities monitor and verify the state of affairs from areas in their domain; examine the consequences of the ascertained situation, and either, depending on jurisdiction, undertake measures themselves or propose the Government to adopt [appropriate] rules and/or undertake measures (Article 13 State Administration Act).

*Administration services* – Under the title “administration services” the Act entails the passing of regulations, adjudicating administrative cases, keeping records, issuing official documents and/or undertaking administrative actions (14 paragraph, 1 State Administration Act). Regulations may only be passed by ministries and special organisations, while integrated authorities may not pass them (Article 14, paragraph 2 State Administration Act). Ministries and special organisations may pass legislation only for the purpose of enforcing the law and some other general act of the National Assembly or of the Government. Unlike the Government which may pass “spontaneous or general regulations” (within the law and for the law enforcement, but without an explicit basis in the statute), ministries and special organizations may only pass rules when they are explicitly authorized to do so by a statute or by a regulation of the Government (Article 16, paragraph 1 State Administration Act). Ministries and special organizations pass administrative directions, orders and administrative instructions and publish them in the “Official Herald of the Republic of Serbia” (Article 15 State Administration Act).

*Administrative supervision* – The Former State Administration Act prescribed three forms of administrative supervision: supervision over legality of acts, supervision over legality of work and the inspectorial supervision. Supervision over legality of acts is nothing else but the second instance review of administrative acts, while the rules on the supervision over legality of performance created great scepticism in practice. Companies, institutions and other organisations were supervised entities. However, the narrower definition of exact companies, institutions and organisations which were subjected to this supervision was missing; supervision powers over legality of work were not authoritative and thus deprived the supervision of the main attribute of the administrative inspection and that is the authority entailed in the application of administrative powers for securing the legality of work of supervised entities. Consequently, the supervision over the legality of work was most often superficially mentioned as a separate form of administrative supervision in the statute, which afterwards created great problems in the application of the statute.

Because of the said, the State Administration Act prescribes only the administrative inspection as a form of administrative supervision within the state administration tasks. Through administrative inspections, state administration authorities shall probe the implementation of statutes and other normative acts by directly scrutinizing the business and actions of natural and legal persons and pronounce appropriate administrative measures (Article 18, paragraph 1 State Administration Act). A separate statute shall regulate administrative inspection (Article 18, paragraph 2 State Administration Act) but until its adoption the provision which regulates the inspectorial supervision from the former State Administration Act shall stay in force.

*Ensuring the public utilities* – State administration authorities shall ensure that the functioning of public utilities (in Serbia these are the public companies, institutions and other organisations established by a statute) is in compliance with the statute (Article 19, paragraph 1 State Administration Act). Powers of the state administration authorities are wider, than the execution of certain founding rights of the state and stretch also to the supervision over the expert work of the institutions and they are prescribed by the statute (Article 19 paragraph 2 State Administration Act). Here, the role of the state administration is adjusted to the modern understanding of the role of the state and state administration according to which the performance of administrative activities entail the performance of public utilities whose aim is to ensure the conditions necessary for development and progress of the society in the field of education, social policy, health care, research, economic development, etc.

*Development and other Expert Tasks* – Development tasks are state administration tasks that foster and guide development in certain areas of social life; in development tasks, the state administration authorities are connected to the Government policy, since only the Government is authorised to determine development strategy (Article 20 State Administration Act). Finally, “other

expert tasks” are enumerated as the last state administration tasks. They are defined in terms of their aim and concern the development of areas that are in the scope of work of the state administration authorities (Article 21 State Administration Act), and they are called “remaining” tasks in order to emphasise that different expert tasks are done within Government policy-making, situation monitoring, passing of legislation, development task, etc.

## **ORGANIZATION OF STATE ADMINISTRATION AUTHORITIES**

Many European countries limit the basic role of the ministry to the support of the Government in creating strategic political decisions in the field of the scope of work of the ministry and to the preparation of acts for the Government. Operational routine tasks by which statutes are enforced are placed within the competence of other authorities, out of which some enjoy greater degree of independence than others, while the ministries are accountable for their work to the Government.

In accordance with the Constitution the affairs of the State administration shall be conducted by ministries (Article 94, paragraph 1 Constitution of the Republic of Serbia). For the carrying out specific administrative affairs, integrated authorities shall be established within the ministries, and special organisations shall be set up to attend to particular expert matters (Article 94, paragraph 3 Constitution of the Republic of Serbia). Ministries are the only authority independent in exercising their competences as specified by the Constitution and law (Article 94, paragraph 3 Constitution of the Republic of Serbia). The question of independence of the remaining two organisational forms (integrated authorities and special organisations) is not regulated by the Constitution. Imprecision of the constitutional provisions does not hide the obvious existence of essential difference between tasks performed by ministries and tasks performed by special organisations, as well as in regard to their status.

Regulation of state administration, according to the former State Administration Act, led to the situation where ministries were preoccupied with operational tasks and not sufficiently with strategic tasks. The status of integrated authorities was not clearly regulated. The powers of the head of the the integrated authority in relation to the powers of the minister were not prescribed. Special organisations, although established for expert tasks, were able to perform all administrative tasks. Because of this there was no difference between ministries and special organisations in functional sense. An imprecise determination of instruments of supervision over special organisations created the problem of inadequate participation in the implementation of Government policy. The new State Administration Act tries to determine conditions for establishment of integrated authorities and special organisations and create condition for rational regulation of state administration.

*Ministries* –Ministries are established to execute state administration tasks in one or more interrelated fields (Article 22 State Administration Act). Ministries are based on the single headed and hierarchical principle. The Minister manages the ministry. The Minister shall represent the ministry, pass regulations and rulings in administrative and other particular matters, and decide on other issues from the domain of the ministry (Article 23, paragraph 2 State Administration Act). The Minister is accountable to the Government and the National Assembly for the operations of the ministry and for the state of affairs in all fields from the domain of the ministry (Article 23, paragraph 3 State Administration Act). The Ministry may have one or more state secretaries (Article 24 paragraph 1 State Administration Act). The State Secretary shall assist the Minister within limits specified by the Minister (Article 24, paragraph 2 State Administration Act), and one of them (when there is more than one), authorised in writing by the Minister, shall substitute the Minister, when he/she is absent or prevented from acting (Article 24, paragraph 3 State Administration Act). The Minister may not authorize a State Secretary to pass regulations or vote at the sessions of the Government (Article 24, paragraph 2 State Administration Act). The State Secretary is an official appointed and dismissed by the Government upon proposal of the Minister. The term of the state secretary shall terminate at the end of the term of the Minister (Article 24, paragraph 4 State Administration Act). The linking of the future of a state secretary to the future of a minister makes the state secretary dependent of political changes in the Government, due to which the state secretary is considered a political official.

A Ministry shall have assistant ministers accountable for their work to the Minister. An Assistant Minister manages a defined area of work of the ministry for which a department shall be established (Article 25, paragraphs 1 and 2 State Administration Act). The number of assistant ministers depends on the Internal Organisation and Staffing Table.<sup>1</sup> The Ministry may or may not have a Secretary of the Ministry who assists the Minister in managing human resource, financial, IT and other matters and coordinates activities of internal subordinate units of the ministry (Article 26 State Administration Act). The Assistant Minister and the Secretary of the Ministry are not officials but civil servants working in the appointed positions. They are appointed by the Government for a five year term upon the proposal of the Minister, in accordance with the Civil Servants Act.

A modern state administration is possible only with clear separation of politics from administration. Politics and administration represent two main part of public sector that, although closely connected, are different in nature; politics is based on public confidence expressed at elections, while the administration is based on the professional capabilities of civil servants selected at the competition. Due to these reasons, in comparative law there is a general rule that administration belongs to civil servants whose status

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<sup>1</sup> Article 6, paragraph 3, subparagraph 1 of the Regulation on principles for organizing and staffing tables of the ministries, special organizations and services of the Government

is regulated by a special statute. The state is responsible for a professional, unbiased and efficient administration based on respect of rule of law. Due to this, recruitment and merit based promotion and protection from political changes in a state are one of the issues that are separately regulated in order to create an expert, professional and efficient state administration in which political functions are clearly separated from “administrative” functions. Thus, the State Administration Act introduces a clear division between political and administrative functions that are taken by the civil servants in the ministries in accordance with the comparative solutions and requests for creating a professional administration.

A Minister may appoint a maximum of three special advisers (Article 27, paragraph 1 State Administration Act). Special advisers are part of the political structure of the ministry; they are employed on a contract basis and they are dependent of the term of office of the minister. A Minister signs a contract with special advisers by which their rights and obligations are regulated. The number of special advisers of each minister and the criteria for determination of their salaries is prescribed by the Government.<sup>2</sup>

*Integrated authorities* – The Act prescribes criteria for establishment of integrated authorities (authorities within the ministry) and enumerates their types. The types of integrated authorities are Authorities, Inspectorates and Directorates (Article 29, paragraph 1 State Administration Act). An Authority shall be established to carry out executive and related inspectoral and expert tasks. An Inspectorate shall be established to carry out inspectoral and related expert tasks. A Directorate shall be established to carry out expert and related executive tasks that, as a rule, pertain to commerce (Article 29, paragraph 2 State Administration Act). The criteria for establishment of integrated authorities are based on the type of state administration task (these are tasks that are classified in modern legislative systems as operational tasks), nature and scope of tasks. Tasks must entail greater independence than the one that the sector has in the ministry, thus their nature and scope are decisive for the establishment of integrated authorities (an integrated authority is established by a statute, while the sector is established by the Bylaw on Internal Organization and Staffing Table).

The Director runs an integrated authority and is appointed by the Government for a five year term (Article 30, paragraph 1 and 3 State Administration Act). He or she shall have a position of a civil servant. The Director shall adjudicate administrative cases from the domain of the integrated authority and decide on rights and obligations of the staff of the integrated authority (Article 30, paragraph 2 State Administration Act). The Director is accountable for his/her work to the Minister (Article 30, paragraph 1 State Administration Act). Depending on the nature and extent of activities, there may be one or more assistants to the Director of an

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<sup>2</sup> Decision on the Number of Special Advisers of a Minister and Criteria for their Salaries („The Official Herald of the Republic of Serbia”, No. 117/05).

integrated authority (Article 31, paragraph 1 State Administration Act). An Assistant Director shall manage the work in one or more interrelated fields of work from the domain of the integrated authority, and he/she shall be accountable for his/her work to the Director and the Minister (Article 31, paragraph 2 State Administration Act). The number of the assistant directors in an integrated authority is determined by a minister, upon a proposal of the director of integrated authority (part of the Bylaw on Internal Organization and Staffing Table concerning the integrated authority is proposed by the Director of an integrated authority). He or she has the status of a civil servant appointed by the Government upon the proposal of the minister (Article 31, paragraph 3 State Administration Act).

An integrated authority shall autonomously carry out the tasks under its domain. Yet, the Minister shall direct the operations of the integrated authority and pass regulations from its domain (Article 32 State Administration Act). Moreover, the Minister also represents the integrated authority before the Government and the National Assembly. The relationship between the ministry and integrated authority is indirectly regulated by numerous provisions of this statute by which the difference is made in certain cases between powers of the ministry and the integrated authority (the ministry prepares general acts, maintains relationship with the National Assembly and the President of the Republic, supervises the enforcement of general acts of the autonomous province from its original scope of work, etc.).

On one hand, the given solutions enable independence of integrated authority with regard to operational tasks for which is established, while on the other hand, they create conditions for execution of competences of the ministry from its scope of work, above all in shaping and enforcement of Government policy. A ministry has a whole range of competences over the integrated authority and within this institution also the supervision over work. Briefly, the integrated authority is independent in operational tasks for which it is established, while the ministry supervises and provides guidelines for its work. The regime is important also from the aspect of the responsibility of the minister in the fields from the scope of work of the ministry.

*Special organisations* – The status of special organisations is regulated in a different way than it was in the former Act. The criteria for their establishment are that they concern expert and connected executive tasks and that the nature of these tasks demands separate level of independence, greater than the one enjoyed by an integrated authority (Article 33 State Administration Act). It concerns reasons that should represent criteria justifying the establishment of a separate state administration authority. Therefore, while the integrated authorities are established for operational tasks from the scope of work of the ministry that require a certain independence in work but with the guidelines and constant supervision of the ministry, special organisations are established for certain tasks that require a greater level of independence in regard to ministries but also in regard to integrated authority. Strictly speaking, special organisations should

perform only expert tasks. However, since in Serbia there are already certain special organisations that perform executive tasks and participate in government policy making (proposal of laws), the act deviated from theoretical principles.

Types of special organizations shall be Secretariats and Bureaus, although a statute may prescribe the establishment of special organizations bearing other names (Article 34, paragraph 1 State Administration Act) (for example agencies, etc.). The Director runs a special organization. The Director is a civil servant who works in the appointed position. He or she is appointed by the Government for a five year term, on the proposal of the Prime Minister (Article 35 State Administration Act). A Special Organisation may, but is not obliged to, have a Deputy Director who assists the Director within the competences prescribed by the Director and who replaces the Director while absent or incapacitated. The Director may not authorise a civil servant working in an appointed position to pass legislation (Article 36, paragraph 2 State Administration Act). The Deputy Director is a civil servant appointed for a five year term, upon the proposal of the Director (Article 36, paragraph 3 State Administration Act). There may be one or more assistants to the Director of a special organization who shall be accountable to the Director for their work. An Assistant Director manages a defined field from the domain of the special organization for which a sector is established. The Government appoints an Assistant Director to a five-year term (Article 37 State Administration Act).

*Administrative districts* – Administrative districts are the form of deconcentration of functions of state administration. An administrative district is established for the purpose of having the state administration authorities performing certain state administration tasks outside its seat in Belgrade. State administration authorities may adjudicate in administrative matters in a first instance proceeding, as well as in the appeal proceeding in the case when the first instance decision was passed by the holders of public powers and to perform administrative inspection (Article 38, paragraph 2 State Administration Act). The institution of supervision of work of holders of public powers is regulated by the State Administration Act (Articles 46, 47, 55, 56 and 57). State administration authorities may perform all forms of administrative supervision in the administrative district: from “pure” inspectory supervision to inspection through administrative inspection and other form of supervision.

The state administration authority is not under specific obligation to perform in an administrative district any state administration whose performance is permitted in the district. However, it cannot perform any state administration tasks that are not allowed to be performed in an administrative district. A state administration authority which decides to perform one or more state administration tasks through an administrative district shall establish its district detached (subordinate) unit by its Bylaw on Internal Organization and Staffing Table (Article 38, paragraph 3 State Administration Act).

The act on internal organisation and staffing table determines state administration tasks performed in the authority in the district detached

unit, that is in the administrative district. An authority may have only one detached unit in an administrative district.

The number of administrative districts, the territory they cover and their seat are regulated by the Regulation of the Government on Administrative Districts.<sup>3</sup> The state administration authority also has the possibility of establishing a detached unit for a territory of one or more municipalities, a city or an autonomous region on the basis of the powers prescribed in the Regulation on Administrative Districts (Article 39, paragraph 3 State Administration Act).<sup>4</sup> The precedence in establishing detached units of state administration authority is given to the establishment of a detached unit for the territory of an administrative district.<sup>5</sup>

*Head of an administrative district* – The administrative district has a Head who is a civil servant in the appointed position. The Government appoints the Head of an administrative district to a five-year term (Article 40, paragraph 3 State Administration Act). The Head of the administrative district neither manages the administrative district (this would be possible if an administrative district is a state administration authority) nor manages any detached unit of state administration authority. The Head of an administrative district shall coordinate the activities of district subordinate units and supervise the implementation of directives (directives are issued by heads of state administration authorities to relevant district detached units) and operational instructions issued to them; monitor the execution of the business plans of district territorial units and take care of their working environment; monitor the work of employees in district territorial units and propose the initiation of disciplinary actions against them; cooperate with territorial units of state administration authorities that are not established for the area of his/her district; cooperate with municipalities and cities and perform other duties as prescribed by law (Article 40, paragraph 2 State Administration Act). The Head of an administrative district is accountable for his or her work to the Minister in charge of administrative affairs and to the Government (Article 40, paragraph 1 State Administration Act).

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<sup>3</sup> There are 29 administrative districts (Article 12 Regulation on Administrative Districts).

<sup>4</sup> A state administration authority may establish a detached unit for the area of two or more administrative districts (Article 15 of the Regulation on Administrative Districts), for one or more municipalities, that is for the city (Article 16 of the Regulation on Administrative Districts), wider detached (subordinate) units which unite the work of the detached (subordinate) units which are established for one or more municipalities, that is for the city (Article 17 of the Regulation on Administrative Districts) and detached units for the autonomous province (Article 18 of the Regulation on Administrative Districts).

<sup>5</sup> “If the Internal Act prescribes the establishment of detached units for a territory wider of narrower than the administrative district...information and reasons for establishment of this type of detached unit and not district detached units must be put in the relevant documentation...” (Article 27 of the Regulation on principles for the organizing and staffing tables of the ministries, special organizations and services of the Government).

*Support Service of an administrative district* – There is a Support Service of an administrative district. It is in charge of two types of activities. It provides specialist and technical assistance to the Head of the administrative district and carries out tasks common for all district subordinate units of the state administration authorities (Article 41, paragraph 1 State Administration Act). The Rules on state administration apply to support services of administrative districts (Article 41, paragraph 4 State Administration Act). The Head of an administrative district shall manage the Support Service of the administrative district. He or she is authorised to pass the act on internal organisation and staffing table of the Support Service of the administrative district; to decide on rights and duties of employees in the Support Service; to give orders for using means, etc. The Support Service of an administrative district is not a state administration authority and its work is subjected to the limited supervision by the Ministry for state administration and local self-government. The minister in charge of administrative affairs shall supervise the purpose of work of the Support Service, monitor qualifications of the Service staff and issue operational instructions to the Support Service (Article 41, paragraph 3 State Administration Act). By operational instruction her/she directs the organization of business and modes of work of employees in the Support Service (Article 48, paragraph 1 State Administration Act).

## INTERNAL SUPERVISION

*The notion of Internal Supervision* – the work of state administration authorities and holders of public powers in conferred state administration tasks is subjected to different forms of supervision. One of them is internal supervision, done by one state administration authority over another state administration authority, as well as the supervision of state administration over the holders of public powers. Thus, the original executors of state administration tasks (state administration authorities), as well as the indirect executors of state administration tasks (those to whom the enforcement of law is confirmed – holders of public powers) are subjected to the supervision. Therefore, the administration as an activity (independently of by whom it is performed) is supervised: that is why it is called internal supervision. The aim of the supervision is to ensure the legality, correctness, efficiency and optimal functioning of the state administration. Looking from the point of view of state administration authority, the internal supervision entails administration both in the role of the supervised entity and the entity performing the supervision.

The law prescribes several forms of internal supervision regulating just one of them and that is the supervision over work of state administration authorities and holders of public powers (Article 45, paragraph 2 State Administration Act). The other form of internal supervision (separate inspection supervision through administrative inspection) is regulated by a special statute (Article 45, paragraphs 2 and 3 State Administration Act).

The subject matter of the supervision is the legality and supervision over the purpose (Article 46, paragraph 1 State Administration Act). Supervision over legality entails the investigation of implementation of statutes and other acts of general applicability, while supervision over purpose of work entails the investigation of efficiency, cost-effectiveness and purposefulness of organization of business (Article 46 paragraph 2 State Administration Act). In supervising work the authority performing supervision has multiple powers. It may request reports on work; to discuss the situation in performance of tasks; to warn about irregularities and determine measures for their resolution; to directly perform a task, as well as to propose to the Government to undertake measures for which it is authorised (Article 47 State Administration Act).

When it concerns the state administration authorities the supervision over work covers the integrated authorities and, in certain cases, special organisations. In both cases the supervision is performed by ministries while the objects of supervision are the integrated authorities and special organisations. It is explicitly prescribed that a ministry may not supervise the work of another ministry (Article 46, paragraph 3 State Administration Act). The prohibition refers only to supervision of work as a separate form of internal supervision and does not cover the other forms of internal supervision (for example, the supervision done by the administrative or budget inspection) which is not regulated by this Act. Practically, it means that ministries supervise the work of integrated authorities, special organisations (in certain cases), holders of public powers, while special organisations and integrated authorities supervise the work of holders of public powers (when they have been conferred state administration tasks from the scope of work of an integrated authority).

General powers of state administration authorities in performing supervision over work are prescribed by the State Administration Act (Article 47 State Administration Act). All general powers are vested in a ministry in performing the supervision over work of an integrated authority (Article 49, paragraph 2 in connection with Article 47 State Administration Act).

The ministry may be authorised by a statute to supervise the work of a special organisation (Article 50, paragraph 1 State Administration Act). By now, ministries do not have any powers in relation to special organisations, although a certain number of special organisations were established for tasks that fall in administrative areas from the scope of work of certain ministries (for example, the Recycling Agency, Geographical Ordinance Agency). Practically, a minister who is responsible for a situation in a certain field does not have any powers in relation to a certain number of state administration tasks in a certain field. The constitutional provision according to which the Government supervises the work of ministries and special organisations was a reason for which the powers of the ministry in supervision of work in special organisations were significantly limited by this statute. The ministry is empowered only to request reports and

information on the activities of a special organization, find out the situation with regard to the executed tasks and issue warnings about observed irregularities, issue operational instructions and propose that the Government undertake appropriate measures (Article 50, paragraph 2 State Administration Act).

## **SPECIAL PROVISIONS ON HOLDERS OF PUBLIC POWERS**

*Introduction* – Holders of public powers are non-state entities that do not deal with state administration tasks. What makes them interesting for administrative law is their possibility to be conferred with performance of certain state administration tasks. Then state administration tasks are not performed by a state administration authority but by a non-state entity. Holders of public powers, when performing conferred state administration tasks have the same rights and obligations as state administration authorities (Article 51, paragraph 1 State Administration Act). State administration authorities (and the Government), as the only genuine holders of state administration tasks retain responsibility for the performance of state administration tasks (Article 51, paragraph 2 State Administration Act) which is the basis of their genuine supervisory powers over the work of holders of public powers (to be more precise over the performance of conferred state administration tasks only).

*Overseeing Activities of Holders of Public Powers* – State administration authorities supervise the work of holders of public powers. The supervising body of state administration is prescribed by the statute (Article 55, paragraph 1 State Administration Act). It is possible that several state administration authorities supervise the work of one holder of public power, depending in which scope of work the conferred tasks are located. In supervising the work of holder of public power, the supervisory authority beside all general powers, which perform upon its own estimation (Article 55, paragraph 2 in connection with Article 47 State Administration Act), has two special powers that is obliged to undertake. The supervisory authority is obliged to directly execute the conferred tasks, if the lack of execution could cause damaging consequences to life and health of people, environment, economy and/or property of significant value (Article 56, paragraph 1 State Administration Act). If following recurring warnings a holder of public powers does not start carrying out the conferred state administration tasks or does not perform them properly and/or punctually, the supervisory authority shall take over the execution of the conferred tasks for a maximum of 120 days (Article 56, paragraph 2 State Administration Act). It is understood that the supervisory authority may propose to the Government to undertake the proceeding for taking over the conferred tasks, which entails statutory amendments.

The supervision over legality of work of holders of public functions entails the supervision over legality of legislation that was conferred to them to pass (passing of legislation is here the conferred state administration task). Prior to the publication of its regulations, a holder of public power shall be obliged to obtain the opinion of the supervisory authority about the constitutionality and legality of the regulation. The ministry shall be obliged to send the holder an explained proposal on how to harmonize the regulation with the Constitution, statutes, regulations and other acts of general applicability of the National Assembly and/or the Government (Article 57, paragraph 1 State Administration Act). If a holder of public power fails to act upon the proposal of the Ministry, the Ministry shall be obliged to propose the Government to pass a ruling on stay of the implementation of the regulation and acts of individual applicability hereunder issued by the holder of public powers, as well as to initiate the procedure for review of constitutionality and legality of the [contested] regulation (Article 57, paragraph 2 State Administration Act). The ruling of the Government on stay of the implementation of a regulation enters into force on the day of its publishing in "The Official Herald of the Republic of Serbia" (Article 57, paragraph 3 State Administration Act) and shall cease to be valid if the Government in the following 15 days does not initiate the proceeding for the review of constitutionality and legality.

## **RELATIONSHIP BETWEEN STATE ADMINISTRATION AUTHORITIES AND OTHER AUTHORITIES**

The relationship between state administration authorities are conditioned by the system of division of powers and rules that derive from it. On the other hand, when it concerns the relationship with the Government, the decisive fact is the uniform achievement of executive power in the country.

*Relationship with the Government* – State administration authorities are obliged to respect the guidelines of the Government by which it directs the state administration authorities in the implementation of policy and enforcement of statutes and other acts of general applicability and coordinates their activities (Article 61, paragraph 1 State Administration Act). It concerns the synthetic role of the Government by which the executive power is harmonised in the unique system. The Government is empowered to set deadlines for ministries and special organisations to pass their regulation if the time limits are not prescribed by a statute or general act of the Government; practically to influence the efficiency of their legislative activity as well as the timely enforcement of laws and other general acts (Article 61, paragraph 1 State Administration Act). This last authorisation is significant and thus the Government Act prescribes possibilities for the Government, under certain conditions, to pass a piece of legislation which is

in the scope of work of the ministry and special organisation, if those authorities do not pass this piece of legislation. Moreover, the Government may, by its resolution, order a state administration authority to examine a certain issue or undertake a certain task and prepare a special report for the Government thereon (Article 61, paragraph 3 State Administration Act), which also enters within the guiding powers of the Government. The form of the legal act by which the Government provide guidelines for the work of state administration authorities is a resolution, which is of an internal nature. Upon request of a state administration authority, the Government shall be obligated to take, by its resolution, a position on an issue from the domain of that state administration authority (Article 61, paragraph 2 State Administration Act). The resolution is again in the form of legal act.

The Government may establish coordination bodies for the purpose of directing [the execution] of certain tasks from the domain of several state administration authorities (Article 62 State Administration Act). The ministries and special organizations are obliged to make an annual business plan in order to have the annual business plan of the Government prepared (Article 63, paragraph 1 State Administration Act). The business plan of an integrated authority is a part of the plan of the ministry. At least once a year, the ministries and special organizations submit their performance reports to the Government that shall contain the description of the state of affairs in the fields under their domains, information on the implementation of statutes, other acts of general applicability and resolutions of the Government, as well as on measures undertaken and their effects (Article 63, paragraph 2 State Administration Act). The Government Rules of Procedure specify the deadline for the submission of the annual business plans and the performance reports (Article 63, paragraph 3 State Administration Act).<sup>6</sup>

State administration authorities are obliged to cooperate on all common issues and to submit to each other data and information necessary for their operations and to establish joint bodies and project groups in order to execute tasks whose nature requires involvement of several state administration authorities (Article 64, paragraphs 1 and 2 State Administration Act). The obligation to cooperate between ministries and special organisations exists in preparation of legislation, through obtaining opinions of other ministries and special organisations, which is closely regulated by the Rules of Procedure of the Government (Article 65 State Administration Act). Integrated authorities do not participate in Government policy-making and thus cannot give opinions to ministries and special organisations (they do this through ministries). Tasks that fall under

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<sup>6</sup> “The Government adopts the annual business plan for next year by the end of December of the current year” (Article 79, paragraph 3 of the Government’s Rules of Procedure). “The Government submits its performance report for the previous year to the National Assembly by 1 March of the current year” (Article 81, paragraph 1 of the Government’s Rules of Procedure).

the domain of two or more state administration authorities shall be directed by the state administration authority in charge of the majority of the tasks (Article 66 State Administration Act). The Government also decides on any other matter on which state administration authorities fail to reach an agreement (Article 67 State Administration Act).

*Relationship with the National Assembly and the President of the Republic* – Due to the separation of powers, the relationship between the ministries and special organisations with the National Assembly and the President of the Republic is based on the rights and duties prescribed by the Constitution, statutes and other general acts (Article 68, paragraph 1 State Administration Act). Ministries and special organizations are obliged to forward to the National Assembly and the President of the Republic, through the Government, information, explanation and data in connection to their competences (Article 68, paragraph 2 State Administration Act). According to the Constitution, ministries are responsible to apply general acts of the President of the Republic (Article 94, paragraph 2 Constitution of the Republic of Serbia).

*Relationship with the autonomous province* – Ministries have two special powers in regard to the autonomous province concerning questions from its genuine scope of work. Firstly, ministries examine the legality of acts of general applicability that autonomous provinces pass under their domain: if the competent ministry considers that an act of general applicability which an autonomous province has passed under its domain does not comply with the Constitution, statutory legislation, other regulations, or general acts of the National Assembly and/or the Government, the Ministry shall be obliged to propose the Government to pass a ruling on stay of the application of such an act of general applicability and [all] individual acts thereunder, as well as to propose initiation of the procedure for the review of constitutionality and legality (Article 71, paragraphs 1 and 2 State Administration Act). Ministries are competent to act if the autonomous authority does not apply the general act of the province (passed from the original scope of work). In that case, the competent ministry shall order this authority to undertake measures necessary for the application of the act within a time limit not exceeding 30 days (Article 72, paragraph 1 State Administration Act). If the authority of an autonomous province fails to undertake the ordered measures, the competent ministry may assign another authority of the autonomous province to enforce the general act or the Ministry itself may directly undertake measures for its enforcement for a maximum of 120 days (Article 72, paragraph 2 State Administration Act). The rule derives from the Constitution: “If an authority of an autonomous province, despite a warning from the corresponding republic agency, fails to execute a decision or a general enactment of the autonomous province, the republic authority may provide for its direct execution.” (Article 112 Constitution of the Republic of Serbia). It concerns the powers relating to issues from the genuine scope of work of the autonomous province which belong only to ministries. When it concerns the state administration tasks conferred to the authorities of the autonomous province, the state administration authorities have, in

supervising the work, all powers that they have towards other holders of public powers (Article 73 in connection with Articles 47, 55, paragraph 2, 56 and 57 State Administration Act).

*Relationship with local self-government* – Relationship of state administration authorities and local self-government authorities (municipalities, cities and the city of Belgrade) in tasks from its genuine scope of work is based on rights and duties prescribed by the Local Self-Government Act and other statutes (Article 75, paragraph 1 State Administration Act). While supervising the operations of municipal authorities, cities and the city of Belgrade in the execution of conferred state administration tasks, the state administration authorities shall have all general and special powers granted to them in accordance with this statute to oversee the operations of other holders of public powers (Article 75, paragraph 2 State Administration Act).

## **PUBLICITY OF WORK AND RELATIONSHIP WITH CITIZENS**

Publicity of work and appropriate, polite and efficient relationship of state administration authorities with clients are an essential principle on which a modern administration is based.

State administration authorities shall be obliged to inform the public about their work through means of public information or another appropriate manner; employees who are authorized to prepare information and data related to informing the public shall be responsible for their accuracy and punctuality (Article 76 State Administration Act).

A public debate in the procedure of preparation of a statute which essentially changes the legal regime in a field or which regulates issues of particular relevance for the public is mandatory; this enables publicity in legal drafting but also enables that all interested parties influence the content of the statute (Article 77 State Administration Act).

State administration authorities are obliged to, primarily in premises where they deal with parties, inform the parties in a proper way of their rights and obligations and ways of exercising rights and obligations, on their domain, on their supervising the state administration authority and ways of contacting it, as well as on other matters important for the publicity of work and the relationship with parties (Article 79, paragraph 1 State Administration Act). A state administration authority shall be obliged to provide appropriate means for everyone to communicate his/her/its complaints about the work of the authority and/or improper conduct of an employee. If the complainant demands an answer, the state administration authority is obligated to respond within 15 days from the receipt and to examine the issues covered by complaints at least once in 30 days (Article 81 State Administration Act).

The name of the authority, the coat of arms and the flag of the Republic of Serbia must be displayed on premises accommodating state administration authorities (Article 83, paragraph 1 State Administration Act). The personal name of officials, ranks or job position of an employee working in the premise are displayed at the entrance to each office, while the floor-plan of premises of state administration authorities shall be put on view in an appropriate place within the building (Article 83, paragraph 2 State Administration Act).

# **OVERVIEW OF THE PUBLIC AGENCIES ACT <sup>1</sup>**

**ZORAN M. BALINOVAC**

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<sup>1</sup> The overview of the Public Agencies Act does not cover issues which author did not consider relevant for the presentation of the law.

## INTRODUCTION

The development of the administration and its tasks creates a need for the establishment of new forms of organisational status adjusted to new tasks that are in position to execute new tasks. Beside state administration in a narrow sense - which is here consisted of the state administration authorities (ministries, authorities within the ministries (integrated authorities), special organisations and to some extent the services of the Government), authorities of the autonomous provinces, municipalities, cities, the city of Belgrade to which the state administration tasks are conferred - in our system there are already organisations performing certain state administration tasks conferred by law: public companies, institutions, organisations for social insurance, etc. In last few years new forms of organisational status are established by a special law – all under the name of agencies that, by rule, operate according to the legislation on public services.<sup>2</sup>

The Constitution of the Republic of Serbia determines the state administration tasks: that they are executed by ministries as the only independent form of state administration authority, that beside ministries they are also performed by integrated authorities and special organisations; that the organisation and competences of the ministries, integrated authorities and special organisations are regulated by law and that the officials in the state administration authorities are appointed by the Government. The Constitution prescribes the following state administration tasks: the implementation of law and other general acts of the National Parliament, Government and the President of the Republic, adjudication in administrative matters and other administrative tasks prescribed by law (Article 94, paragraphs 1 and 2 of the Constitution). Thus, the ministries are the main form of state administration and the only one that, according to the text of the Constitution, perform tasks independently in the framework

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<sup>2</sup> Term ‘agency’ creates misunderstandings in the public. It is used for certain special organizations, it was used for already abolished services of the Government and, at the end, it is used for special forms of organisational status beside state administration authorities that are established by law. The third group of agencies is considered here.

of competences prescribed by the Constitution and law. Organisation and competences of the ministries, integrated authorities and special organisations are prescribed by law (Article 94, paragraph 5 of the Constitution). It is obvious that the constitutional regulation of state administration in the Republic of Serbia reflects an exceptional rigidity. For establishment of every new state administration authority it is necessary to pass a new law or amend existing law. Every new task that should be located in the state administration or any improvement of execution of already existing tasks may be done only by amending laws that regulate the scope of work of state administration authorities.

Certain laws of the Republic of Serbia already prescribed different organizational forms that, besides other things, perform administrative tasks that were in the competence of state administration bodies. They are called agencies. The first among them was the Act on the Agency for Privatisation; subsequent to this the following laws were passed: the Act on Planning and Construction of 2003, by which the Republic Agency for Spatial Planning was established, the Act on the Agency for Development of Small and Medium Sized Companies of 2001, the Act on Agency for Commercial Registers of 2004, the Act on Agency for licensing bankruptcy administrators of 2004, and the Act on medications and medical equipment of 2004, by which the Agency for medications and medical equipment was established<sup>3</sup>.

The analysis of laws of the Republic of Serbia that established agencies reveals the existence of a triangle consisting of agencies, users of agency services (parties in the administrative procedure conducted before the agency fall into this group) and state power in the form of the Government or the competent ministry. However, relationships within this triangle are not well regulated or without no particular reasons regulated in a different manner. It is obvious that there is a lack of organisational adjustment of agencies, although in most of the cases they perform mutually similar tasks (development, professional and regulatory) which contain elements of the execution of power (through conferred state administration tasks) and providing services for users (tasks that are similar to tasks of public services). The difference in understanding the scope of state administration tasks that can be conferred (although they are always conferred) is evident, as well as the lack of definition or partly elucidated ways through which the state, as the founder protects general interest in the work of agencies. Besides, every law which establishes the public agency also regulates its organisation, their mutual relationship and the work of the agency. On the other hand, many issues connected to the status of agencies are not regulated by regional laws, thus every time there is an issue of legislation applied on the work of agencies.

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<sup>3</sup> The agencies where the main part of the initial rights is performed by the National Assembly in the name of the Republic of Serbia are not considered here, such as the Agency for Telecommunications and the Agency for Broadcasting.

The passing of Public Agencies Act (hereafter: the Act) ensured the consistent and sound regulation of the relationship between the state and public agencies and users of services. The Act answered many questions about which many laws in force are tacit, starting from the tasks that may be conferred to public agencies; modes for the state to protect the public interest in the work of agencies; status of employees in public agencies, through many organisational issues to the conflict of interest, etc.

## **REQUIREMENTS FOR THE ESTABLISHMENT OF A PUBLIC AGENCY AND THE ATTRIBUTES OF A PUBLIC AGENCY**

Due to many particularities that need to be adjusted and incorporated into one organisational form – a public agency, the Act is of a relatively general nature and regulates only the main frameworks needed for the establishment and the work of public agencies.

The Act prescribes two requirements for the regulation of the establishment of a public agency. Firstly, it is necessary that a public agency acts and fulfils its purpose in a relatively autonomous social field, which does not require continuous and direct political supervision through the Ministry and the Government (Article 2, paragraph 1). The scope of autonomy of a public agency derives from it since then there is no need for the public agency to be in continuous contact and coordination with ministries, which improves its independence. The autonomy of a social field is, according to this, at the same time requirement for the establishment of a public agency without which there is no independence of a public agency. The other requirement is that the field in which a public agency should act and provide a space for independent and autonomous decision-making, for development and leading of its own initiative and revival of needs of service users of a public agency. In other words, a public agency may better and more usefully perform tasks than the state administration authority, especially if those tasks are entirely or mainly financed from the price paid by the service users (Article 2, paragraph 1).

Attributes of a public agency follow the main elements that characterise public agencies in other countries. Public agencies are established by an act of the government understood in the narrow sense (the founder of a public agency is a state power); the management of a public agency is in the hands of officials who are not appointed according to exclusively professional criteria and not political criteria; the leadership of a public agency is appointed by political authorities and also under certain conditions by the users of services of a public agency; founder's rights are not transferable and the public agencies are financed in a special way.

A public agency is a legal person (Article 5, paragraph 1). The nature of tasks classifies a public agency in the group of legal persons in public law; a

public agency serves for the fulfilment of public interest, and the purpose of its work is not gaining profit (it offers services to users without the mediation of the market). In performing its tasks, a public agency is independent (Article 4, paragraph 1). The independence of a public agency is based on a professional nature of its work and management with non-politically affiliated expertise which excludes the possibility to render the space inside a public agency into a place of passing decisions on strategic political issues. Independence from short term political goals and ambitions is the instrument which enables a public agency to stay in the domain of professional work. Firstly, it is independent in relation to the Government: the series of competences that Government has towards the state administration authorities does not have towards public agencies. The independence of the agency is expressed through: 1) organisational independence – a public agency is not directly subjected to the Government nor to any other state administration authority; 2) functional independence – powers of a public agency and rules of conduct are prescribed by Law which prevents the creation of a free space in which the founder of a public agency or users of their services could achieve exclusive influence on the decision-making inside the public agency 3) personnel independence – the Act precisely regulates the procedure and requirements for the appointment of the members of the Administrative Board and the Director of a public agency and defines in detail reasons and procedures for their dismissal which excludes any form of political accountability and protects the business of a public agency from the changes in the political power, that is the National Parliament and the Government, and 4) financial independence – a public agency is financed (partly) independently by changing fees for services rendered (with clearly defined criteria and rules for the determination of a price).

A public agency is established by an act of the Government, which this Act calls an act on establishment (Article 9, paragraph 1). The founder of a public agency may be the Republic of Serbia (Article 8, paragraph 1), an autonomous province, municipality, city and the city of Belgrade (Article 55). The founder's rights in the name of the Republic of Serbia are exercised by the Government and thus the right to pass an establishment act in the name of the Republic of Serbia (Article 8, paragraph 1). Decisions passed by the Government in exercising the founder's rights are proposed by the Ministry within whose scope of work lie the tasks of a public agency (Article 8, paragraph 2), namely all ministries in agreements if the tasks of a public agency fall within the competence of several ministries (Article 8, paragraph 3).

## **AUTHORITIES OF A PUBLIC AGENCY**

The authorities of a public agency are the Administrative Board and the Director (Article 13, paragraph 1). A Director is the authority for operational decision-making while the Administrative Board is the authority for strategic

decision-making. A special law may prescribe that a public agency has totally different authorities, besides the Administrative Board and the Director or that the Administrative Board and the Director have different scope of work from the scope of work they have according to this Act (Article 13, paragraph 2). A Director is subjected to the Administrative Board not only because he or she is obliged to comply with direction of the Administrative Board (Article 16, paragraph 1), but also due to the fact that he or she is obliged to prepare acts from the scope of work of the Administrative Board and submit reports on his or her work (Article 23, paragraph 2).

The Administrative Board of a public agency passes general acts (both regulatory, that is external and internal, that is acts on business of a public agency, with the exception of an Bylaw on Internal Organization and Staffing Table passed by the Director); determines the strategy of a public agency through an annual business plan; submits the report to the founder on work and supervises the work of the Director and gives him or her operational instructions (Article 15, paragraph 1). It is composed of the independent experts who are, by rule, appointed for a period of five years (Articles 16 and 17). They number from three to seven, according to the number determined by the act on the establishment of a public agency. Requirements for their appointment are strict; the strict incompatibility of functions and protection from the conflict of interest is prescribed, which should secure the independence and the professional work of a public agency. It is the rule that the members of the Administrative Board are appointed by the founder (Article 16, paragraph 2). However, it is important to pay attention to the users of public agencies services. On the other hand, the users should not also gain a prevailing influence on the work of public agencies, since a public agency acts only in public interest, wider than the interest of users of its services. Therefore, the Act prescribes that the users can have their own representatives in the Administrative Board of a public agency only if provided by an act on the establishment of a public agency but even then only to the half of the members of the Administrative Board which guarantees their influence but also prevents that they exclusively impose their interest (Article 18, paragraph 1). Representatives of the users are appointed either by the founder, upon proposal of their interest associations, if they exist or, based on the public competition, if the interest association do not exist (Article 18, paragraph 2), or they are appointed by the users themselves by direct and secret ballot (Article 18, paragraph 3). The users in this way acquire the right to manage a public agency and, at the same time, they represent a necessary link with those for whom the services of a public agency are intended for. It must be taken care that the direct users of services of public agencies are partly the end service users (achieved results). Insisting on the interest of the direct users can lead to the ignorance of interest and discrimination of end users. Therefore, the restriction is prescribed that the existing or possible users of financial incentives or means given by a public agency cannot be members of the Administrative Board (Article 19, paragraph 1). Instead of them, by rule, the representatives of the users to

whom the services of financial incentives and means are intended, are appointed in the Administrative Board (Article 19, paragraph 2).

The other authority of a public agency is the Director. The director manages the work and business of a public agency, represents it and acts in the name of the agency and passes individual acts, including the administrative acts by which the conferred state administration tasks are executed (Article 21, paragraph 1). The term of the Director is five years, but a special law can determine a shorter term (Article 21, paragraph 4). Requirements for the appointment of a Director are established by the Act and they should guarantee his or her professionalism (Article 22). A Director is appointed by the founder after the Administrative Board conducted a procedure of a public competition and made a list of candidates who achieved the best results in the selection procedure.

The selection procedure within the internal competition is very important since, according to the criteria prescribed by the act on the establishment of a public agency, it serves for the determination of professional capacities of the candidate who fulfils requirements for the appointment for a position of the director. Consequently, the Administrative Board prepares a list of candidates who achieved necessary results and submits it to the founder (Article 27). The founder may appoint for the director only a person from the list of candidates submitted by the Administrative Board (Article 28, paragraph 1).

The reasons for the dismissal of the member of the Administrative Board and the Director are prescribed by Act (Article 31). They are practically the same, since in both cases it concerns the expert positions, the only difference being that for the dismissal of the Director one more requirement is added which derives from its managing function: if by negligent or irregular work the Director causes greater damage to a public agency or neglects and negligently performs his or her duties that significant disturbances in the work of a public agency occurred or can occur (Article 31, paragraph 2). The Ministry within whose scope of work lie the tasks of a public agency (if the tasks of a public agency lie in the competence of two or more ministries) initiates and conducts the procedure in which it is established the state of facts relevant for the passing decision on whether the member of the Administrative Board or a Director will be dismissed or not, ex officio or upon proposal of the founder (Article 32, paragraph 1). The Ministry is obliged to, upon proposal of the Administrative Board, initiate the procedure for dismissal of a Director (Article 32, paragraph 2). The Ministry that conducts the procedure is obliged to previously determine the facts in regard to the existence of reasons for dismissal and to give an opportunity to the member of the Administrative Board, namely, the Director to present his or her defence (Article 32, paragraph 3). After determining all needed facts, the Ministry submits all documents to the founder and proposes the passing of a certain decision (Article 32, paragraph 3). The founder is not bound by the proposal of the Ministry. An appeal against the decision on dismissal passed by the founder is allowed in the

administrative dispute which protects the apolitical status of the member of the Administrative board and the Director (Article 32, paragraph 4).

## TASKS OF A PUBLIC AGENCY

Public agencies may be established in different forms. Each of the forms is adjusted to the particularity of tasks to be performed by a public agency. Establishment of a public agency is possible both for the execution of all tasks, and for a combination of tasks prescribed by the Act (Article 35, paragraph 1). According to the criteria of exclusion or the prevalence of types of tasks of a public agency (thus according to functional and regional criteria) the form of a public agency is determined, hence it is allocated either in the public regulatory or public development or public professional agency. For example, if a public agency is established for the purpose of developing one field, it can then also pass general acts, under the condition that this does not influence its nature of the development public agency. The differentiation between the forms of public agencies is significant, particularly since the internal regulation (organisation) of a public agency is adjusted to particularities of the tasks. It is also important, because the existence of the regulatory public agency cannot be imagined without conferral of public powers, while highly professional and development public agencies can exist without the conferral of public powers.

Regulatory tasks entail tasks of issuing general acts that regulate the legal relationship of wider importance (strictly speaking, it includes tasks of passing individual legal acts). Development tasks comprise the counselling, professional development tasks, attribution and allocation of financial incentives and other means to users of services provided by a public agency and passing of measures from the competence of a public agency (that are prescribed by a special law, Article 36, paragraph 2). A public agency, both with the development tasks and attribution of financial stimulations, acts as a non-profitable organisation, unlike institutional funds that are profitable organisations. Analytical and professional tasks are determined in accordance with purpose of establishing a public agency. Besides, a public agency can perform other tasks in connection to the purpose of a public agency (Article 35, paragraph 2). In this way, however, a public agency does not become a profitable organisation, namely a company.

A public agency may be conferred with state administration tasks prescribed by the Act. The purpose of conferring state administration tasks is that a public agency secures instruments that it needs for full and efficient performance of tasks and to enable the execution of public interest.

Firstly, a public agency may be conferred with the task of passing the secondary legislation, so called regulatory public power. Regulatory tasks entail the right of a public agency to pass rules that enforce laws or general acts of the National Parliament or the Government (Article 37). A public agency

does not have the power to independently regulate one societal relationship, it can only pass general acts that by their name and nature correspond to the general acts passed by the state administration authorities (regulations, orders, directives) and only when the public agency is authorized to pass these acts by the Law. Before publication of the regulatory general act a public agency is obliged to submit a general act to the competent ministry that points out that the general act is not in accordance with the Constitution or law or the general act of the Government and suggest to the public agency a way in which this incompatibility can be rectified (Article 43, paragraph 1). If a public agency does not accept the proposal of the Ministry, it may publish its legislation which enters into force and the Ministry is obliged to propose to the founder (the Government) to cancel the enforcement of the legislation of a public agency and initiate the procedure for review of its constitutionality and legality (Article 43, paragraph 2).

The following state administration task which may be conferred to a public agency is the passing of administrative acts in the first instance, which is also, by its nature, a regulatory work (Article 38, paragraph 1). The administrative acts are passed by the Director of a public agency and they can be challenged by the appeal filed to the Ministry within whose scope of work lie the tasks of a public agency (Article 38, paragraph 3).

Finally, a public agency may be conferred the task of issuing public documents and record keeping (paragraph 4, subparagraph 3).

A public agency may not be conferred the task of inspectorial supervision, that is with supervising the state administration authorities; this remains in the competence of the ministry, that is the state administration authority, and may be conferred only to an autonomous province, municipalities, cities and the City of Belgrade (Article 54, paragraph 2 of the State Administration Act).

Rationality and professionalism of work of public agencies require that the field which a public agency regulates includes all tasks necessary for the fulfilment of the purpose of a public agency. Therefore, the Act prescribes the possibility for a public agency to supervise the designated and purposeful use of allocated financial means and incentives as well as the professionalism and purposefulness of work of other persons determined by a special act or by an act establishing a public agency (Article 39, paragraph 1). This is most often the case with development public agencies which, according to a non-profit principle, allocate financial incentives. Measures that a public agency may undertake are prescribed by a special law (for example, deduction of allocated subventions if the means are not used purposefully and as intended). A public agency is obliged to prepare a report on supervision and base it on the required documentation and statements of parties. Since this is not about inspectory supervision, a public agency submits a report on supervision to the Ministry within whose scope of work lie the tasks of a public agency (Article 39, paragraph 3) which can then undertake inspectory supervision if it considers that there is a need for the supervision.

A public agency that charges fees for its services issues a tariff by which it determines the price of a service provided to users (Article 40). A tariff enters into force when the founder approves it and after the publication in the Official Herald (Article 40, paragraph 5). Before determination of a tariff, the Administrative Board of a public agency prepares a proposal of a price which is then published in printed means of information in order to obtain the advice from the users of the services. After the completed counselling, the Administrative Board transforms the proposal of a tariff in the tariff which it then submits to the founder for approval (Article 40, paragraph 4), with the obligation to submit to the founder an explanation with the tariff why certain remarks and suggestions of users of services and opinions of relevant ministries are not accepted.

## **PROTECTION OF GENERAL INTEREST IN THE WORK OF PUBLIC AGENCIES**

A public agency is not that much independent to totally exclude influence of the state or the users of the services over the operations of the agency. The public agencies are established for the purpose of satisfying public interests and the issues of success or unsuccessfulness, correctness and the irregularities in achieving the public interest are question for which the state is directly interested in. The intervention of state power serves, above all, the protection of general interest but also the protection of interest of service users.

In protection of a general interest a founder has two main competences. The first competence refers to his or her right to appoint and dismiss the members of the public agency (members of the Administrative Board and the Director). The other competence relates to the founder's rights to give approval for the most important decisions of a public agency: on the annual business plan, financial plan, tariff, division of revenue surplus, etc. It concerns the competences performed by the Government.

Other competences by which the public interest is protected are performed by the ministries, since they fall within the domain of supervision, both over financial and accountancy work of a public agency and over implementation of other legislation (Article 44). The notion of supervision is defined by the new State Administration Act (Articles 46, 47, 48, 55, 56). The work of a public agency in conferred state administration tasks is supervised by the ministry within whose scope of work lie the tasks of a public agency (or several ministries, depending on the tasks of a public agency). Purposeful and lawful use of the means of a public agency, implementation of legislation that regulates public finance and financial, material work and accountancy are supervised by the Ministry of Finance. The implementation of legislation on office management, use of the official language and script, work with parties and users, speed of deliberation in

administrative matters, and so on are supervised by the Ministry for State Administration and Local Self-Government (Article 44).

## **RELATIONSHIP OF A PUBLIC AGENCY WITH USERS**

The relationship of a public agency with its users is based on the principle of publicity of work of a public agency, which entails above all different forms of communication between a public agency and the users. A public agency is obliged to do the following: inform users in adequate way about its work, tasks and competences, rights and obligations of the users and on other important circumstances that influence the relationship with users, while the main provisions of informing are prescribed in detail (Article 47, paragraphs 1 and 2). The Director of a public agency is accountable for the work of a public agency (Article 47, paragraph 3). The other form of the principle of openness is the existence of a mechanism through which a public agency finds out the opinions of users about itself and collects feedback information on its work.

At least once a year, a public agency must enable users to give statements about its work and to propose modes for their improvement. A public agency makes a special report on this which shall be incorporated in its report on work (Article 48, paragraph 3). Remarks and suggestions of users in regard to the work of a public agency are examined by a member of the Administrative Board of a public agency who is authorised for this for one year by the Administrative Board (Article 49). He or she does not pass any act, but informs the user, the Director, the Administrative Board and the person to whom the remark is referred about his or her conclusions.

# **GOVERNMENT ACT**

**"OFFICIAL HERALD OF THE REPUBLIC OF SERBIA",**

**NO. 55/2005 & 71/2005**

## I. INTRODUCTORY PROVISIONS

### Position of the Government

#### **Article 1**

The executive power in the Republic of Serbia shall be vested in the Government.

### Conduct of Policy and Execution of Laws

#### **Article 2**

- (1) The Government shall conduct the policy of the Republic of Serbia within the framework of the Constitution and the legislation of the National Assembly.
- (2) The Government shall execute statutes and other acts of general applicability of the National Assembly by passing general and/or particular legal acts and/or taking other measures.

### Proposing Acts to the National Assembly

#### **Article 3**

The Government shall propose to the National Assembly statutes, budgets and other general and particular acts.

### Representing the Republic of Serbia

#### **Article 4**

The Government shall represent the Republic of Serbia as a legal person and thus exercise rights and duties the Republic of Serbia possesses as the founder of public enterprises, institutions and other organisations, unless otherwise is provided by the law.

### Disposing of the Republic of Serbia Property

#### **Article 5**

The Government shall dispose of the Republic of Serbia property, unless otherwise is provided by the law.

### Oversight of Constitutionality and Legality

#### **Article 6**

- (1) The Government shall oversee the constitutionality and legality of acts of general applicability of the autonomous provinces, municipalities, cities, the city of Belgrade, public enterprises, institutions and holders of public powers.
- (2) By a ruling, the Government may stay the execution of the acts of general applicability and particular acts thereunder passed by the previously mentioned entities. The ruling shall enter into force upon its publication in "The Official Herald of the Republic of Serbia" and become invalid if the Government, afterward, fails to initiate a procedure for assessing the constitutionality and legality within fifteen days.

## Accountability of the Government

### Article 7

- (1) The Government shall be independent within the limits of its competences.
- (2) The Government shall be accountable to the National Assembly for conducting the policy of the Republic of Serbia, for the execution of statutes and other general acts of the National Assembly, for the state of affairs in all the areas from its jurisdiction, and for the performance of the state administration authorities.

## Powers over State Administration Authorities

### Article 8

- (1) The Government shall oversee the functioning of the state administration authorities, and direct and coordinate the activities the state administration authorities pertinent to the implementation of the policy and the execution of the statutes and other acts of general applicability.
- (2) If a state administration authority fails to pass a normative act and there is a danger the failure could have adverse consequences on the life and health of the people, environment, economy or valuable assets, the Government shall pass the normative act.
- (3) The Government may annul or abrogate a regulation passed by a state administration authority that is contrary to a statute or a Government's regulation. The Government may set a time limit for adoption of a new normative act.

## Transparency

### Article 9

- (1) The Government's functioning shall be open to the public.
- (2) The Government shall be obligated to enable public insight into its functioning in accordance with the statute governing free access to information of public importance and the Government Rules of Procedure.

## **II. COMPOSITION, TERM OF OFFICE AND ORGANISATION OF THE GOVERNMENT**

### **1. COMPOSITION OF THE GOVERNMENT AND STATUS OF GOVERNMENT MEMBERS**

## Composition of the Government

### Article 10

- (1) The Government shall be composed of the President of the Government, one or more Vice Presidents and ministers with portfolios.

- (2) The Government may have ministers without portfolio.
- (3) On the proposal of the candidate for the President of the Government, the number of Vice Presidents of the Government and the ministers without portfolio shall be specified by the National Assembly upon each election of the Government.

## Incompatibility and Conflict of Interest

### **Article 11**

Except for the office of a Member of the National Assembly, the members of the Government may not hold another public office in a state authority, institutions of Serbia and Montenegro, authority of an autonomous province, city authority and city of Belgrade authority, perform a duty that is, according to the law, incompatible with the duty of a member of the Government, nor give rise to the possibility of conflict of public and private interests.

## President of the Government

### **Article 12**

- (1) The President of the Government shall lead and direct the Government, ensure unison political operation of the Government, coordinate the work of the members of the Government, represent the Government, and convene and preside its sessions.
- (2) Pursuant to the Government programme and policy, the President of the Government may issue mandatory operational instructions and special tasks to other members of the Government.
- (3) A member of Government may request the Government to establish whether the President of the Government has exceeded his/her powers thereupon.

## Vice President of the Government

### **Article 13**

- (1) The Vice President of the Government shall direct and coordinate the activities of state administration authorities in the areas specified by the President of the Government.
- (2) The President of the Government may empower the Vice President of the Government to manage a project from the domain of several state administration authorities.
- (3) The President of the Government shall designate a Vice President of the Government who will replace him/her during absence or incapacitation entrusting that Vice-President with all powers of the President of the Government except for the power to propose appointment or dismissal of a member of the Government.
- (4) In all other issues, the provisions of this statute pertinent to the ministers shall apply accordingly to all remaining matters regarding the status of the Vice President of the Government.

## Ministers

### **Article 14**

- (1) A minister may render to the Government proposals for regulating issues from the competence of the Government and/or the National Assembly, as well as request the Government to adopt a position on an issue from his/her competence.
- (2) A minister ought to inform the Government about all matters relevant to the implementation of policy and decision-making of the Government.
- (3) A minister shall be responsible for the implementation of the Government's programmes and policy, for decisions and measures he/she has passed or failed to pass or take, and for the execution of the mandatory instructions issued and/or tasks assigned to him/her by the President of the Government.

## **2. GOVERNMENT'S TERM OF OFFICE**

### Election of Government

#### **Article 15**

- (1) The Government shall be elected by the National Assembly each time it is constituted, at the proposal of the candidate for President of the Government.
- (2) The National Assembly shall decide on election of the Government as a whole.
- (3) The Government shall be elected by a majority of the total number of the members of the National Assembly.

### Beginning and End of Government's Term of Office

#### **Article 16**

- (1) The Government's term of office shall begin from the oath given before the National Assembly.
- (2) The oath shall read the following: "I solemnly pledge allegiance to the Republic of Serbia and, by my honor, I commit to respect the Constitution and the law and to perform the office of a member of Government diligently, responsibly and zealously".
- (3) The Government's term of office shall terminate upon the termination of the National Assembly's term of office, vote of no confidence, resignation of the Government, vote of no-confidence in the President of the Government and resignation of the President of the Government.
- (4) A new Government shall be elected in accordance with the rules that apply to election of the Government upon constituting the National Assembly.

## Powers of the Government and Members of the Government after the Termination of Government's Term of Office

### **Article 17**

- (1) A Government whose term of office is terminated may perform only routine tasks and may propose no statutes and other general acts to the National Assembly or pass regulations, unless the passing is linked to a time limit set forth by the law or if so is required by the needs of the state, interests of the defense or is pressed for by a natural, market or technical accident.
- (2) Such a Government may not appoint officials to the state administration authorities and, upon exercising founding prerogatives of the Republic of Serbia, it may only appoint or consent to the appointment of an acting director and members of a managing and/or supervisory board.
- (3) The Government whose term of office is terminated may not propose dissolution of the National Assembly to the President of the Republic.
- (4) A member of the Government whose term of office is terminated due to the termination of Government's term of office shall have as the same powers as a member of the Government who has resigned.

## Vote of No-confidence in the Government. Vote of No-confidence in the President of the Government

### **Article 18**

- (1) At least 20 members of the National Assembly may propose a vote of no-confidence in the Government to the National Assembly.
- (2) A motion of no confidence in the Government shall be passed by a majority vote of the total number of members of the parliament.
- (3) A motion of no-confidence in the President of the Government shall be decided upon under the same conditions.

## Confidence in the Government

### **Article 19**

- (1) The Government may propose to the National Assembly the vote of confidence.
- (2) A motion of confidence in the Government shall be passed by a majority vote of the total number of members of the National Assembly.

## Resignation of the President of the Government. Resignation of the Government

### **Article 20**

- (1) The President of the Government may file a resignation, which he or she shall dispatch to the President of the National Assembly and the President of the Republic.
- (2) At its first session following the resignation, to be held within seven days from the receipt of resignation, the National Assembly shall

acknowledge without discussion that the President of the Government has filed a resignation and thus the Government term of office terminates.

- (3) The President of the Government may explain the resignation before the National Assembly.
- (4) The provisions relating to the resignation of the President of the Government shall apply accordingly to the resignation of the entire Government.

### Termination of Minister's Term of Office

#### **Article 21**

- (1) A minister's term of office shall terminate on termination of the Government's term of office, by vote of no confidence, dismissal or resignation.
- (2) No confidence in a minister or his/her dismissal shall be voted out by a majority vote of the total number of the members of the National Assembly.

### Vote of No-confidence in a Minister. Dismissal of Minister

#### **Article 22**

- (1) A motion for a vote of no-confidence in a minister shall be submitted to the National Assembly by at least 20 members of parliament.
- (2) A motion for dismissal of a minister shall be submitted to the National Assembly by the President of the Government.
- (3) The concerned minister may not exercise his/her powers from the moment the President of the Government submits the motion of for dismissal to the moment the National Assembly makes its decision. During that period, the said powers shall be taken over by a Government member so authorised by the President of the Government.

### Resignation of a Minister

#### **Article 23**

- (1) A minister may file a resignation with the President of the Government and, subsequently, the President of the National Assembly.
- (2) At its first session following the event, the National Assembly shall acknowledge without discussion that the minister has filed a resignation and thus his/her term of office terminates.
- (3) A minister may explain the resignation before the National Assembly.

### Powers of the Minister who has Resigned

#### **Article 24**

- (1) A Minister who has filed a resignation shall perform routine tasks until his or her office ends.
- (2) Thereupon, the Minister may not pass any normative act, unless its

passing is linked to a time limit specified by law or if so required by the needs of the state, interests of defence or [is pressed for by] a natural, market or technical accident. Upon the exercise of the founding prerogatives of the Republic of Serbia he/she may only appoint or consent to the appointment of an acting director and members of the managing and/or supervisory board.

### Taking Over Powers of a Minister whose Term of Office Ends. Election of New Minister

#### **Article 25**

- (1) The powers of the minister whose term of office ends shall be exercised by a Government member so authorised by the President of the Government.
- (2) The President of the Government shall propose to the National Assembly the election of a new minister within fifteen days from the end of the office of the preceding one.
- (3) A new Minister shall be elected by a majority vote of the total number of members of parliament.

## **3. ORGANISATION OF THE GOVERNMENT**

### Passing of Government's Decisions

#### **Article 26**

- (1) The Government shall pass its decisions at a session by a majority vote of all its members.
- (2) The Government's Rules of Procedure shall regulate in detail the manners of Government's functioning and its deliberation, as well as the acts passed by the President of the Government.

### Cabinet of the President of the Government and Cabinet of the Vice President of the Government

#### **Article 27**

- (1) The President of the Government and Vice Presidents of Government shall have cabinets to perform support and other tasks for The President of the Government and Vice Presidents of Government respectively. The President and the Vice President of the Government may appoint advisors to their cabinets.
- (2) Employment relationships in a cabinet shall be fixed-term lasting as long as the President of the Government that is the Vice President of the Government is in the office. Rights and obligations of the advisors, who do not establish an employment relationship, shall be governed by a contract in accordance with the general rules of civil law. The criteria specified by the Government shall govern the remuneration for their work.

- (3) The cabinets shall be led by the chiefs of staff appointed and dismissed by the President of the Government or the Vice President of the Government, and who shall have the status of the Director of a Government Service accountable to the President of the Government.
- (4) The term of office of the Chief of a cabinet shall terminate on termination of office of the President of the Government or the Vice President of the Government, by resignation or dismissal.

## Councils of the President of the Government

### **Article 28**

- (1) The President of the Government may establish a council for economic development and a council for state authorities and public services, each consisting of a maximum of five members.
- (2) A council shall propose to the President of the Government development policy in the field it has been established for, provide him or her with opinions on proposals of other Government members, prepare proposals that the President of the Government presents for consideration at Government sessions and, upon an order by the President of the Government, consider other issues in the field for which it has been established.
- (3) The council members shall be appointed and dismissed by the President of the Government and shall not be employees of the Government.

## Secretariat-General of the Government

### **Article 29**

- (1) There shall be the Secretariat-General of the Government charged with support and other duties for the Government.
- (2) The domain of the Secretariat-General of the Government shall be governed in more detail by a Government regulation and the Government Rules of Procedure.

## Secretary General of the Government

### **Article 30**

- (1) There shall be the Secretary General of the Government, who shall be appointed and dismissed by the Government, at the proposal of the President of the Government.
- (2) The Secretary General shall be accountable to the President of the Government and the Government.
- (3) The Secretary General shall run the Secretariat-General of the Government; take care of the execution of the Government's acts and of preparation of Government sessions, and assist the President of the Government with other Government's affairs.
- (4) The office of Secretary General of Government shall terminate when the office of President of the Government terminates, by resignation or dismissal.

## Services of the Government

### **Article 31**

- (1) By its regulation, the Government shall establish its services to carry out specialist or technical operations for the Government itself or tasks common for all or several state administration authorities, and shall prescribe their organisation and domain.
- (2) Rules on organization, manners of functioning, financing, and employment with the state administration authorities shall apply accordingly to the Government's services, unless otherwise is provided by a separate regulation.

## Management of the Government Services

### **Article 32**

- (1) A Government service shall be managed by the Director, who shall be accountable to the President of the Government or Secretary General of the Government. A Government service may be run by a minister without portfolio.
- (2) The Director of a Government service accountable to the President of the Government shall be appointed by the Government upon the proposal of the President of the Government.
- (3) Other directors of Government services shall be appointed by the Government upon the proposal of the Secretary General of the Government.
- (4) The President of the Government may confer his/her powers over a director of a service accountable to him/her to the Vice President of the Government.

## Government's Working Bodies

### **Article 33**

- (1) For the purposes of giving opinions and proposals on matters from the Government's jurisdiction and/or harmonizing standpoints of the state administration authorities before consideration of a motion at a Government session, the Government shall form standing working bodies.
- (2) For the purposes of considering certain matters from the Government's jurisdiction and giving proposals, opinions and expert explanations, the Government may form provisional working bodies.
- (3) The standing working bodies shall be formed by the Government Rules of Procedure. The provisional working bodies shall be formed by a decision that shall also specify its task and composition.
- (4) The Government may, by its Rules of Procedure, authorise standing working bodies composed solely of the members of the Government to pass acts of individual applicability from the Government's jurisdiction, except for appointments and dismissals of officials in the state administration authorities and Government services.

### **III. RELATIONSHIP WITH THE NATIONAL ASSEMBLY AND THE PRESIDENT OF THE REPUBLIC**

#### **1. RELATIONSHIP BETWEEN THE NATIONAL ASSEMBLY AND THE GOVERNMENT**

##### Legislative Initiative

###### **Article 34**

The Government shall propose statutes and other acts of general applicability to the National Assembly and opine on draft statutes and other draft general acts it had not proposed itself.

##### Proposing the Budget

###### **Article 35**

- (1) Each year, the Government shall propose the National Assembly the adoption of the Republic of Serbia Budget.
- (2) A budget proposal [for the following year] shall be submitted to the National Assembly by 1 November of the current year at the latest.

##### Submitting Reports to the National Assembly

###### **Article 36**

- (1) The Government shall submit a report to the National Assembly on its performance in the past year, at the latest 60 days before submitting the draft financial report of the Republic of Serbia.
- (2) At the request of the National Assembly, the Government and every Government member shall submit to their performance reports to the National Assembly.

##### Proposals of the National Assembly and the Government

###### **Article 37**

- (1) The Government must take a position on the proposal of the National Assembly that has been submitted on an issue from the Government's competence.
- (2) The Government may propose the National Assembly to discuss an issue from the Government's competence and to adopt a position thereon.

##### Participation in Work of the National Assembly

###### **Article 38**

- (1) Representatives of the Government shall participate in the work of the National Assembly on the occasion of adoption of the statutes and/or other acts of general applicability proposed by the Government.
- (2) On the occasion of adoption of the statutes and other acts of general applicability not proposed by the Government, the representatives of the Government must participate in the work at the request of the National Assembly.

## Communication of Information to the National Assembly

### **Article 39**

The Government and every member of the Government shall be obligated to provide to the National Assembly the reports and data the Assembly needs to discuss the matters related to the performance of the Government or its members.

## **2. RELATIONSHIP BETWEEN THE PRESIDENT OF REPUBLIC AND THE GOVERNMENT**

### State of Emergency and State of War

#### **Article 40**

- (1) The Government shall propose the President of the Republic to introduce a state of emergency in the part of the territory of the Republic of Serbia, as well as to propose acts by which measures are taken during a state of emergency.
- (2) During a state of war, the Government may propose the President of the Republic to pass acts on the matters from the jurisdiction of the National Assembly.

### Adopting a Position at the Request of the President of the Republic

#### **Article 41**

- (1) The President of the Republic may request the Government to take a position on certain issues from the Government's competence.
- (2) The Government shall be obligated to communicate the position taken to the President of the Republic without delay.

## **IV. ACTS OF THE GOVERNMENT**

### Regulations and Rules of Procedure

#### **Article 42**

- (1) By regulation, and in accordance with the purpose and aim of a statute, the Government shall regulate in more detail a legal relations governed by the statute.
- (2) The Government shall pass its Rules of Procedure to prescribe, in accordance with this statute, its own organisation, manners of work and deliberations.

## Decisions, Rulings and Resolutions

### **Article 43**

- (1) By a decision, the Government shall establish public enterprises, institutions and other organisations, take measures and regulate issues of general importance and decide on other issues for which a statute or another regulation prescribes that they shall be regulated by a Government decision.
- (2) By a ruling, the Government shall decide on appointments, nominations and dismissals, administrative matters and other issues of individual applicability.
- (3) Whenever the Government does not pass the previously mentioned acts, it shall pass resolutions.

## Memorandum on the Budget

### **Article 44**

The Government shall adopt a memorandum on the Budget, which shall list the main objectives of public finance and macroeconomic policies.

## Development Strategy. Declarations

### **Article 45**

- (1) By its development strategy, the Government shall establish the state of affairs in a field from the competence of the Republic of Serbia and the measures to be taken for its development.
- (2) A declaration shall express a Government's position on an issue.

## Publication of Government's Acts

### **Article 46**

- (1) Regulations, decisions, the Rules of Procedure, the memorandum on the Budget, and rulings annulling or abrogating normative acts of the state administration authorities shall be published in "The Official Herald of the Republic of Serbia".
- (2) Other acts of the Government and/or the President of the Government may be published in "The Official Herald of the Republic of Serbia" if so prescribed by this statute or another normative act or if so decided by the Government upon the adoption thereof.

## **V. TRANSITIONAL AND FINAL PROVISIONS**

### Passing of Regulations

#### **Article 47**

The Government must pass the Government Rules of Procedure and stipulate the organization and functioning of the Secretariat-General

of the Government, the cabinets of the President of the Government and the Vice President of the Government, the councils of the President of the Government and Government's services within 90 days from the entry of this statute into force.

## Invalidation of the Republic of Serbia Government Act

### **Article 48**

- (1) On the day this statute enters into force, the Republic of Serbia Government Act ("The Official Herald of the Republic of Serbia", No. 5/91 and 45/93) shall cease to apply.
- (2) Until the passing of the subsidiary instruments prescribed by this statute, the provisions of the regulations passed under the Republic of Serbia Government Act shall apply, except those contradicting this statute.

## Entry into Force

### **Article 49**

This statute shall enter into force on the eighth day from its publication in "The Official Herald of the Republic of Serbia".

According to Article 42, paragraph 2, of the Government Act (“The Official Herald of the Republic of Serbia”, No. 55/05 and 71/05–corrigendum), the Government [hereby] passes

# THE GOVERNMENT RULES OF PROCEDURE

“OFFICIAL HERALD OF THE REPUBLIC OF SERBIA”, NO. 100/2005 & 51/2006

## I. PRINCIPAL PROVISIONS

Content of the Rules of Procedure

### Article 1

In compliance with the Government Act, these Rules of Procedure shall prescribe in detail the organization of the Government, ways the Government carries out its activities and makes its decisions.

Ensuring the Application of these Rules of Procedure

### Article 2

- (1) The Secretary-General of the Government shall ensure the application of these Rules of Procedure (hereinafter: the Secretary-General).
- (2) The President of the Government may issue mandatory directives to the Secretary-General in relation to the execution of powers vested with the Secretary-General in accordance to these Rules of Procedure.

President of the Government

### Article 3

- (1) The President of the Government shall direct and guide the Government; ensure the uniformity of political action of the Government; coordinate the work of the members of the Government and represent the Government.
- (2) With that aim, the President of the Government shall convene and chair sessions of the Government; sign the acts of the Government; issue mandatory directives and special assignments to the members of the

Government; represent the Government before other state authorities and the representatives of foreign countries and international organizations, and advocate viewpoints of the Government in media.

## Acts of the President of the Government

### **Article 4**

- (1) The President of the Government shall pass decisions and rulings.
- (2) By a decision, the President of the Government shall do the following: name the Vice President of the Government who substitutes the President of the Government during absence or incapacitation; specify the areas where the Vice-President of the Government directs and coordinates the activities of ministries and special organizations; empower the Vice-President of the Government to manage a project from the domain of several ministries and special organizations; delegate the powers to the Vice-President of the Government over a Director of a Service of the Government who is accountable to him or her; empower a member of the Government to take over powers from another member of the Government whose dismissal has been proposed by the President of the Government or whose term of office has terminated; issue assignments to a minister without portfolio; establish councils of the President of the Government, and appoint and dismiss the President and the members of the councils of the President of the Government.
- (3) Decisions passed by the President of the Government shall be published in the “Official Herald of the Republic of Serbia”.
- (4) If in performing other competences, the President of the Government estimates that there is a need to pass a written act, he or she shall pass a ruling which shall not be published in the “Official Herald of the Republic of Serbia”.

## Convening the First Session of the Government

### **Article 5**

- (1) The President of the Government shall convene the first session of the Government within eight days from the day when the term of the Government began.
- (2) At the first session of the Government, it shall be decided about the day of a week for holding sessions of the Government.

## Membership Card of the Member of the Government

### **Article 6**

- (1) The President of the Government shall issue membership cards to the members of the Government that, from the beginning until the end of the term of office, attest their membership in the Government, as well as immunity privileges of members of the Government.
- (2) The membership card shall contain the personal data necessary for verification of a member’s identity, his/her position in the Government, day when his/her term of office commences, and his/her immunity privileges.

- (3) A member of the Government shall be obligated to return the membership card to the President of the Government within three days from the termination of his/her term of office or duty. The President of the Government shall hand the membership cards over, including his or her own card, to the Secretary General.

## Decision-making of the Government

### Article 7

- (1) The Government shall transact its business and decide on issues from its competence at the sessions of the Government. The Government shall decide by a majority vote of all members of the Government.
- (2) If during the voting on the agenda proposal a majority of members of the Government is present, and no any member of the Government throughout the session challenges that majority, it shall be deemed that a majority of members of the Government was present at all times during the session of the Government.
- (3) In especially justified and urgent situations, the President of the Government may decide to hold a session of the Government even if a majority of members of the Government is not present. The absent members shall vote by phone or fax.

## State Administration Authorities and Services of the Government

### Article 8

- (1) For the use of these Rules of Procedure, the ministries, special organizations and services of the Government shall be referred to as the state administration authorities.
- (2) Services of the Government whose directors are accountable to the President of the Government shall be referred to as the services of the Government.

## II. WORKING BODIES OF THE GOVERNMENT

### 1. STANDING WORKING BODIES

#### Committees and Commissions

##### Article 9

- (1) The Government shall, by these Rules of Procedure, establish committees and commissions as its permanent working bodies.
- (2) Committees shall participate in the preparation of the sessions of the Government or shall examine issues that shall not be decided on at sessions of the Government.
- (3) Commissions, by rule, shall pass acts of individual applicability or propose them to the Government.

## Members of Standing Working Bodies

### Article 10

- (1) Members of standing working bodies shall be the members of the Government. In addition, state secretaries and persons appointed by the Government to state administration bodies whose tasks fall under the domain of the standing working body may also be members thereof.
- (2) The Government shall appoint the president, deputy president and other members of a permanent working body so that the members of the Government comprise a majority.
- (3) The Government shall specify the number of members of standing working bodies on the appointment of members thereto.

## President of a Standing Working Body

### Article 11

- (1) The President and the Deputy President of a standing working body shall be nominated among the vice-presidents of the Government or the ministers.
- (2) The president of a standing working body shall convene a session of the permanent working body; propose the session agenda; chair the session and propose acts of the permanent working body.
- (3) If the president and the deputy president are incapacitated, they shall be substituted by the member of the Government who is also a member of the permanent working body.

## Session of Standing Working Body

### Article 12

- (1) The president of a working body shall convene a session of the standing working body by a written invitation sent out at the latest 24 hours before the opening of the session. The draft agenda, the minutes of the previous session and materials for the session shall be enclosed with the invitation.
- (2) The materials prepared according to these Rules of Procedure shall be attached to the draft agenda. Only in particularly justified and urgent situations the agenda of a session may include materials that were not attached to the draft agenda. The Secretary General shall be informed about this modification.
- (3) Sessions shall be closed to the public, unless the president of the standing working body decides otherwise. The minutes of the session shall be recorded.
- (4) If a standing working body decides so, the shorthand notes may be taken and an audio recording of the session may be done.

## Persons who attend the Session of a Standing Working Body if Required

### Article 13

- (1) The President of a permanent working body may invite representatives of other authorities to a session of the permanent working body.

- (2) He or she may also invite experts for certain matters to give their opinions.

### Decision-making of a Standing Working Body

#### **Article 14**

- (1) A standing working body shall legitimately conduct its business and decide at the session where a majority of its membership is present.
- (2) A standing working body shall decide by a majority vote of the present members.
- (3) On a rare occasion, and except when a standing working body is exclusively composed of the members of the Government, a minister may authorize the State Secretary in writing to substitute him/her (the minister) at a session of the standing working body and voice his/her (the secretary's) opinion and vote on all issues from the agenda.

### Specialist and Administrative-technical Support

#### **Article 15**

- (1) The Secretariat-General of the Government (hereinafter: the Secretariat-General) shall provide specialist and administrative-technical support to the standing working bodies through services and secretaries of the standing working bodies.
- (2) The secretary of a permanent working body shall provide specialist and administrative-technical support to those standing working bodies that, according to these Rules of Procedure, are not supported by the Service.

### Application of the Provisions of these Rules of Procedure

#### **Article 16**

- (1) The provisions of these Rules of Procedure on preparation of materials to be delivered to a standing working body in the course of preparations of a session of the Government shall also apply to compiling of materials for sessions of the standing working bodies whereat the issues not to be decided upon at the sessions of the Government are discussed.
- (2) The provisions of these Rules of Procedure on the preparations for and course of a session of the Government shall apply accordingly to all remaining matters related to the preparations for and course of sessions of a standing working body that are not explicitly regulated herein by these Rules of Procedure.

## 2. SPECIAL PROVISIONS ON COMMITTEES

### Resolutions of the Committees

#### Article 17

- (1) The resolution on each agenda item shall be passed at the session of a committee.
- (2) The committee shall pass a resolution whereby it expresses its decisions, proposals or opinions about the agenda item pertinent to an issue that is not going to be decided upon at a session of the Government.
- (3) In accordance with the provisions of these Rules of Procedure, the committee shall also pass a resolution on an agenda item discussed in the preparations for a session of the Government.

### Consideration of Issues from the Domain of another Committee

#### Article 18

- (1) The committee may consider issues from the domain of another committee.
- (2) If the resolutions of the committees differ, the presidents of the committees shall negotiate which resolution to propose to the Government.
- (3) If an agreement is not reached, the President of the Government shall decide whether to include the disputed issue in the agenda proposal for a Government session or to send it back to the committees for reconsideration.

### Joint Session of the Committees

#### Article 19

- (1) At a joint session, the committees may discuss issues of importance for two or more committees.
- (2) At a joint session, each committee shall decide separately.
- (3) If the resolutions of the committees differ, the provisions of these Rules of Procedure on consideration of issues from the domain of the other committee shall apply.

### Participants in Sessions of the Committees

#### Article 20

The representatives of those making a proposal [to be considered], and representatives of the Ministry of Finance and the Republic Legislation Secretariat shall participate in the work of a committee, without the right to vote.

### Services of the Committees

#### Article 21

- (1) The Services of the committees shall provide specialist and administrative-technical support to the committees.

- (2) The secretary of a committee, appointed by the Secretary General, shall manage the Service of the committee and [supervise] the work of its staff.
- (3) The Service of a committee shall make preparations for a session of the committee; prepare reports and resolutions of the committee; monitor the execution of the committee's resolutions carrying its decisions, proposals and opinions; and perform other tasks specified by the president of the committee.
- (4) The Service of a committee shall collect, process and analyze information from state administration authorities and other authorities and bodies for the president of the committee.

### **3. PROVISIONAL WORKING BODIES OF THE GOVERNMENT**

#### Formation of a Provisional Working Body

##### **Article 22**

- (1) The Government may form, by its decision, a provisional working body (council, working group, expert group, etc.) to consider certain issues from the jurisdiction of the Government and to issue proposals, opinions and expert clarifications. The Government shall designate the president and the members of a provisional working body by the decision constituting the body. The Government shall replace the members of a provisional working body by an individual ruling.
- (2) The decision on the formation of a provisional working body shall specify the tasks for which the body is constituted, its duration, the time limits for submission of the performance report and other issues relating the business of the body.
- (3) A provisional working body shall be obligated to submit its performance report to the competent committee at least once every 60 days, and to the Government every 90 days.
- (4) A provisional working body shall render its proposals, opinions and expert clarifications to the state administration authority under whose domain the majority of the underlying tasks fall. If the [receiving] state administration authority deems that necessary, it shall prepare the received documents as its own proposals for the Government.

#### Invalidation of the Decision on Formation of a Provisional Working Body

##### **Article 23**

- (1) A decision on formation of a provisional working body shall cease to be effective upon the expiry of the time for which the body was constituted.

## Support to Provisional Working Bodies. Accordant Application of the Provisions of these Rules of Procedure

### **Article 24**

- (1) The state administration authority under whose domain the majority of tasks underlying the formation of a provisional working body fall shall provide specialist and administrative-technical support to the body. If the President of the Government, the Vice-President of the Government or the Secretary General preside the provisional working body, then the Secretariat-General shall provide specialist and administrative-technical support to that body.
- (2) The provisions of these Rules of Procedure on work of the standing working body shall apply accordingly to the work of the permanent working bodies, unless otherwise is provided by the decision constituting a provisional working body.

## **4. TYPES OF COMMITTEES AND COMMISSIONS**

### All Committees and Commissions

#### **Article 25**

- (1) The Government shall have the following committees:
  - 1) Committee for Legal System and State Authorities;
  - 2) Committee for Foreign Relations
  - 3) Committee for Economy and Finances;
  - 4) Committee for Public Services;
- (2) The Government shall have the following commissions:
  - 1) Administrative Commission;
  - 2) Personnel Commission;
  - 3) Housing Commission;
  - 4) Commission for Establishment of Damages from Natural Disasters;
  - 5) Commission for Assignment of Official Buildings and Office Premises.

### Committee for Legal System and State Authorities

#### **Article 26**

The Committee for Legal System and State Authorities shall consider issues related to: defense; home affairs; organization of the judiciary; procedure before the state authorities; legislation on criminal, petty and commercial offences; state administration; territorial organization of the Republic of Serbia; territorial autonomy; local self-government; international legal aid; organization and working methods of the Government; state symbols; referendum and selection for the republic authorities; inheritance; statistics; the Diaspora; relationship with the Serbian Orthodox Church and religious communities; and other issues related to the legal system and state authorities.

## Committee for Foreign Relations

### **Article 26a**

The Committee for Foreign Relations shall consider the issues related to: foreign affairs; relations with other states and international organizations; conclusion of international treaties; accession to the European Union, and other issues related foreign relations.

## Committee for Commerce and Finance

### **Article 27**

The Committee for Economy and Finances shall consider issues related to: economy and privatization; finances; property relations; labor and employment; agriculture; forestry; water management; energy and mining; spatial planning; construction business; transport; commerce and commodity supplies; tourism and services; international commercial relations; regional development; environment; standardization; intellectual property; accreditation; measures and precious metals; meteorology; and other issues related to economy and finances.

## Committee for Public Services

### **Article 28**

The Committee for Public Services shall consider issues related to: science, education; culture; health; pensions and disability insurance, veterans' care; social welfare; marriage and family affairs; public information; sports and other issues related to public services.

## Administrative Commission

### **Article 29**

- (1) The Administrative Commission shall perform the following: adjudicating in an administrative procedure; resolving conflicts of jurisdiction from the domain of the Government that emerge in an administrative procedure; passing rulings on exercise of the rights from employment of the members of the Government; passing rulings on salaries and other emoluments of persons appointed by the Government and proposing the Government modes of deliberations on the immunity and exemption of the members of the Government.
- (2) Only the members of the Government may be the president and/or members of the Administrative Commission.  
The Administrative Commission shall have its Service. The provisions of these Rules of Procedure on the Services of the committees shall apply accordingly to the Service of the Administrative Commission.

## Personnel Commission

### **Article 30**

- (1) The Personnel Commission shall propose the Government the appointments, nominations and dismissals from the competence of the Government.

- (2) The Personnel Commission shall have its Service to which the provisions of these Rules of Procedure on the Services of the committees shall apply accordingly.

## Housing Commission

### **Article 31**

- (1) The Housing Commission shall decide on objections to the decisions of the housing commissions of state authorities and organizations and shall perform other tasks from the normative acts governing dealings with housing needs of the persons elected or appointed to and/or employed with the beneficiaries of the assets owned by the state.
- (2) Only the members of the Government may be the president and members of the Housing Commission.
- (3) The Housing Commission shall have its Service to which the provisions of these Rules of Procedure on the Services of the committees shall apply accordingly.

## Commission for Establishment of Damages from Natural Disasters

### **Article 32**

The Commission for Establishment of Damages from Natural Disasters shall determine, in accordance with the methodology on the estimation of damage, the amount of damages from natural disasters; shall propose to the Government the assets that need to be allocated for the reparation of damages and shall perform other tasks prescribed by the regulations and acts of the Government.

## Commission for Assignment of Official Buildings and Office Premises

### **Article 33**

The Commission for Assignment of Official Buildings and Office Premises shall decide on the allocation of official buildings and office premises to state authorities and organizations.

## **III. SESSION OF THE GOVERNMENT**

### **1. GENERAL ISSUES**

#### Proposers of Materials. Compulsory Application of these Rules of Procedure

### **Article 34**

- (1) The state administration authority under whose domain the issue to which the proposed materials falls shall have the right to propose materials for a session of the Government (hereinafter: a Proposer).

- (2) The Proposer must prepare and propose the materials in accordance with the procedure prescribed by these Rules of Procedure.
- (3) Notwithstanding the provisions of these Rules of Procedure, a standing working body may directly furnish a proposal of a particular act to the Government.

### Delivery of Materials to the Government

#### **Article 35**

- (1) The Proposer shall submit the materials to the Government through the Secretariat-General.
- (2) Public companies, institutions and other organizations shall submit the materials through the ministry under whose domain they fall, and the ministry shall prepare the act proposal for the Government.

### Draft and/or Proposal of an Act

#### **Article 36**

- (1) The Proposer shall draft statutory legislation and other acts that the Government proposes to the National Assembly. The Government shall the accepted draft submit to the National Assembly or to the President of the Republic as a formal proposal of the act.
- (2) The Proposer shall prepare, for the Government, a regulation, decision, memorandum on budget, development strategy, declaration or resolution, as well as acts passed by the Government in the form of a proposal.
- (3) The provisions of these Rules of Procedure on the preparation of draft statutes shall apply accordingly to other acts that the Government proposes to the National Assembly or the President of the Republic.

### Content of the Draft or the Proposals of an Act

#### **Article 37**

- (1) A draft statute and the proposal of a regulation or decision of the Government shall be prepared and furnished to the Government in the form of the legal provisions [of the future act] with the explanation. The said provisions must outline time limits for passing normative acts and other acts of general applicability to implement statutes and regulations.
- (2) The proposal of a ruling shall be prepared and submitted to the Government with the holding and reasoning.
- (3) Proposals of the memorandum on budget, development strategy and declarations must contain explanations of all required issues, while analyses, reports, information, proposals of platforms for international meetings, proposals of basis for signing the international agreements and similar materials must contain, beside an explanation, a resolution proposed to the Government.

## Explanation of a Draft Statute or Proposal of a Regulation or Decision

### Article 38

The explanation of a draft statute and the proposal of a regulation or decision of the Government must contain the following:

- 1) Constitutional, namely legal foundation for passing acts;
- 2) reasoning for passing the act, with particular emphasis on: depicting the problems that the act needs to address; specifying the aims to be achieved by the act; listing the considered alternatives to solve the problem without the passing of the act and giving the answer to the question why that act is the best solution for solving the problem;
- 3) Definitions of main legal institutes and individual solutions;
- 4) Estimates of financial means required for the implementation of the act;
- 5) General interest for which the retroactive effect is proposed, if the draft statute contains a provision with retroactive effect;
- 6) Reasons for passing the statute in an urgent procedure, if the urgent procedure was proposed for passing the statute;
- 7) Reasons for proposing that the act enters into force before the eighth day after its publication in "The Official Herald of the Republic of Serbia";
- 8) Overview of the provisions of the acts in force that would be amended or supplemented (it is prepared by crossing out the part of the text to be amended and adding the new text in capital letters).

## Annexes to a Draft Statute

### Article 39

- (1) As an annex to the draft, the Proposer shall submit a statement that the draft is harmonized with the EU legislation, in the form adopted by the Government, or the statement that there is no EU legislation on the issue regulated by the draft statute.
- (2) The Proposer shall also submit a regulatory impact analysis in the form of an annex to the draft, which shall contain the following explanations: who and how will be most likely affected by the solution from the statute; what expenditures the application of the statute shall impose on the citizens and commerce (particularly small and medium-size enterprises); whether the positive consequences of the passed statute can justify the costs resulting from its application; whether the statute fosters creation of new commercial entities and market competition; whether all interested parties were given a chance to voice their opinion on the statute, and what measures shall be undertaken during the application of the statute in order to achieve what is intended by the statute.
- (3) If the Proposer estimates that the regulatory impact analysis should not be enclosed with the draft, the Proposer shall be obligated to separately explain this.

- (4) The Proposer shall also, together with the draft, submit an annex listing the normative acts and other general acts implementing the draft statute, as well as the deadlines for the passage thereof.

## Public Debate in the Preparation of a Statute

### **Article 40**

- (1) The Proposer shall be obligated to conduct a public debate during the preparation of statute which significantly changes the regulation of certain issue or regulates an issue that affects the public. The competent committee, upon proposal from the Proposer, shall determine the programme of a public debate and the time limit for its conducting.
- (2) If the Proposer does not conduct a compulsory public debate, the competent committee itself shall, while considering the draft, determine the programme of the public debate and the time limit for its organization.
- (3) The competent committee shall demand the Proposer, that did not conduct the public debate according to a specific programme, to organize the debate in its entirety.

## Access to the Materials by the Public

### **Article 41**

If the conduct of a public debate is not mandatory, the materials shall be made accessible to the public, at the latest when the competent committee passes a resolution by which it proposes the Government to pass the act or to determine the proposal of the act.

## Confidential Materials

### **Article 42**

- (1) Materials that represents state, military or official secret shall be designated as confidential.
- (2) Confidential materials submitted by the Government shall be marked with a special visible sign for that type of secret. Depending on the level of confidentiality it can either bear the sign “confidential” or “highly confidential”. The materials must contain the reasoning for its classification as confidential.
- (3) A draft statute may not be classified as confidential.

## Handling the Confidential Materials

### **Article 43**

- (1) Confidential materials shall be delivered to the members of the Government and the Director of the Republic Legislation Secretariat in a closed envelope marked with the assigned degree of confidentiality and the ordinal case number.
- (2) Following the end of a session of the Government, the confidential materials shall be returned to the Secretary General.

- (3) The Secretariat-General shall keep separate records on the confidential materials. The Secretary General shall, by directives, in accordance with the law, stipulate the use and handling of the confidential materials.

### Declassification of the Materials

#### **Article 44**

- (1) The Government may declassify the materials by having the mark of confidentiality removed.
- (2) The Government shall inform the Proposer of the confidential materials about declassification.

## **2. PREPARATION OF MATERIALS FOR A SESSION OF THE GOVERNMENT**

### Collecting Opinions

#### **Article 45**

- (1) The Proposer shall acquire opinions from the Republic Legislation Secretariat and the Ministry of Finance on draft statutes and/or proposals of a regulation, decision, memorandum on budget, development strategy, declaration and resolution. The Proposer shall also acquire the opinion of the Office for Accession to EU on a draft statute.
- (2) The Proposer shall also get the opinion of the Ministry of Justice, if the pertinent act prescribes criminal, commercial or petty offences or if it introduces or strips the courts off jurisdiction or prescribes substantive jurisdiction of courts. The Proposer shall get the opinion of the Republic Public Attorney, if the act affects the protection of property rights and interests of the Republic of Serbia or imposes contractual obligations on the Republic of Serbia. The Proposer shall get the opinion of the Ministry of Foreign Affairs, if the pertinent act affects the foreign relations of the Republic of Serbia.
- (3) Opinions shall also be gathered from the state administration authorities whose domain relates to the matter the act pertains to. A minister or state secretary, the director of a special organization, the director of a service of the Government or their deputies shall sign the cover letter whereby he/she requests an opinion [on the subject matter].

### Time Limit for Communication of Opinions

#### **Article 46**

- (1) All those to whom the Proposer rendered the draft or proposal of an act for opinion shall be obligated to communicate their opinion in writing to the Proposer within ten days. The opinion shall be signed by the minister or the state secretary, the director of a special organization, the director of a service of the Government or his/her deputy.

- (2) The time limit for communicating the opinion on the draft of an organic law shall be twenty days.
- (3) If no opinion is communicated within the given time limit, it shall be deemed that there were no objections.
- (4) The Proposer shall be obligated to gather new opinions on the draft and proposal of an act, if the Proposer amends the draft or the proposal or amends it beyond the objections from the collected opinions.

## Transmittal of the Materials to the Secretariat-General

### **Article 47**

- (1) The materials shall be transmitted to the Government through the Secretariat-General.
- (2) The Proposer ought to submit the following to the Secretariat-General: the materials that has been conformed to the objections from those opinions the Proposer assessed as acceptable, all the opinions gathered, and the report on the public debate conducted, if there was any.
- (3) In addition, the Proposer must give a written statement on all objections that were not accepted.  
The materials must be grammatically and stylistically edited.

## Cover Letter

### **Article 48**

- (1) A cover letter shall be forwarded with the materials.
- (2) The cover letter shall state whether the materials is forwarded for the purpose of informing the members of the Government or for deliberation at a session of the Government.
- (3) The cover letter shall be signed by the minister or the state secretary, director of the special organization, director of the service of the Government or their deputies.

## Assessment of the Appropriateness of the Materials

### **Article 49**

- (1) Having received the materials, the Secretary General shall asses whether the materials was prepared in accordance with these Rules of Procedure.
- (2) If yes, the Secretary General shall transmit it to the competent committee. If not, the Secretary General shall return the materials to the Proposer together with the instructions for rectification.
- (3) The materials that was forwarded in order to inform the members of the Government shall be submitted to the members of the Government by the Secretary General and it shall not be included in the agenda of the session of a committee or the Government.

## Session of the Committee

### **Article 50**

- (1) The materials that the Secretariat-General transmitted to the competent committee shall be included in the agenda of the first

following session of the committee, unless otherwise is decided by the president of the committee.

- (2) At the session, the positions of the Proposers shall be conformed to the objections from gathered opinions and objections and proposals of the members of the committees.
- (3) Then, the committee shall prepare a report for the Government which shall, *inter alia*, contain a resolution suggesting the Government to pass or not to pass the act, or to determine or not to determine the proposal of the act, as well as dissenting opinions of the members of the committee and the disputed issues.
- (4) Subject to the Proposer's consent, the committee may pass a resolution stipulating that the Proposer, after the session, conforms its positions to the positions of the committee, as well as a resolution whereby the discussion of that agenda item is postponed pending the completion of conforming the positions on the disputed issues.
- (5) The committee shall nominate a rapporteur for the session of the Government.

### **3. ORDER OF THE SESSION OF THE GOVERNMENT**

#### Convening a Session

##### **Article 51**

- (1) The President of the Government shall convene a session of the Government in the written form, as a rule, at least 24 hours before its start.
- (2) The agenda proposal, minutes of the previous session, materials for the session and the reports of the committees shall be submitted together with an invitation to the members of the Government.
- (3) The invited persons shall be given only materials for the agenda items for which they have been invited.

#### Chairing a Session

##### **Article 52**

- (1) The President of the Government shall chair a session of the Government. The Vice-President of the Government shall substitute the President of the Government when the latter is absent or incapacitated.
- (2) If there are several Vice-Presidents, the President of the Government shall specify the order by which the vice-presidents shall chair sessions when the President is absent or incapacitated.

#### Proposing a Session Agenda

##### **Article 53.**

- (1) As a rule, a draft agenda for a Government session shall include matters on which the competent committee has issued a resolution

proposing the Government to either pass an act or determine the proposal of an act. In addition, the documents that the Proposer has aligned after the session with the positions of the committee shall also be included in the draft agenda.

- (2) The materials shall be classified to either “Classified” or “Unclassified”.

### Determination of a Session Agenda

#### **Article 54.**

- (1) After the President of the Government opens a Government session, the agenda shall be determined.
- (2) If non-consideration of an issue may cause damaging consequences, a member of the Government may propose inclusion of the issue in the agenda.
- (3) Subsequently, the President of the Government shall put the amended or supplemented draft agenda to vote.
- (4) Exceptionally, the President of the Government may propose amendments or addendum to the agenda until the end of a session.

### Adopting Minutes of the Previous Session

#### **Article 55.**

- (1) Following determination of the session agenda, the minutes of the previous session of the Government shall be approved.
- (2) A member of the Government shall have a right to object the minutes in writing before the session, or orally at the session during which the minutes are being adopted.
- (3) The Government shall decide on the objections.

### Deliberating on an Agenda Items

#### **Article 56.**

- (1) If the President of the Government regards as necessary or the representative of the Proposer explicitly demands so, deliberation on an agenda item shall begin by the representative of the Proposer briefly explaining the materials.
- (2) Then, a debate shall follow during which the participants in the session shall be able to give their remarks and motions and ask for additional explanation.
- (3) The President of the Government may stop the session for the purpose of attuning positions over an issue or for securing a majority of the Government members needed for deciding.

### Deciding on Agenda Items

#### **Article 57.**

- (1) Following the debate, the Government shall decide on the agenda item by accepting or rejecting the proposal of the competent committee.
- (2) The Government shall be free to amend the proposal or the draft of the proposed act.

- (3) If a discussion was held on a matter that had not been considered at a committee meeting, the Government shall decide by accepting or rejecting the proposal of the member of the Government who has proposed the addendum to the agenda.
- (4) The Government may postpone the voting and order the Proposer to amend or supplement the materials.

## Voting

### **Article 58.**

- (1) The voting shall be conducted by show of hands, by individual declaration or by any other technically viable manner.
- (2) A member of the Government shall be entitled to have his/her opinion excluded and to explain his/her standpoint, which shall be recorded in the minutes.
- (3) The voting of a member of the Government shall be an official secret of high confidentiality, unless the President of the Government decides otherwise in a given case.

## Participating in and Attending Sessions

### **Article 59.**

- (1) The members of the Government, the Secretary-General, the Director of the Republic Legislation Secretariat, and invited individuals shall participate in a Government session. The invited individuals may participate in the session during consideration of the agenda item for which they have been invited.
- (2) The Deputy Secretary-General, the Chief of the Cabinet of the President of the Government, an assistant Secretary-General and staff of the Secretariat-General selected by the Secretary-General may attend a Government session without the right to take part in the business.
- (3) On a motion by a minister and with consent of the President of the Government, a state secretary, the Secretary of a ministry, the Director of an authority within a ministry, and or an assistant-minister responsible for compiling the materials [under consideration] may accompany the minister and participate in a session but only during consideration of the agenda item that require his/her involvement.
- (4) A minister or the Director of the Republic Legislation Secretariat shall promptly notify the Secretary-General on his/her inability to participate in a session due to a business trip, sickness and/or other justified reasons. [In addition, he/she] shall inform [the Secretary-General] which state secretary or assistant i.e. deputy or assistant will substitute [the missing participant].

## Responsibilities of the Director of the Republic Legislation Secretariat

### **Article 60.**

- (1) The Director of the Republic Legislation Secretariat must register for the debate if, on the basis of the materials [under review] or the

underlying discussion, concludes that the draft or the proposal is contrary to the Constitution or a statute.

- (2) The Director of the Republic Legislation Secretariat must warn [the others] about potential creation of inconsistencies within the Republic of Serbia system of law.

## Shorthand and Audio Recording of Sessions

### **Article 61.**

- (1) Shorthand notes shall be taken at a Government session. Government sessions shall be audio recorded.
- (2) Shorthand and audio recordings shall be official secrets of high confidentiality.
- (3) The members of the Government and the Director of the Republic Legislation Secretariat may use the shorthand and audio recordings. Other persons may use them if permitted by the Secretary-General.
- (4) The Government shall [decide] on declassification of shorthand and audio recordings.
- (5) The Secretary-General shall be responsible for keeping the shorthand and audio recordings.

## Minutes of Sessions

### **Article 62.**

- (1) Minutes of a Government session shall be taken.
- (2) The ordinal number and the date of a session, the name of the chair, the start and the end time of a session, the list of the present and absent ministers, the list of other attendees, the agenda, and the decision of the Government on each agenda item shall be entered in the minutes.
- (3) The President of the Government and the Secretary-General shall sign the minutes. The minutes shall be kept indefinitely.
- (4) The Secretary-General shall be responsible for keeping the minutes.

## Consolidated Text of an Act

### **Article 63.**

- (1) A consolidated text of an act shall be established after a Government session.
- (2) A consolidated text is a text of an act or a proposal that includes amendments adopted at a government session and edited in line with the rules of legal linguistics.

## Drafting a Consolidated Text of an Act

### **Article 64.**

- (1) The Proposer shall draft the consolidated text in collaboration with the Republic Legislation Secretariat and the Secretariat-General. [For that purpose], the Secretary-General shall make the respective part of the shorthand minutes available to the drafters.

- (2) The consolidated texts shall be made in three originals out of which one shall be marked with initials at the Republic Legislation Secretariat. The Proposer shall deliver all three originals to the Secretariat-General.

The consolidated texts shall be kept in the Secretariat-General files.

### Signing Acts of the Government

#### **Article 65.**

- (1) The President of the Government, or a vice-president of the Government authorized by the President, shall sign the acts of the Government.
- (2) They shall also sign the transmittal letters when the Government refers proposals of acts to the National Assembly or the President of the Republic.

### Publication of Acts of the Government

#### **Article 66.**

The Republic Legislation Secretariat shall take care of publishing the acts of the Government in the “Official Herald of the Republic of Serbia”.

### Transmittal of Government’s Resolutions

#### **Article 67.**

A resolution, as a government act, shall be transmitted to the respective state administration authority for the acting upon.

## **V. RELATIONSHIP BETWEEN THE GOVERNMENT AND OTHER STATE AUTHORITIES**

### **1. RELATIONSHIP BETWEEN THE GOVERNMENT AND THE NATIONAL ASSEMBLY**

#### A) Governing the Relationship

##### **Article 72.**

The Government shall cooperate with the National Assembly in accordance with the Constitution, the Government Act, the State Administration Act, the Republic of Serbia National Assembly Rules of Procedure, and these Rules of Procedure.

#### B) When the Government is the Proposer of an Act to the National Assembly

Representation of the Government before the National Assembly

##### **Article 73.**

- (1) When the Government is the Proposer of an act to the National Assembly, the Government shall assign one of its members to

represent it at the National Assembly session. The Director of the Republic Legislation Secretariat may be the Government representative subject to conditions set forth in the Republic of Serbia National Assembly Rules of Procedure.

- (2) The Government may designate its agents from the ranks of the employees and/or appointees, who have prepared the proposal of the act, to participate in the work of the National Assembly committee.
- (3) At the National Assembly session, the representative of the Government may accept an amendment by another Proposer without an explicit government authorization only if the amendment does not essentially change the solutions from the Government proposal.
- (4) If the member of the Government is not able to attend the National Assembly session, and waiting for a Government session to assign his/her substitute is not a viable solution, the President of the Government shall assign another member to substitute the first designee.

#### Amendment to the Act proposed by the Government

##### **Article 74.**

- (1) When the Government is the Proposer of an act to the National Assembly, the competent ministry or special organization shall prepare proposals for amending the act, in collaboration with the Republic Legislation Secretariat.
- (2) If some other Proposers have submitted the amendments to the proposed act of the Government, the Secretariat-General shall transmit the amendments to the competent ministry or special organization to prepare, in collaboration with the Republic Legislation Secretariat, the Government opinion on the amendment. The opinion proposal shall list accepted and rejected amendments followed by the reasoning.
- (3) The provisions of these Rules of Procedure on preparation of materials for a government session shall apply to all remaining matters.

#### C) When the Government is not the Proposer of an Act to the National Assembly

##### **Article 75.**

- (1) If the Government is not the Proposer of an act to the National Assembly, the competent ministry or special organization shall, in collaboration with the Republic Legislation Secretariat, prepare the draft opinion for the Government on the proposed act as well as draft amendments to the proposed act and/or draft opinion on the amendments submitted by other Proposers.
- (2) The same shall apply to the preparing the draft response to the Constitutional Court upon a motion or an initiative to assess constitutionality and/or legality of a National Assembly or a Government act.
- (3) The provisions of these Rules of Procedure on preparation of materials for a government session shall apply to all remaining matters.

## D) Response to a Member of the National Assembly Question

### **Article 76.**

- (1) If the question by a member of the National Assembly has been directed to the Government and falls under the domain of a ministry, the ministry shall draft the response for the Government.
- (2) If the question is directed to the Government but falls under the domain of several ministries, the Secretariat-General shall transmit the question to all [concerned] ministries. The ministry listed as the first one shall draft the answer for the Government.
- (3) The ministries designated by the President of the Government, in collaboration with the Secretariat General and the Republic Legislation Secretariat, shall draft the answer to the question pertaining the operations of the Government itself.
- (4) The Secretariat-General shall take care of the Government's punctual response to the questions of the members of the National Assembly.

## E) Interpellation

### **Article 77.**

- (1) The Secretariat-General shall transmit the interpellation filed regarding a work of a minister to the [concerned] ministry to draft the Government's viewpoint with regard to the interpellation.
- (2) If the interpellation is filed with regard to the operations of the Government, the position proposal shall be prepared by the competent ministries, in collaboration with the Republic Legislation Secretariat and the Secretariat-General.
- (3) The provisions of these Rules of Procedure on preparation of materials for a government session shall apply to all remaining matters.

## F) National Assembly Demands

### **Article 78.**

- (1) The National Assembly may demand the Government to take a position on a matter from the competences of the Government or to communicate to the Assembly reports and information necessary for a debate on the issue of relevance to the operations of the Government or work of its member.
- (2) In such a case, the provisions of these Rules of Procedure on preparation of materials for a government session shall apply accordingly.
- (3) The ministries and special organizations shall pass on the Secretariat-General notices, explanations and the data requested by the National Assembly for forwarding by the Secretariat-General.

## G) Government Business Plan and Performance Report Annual Business Plan of the Government

### **Article 79.**

- (1) The Government shall determine its main business activities by its business plan. The achievements in carrying out the activities shall be evaluated in the performance report.

- (2) The draft statutes and other acts that the Government is going to propose to the National Assembly shall be specified in the Annual Business Plan together with the brief reasoning on the necessity of each act. The Government shall adopt the Annual Business Plan by the end of December of the current year for the next one.

### Drawing up the Government Annual Business Plan

#### **Article 80.**

- (1) The Government Business Plan shall be based on the business plans of the state administration authorities. The said plans shall be delivered to the Secretariat-General by 1 December of the current year for the next one.
- (2) The Secretariat-General shall prepare the Government Annual Business Plan in collaboration with the Republic Legislation Secretariat and the ministries designated by the President of the Government.
- (3) The Secretary-General shall issue detailed instructions on making of the Annual Business Plan. The Secretary-General shall be accountable for the punctual devising of the Plan.

### Government Performance Report

#### **Article 81.**

- (1) The Government shall submit its performance report to the National Assembly by 1 March of the current year for the previous one.
- (2) Accomplished activities foreseen in the Annual Business Plan shall be described in the Report, with a special emphasize on activities that have not been planned in the Annual Business Plan but have been carried out.
- (3) The Secretary-General, the Minister of Finance, and the Director of the Republic Legislation Secretariat shall consensually issue detailed operational instructions on making of the Government Performance Report.

### Preparation of the Government Performance Report

#### **Article 82.**

- (1) The Government Performance Report shall be based on the performance reports of the state administration authorities that shall be submitted to the Secretariat-General by 1 February of the current year for the previous one.
- (2) Performance reports of the state administration authorities shall contain review of implemented regulations, other acts of general nature and resolutions of the Government; measures taken and their effects; and other information.
- (3) The Secretariat-General shall prepare the Government Performance Report in collaboration with Ministry of Finance and the Republic Legislation Secretariat.

## Performance Report of a Member of the Government. Accordant Application

### **Article 83.**

- (1) A member of the Government must submit a performance report on his/her work to the National Assembly upon its request.
- (2) The performance report shall be submitted to the Government first.
- (3) The provisions of these Rules of Procedure on preparation of the Government Performance Report shall apply accordingly when the National Assembly requests either the Government or a member of the Government to submit its i.e. his/her performance report.

## **2. RELATIONSHIP WITH THE PRESIDENT OF THE REPUBLIC**

### Cooperation

#### **Article 84.**

- (1) The Government shall cooperate with the President of the Republic in relation to the matters from his/her competence.
- (2) On request by the President of the Republic, the ministries and special organizations shall communicate requested notices, explanations and information through the Secretariat-General.
- (3) Exceptionally, when a statute or another regulation stipulates so, the Ministry of Defense may furnish its proposals, pieces of information, explanations, and data directly to the President of the Republic.

### Requesting the Government to take a Stance

#### **Article 85.**

- (1) If the President of the Republic requests the Government to take a standpoint on an issue from its competences, the Secretary-General and the Director of the Republic Legislation Secretariat shall firstly evaluate the nature of the request.
- (2) If the Secretary-General and the Director of the Republic Legislation Secretariat assess that the request is not about taking a stance by the Government, they shall draft the appropriate resolution for the Government.
- (3) Otherwise, the Secretary-General and the Director of the Republic Legislation Secretariat shall transmit the request to the competent state administration authorities to prepare, for the Government, the draft resolution that shall contain the Government viewpoint.
- (4) The provisions of these Rules of Procedure on preparation of materials for a government session shall apply to all remaining matters.

### 3. RELATION TO OTHER STATE ADMINISTRATION AUTHORITIES

Motion by a Member of the Government for Regulation of a certain Matter

**Article 86.**

- (1) A member of the Government may lodge a motion to the Government regarding regularizing an issue from the competences of the Government and the National Assembly.
- (2) The motion shall be communicated through the Secretary-General to the competent state administration authority. The state administration authority shall respond to the member of the Government within seven days.
- (3) If the response is not satisfactory, the member of the Government may prepare an appropriate draft resolution for the Government but not before the expiry of fifteen days from the receipt of the response.
- (4) The provisions of these Rules of Procedure on preparation of materials for a government session shall apply to all remaining matters.

Taking a Stance on a Matter from the Domain of a Member of the Government

**Article 87.**

- (1) A member of the Government may request the Government to take a position about an issue from his/her domain by communicating the draft of an appropriate resolution to the Government through the Secretariat-General.
- (2) The provisions of these Rules of Procedure on preparation of materials for a government session shall apply accordingly to all remaining matters.

Annulment or Abrogation of Regulations and other General Acts

**Article 88.**

- (1) A member of the Government, the Director of a special organization, and/or the Director of a government service may, on his/her own or a third party initiative, propose the Government to annul or abrogate a ministerial or special organization regulation which is contrary to a statute or a government normative act.
- (2) Having received the petition, the Secretary-General shall acquire the statements from the concerned authority and the Republic Legislation Secretariat that must communicate their declarations within seven days.
- (3) Thereinafter, the Secretary-General shall draft the appropriate resolution or ruling for the Government.  
When the Government passes a ruling annulling or abrogating a ministry or special organization regulation, the deadline for passing the new regulation shall be prescribed thereby.

## Setting Deadlines for Adoption of Normative Acts

### **Article 89.**

- (1) The Secretariat-General shall keep the records on time limits within which the ministries and special organizations have to pass their normative acts in compliance with a statute or a government general act.
- (2) If no deadline is set for adoption of a normative act, the Secretary-General shall, having acquired opinions of the competent ministry or special organization, draft the appropriate resolution for the Government.

## Passing Normative Acts from the Domain of a Ministry and/or a Special Organization

### **Article 90.**

- (1) If a ministry or a special organization fails to pass a normative act within the time limit set forth in a statute or a government act, the Government may adopt the normative act subject to a condition that the non-adoption may cause damaging consequences to life and wellbeing of people, the environment, the economy or a property of bigger value.
- (2) The Secretariat-General shall acquire from the ministry designated by the President of the Government an opinion on the presence of requirement for the Government to pass a normative act. Then, the Secretariat-General shall draft the appropriate resolution for the Government.
- (3) If the Government finds the requirements for passing a normative act are met, it shall designate ministries that shall prepare the draft normative act for the Government in collaboration with the Republic Legislation Secretariat.
- (4) The provisions of these Rules of Procedure on preparation of materials for a government session shall apply accordingly to all remaining matters.

## Conflict Resolution

### **Article 91.**

- (1) The Government shall resolve the matters, including jurisdictional disputes that do not arise from an administrative proceedings, that the state administration authorities have not solved by agreement.
- (2) A state administration authority shall notify the Secretary-General in writing on the existence of a dispute.
- (3) Having acquired the opinion from the parties in dispute, the Secretariat-General shall propose the appropriate resolution for the Government in collaboration with the Republic Legislation Secretariat.

## Execution of Government Resolutions

### **Article 92.**

- (1) The ministers, directors of special organizations, and directors of government services shall, pursuant to orders from government

- resolutions and their own domains of activities, be responsible for punctual and proper execution of government resolutions.
- (2) The Secretary-General shall monitor, oversee and coordinate the execution of government resolutions. When necessary, he/she shall issue adequate orders in that regard.
  - (3) If a state administration authority fails to execute a government resolution within the suitable time period, the Secretary-General shall prepare the appropriate resolution for the Government.
  - (4) A state administration authority must especially inform the Secretary-General on the execution of a government resolution whereby drafting and/or proposing documents for the Government has not been ordered.

#### Administrative Authority within a Ministry

##### **Article 93.**

- (1) The minister shall represent an authority integrated with his/her ministry before the Government.
- (2) The Government shall exercise its powers over an authority within a ministry through the respective ministry.

#### Transmitting Documents to a Greater Number of State Administration Authorities

##### **Article 94.**

- (1) When the Secretariat-General sends documents to a greater number of state administration authorities for opinion, the authority listed first shall, having aligned the text jointly with the others, submit the opinion to the Government.
- (2) In case of failure to align the text, the authority listed first shall submit to the Government its own opinion as well as the ones of the dissenting authorities.

## **4. RELATIONSHIP WITH OTHER AUTHORITIES AND ORGANIZATIONS**

##### **Article 95.**

As a rule, the Government shall cooperate with other state authorities, professional societies, trade unions, municipalities, cities, the City of Belgrade, autonomous provinces, and other natural persons through the ministries, special organizations and government services.

## VI. TRANSPARENCY OF GOVERNMENT ACTIVITIES

### General Norms on Transparency

#### **Article 96.**

- (1) The Government's functioning shall be transparent.
- (2) The transparency of the Government's functioning shall be ensured by [holding] press conferences, [maintaining] web presentations of the Government and state administration authorities, [disseminating] press releases, and [employing] other means of communication.
- (3) As a rule, the Government shall respond to the questions, initiatives, and criticism through the state administration authorities. The Secretariat-General shall respond to the questions, initiatives, and complaints directed at the President of the Government, in collaboration with the competent state administration authorities.

### Enabling Transparency

#### **Article 97.**

- (1) The Office for Cooperation with Media shall take care of transparency of the Government.
- (3) The President of the Government and the Director of the Office for Cooperation with Media shall inform the public on the activities and decisions of the Government.
- (3) The Vice-President of the Government and the ministers shall inform the public on government decisions from their respective domains. Provided with the authorization by the minister i.e. the Government itself, the state secretaries and directors of special organizations and government services may inform the public on Government activities from their respective domains.

### Presenting Government Viewpoints

#### **Article 98.**

- (1) When giving public statements and appearing in public, the members of the Government, state secretaries and directors of special organizations and government services must express and endorse viewpoints of the Government.
- (2) The member of the Government who either voted against a government decision or abstained from voting must also publicly endorse the decision.

### Publicity of Government Sessions

#### **Article 99.**

- (1) As a rule, journalists and other representatives of the public shall not attend the government sessions.
- (2) Statements by the members of the Government and other participants in the session of the Government shall be an official secret of high confidentiality, unless the President of the Government decides otherwise in a particular case.

## VII. CONSOLIDATED TEXTS OF GOVERNMENT ACTS OF GENERAL APPLICABILITY

### Article 100.

- (1) The Government may authorize the Republic Legislation Secretariat to establish the consolidated text of a government act of general applicability and transmit it to the “Official Herald of the Republic of Serbia” for publishing.
- (2) The Government shall authorize the Republic Legislation Secretariat to do so by either the general act amending or supplementing another general act or a specific resolution.
- (3) The Republic Legislation Secretariat shall establish the consolidated text in collaboration with the state administration authority competent to draft the general act, and the Secretary-General.
- (4) Establishment of the consolidated texts of a government general act shall also entail renumbering of the articles.

## VIII. DOCUMENTS OF THE GOVERNMENT

### Article 101.

- (1) The documents of the Government shall be the following: minutes taken at sessions of the Government and its standing and provisional working bodies, paperwork from the government sessions, consolidated texts of the acts the Government has passed, shorthand notes and audio recordings from sessions of the Government and its standing and provisional working bodies that have been supported substantively and technically by the Secretariat-General.
- (2) Documents of the Government shall be kept in the files of the Secretariat-General and may be used subject to consent by the Secretary-General.
- (3) The Secretary-General shall issue a directive on keeping, handling and modes of using documents of the Government.

## IX. TRANSITIONAL AND FINAL PROVISIONS

### Transitional Provision

#### Article 102.

- (1) The Decision on Establishing and Publishing Consolidated Texts of the Government General Acts (“The Official Herald of the Republic of Serbia”, No. 81/05), and the Government Rules of Procedure (“The Official

- Herald of the Republic of Serbia”, No. 6/02, 12/02, 41/02, 99 /03 and 113/04) shall cease apply as of the day the present rules enter into force.
- (2) On the day the present rules of procedure enter into force the Commission for Personnel Matters shall continue functioning as the Personnel Commission, the Commission for Housing Issues shall continue functioning as the Housing Commission, the Commission for Establishment of Damage caused by Natural Disasters shall continue functioning under the Commission for Establishment of Damage caused by Natural Disasters, and the Commission for Allocation of Official Buildings and Office Premises shall continue functioning as the Commission for Allocation of Official Buildings and Office Premises.

#### Final Provision

##### **Article 103.**

The present rules of procedure shall enter into force on the eight days from the publishing in “The Official Herald of the Republic of Serbia”.



According to Article 29, paragraph 2, and Article 47 of the Government Act ("The Official Herald of the Republic of Serbia", No. 55/05 and 71/05), the Government [hereby] passes

# **REGULATION ON THE SECRETARIAT-GENERAL OF THE GOVERNMENT**

**"OFFICIAL HERALD OF THE REPUBLIC OF SERBIA", NO. 75/2005**

101

## **1. CONTENT OF THE REGULATION**

### **Article 1**

This Regulation shall prescribe the scope of activities, organization and other issues of importance for the functioning of the Secretariat-General of the Government (hereinafter: the SecretariatGeneral).

## **2. SECRETARIAT-GENERAL**

### **Article 2**

- (1) The Secretariat-General shall be a general service of the Government responsible for [carrying out] support and other tasks for the Government and the working bodies of the Government.
- (2) The Secretariat-General shall also perform tasks for the Cabinet of the President of the Government and the Cabinet of the Vice-President of the Government, as prescribed by this regulation, and certain tasks for the services of the Government, if such is prescribed by the regulation establishing a Service.

### **3. ACTS ON WHICH THE FUNCTIONING OF THE SECRETARIAT-GENERAL IS BASED**

#### **Article 3**

The functioning of the Secretariat-General shall be based on the Government Act, the State Administration Act, the Government Rules of Procedure, resolutions and other acts of the Government, mandatory directives that the President of the Government issues to the Secretary General of the Government (hereafter: the SecretaryGeneral) and directives of the SecretaryGeneral.

### **4. DOMAIN OF THE SECRETARIAT-GENERAL**

Tasks for the Government and Working Bodies of the Government

#### **Article 4**

- (1) The Secretariat-General shall:
  - 1) prepare acts by which the Government supervises, directs and conforms the operations of the ministries and special organizations, and ensure implementation of these acts;
  - 2) ensure the implementation of the acts of the Government by which the Government imposes certain obligations on the ministries and special organizations;
  - 3) inform the Government about the failure of ministries or special organizations to pass a normative act within the time limit prescribed by a statute or a general act of the Government and propose the time limits within which the authorities should pass the acts; propose time limits for ministries or special organizations to pass normative acts when no time limits is prescribed by a statute or a general act of the Government;
  - 4) ensure the execution of obligations of the Government in relation to the National Assembly;
  - 5) ensure participation of the Government and its representatives in the work of the National Assembly, cooperation with the President of the Republic, other authorities and organizations and international organizations;
  - 6) process materials for the sessions of the Government and the working bodies of the Government;
  - 7) prepare and monitor sessions of the Government and its working bodes and other sessions in the Government;
  - 8) take care of the use of the assets at the Government's disposal;
  - 9) prepare acts by which the Secretary General exercises powers in relation to the directors of the services of the Government who are accountable to him or her, and ensure the execution thereof;
- (2) The Secretariat General shall also perform other tasks for the Government, its working bodies and the SecretaryGeneral.

## Tasks for the cabinets of the President and Vice-President of the Government

### Article 5

- (1) For cabinets of the President and the Vice-President of the Government, the Secretariat-General shall perform tasks related to the exercise of rights and duties from employment, and general legal, financial and accountancy tasks.
- (2) The Secretariat-General shall take care of the administrative, IT and auxiliary technical tasks for the cabinets of the President and the Vice-President of the Government.

## 5. ORGANISATION OF THE SECRETARIAT-GENERAL

### Secretary General

#### Article 6

- (1) The Secretary General shall manage the Secretariat-General of the Government.
- (2) The Secretary General shall be an official appointed and dismissed by the Government, upon the proposal of the President of the Government.
- (3) While running the Secretariat-General the Secretary General shall enjoy the same powers as a minister while managing a ministry.

### End of the Secretary-General's Term of Office

#### Article 7

- (1) The term of office of the Secretary General shall end upon termination of the office of the President of the Government, by resignation or dismissal.
- (2) A Secretary General whose term of office ended due to the end of term of office of the President of the Government shall continue to carry out his/her duties until the appointment of a new Secretary General but without authorization to propose to the Government the Deputy or an Assistant to the Secretary General and/or a Director of a service of the Government.

### Deputy Secretary General

#### Article 8

- (1) The Secretary General shall have a Deputy that he or she proposes to the position. The Deputy shall be appointed by the Government for a five years term.
- (2) The Deputy Secretary General shall assist the Secretary General within the limits defined by the Secretary General and shall substitute the Secretary General in his or her absence or incapacitation.

The Deputy Secretary General shall be an appointed civil servant.  
Assistants to the Secretary General

**Article 9**

- (1) The Secretary General shall have assistants whom he or she proposes. They shall be appointed by the Government for a five years term.
- (2) An Assistant Secretary General shall manage a defined area of activities of the Secretariat-General for which a department is established.
- (3) The Assistant Secretary General shall be an appointed civil servant.

Publication of Rulings on the Appointment or End of the Term of Office

**Article 10**

Rulings on the appointment or the termination of the term of office of the Secretary General and the rulings on the appointment or the termination of the term of office of the Deputy or Assistant Secretary General shall be published in "The Official Herald of the Republic of Serbia".

## **6. TRANSITORY PROVISIONS**

Time Limits for Passing the Bylaw and the Appointment of the Deputy and the Assistant of the Secretary General

**Article 11**

- (1) The Secretary General shall pass the Bylaw on Internal Organization of the Secretariat-General and its Staffing Table within 60 days from the entry of this regulation into force.
- (2) The Deputy and the Assistants of the Secretary General shall be appointed within 30 days from the entry of the Bylaw on Internal Organization of the Secretariat-General and its Staffing Table into force.

Status of the Deputy and the Assistants to the Secretary General until Appointment of Civil Servants

**Article 12**

- (1) As long as the Deputy and assistants to the Secretariat-General are not appointed as civil servants, those who have been appointed before that date shall continue working in accordance with rules, including those on termination of office, that were in force on the day of their [initial] appointment.
- (2) If the term of office of a deputy or of an assistant who has not been appointed to the position as a civil servant ends, the new deputy or assistant to the Secretary General shall be appointed in accordance with the regulations that were in force on the day when those whose term of office ended were appointed.

## 7. FINAL PROVISIONS

### Invalidation of the Preceding Normative Act

#### **Article 13**

On the day when the present regulation enters into force, the Regulation on the Secretariat-General and other Services of the Government of the Republic of Serbia (“The Official Herald of the Republic of Serbia”, No. 15/01, 16/01, 32/01, 64/01, 29/02, 54/02, 91/03, 95/03, 130/03, 132/03, 23/04, 25/04, 51/04 and 98/04) shall cease to apply.

### Entry into Force

#### **Article 14**

This Regulation shall enter into force on the eight day after its publication in “The Official Herald of the Republic of Serbia”.

Pursuant to articles 24 and 47 of the Government Act (“The Official Herald of the Republic of Serbia”, No. 55/05 and 71/05), the Government [hereby] passes

## **REGULATION ON THE CABINET OF THE PRESIDENT OF THE GOVERNMENT**

**“OFFICIAL HERALD OF THE REPUBLIC OF SERBIA”, NO. 75/2005**

### **1. CONTENT OF THE REGULATION**

#### **Article 1.**

This regulation shall govern the domain of activities, organization and other issues of significance to the operations of the Cabinet of the President of the Government (hereinafter: the Cabinet).

### **2. CABINET'S DOMAIN**

#### **Article 2.**

- (1) The Cabinet shall carry out specialist and other tasks for the President of the Government [*ex officio*] and upon his/her orders, particularly the following:
  - 1) Preparing measures to be taken by the President of the Government when leading and directing the Government and/or coordinating the work of the members of the Government;
  - 2) Drafting compulsory operational instructions and particular assignments that the President of the Government issues to the members of the Government, the Government's Secretary General, and the directors of Government's services that are accountable to him/her, and ensuring the execution of the said instructions and/or assignments;
  - 3) Drafting the acts that the President of the Government issues or proposes to the Government;

- 4) Compiling and analyzing materials for usage by the President of the Government while he/she works in the Government and governmental working entities and/or participates in the work of the National Assembly;
  - 5) Taking care of the cooperation between the President of the Government and the National Assembly, the President of the Republic, other state authorities, representatives of other countries and international organizations;
  - 6) Organizing meetings chaired or attended by the President of the Government.
- (2) The Cabinet shall carry out specialist and other tasks for the Council of the President of the Government.

### **3. MANAGING THE CABINET**

#### Chief of the Cabinet

##### **Article 3.**

- (1) The Chief of the Cabinet appointed and dismissed by the President of the Government shall run the Cabinet.
- (2) While running the Cabinet, the Chief of the Cabinet shall possess as the same powers as the director of a governmental service that is accountable to the President of the Government.
- (3) The duty of the Chief of the Cabinet shall end by the termination of the term in office of the President of the Government, resignation, and/or dismissal.

#### Deputy Chief of the Cabinet

##### **Article 4.**

- (1) The Chief of the Cabinet may have a deputy nominated by the Chief of the Cabinet and appointed and/or dismissed by the President of the Government.
- (2) The Deputy Chief shall assist the Chief of the Cabinet within the limits the Chief has laid down, and substitute the Chief whenever he/she is absent or prevented from acting.
- (3) The same grounds for the end of duty of the Cabinet's Chief shall apply to the Deputy Chief of the Cabinet.

#### Publication of Rulings carrying Appointment or Termination of Duty

##### **Article 5.**

Rulings carrying the appointment and/or termination of duty of the Cabinet's Chief and/or the Deputy Chief shall be published in "The Official Herald of the Republic of Serbia".

#### **4. BYLAW ON INTERNAL ORGANIZATION OF THE CABINET AND ITS STAFFING TABLE**

##### **Article 6.**

- (1) Having received consent from the President of the Government, the Chief of the Cabinet shall pass the Bylaw on Internal Organization of the Cabinet and its Staffing Table.
- (2) The Bylaw on Internal Organization of the Cabinet and its Staffing Table shall enter into force once the Government consents to it.

#### **5. TRANSITIONAL AND FINAL PROVISIONS**

##### Take Over

##### **Article 7.**

On the day this regulation enters into force, the Cabinet shall take over all the staff that worked with the Cabinet of the President of the Government as a department within the Government's Secretariat-General.

##### Time Limit for Adoption of the Bylaw

##### **Article 8.**

The Chief of the Cabinet shall pass the Bylaw on Internal Organization of the Cabinet and its Staffing Table within 60 days from the entry of this regulation into force.

##### Entry into Force

##### **Article 9.**

This regulation shall enter into force on the eighth day from its publishing in "The Official Herald of the Republic of Serbia".

Pursuant to articles 24 and 47 of the Government Act (“The Official Herald of the Republic of Serbia”, No. 55/05 and 71/05), the Government [hereby] passes

## **REGULATION ON THE CABINET OF THE VICE-PRESIDENT OF THE GOVERNMENT**

**“OFFICIAL HERALD OF THE REPUBLIC OF SERBIA”, NO. 75/2005**

### **1. CONTENT OF THE REGULATION**

#### **Article 1.**

This regulation shall govern the domain of activities, organization and other issues of significance to the operations of the Cabinet of the Vice-President of the Government (hereinafter: the Cabinet).

### **2. CABINET'S DOMAIN**

#### **Article 2.**

- (1) The Cabinet shall carry out specialist and other tasks for the Vice-President of the Government [*ex officio*] and upon his/her orders, particularly the following:
  - 1) Preparing measures to be taken by the Vice-President of the Government to lead and coordinate the work of [certain] ministries and special institutions specified by the President of the Government, and ensuring the implementation of the measures;
  - 2) Taking care of project implementation from the domain of the ministries and special institutions managed by the Vice-President of the Government under the authorization by the President of the Government;
  - 3) Drafting the acts that the Vice-President of the Government proposes to the Government;

- 4) Cooperating with the Cabinet of the President of the Government whenever the Vice President of the Government substitutes the President;
  - 5) Compiling and analyzing materials for usage by the President of the Government while he/she works in the Government and governmental working entities and/or participating in the work of the National Assembly;
  - 6) Taking care of the cooperation between the Vice-President of the Government and the state authorities, and representatives of other countries and/or international organizations;
  - 7) Organizing meetings chaired or attended by the Vice-President of the Government.
- (2) If the President of the Government delegates his/her powers over a director of a governmental service, who is [directly] accountable to the President of the Government, to the Vice-President of the Government, the Cabinet shall prepare the compulsory instructions and particular assignments that the Vice-President of the Government issues to the director of such a governmental service, and shall take care of the execution of the said instructions and assignments.

### 3. MANAGING THE CABINET

#### Chief of the Cabinet

##### **Article 3.**

- (1) The Chief of the Cabinet appointed and dismissed by the Vice-President of the Government shall run the Cabinet.
- (2) While running the Cabinet, the Chief of the Cabinet shall possess as the same powers as the director of a governmental service that is accountable to the President of the Government.
- (3) The duty of the Chief of the Cabinet shall end by the termination of the term in office of the Vice President of the Government, resignation, and/or dismissal.

#### Deputy Chief of the Cabinet

##### **Article 4.**

- (1) The Chief of the Cabinet may have a deputy nominated by the Chief of the Cabinet and appointed and/or dismissed by the Vice-President of the Government.
- (2) The Deputy Chief shall assist the Chief of the Cabinet within the limits the Chief has laid down, and substitute the Chief whenever he/she is absent or prevented from acting.
- (3) The same grounds for the end of duty of the Cabinet's Chief shall apply to the Deputy Chief of the Cabinet.

## Publication of Rulings carrying Appointment or Termination of Duty

### **Article 5.**

Rulings carrying the appointment and/or termination of duty of the Cabinet's Chief and/or the Deputy Chief shall be published in "The Official Herald of the Republic of Serbia".

## **4. BYLAW ON INTERNAL ORGANIZATION OF THE CABINET AND ITS STAFFING TABLE**

### **Article 6.**

- (1) Having received consent from the Vice-President of the Government, the Chief of the Cabinet shall pass the Bylaw on Internal Organization of the Cabinet and its Staffing Table.
- (2) The Bylaw on Internal Organization of the Cabinet and its Staffing Table shall enter into force once the Government consents to it.

## **5. TRANSITIONAL AND FINAL PROVISIONS**

### Take Over

#### **Article 7.**

On the day this regulation enters into force, the Cabinet shall take over all the staff that worked with the Cabinet of the Vice-President of the Government as a department within the Government's Secretariat-General.

### Time Limit for Adoption of the Bylaw

#### **Article 8.**

The Chief of the Cabinet shall pass the Bylaw on Internal Organization of the Cabinet and its Staffing Table within 60 days from the entry of this regulation into force.

### Entry into Force

#### **Article 9.**

This regulation shall enter into force on the eighth day from its publishing in "The Official Herald of the Republic of Serbia".



Pursuant to articles 31 and 47 of the Government Act („The Official Herald of the Republic of Serbia”, No, 55/05 and 71/05), the Government [hereby] passes

## **REGULATION ON THE SERVICES OF THE GOVERNMENT**

**“OFFICIAL HERALD OF THE REPUBLIC OF SERBIA”, NO. 75/2005**

### **1. CONTENT OF THE REGULATION**

#### **Article 1.**

This regulation shall govern the issues of significance to the operations of all services of the Government (hereinafter: the Services) except the Government’s Secretariat-General, and the cabinets of the President and the Vice-President of the Government.

### **2. ESTABLISHMENT AND MANAGEMENT OF THE SERVICES**

#### **Article 2.**

- (1) The Government shall establish the Services by its regulation to carry out either specialist and technical tasks for the Government or common tasks for the ministries and/or special institutions.
- (2) By the regulation establishing a Service, the Government shall also specify the domain of activities, organization and other issues of significance to the operations of the Service.  
The Director of the Service shall run a Service. A minister without portfolio may run a Service.

### 3. STATE OF AFFAIRS WHEN THE DIRECTOR RUNS A SERVICE

#### Responsibilities of the Director of the Service

##### **Article 3.**

- (1) The Director shall answer to the Government and either the President of the Government or the Secretary-General of Government (hereinafter: the Secretary-General).
- (2) The regulation establishing the service shall specify to whom the Director of the Service is accountable.
- (3) The President of the Government may delegate the powers over a service, whose director is accountable to him/her (the President), to the Vice-President of the Government, as well as the power to nominate the Director of a service.

#### Powers of the President of the Government and the Secretary-General

##### **Article 4.**

- (1) The President of the Government shall have the same powers over the director of a service that answers to him/her as ones over a minister.
- (2) If the director running a service is accountable to the Secretary-General, the Secretary-General shall have as the same powers over the service as a minister over an authority within his/her ministry.

#### Status of the Director of a Service

##### **Article 5.**

- (1) The Government shall appoint the Director of a service at the proposal by the President of the Government or the Secretary-General.
- (2) The Director of a service shall be a civil servant in an appointive position.
- (3) The Director of a service who answers to the President of the Government shall have the same powers while running the service as a minister while running a ministry. The Director of a service who answers to the Secretary-General shall have as the same powers while running the service as the director while running an authority within a ministry.

#### Bylaw on Internal Organization of the Service and its Staffing Table

##### **Article 6.**

- (1) When the Director of a service is accountable to the President of the Government, the Director shall pass the Bylaw on Internal Organization of the Service and its Staffing Table.
- (2) When the Director of a service is accountable to the Secretary-General, the Secretary-General shall pass the Bylaw on Internal Organization of the Service and its Staffing Table upon proposal by the Director.
- (3) The Bylaw on Internal Organization of the Service and its Staffing Table shall enter into force once the Government consents to it.

## Deputy Director of a Service

### Article 7.

- (1) The Director of a service may have a deputy if the regulation establishing the service has stipulated so.
- (2) The Government shall appoint the Deputy Director to a five-year's term at the proposal of the Director of the service.
- (3) The Deputy Director shall assist the Director of a service within the limits the Director has laid down, and substitute the Director whenever he/she is absent or prevented from acting.
- (4) The Deputy Director of a service shall be a civil servant in an appointive position.

## Assistants to the Director of a Service

### Article 8.

- (1) The Director of a service may have assistants if the regulation establishing the service has stipulated so.
- (2) The Government shall appoint an Assistant-Director to a five-year's term at the proposal of the Director of the service.
- (3) An Assistant-Director shall manage a unique field of operations for which a department is formed.
- (4) An Assistant-Director shall be a civil servant in an appointive position.

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## 4. STATE OF AFFAIRS WHEN A MINISTER WITHOUT PORTFOLIO RUNS A SERVICE

### Article 9.

- (1) If the regulation establishing a service stipulates that a Director accountable to the President of the Government runs the service, the Government may decide a minister without portfolio to run the service on a proposal by the President of the Government.
- (2) While running a service, a minister without portfolio shall have as the same powers as a minister running a ministry.
- (3) The President of the Government shall have as the same powers over a minister without portfolio running a service as over a minister with portfolio.

## 5. PUBLICATION OF RULINGS ON APPOINTMENT AND/OR END OF DUTY

### Article 10.

Rulings prescribing the appointment and/or end of duty of the Director of a service, or the Deputy Director and assistant directors shall be published in "The Official Herald of the Republic of Serbia".

## 6. APPLICATION OF OTHER RULES TO OPERATIONS OF A SERVICE

### Article 11.

Rules on organization, methods of functioning, financing, and employment in the ministries and special institutions shall apply to the Services, unless otherwise is prescribed by this regulation or another normative act.

## 7. TRANSITIONAL AND FINAL PROVISIONS

### Interim Status of the existing Services of the Government

#### Article 12.

The Services of the Government established before the entry of this regulation into force shall continue functioning in accordance with the regulations whereby the Services were established until the moment the said regulations get harmonized with the Government Act and the present regulation.

### Status of Appointed Persons with the Services of the Government until Appointment of Civil Servants

#### Article 13.

- (1) As long as the directors of the Services, and their deputies and assistants do not get appointed as civil servants, the directors, deputy directors, and assistant directors of the existing governmental services shall continue acting in accordance with the rules, including those pertinent to end of duty, applicable on the day of their [initial] appointment.
- (2) If the duty of a director, deputy or assistant director not appointed as civil servants terminates, the new director, deputy or assistant director of a governmental service shall be appointed pursuant the rules applicable on the day of the predecessor's appointment.

### Entry into Force

#### Article 14.

This regulation shall enter into force on the eighth day from its publishing in "The Official Herald of the Republic of Serbia".



# STATE ADMINISTRATION ACT

“OFFICIAL HERALD OF THE REPUBLIC OF SERBIA”, NO. 79/2005

## I. PRINCIPAL PROVISIONS

### Status and Composition of the State Administration

#### Article 1

- (1) The State Administration is a part of the executive branch of the Republic of Serbia performing administrative tasks derived from the powers and responsibilities of the Republic of Serbia (hereinafter: state administration tasks).
- (2) The State Administration shall consist of ministries, administrative authorities within ministries and special organizations (hereinafter: state administration authorities).

### Establishment and Domain of State Administration Authorities

#### Article 2

- (1) State administration authorities shall be established by a statute.
- (2) The domain of state administration authorities shall be regulated by a statute.

### Supervision over State Administration Authorities

#### Article 3

- (1) The Government shall oversee the functioning of state administration authorities.
- (2) The National Assembly shall oversee the functioning of state administration authorities through supervision over the work of the Government and the members of the Government.
- (3) Through administrative lawsuits, the courts shall oversee the legality of acts of individual applicability passed by state administration authorities in administrative cases.

## Conferral of State Administration Tasks

### **Article 4**

Certain state administration tasks may be conferred to autonomous provinces, municipalities, cities, the city of Belgrade, public companies, institutions, public agencies and other organizations (hereinafter: holders of public powers) by a statute.

## Liability for Damage

### **Article 5**

- (1) The Republic of Serbia shall be liable for damage caused to natural and legal persons by unlawful and/or improper operations of state administration authorities.
- (2) A holder of public powers itself shall be solely liable for damage caused to natural and legal persons by its unlawful and improper conduct in carrying out conferred state administration tasks.

## Financing Operations of State Administration Authorities

### **Article 6**

Means for the operations of state administration authorities shall be secured in the Republic of Serbia Budget.

## **II. WORKING PRINCIPLES OF STATE ADMINISTRATION AUTHORITIES**

### Autonomy and Legality

#### **Article 7**

State administration authorities shall be autonomous in the execution of their tasks, and shall act within and in accordance with the Constitution, statutory legislation, other regulations and acts of general applicability.

### Expertise, Impartiality and Political Neutrality

#### **Article 8**

State administration authorities shall act in accordance with the professional rules, impartially and with political neutrality. State administration authorities shall be obligated to provide for everyone's equal legal protection in exercising of rights, obligations and legal interests.

### Efficiency in Exercising Parties' Rights

#### **Article 9**

State administration authorities shall be obligated to allow the parties to exercise their rights and legal interests speedily and efficiently.

## Balance. Respecting the Parties

### Article 10

- (1) Whenever adjudicating in an administrative procedure and undertaking administrative actions, state administration authorities shall be obligated to employ the means that are both the most favorable to the parties and that provide for achievement of the purpose and goals of the law.
- (2) State administration authorities shall be obligated to respect personality and dignity of parties.

## Transparency

### Article 11

- (1) The functioning of state administration authorities shall be public.
- (2) State administration authorities shall be obligated to allow the public to access [information on] their functioning, in accordance with the statute regulating free access to information of public importance.

## III. STATE ADMINISTRATION TASKS

### 1. INVOLVEMENT IN THE GOVERNMENT'S POLICY-MAKING

#### Article 12

- (1) The state administration authorities shall prepare draft statutes, other regulations and acts of general applicability for the Government, as well as propose development strategies and other measures to the Government by which Governmental policy is shaped.
- (2) Administrative authorities within the ministries shall take part, through their ministries, in the development of Government policy.

### 2. SITUATION MONITORING

#### Article 13

State administration authorities shall monitor and verify the state of affairs from their areas under their domain, examine the consequences of the ascertained situation, and either, depending on jurisdiction, undertake measures themselves or propose the Government to adopt [appropriate] rules and/or undertake measures.

### **3. IMPLEMENTATION OF STATUTES, OTHER REGULATIONS AND ACTS OF GENERAL APPLICABILITY**

#### Definition

##### **Article 14**

- (1) By passing regulations, adjudicating administrative cases, keeping records, issuing official documents and/or undertaking administrative actions (hereinafter: administrative services), state administration authorities shall implement statutes, other regulations and acts of general applicability of the National Assembly and/or the Government.
- (2) Administrative authorities within ministries may not pass regulations.
- (3) State administration authorities must have a direct legal base to undertake administrative actions infringing upon personal freedoms and liberties, physical and mental integrity, property and other human rights and freedoms.

#### Regulations passed by State Administration Authorities

##### **Article 15**

- (1) Ministries and special organizations shall pass administrative directions, orders and administrative instructions.
- (2) An administrative direction shall elaborate specific provisions of a statute or a normative act of the Government.
- (3) An order shall command or prohibit an action in one situation of general importance.
- (4) An administrative instruction shall regulate ways by which state administration authorities and holders of public powers implement particular provisions of statutes or other regulations.
- (5) Administrative directions, orders and administrative instructions shall be published in “The Official Herald of the Republic of Serbia”.

#### Limitations on Rulemaking

##### **Article 16**

- (1) Ministries and special organizations may only pass rules when they are explicitly authorized to do so by a statute or by a regulation of the Government.
- (2) Ministries and special organizations may not, by their own regulations, establish their own or someone else’s competences, or rights and obligations of natural and legal persons that have not been already established by the law.

#### Adjudicating Administrative Cases

##### **Article 17**

- (1) State administration authorities shall adjudicate administrative cases and pass administrative acts.

- (2) State administration authorities shall decide upon appeals and extraordinary legal remedies against administrative acts adopted by them or holders of public powers, in accordance with the law.

#### **4. ADMINISTRATIVE INSPECTION**

##### **Article 18**

- (1) Through administrative inspections, state administration authorities shall probe the implementation of statutes and other normative acts by directly scrutinizing the business and actions of natural and legal persons. Depending on the findings, the authorities shall pronounce appropriate administrative measures.
- (2) A separate statute shall regulate administrative inspection.

#### **5. ENSURING PUBLIC UTILITIES**

##### **Article 19**

- (1) State administration authorities shall ensure that the functioning of public utilities is in compliance with the law.
- (2) While doing the previously mentioned, state administration authorities shall carry out tasks and undertake measures from their competence.

#### **6. DEVELOPMENTAL TASKS**

##### **Article 20**

In accordance with the policy of the Government, state administration authorities shall foster and guide development in fields under their domains.

#### **7. OTHER EXPERT TASKS**

##### **Article 21**

State administration authorities shall collect and examine information from their domain, prepare analyses, reports, information bulletins and other materials, and perform other expert tasks that contribute to the development of the fields from their domain.

## **IV. ORGANIZATION OF STATE ADMINISTRATION AUTHORITIES**

### **1. MINISTRIES**

#### Establishment of Ministries

##### **Article 22**

A ministry shall be established to execute state administration tasks in one or more interrelated fields.

#### Minister

##### **Article 23**

- (1) A Minister shall manage the ministry.
- (2) A Minister shall represent the ministry, pass regulations and rulings in administrative and other particular matters, and decide on other issues from the domain of the ministry.
- (3) A Minister shall be accountable to the Government and the National Assembly for the operations of the ministry and for the state of affairs in all fields from the domain of the ministry.

#### State Secretary

##### **Article 24**

- (1) A Ministry may have one or more state secretaries that are accountable for their work to the Minister and the Government.
- (2) A State Secretary shall assist the Minister within limits specified by the Minister. A Minister may not authorize a State Secretary to pass regulations or vote at the sessions of the Government.
- (3) When there are several state secretaries in a ministry, the Minister shall authorize one of them in writing to substitute him/her when he/she is absent or prevented from acting.
- (4) A State Secretary shall be an official appointed and dismissed by the Government upon proposal of the Minister. Term of a state secretary shall terminate at the end of the term of the Minister.
- (5) The same rules on incompatibility and conflict of interest that apply to the members of the Government shall apply to state secretaries. A State Secretary may not be a member of the parliament.

#### Assistant Minister

##### **Article 25**

- (1) A Ministry shall have assistant ministers accountable for their work to the Minister.
- (2) An Assistant Minister shall manage a defined area of work of the ministry for which a department shall be established.
- (3) In accordance with the statute regulating the status of civil servants and upon proposal of the Minister, an Assistant Minister shall be appointed by the Government to a five-year's term.

## Secretary of the Ministry

### **Article 26**

- (1) There may be a Secretary of the Ministry accountable for his or her work to the Minister.
- (2) A Secretary of the Ministry shall assist the Minister to manage human resource, financial, IT and other matters, coordinate activities of internal subordinate units of the ministry. A Secretary of the Ministry shall cooperate with other authorities.
- (3) In accordance with the statute regulating the status of civil servants and upon proposal of the Minister, a Secretary of the Ministry shall be appointed by the Government to a five-year's term.

## Special Advisers to the Minister

### **Article 27**

- (1) A Minister may appoint a maximum of three special advisers.
- (2) Upon order by the Minister, a Special Adviser to the Minister shall prepare proposals, formulate opinions and perform other work for the Minister.
- (3) Rights and obligations of special adviser shall be regulated by a contract, in accordance with the general rules of civil law. Remuneration for the work of special advisors shall be regulated in accordance with the criteria specified by the Government.
- (4) The number of special advisers to a Minister shall be specified by an act of the Government for each ministry separately.

## **2. ADMINISTRATIVE AUTHORITIES WITHIN MINISTRIES**

### Requirements for Establishment

#### **Article 28**

- (1) There may be one or more administrative authorities within a ministry (hereinafter: an integrated authority).
- (2) When the nature and extent of their responsibilities require a greater level of autonomy than the one that a department enjoys within a ministry, an integrated authority shall be established to carry out executive or inspectoral tasks and expert tasks related thereto.
- (3) An integrated authority may get the status of a legal person if so is stipulated by a statute.

### Types of Integrated Authorities

#### **Article 29**

- (1) Types of integrated authorities shall be Authorities, Inspectorates and Directorates.
- (2) An Authority shall be established to carry out executive and related inspectoral and expert tasks. An Inspectorate shall be established to

carry out inspectoral and related expert tasks. A Directorate shall be established to carry out expert and related executive tasks that, as a rule, pertain to commerce.

### Director of an Integrated Authority

#### **Article 30**

- (1) The Director, accountable for his/her work to the Minister, shall run an integrated authority.
- (2) The Director shall adjudicate administrative cases from the domain of the integrated authority and decide on rights and obligations of the staff of the integrated authority.
- (3) In accordance with the statute regulating the status of civil servants and upon the proposal of the Minister, the Government shall appoint the Director to a five-year's term.

### Assistant Director of an Integrated Authority

#### **Article 31**

- (1) Depending on the nature and extent of activities, there may be one or more assistants to the Director of an integrated authority.
- (2) An Assistant Director shall manage the work in one or more interrelated fields of work from the domain of the integrated authority, and he/she shall be accountable for his/her work to the Director and the Minister.
- (3) In accordance with the statute regulating the status of civil servants and upon the proposal of the Minister, the Government shall appoint an Assistant Director to a five-year's term.

### Relationship between the Ministry and an Integrated Authority. Relationship between the Government and the National Assembly and an Integrated Authority

#### **Article 32**

- (1) An integrated authority shall autonomously carry out the tasks under its domain.
- (2) Yet, the Minister shall direct the operations of the integrated authority and pass regulations from its domain.
- (3) The Minister shall [also] represent the integrated authority before the Government and the National Assembly.
- (4) The Government and the National Assembly shall exercise their powers over the state administration authorities pertinent to an integrated authority through the ministry in which the integrated authority is positioned.

### 3. SPECIAL ORGANIZATIONS

#### Requirements for Establishment

##### **Article 33**

Special organizations shall be established to carry out expert and related executive tasks whose nature requires a greater level of autonomy than the one enjoyed by an integrated authority.

#### Types of Special Organizations

##### **Article 34**

- (1) Types of special organizations shall be Secretariats and Bureaus, though a statute may prescribe the establishment of special organizations bearing other names.
- (2) A Secretariat shall be established to carry out expert and related executive tasks of significance to all state administration authorities. A Bureau shall be established to carry out expert and related executive tasks that require application of special professional methods and knowledge.
- (3) A special organization may get the status of a legal person, if so is prescribed by a statute.

#### Director of a Special Organization

##### **Article 35**

- (1) The Director, accountable for his/her work to the Government, shall run a special organization.
- (2) In accordance with the statute regulating the status of civil servants and upon the proposal of the President of the Government, the Government shall appoint the Director to a five-year's term.

#### Deputy Director of a Special Organization

##### **Article 36**

- (1) There may be the Deputy Director of a special organization accountable to the Director for his or her work.
- (2) The Deputy Director shall assist the Director within the limits specified by the Director, and shall substitute the Director when he/she is absent or prevented from acting.
- (3) The Director may not authorize the Deputy Director to pass regulations.
- (4) In accordance with the statute regulating the status of civil servants and upon the proposal of the Director, the Government shall appoint the Deputy Director to a five-year's term.

#### Assistant Director of a Special Organization

##### **Article 37**

- (1) There may be one or more assistant to the Director of a special organization who shall be accountable to the Director for their work.

- (2) An Assistant Director shall manage a defined field from the domain of the special organization for which a department is established.
- (3) In accordance with the statute regulating the status of civil servants and upon the proposal of the Director, the Government shall appoint an Assistant Director to a five-year's term.

## **4. ADMINISTRATIVE DISTRICTS**

### Definition of Administrative District

#### **Article 38**

- (1) An administrative district shall be established for the execution of state administration tasks outside the headquarters of the state administration authority.
- (2) The state administration authorities may, at their own will, perform one or more following state administration tasks through administrative districts: adjudicate administrative cases in the first instance, decide on appeals against first-instance decisions of the holders of public powers, oversee the operations of holders of public powers and perform inspectoral oversight.
- (3) A state administration authority which decides to perform one or more state administration tasks through an administrative district shall establish its district subordinate unit by its Bylaw on Internal Organization and Staffing Table.

### Methods of Establishing Administrative Districts

#### **Article 39**

- (1) The Government shall establish administrative districts by its regulation whereby also specifying their territorial jurisdictions and seats.
- (2) The Government shall be especially obligated to specify the territory of an administrative district in such a way that it enables rational and efficient functioning of district subordinate units of state administration authorities.
- (3) By its regulation on the establishment of administrative districts, the Government shall also prescribe requirements for state administration authorities to establish subordinate units covering the territory of two or more administrative districts, one or more municipalities, a city or an autonomous province.

### Head of an Administrative District

#### **Article 40**

- (1) There shall be the Head of an administrative district who shall be accountable for his or her work to the Minister in charge of administrative affairs and to the Government.

- (2) The Head of an administrative district shall coordinate the activities of district subordinate units and supervise the implementation of directives and operational instructions issued to them; monitor the execution of the business plans of district territorial units and take care of their working environment; monitor the work of employees in district territorial units and propose the initiation of disciplinary actions against them; cooperate with territorial units of state administration authorities that are not established for the area of his/her district; cooperate with municipalities and cities and perform other duties as prescribed by law.
- (3) In accordance with the statute regulating the status of civil servants and upon the proposal of the minister in charge of administrative affairs, the Government shall appoint the Head of an administrative district to a five-year's term.

### Support Service of an Administrative District

#### **Article 41**

- (1) There shall be a Support Service of an administrative district obligated to provide specialist and technical assistance to the Head of the administrative district and to carry out tasks common for all district subordinate units of the state administration authorities.
- (2) The Head of an administrative district shall manage the Support Service of the administrative district and shall decide on rights and obligations of the staff of the Support Service.
- (3) The minister in charge of administrative affairs shall supervise the purpose of work of the Support Service, monitor qualifications of the Service staff, and issue operational instructions to the Support Service.
- (4) Rules on state administration shall apply to support services of administrative districts.

### Administrative District Council

#### **Article 42**

- (1) There shall be the Council of an administrative district which shall coordinate relations between district subordinate units of state administration authorities and municipalities and/or cities in the territory of the administrative district, as well as and make proposals with regard to the improvement of functioning of the administrative district itself and district and other subordinate units that state administration authorities have in the territory of the administrative district.
- (2) The Administrative District Council shall consist of the Head of the administrative district, presidents of the municipalities and mayors of the cities from the territory of the administrative district.
- (3) The Head of an administrative district shall be obligated to forward all proposals of the Administrative District Council to the Minister in charge of administrative affairs and principals of state administration

authorities who have subordinate units in the territory of the administrative district.

- (4) The Government shall, by its regulation, regulate the modes of work of the Administrative District Council.

## **5. INTERNAL ORGANIZATION OF STATE ADMINISTRATION AUTHORITIES**

### Act on Internal Organization and Staffing Table

#### **Article 43**

- (1) The internal organization and staffing table of state administration authorities shall be based on principles specified by a Government regulation.
- (2) The Minister shall pass the act on internal organization and staffing table of the Ministry and/or an authority integrated within the Ministry, whereas the Director shall do the same for the special organization, and the Head of an administrative district for the Support Service of the district.
- (3) The act on internal organization and staffing table [of an authority] may not enter into force without consent of the Government.

### Directives

#### **Article 44**

- (1) The Principal of a state administration authority may issue directives by which he/she determines the methods of work and action and behavior of employees in the state administration authority.
- (2) A Directive may not influence the ways of acting and adjudicating in an administrative matter.

## **V. INTERNAL OVERSIGHT**

### **1. DEFINITION AND FORMS OF INTERNAL OVERSIGHT**

#### **Article 45**

- (1) Internal oversight shall entail supervision which state administration authorities perform of other state administration authorities, as well as of holders of public powers performing conferred state administration tasks.
- (2) Internal oversight shall entail the supervision of work, inspectoral control by administrative inspectorate and other forms of supervision regulated by a separate statute.
- (3) The administrative inspection shall be regulated by a separate statute.

## 2. SUPERVISION OVER WORK

### Definition and Subject of Supervision over Work

#### Article 46

- (1) Supervision over work shall consist of supervision over legality of operations and the supervision over the purpose of work of state administration authorities and holders of public powers while performing conferred state administration tasks.
- (2) Supervision over legality entails the investigation of implementation of statutes and other acts of general applicability, while supervision over purpose of work entails the investigation of efficiency and cost-effectiveness and purposefulness of organization of business.
- (3) A ministry may not supervise the work of another ministry.

### General Powers in Performing Supervision over Work

#### Article 47

- (1) In the supervision over work, the state administration authority shall:
  - 1) request reports and information on work;
  - 2) find out the status of the execution of tasks, warn on irregularities and specify measures and deadlines for their rectification;
  - 3) issue operational instructions;
  - 4) order undertaking of tasks it considers necessary;
  - 5) initiate procedure for the determination of liability;
  - 6) directly undertake certain work if it estimates that a statute or another regulation cannot be enforced in any other way;
  - 7) propose the Government to undertake measures which the Government is authorized to undertake.
- (2) The activity report shall contain an overview of implementation of statutes and other general acts and resolutions of the Government, measures undertaken and their effect, as well as other data.

### Operational Instruction

#### Article 48

- (1) An operational instruction shall direct the organization of business and modes of work of employees in the state administration authority and/or holder of public powers in execution of conferred state administration tasks.
- (2) An operational instruction may not influence the ways of acting and adjudicating in an administrative matter.

### Supervision over Work of an Integrated Authority

#### Article 49

- (1) The Ministry shall supervise the activities of the authority integrated within the Ministry.
- (2) While doing this the Ministry shall enjoy all general powers related to supervision over work of another state administration authority prescribed by this statute.

## Supervision over Work of Special Organizations

### Article 50

- (1) A statute may specify which ministry shall conduct supervision over the work of a special organization.
- (2) While supervising the work of a special organization, the ministry shall be empowered only to request reports and information on the activities of a special organization, find out the situation with regard to the executed tasks and issue warnings about noticed irregularities, issue operational instructions and propose the Government to undertake appropriate measures.

## VI. SPECIAL PROVISIONS ON HOLDERS OF PUBLIC POWERS

### 1. MAIN PROVISIONS ON EXECUTION OF CONFERRED STATE ADMINISTRATION TASKS

#### Status of Holders of Public Powers

##### Article 51

- (1) While executing conferred state administration tasks the holders of public powers shall have as the same rights and obligations as state administration authorities.
- (2) Following the conferral of state administration tasks, the Government and state administration authorities shall still remain being accountable for the execution of the conferred tasks.

#### Financing Execution of Conferred Tasks

##### Article 52

The means for the execution of conferred state administration tasks shall be secured in the Republic of Serbia Budget.

#### Rulemaking

##### Article 53

- (1) When holders of public powers are conferred a rulemaking power, their regulations must correspond, by their nature and title, to normative acts passed by the state administration authorities.
- (2) A holder of public powers shall be obligated to publish a regulation whose passing was conferred to it in "The Official Herald of Republic of Serbia".

## 2. LIMITATION IN CONFERRAL OF STATE ADMINISTRATION TASKS

### Article 54

- (1) State administration responsibilities related to development of Government policy may be conferred to no one.
- (2) Inspectoral supervision may be only conferred to authorities of an autonomous province, municipality, city or the city of Belgrade.

## 3. OVERSEEING ACTIVITIES OF HOLDERS OF PUBLIC POWERS IN EXECUTION OF CONFERRED STATE ADMINISTRATION TASKS

### a) General Powers of Supervisory Authority

#### Article 55

- (1) A statute shall identify the state administration authority that shall supervise the activities of holders of public powers in performing conferred state administration tasks (hereinafter: supervisory authority).
- (2) While conducting oversight, the supervisory authority shall enjoy all general powers concerning supervision over work that are prescribed by this statute.

### b) Special Powers of Supervisory Authority

#### Takeover of Conferred Tasks

#### Article 56

- (1) The supervisory authority shall be obligated to directly execute the conferred tasks, if the lack of execution could cause damaging consequences to life and health of people, environment, economy and/or property of significant value.
- (2) If following recurring warnings a holder of public powers does not start carrying out the conferred state administration tasks or does not perform them properly and/or punctually, the supervisory authority shall take over the execution of the conferred tasks for a maximum of 120 days.

#### Supervision over Legality of Holders of Public Powers Regulations

#### Article 57

- (1) Prior to the publication of its regulations, a holder of public power shall be obligated to obtain the opinion of the supervisory authority about the constitutionality and legality of the regulation. The ministry shall be obligated to send the holder an explained proposal on how to harmonize the regulation with the Constitution, statutes, regulations and other acts of general applicability of the National Assembly and/or the Government.

- (2) If a holder of public power fails to act upon the proposal of the Ministry, the Ministry shall be obligated to propose the Government to pass a ruling on stay of the implementation of the regulation and acts of individual applicability thereunder issued by the holder of public powers, as well as to initiate the procedure for review of the constitutionality and legality of the [contested] regulation.
- (3) The ruling of the Government on stay of the implementation of a regulation shall enter into force on the day of its publishing in “The Official Herald of the Republic of Serbia”.

## **VII. CONFLICT OF COMPETENCES, ADJUDICATION UPON APPEAL, EXEMPTIONS**

### Competence for Resolving Conflict of Competences

#### **Article 58**

- (1) The Government shall resolve a conflict of competences between state administration authorities, between state administration authorities and holders of public powers and between holders of public powers themselves.
- (2) The Principal of a state administration authority shall resolve a conflict of competences between subordinate units of the state administration authority.

### Competence to Decide upon Appeal

#### **Article 59**

- (1) The Minister shall decide upon appeal against the first-instance rulings of a state authority subordinate unit. The Director of an integrated authority i.e. the Director of a special organization shall decide upon appeals against the first-instance rulings in administrative matters from the domain of their authorities.
- (2) The Minister shall decide upon appeals against the first-instance rulings of the authority integrated within his/her Ministry.
- (3) A first instance ruling by a ministry or a special organization may be appealed if so is explicitly permitted by the law. The Government shall adjudicate upon such an appeal.
- (4) The Minister i.e. the Director of an integrated authority i.e. the Director of a special organization shall decide upon appeals against the first-instance rulings that holders of public powers under their domain have passed in relation to the conferred state administration tasks, unless otherwise is provided by a statute.

### Decisions on Exemption of an Official

#### **Article 60**

- (1) The Minister shall decide on the exemption of an official from the

- Ministry, while the Director of an integrated authority or a special organization shall decide on the exemption of officials from their entities.
- (2) The Minister shall decide on the exemption of the Director of an authority integrated within the Ministry, while the Government shall do the same with regard to the exemption of the Minister or the Director of a special organization.
  - (3) The head of a competent unit within a holder of public powers shall decide on the exemption of an official from that holder of public powers.

## **VIII. RELATIONSHIP BETWEEN STATE ADMINISTRATION AUTHORITIES AND OTHER AUTHORITIES**

### **1. RELATIONSHIP BETWEEN STATE ADMINISTRATION AUTHORITIES AND THE GOVERNMENT**

#### Direction of the Government

##### **Article 61**

- (1) The Government shall, by its resolutions, direct the state administration authorities in the implementation of policy and enforcement of statutes and other acts of general applicability, coordinate their activities and set deadlines for passing their regulation if the time limits are not prescribed by a statute or general act of the Government.
- (2) Upon request of a state administration authority, the Government shall be obligated to, by its resolution, take a position on an issue from the domain of that state administration authority.
- (3) The Government may, by its resolution, order a state administration authority to examine a certain issue or undertake a certain task and prepare a special report for the Government thereon.

#### Coordination Bodies

##### **Article 62**

- (1) The Government may establish coordination bodies for the purpose of directing [the execution] of certain tasks from the domain of several state administration authorities.
- (2) The Government shall also specify the tasks of a coordination body, its management and all other matters related to the functioning of a coordination body.

#### Submission of Business Plan and Performance Report to the Government

##### **Article 63**

- (1) The ministries and special organizations shall be obligated to make an

- annual business plan in order to have the annual business plan of the Government prepared.
- (2) At least once a year, the ministries and special organizations shall submit their performance reports to the Government that shall contain the description of the state of the affairs in the fields under their domains, information on the implementation of statutes, other acts of general applicability and resolutions of the Government, as well as on measures undertaken and their effects.
  - (3) The Government Rules of Procedure shall specify the deadline for the submission of the annual business plans and the performance reports.

## **2. INTERRELATIONS BETWEEN STATE ADMINISTRATION AUTHORITIES**

### Cooperation

#### **Article 64**

- (1) State administration authorities shall be obligated to cooperate on all common issues and to submit to each other data and information necessary for their operations.
- (2) State administration authorities shall establish joint bodies and project groups in order to execute tasks whose nature requires involvement of several state administration authorities.
- (3) Establishment and work of joint bodies and project groups shall be prescribed in detail by a regulation of the Government.

### Preparation of Acts of General Applicability

#### **Article 65**

- (1) In the drafting of statutes and other acts of general applicability, the ministries and special organizations shall obtain opinions of those ministries and special organizations with whose domains the issue being regulated is connected.
- (2) The Government Rules of Procedure shall elaborate the procedure for the preparation of statutes and other acts of general applicability in detail.

### Tasks from the Domain of several State Administration Authorities

#### **Article 66**

Tasks that fall under the domain of two or more state administration authorities shall be directed by the state administration authority in charge of the majority of the tasks.

### Resolution of Disputed Issues

#### **Article 67**

- (1) When two or more state administration authorities are to pass an act assentingly or a state administration authority is to pass an act

subject to consent of another one but an accord is not reached, the Government shall decide on the dispute.

- (2) The Government shall also decide on any other matter on which state administration authorities fail to reach an agreement.

### **3. RELATIONSHIP BETWEEN STATE ADMINISTRATION AUTHORITIES AND THE NATIONAL ASSEMBLY AND/OR THE PRESIDENT OF THE REPUBLIC**

#### **Article 68**

- (1) The relationship between state administration authorities and the National Assembly and/or the President of the Republic shall be based on rights and duties specified by the Constitution, statutory legislation and other acts of general applicability.
- (2) Ministries and special organizations shall be obligated to forward to the National Assembly and the President of the Republic, through the Government, information, explanation and data in connection to their competences.

### **4. RELATIONSHIP BETWEEN STATE ADMINISTRATION AUTHORITIES AND OTHER STATE AUTHORITIES**

#### **Article 69**

The relationship between state administration authorities and courts, public prosecutors' offices and other state authorities shall be based on rights and obligations specified by the Constitution, statutory legislation and other acts of general applicability.

### **5. RELATIONSHIP BETWEEN STATE ADMINISTRATION AUTHORITIES AND AUTHORITIES OF AN AUTONOMOUS PROVINCE**

#### Cooperation and Exchange of Information

#### **Article 70**

Relationships of state administration authorities with authorities of an autonomous province shall be based on cooperation and exchange of information within limits set forth by the Constitution, statutory legislation and other acts of general applicability.

## Supervision over Legality of General Acts that Autonomous Provinces passed under their Domain

### **Article 71**

- (1) Ministries shall examine the legality of acts of general applicability that autonomous provinces pass under their domain.
- (2) If the competent ministry considers that an act of general applicability which an autonomous province has passed under its domain does not comply with the Constitution, statutory legislation, other regulations, or general acts of the National Assembly and/or the Government, the Ministry shall be obligated to propose the Government to pass a ruling on stay of the application of such an act of general applicability and [all] individual acts thereunder, as well as to propose initiation of the procedure for the review of the constitutionality and legality.
- (3) The ruling of the Government on stay of the enforcement of an act of general applicability shall enter into force when it is published in “The Official Herald of the Republic of Serbia”.

## Supervision over Implementation of General Acts that Autonomous Provinces passed under their Domain

### **Article 72**

- (1) If an authority of an autonomous province fails to enforce an act of general applicability passed under its domain, the competent ministry shall order this authority to undertake measures necessary for the application of the act within a time limit not exceeding 30 days.
- (2) If the authority of an autonomous province fails to undertake the ordered measures, the competent ministry may assign another authority of the autonomous province to enforce the general act or the Ministry itself may directly undertake measures for its enforcement for a maximum of 120 days.
- (3) In any case, the competent ministry shall be obligated to raise the question of accountability of the Principal of the authority of the autonomous province.

## Supervision over the Execution of State Administration Tasks Conferred to an Autonomous Province

### **Article 73**

While supervising the activities of an authority of an autonomous province in the execution of conferred state administration tasks, the state administration authorities shall have all general and special powers granted to them in accordance with this statute to oversee the operations of other holders of public powers.

## Judicial Protection of Rights of an Autonomous Province

### Article 74

- (1) The authority of the autonomous province, specified by an act of general applicability of the province, which considers an act of individual applicability or an action of a state administration authority has violated a right of the autonomous province guaranteed by the Constitution or a statute may file a petition with the competent court for the protection of the right of the autonomous province.
- (2) The action may be filed within 30 days from the day the act was served or action performed. The statute regulating the administrative lawsuit shall govern the court procedure.

## 6. RELATIONSHIP BETWEEN STATE ADMINISTRATION AUTHORITIES AND AUTHORITIES OF MUNICIPALITIES, CITIES AND THE CITY OF BELGRADE

### Article 75

- (1) The relationship between state administration authorities and authorities of municipalities, cities and the city of Belgrade in relation to matters from their domain shall be based on rights and obligations prescribed by the law.
- (2) While supervising the operations of municipal authorities, cities and the city of Belgrade in the execution of conferred state administration tasks, the state administration authorities shall have all general and special powers granted to them in accordance with this statute to oversee the operations of other holders of public powers.

## IX. PUBLICITY OF WORK AND RELATIONSHIP WITH CITIZENS

### Informing the Public of Work of State Administration Authorities

#### Article 76

- (1) State administration authorities shall be obligated to inform the public about their work through means of public information or another appropriate manner.
- (2) Employees who are authorized to prepare information and data related to informing the public shall be responsible for their accuracy and punctuality.

### Public Debate in Preparation of Statutes

#### Article 77

- (1) A ministry and a special organization shall be obligated to facilitate a public debate in the procedure of preparation of a statute which

essentially changes the legal regime in a field or which regulates issues of particular relevance for the public.

- (2) The conduct of public debate in the preparation of a statute shall be regulated in detail by the Government Rules of Procedure.

## Administrative Days

### **Article 78**

- (1) On [so called] administrative days, state administration authorities may carry out certain tasks in places outside their headquarters and headquarters of their territorial units.
- (2) The Principal of a state administration authority shall specify the administrative days, the tasks to be carried out on those days, and venues.
- (3) Administrative days shall be advertised in places in which they are held.

## Obligation to Inform the Parties and the Citizens

### **Article 79**

- (1) State administration authorities shall be obligated to, primarily in premises where they deal with parties, inform the parties in a proper way of their rights and obligations and ways of exercising rights and obligations, on their domain, on their supervising state administration authority and ways of contacting it, as well as on other matters important for publicity of work and relationship with parties.
- (2) State administration authorities shall be obligated to give information by phone and other available means of communication.

## Issuing Opinions

### **Article 80**

- (1) Upon a motion of natural and/or legal persons, a state administration authority shall be obligated to issue its interpretation of provision of statutes and/or other acts of general applicability within 30 days [from the receipt].
- (2) Opinions of state administration authorities shall not be binding.

## Action upon Complaints

### **Article 81**

- (1) A state administration authority shall be obligated to provide appropriate means for everyone to communicate his/her/its complaints about the work of the authority and/or improper conduct of an employee.
- (2) If the complainant demands an answer, the state administration authority shall be obligated to respond within 15 days from the receipt.
- (3) State administration authorities shall be obligated to examine the issues covered by complaints at least once in 30 days.

## Relationship with Parties

### Article 82

- (1) State administration authorities must have an adequate relationship with parties and must receive parties during business hours.
- (2) The Government shall regulate weekly and daily business hours and other matters related to the work schedule of state administration authorities.

## Designation of a State Administration Authority

### Article 83

- (1) The name of the authority, the coat of arms and the flag of the Republic of Serbia shall be displayed on premises accommodating state administration authorities.
- (2) The personal name of officials, ranks or job position of an employee working in the premise shall be displayed at the entrance to each office. The floor-plan of premises of state administration authorities shall be put on view in an appropriate place within the building.

## X. CIVIL SERVANTS

### Article 84

- (1) Civil servants shall carry out tasks from the domain of state administration authorities.
- (2) A civil servant may carry out state administration tasks subject to his/her prior passing of a professional exam in compliance with the statute regulating the status of civil servants.
- (3) Only a civil servant with a relevant university degree may be authorized to administer an administrative procedure and pass rulings in administrative cases.
- (4) Status of civil servants shall be regulated by a separate statute.

## XI. OFFICE PROCEDURES. APPLICATION OF PROVISIONS OF THIS STATUTE

### Office Procedures of State Administration Authorities

#### Article 85

- (1) Office procedures encompass collection, recording, keeping, classifying and archiving materials received or produced in relation to the functioning of state administration authorities, as well as all other issues related to the business of state administration authorities.
- (2) Office procedures shall be regularized by a regulation of the Government.

## Application of Provisions of this Statute

### **Article 86**

- (1) The provisions of this statute on office procedures and on the state professional exams that is required for the execution of state administration tasks shall also apply to the services of the National Assembly, the President of the Republic and the Government.
- (2) The provisions of this statute pertaining to principles of action of state administration authorities, publicity of work and relations with the citizens, the state professional exams that is required for the execution of conferred state administration tasks, professional qualifications conditioning the authorization for administration of an administrative procedure and passing of rulings, and office procedures shall apply accordingly to all holders of public powers in the execution of conferred state administration tasks, as well as authorities of autonomous provinces, municipalities, cities and the city of Belgrade with regard to their domains.

## **XII. TRANSITIONAL AND FINAL PROVISIONS**

### Application of Acts of the Government Passed before the Entry of this Statute into Force

#### **Article 87**

The acts of the Government passed before the entering of this statute into force shall apply until the passing of the acts of the Government stipulated by this statute, except for the provisions contravening this statute.

### Status of an Official

#### **Article 88**

- (1) On the entry of this statute into force, the deputy ministers shall become state secretaries, while the principals of the special organizations shall become directors of the special organization.
- (2) Until the entry into force of the statute regulating the status of civil servants, the Government shall appoint and dismiss:
  - 1) Assistant Ministers, Secretaries of the ministries and Directors of integrated authorities, upon proposal of a minister;
  - 2) Directors of special organizations, upon proposal of the President of the Government;
  - 3) Deputy and Assistant Directors of special organizations, upon proposal of the Director of a special organization;
  - 4) Heads of administrative districts, upon proposal of the minister in charge administrative affairs.

## Taking Professional Exam

### Article 89

- (1) Until the entry into force of the statute regulating the status of civil servants, the professional exam for work in state administration authorities shall be taken in accordance with the Regulation on Professional Exam of Employees of State Administration Authorities (“The Official Herald of the Republic of Serbia”, No. 80/92 and 62/01).
- (2) The requirement of passing the professional exam shall be waived for persons who have passed the judicial exam\* or a professional exam for work in other authorities whose programme corresponds to the programme of the professional exam for employees of state administration authorities.
- (3) A person who has not passed a professional exam until the entry into force of the statute regulating the status of civil servants may be employed with a state administration authority but his/her employment shall terminate by operations of law if he/she does not pass the exam within one year of his/her recruitment.

## Retainment of Conferred State Administration Tasks

### Article 90

The holders of public powers shall continue to carry out the state administration tasks that were conferred to them before the entry of this statute into force.

## Establishment of Administrative Districts’ Support Services

### Article 91

- (1) The heads of administrative districts shall be obligated to pass acts on internal organization and staffing table of the Support Services of administrative districts within 30 days from the entry of this statute into force.
- (2) Support Services of administrative districts shall take over the staff that has carried out work for the districts in the district seats as employees of the Office for Common Affairs of Republic Authorities, as well as corresponding rights and obligations, files, archives, equipment and means. Support Services of administrative districts shall take over respective resources from the Ministry of State Administration and Local Self-Government.

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\* Similar to the Bar Exam in the Common-Law jurisdictions. It is mandatory for those wishing to act as judicial officers. However, those seeking membership to the Serbia Bar Association must also take the Bar Exam in addition to the judicial one. The Bar Exam in Serbia is similar to MPRE in USA.

## Administration of an Administrative Procedure by Employees without a University Degree

### **Article 92**

Employees of state administration authorities, holders of public powers, authorities of autonomous provinces, municipalities, cities, and the city of Belgrade with a post-secondary diploma\* may administer administrative procedures and pass rulings in administrative cases for a maximum of five years from the entry of this statute into force.

## Invalidation of the State Administration Act

### **Article 93**

The State Administration Act ("The Official Herald of the Republic of Serbia", No. 20/92, 6/93, 48/93, 53/93, 67/93, 48/94 and 49/99) shall cease to apply as of the entry of this statute into force, except the provisions under articles 22-37 and 92.

## Entry of this Statute into Force

### **Article 94**

This statute shall enter into force on the eight day after its publication in "The Official Herald of the Republic of Serbia".

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\* Third-level diploma in UK, or an associate degree in USA



Pursuant to Article 90, point 5, of the Republic of Serbia Constitution, the Government [hereby] passes

# **REGULATION ON PRINCIPLES FOR INTERNAL ORGANIZING, AND STAFFING TABLES OF THE MINISTRIES, SPECIAL ORGANIZATIONS AND SERVICES OF THE GOVERNMENT**

**“OFFICIAL HERALD OF THE REPUBLIC OF SERBIA”, NO. 23/2006**

## **I. PRINCIPAL PROVISIONS**

Subject Matter of the Regulation

### **Article 1.**

- (1) This regulation shall regularize principles for internal organizing, and staffing table of the ministries, special organizations, the Government’s Secretariat-General, the cabinets of the President and the Vice-president of the Government, and other services of the Government, the Authority for Common Affairs of the Republic’s Bodies, and specialist services of the administrative districts (hereinafter: the Authorities).
- (2) This regulation shall also govern manners of preparing and adopting bylaws on internal organization and staffing tables by the Authorities (hereinafter: the Bylaw).

Scope of Application of this Regulation

### **Article 2.**

If another regulation regularizes an internal unit of an Authority in a different fashion, the provisions of the present regulation shall apply only to the issues not governed by the other regulation.

## Principles of Internal Organization, and Staffing Tables

### **Article 3.**

Internal organization and staffing tables must:

- 1) relate to the domain of the Authority and work processes therein;
- 2) correspond to the entirety of the Authority's tasks;
- 3) ensure an effective and coordinated functioning of the Authority, as well as an effective control over workflow therewithin;
- 4) secure swift and efficient effectuation of rights and legal interests of the parties;
- 5) allow association of the same type or closely related and interrelated tasks with the appropriate internal units of the Authority;
- 6) ensure transparency of the Authority's operations.

## Passing the Bylaw

### **Article 4.**

- (1) The Bylaw shall govern the internal organization of an Authority and its staffing table.
- (2) Having obtained the Government's sanction, the Minister, the Director of a special organization, the Secretary-General of the Government, the Head of the Cabinet of the President of the Government, the Head of the Cabinet of the Vice-president of the Government, the Director of a Government's service accountable to the President of the Government, the Director of the Authority for Common Affairs of the Republic's Bodies, and/or the Head of an administrative district (hereinafter: the Principal) shall pass the relevant Bylaw.

## Passing the Bylaw in Special Cases

### **Article 5.**

- (1) When the Director of a government's service is accountable to the Secretary-General of the Government, he/she (the Director) shall propose the Bylaw of the Service and the Secretary-General of the Government shall pass it having obtained the Government's sanction.
- (2) If there is an administrative Authority within a ministry (hereinafter: the Integrated Authority), the part of the Bylaw pertinent thereto shall be proposed by the Director of the Integrated Authority.

## Content of the Bylaw

### **Article 6.**

- (1) The Bylaw shall consist of the sections establishing the internal organization i.e. staffing table.
- (2) The section of the Bylaw on the internal organization shall comprise the following:
  - 1) [listing of] internal units within the Authority, their sphere of activities and interrelations;
  - 2) managing the units;

- 3) powers and responsibilities of the officers managing the units;
- 4) methods of cooperation between the Authority and other bodies and organizations.

The section of the Bylaw on the staffing table shall comprise the following:

- 1) the number of state secretaries and civil servants working in appointive positions, and their job descriptions;
- 2) the number of posts of employment at each rank (for civil servants) or type of job (for general service staff);
- 3) the titles of posts of employment, job descriptions, and ranks (for civil servants), and classes of jobs (for general service employees);
- 4) the number of civil servants i.e. general service employees needed per each post of employment;
- 5) requirements for employment at each post of employment.

### Consistency with the Human Resources Plan

#### **Article 7.**

The Bylaw must be consistent to the adopted Human Resources Plan.

### Powers and Responsibilities of the Officer managing an Internal Unit

#### **Article 8.**

- (1) The officer that manages an internal unit shall plan, direct, and oversee the functioning of the unit and shall carry out the most complex tasks from its domain.
- (2) The managing officer shall be accountable for lawful, proper, and timely functioning of the internal unit.

## **II. TYPES OF INTERNAL UNITS AND REQUIREMENTS FOR THEIR FORMATION**

### Types of Internal Units

#### **Article 9.**

- (1) Internal units shall be formed as core, special and/or subordinate internal units.
- (2) A department shall be the core internal unit.
- (3) A secretariat and the cabinet of a minister shall be special internal units.
- (4) Subordinate internal units shall be: divisions, sections, and groups.

### Department

#### **Article 10.**

- (1) A department shall be formed to carry out tasks from a well-rounded field of activities of a ministry, special organization, the Government's

Secretariat-General, and/or the Authority for Common Affairs of the Republic's Bodies.

- (2) A department may be formed within an Integrated Authority, if the nature and extent of work required so. It may be formed within a Government's service if the regulation establishing the service prescribes that there is one or more assistant directors.
- (3) Divisions, sections and/or groups may [still] be formed even when there are no departments formed within an Authority or an Integrated Authority.

## Managing a Department

### **Article 11.**

- (1) An assistant-principal shall manage a department.
- (2) The Assistant-Director of an Integrated Authority shall manage a department within the Integrated Authority. The Assistant-Director of a Government's service whose Director is accountable to the Secretary-General of the Government shall manage a department within the Government's service.
- (3) An Assistant-Director of an Integrated Authority does not have to be installed to manage any particular department but tasks from several interrelated fields of the Authority's affairs.

## Secretariat

### **Article 12.**

- (1) A secretariat may be formed within a ministry only to carry out tasks related to personnel, financial and IT issues, coordination of internal units' operations, and collaboration with other Authorities.
- (2) A secretariat may also carry out tasks for an Integrated Authority.
- (3) The Secretary of a ministry shall manage the secretariat.

## Cabinet of a Minister

### **Article 13.**

- (1) The cabinet of a minister shall be constituted to carry out advisory and protocol functions, public relations affairs, and administrative-technical tasks of significance for the minister's work.
- (2) Employment of the Cabinet's staff shall be established on fixed-term basis lasting till the end of the minister's term in the office at longest. Exceptionally, special advisors to the minister shall not enter into employment relationship at all.
- (3) Following a proposal by the Ministry of State Administration and Local Government, and taking into account the number of civil servants and general service staff [engaged] with each ministry, the Government shall specify the total number of civil servants and general service employees [working] with the cabinet of each minister.
- (4) The Chief of the Cabinet shall manage the Cabinet, and be accountable to the minister for his/her own work as well as operations of the Cabinet.

## Division, Section, Group

### **Article 14.**

- (1) Divisions, sections and groups may be constituted within or out of departments or secretariats.
- (2) Divisions, sections and groups shall be constituted out of departments or secretariats either to carry out tasks from particular fields of affairs that do not fall under the domain of a department or when particular regulation prescribes so or to provide support to the implementation of a project.
- (3) Within the cabinets of the President and the Vice-president of the Government and/or Support Services of the administrative districts only divisions, sections and groups may be formed.
- (4) Exceptionally, if the nature and the quantity of activities require so, more than one section or group may be constituted in a division or more than one group in a section.

## Requirements for Formation of Divisions, Sections and/or Groups

### **Article 15.**

- (1) A division shall be constituted to carry out interrelated activities requiring engagement of at least eight civil servants or general service employees or both.
- (2) A section shall be constituted to carry out activities of similar sorts that require a direct relation, distinct organizational makeup, and engagement of at least five civil servants or general service employees or both.
- (3) A group shall be constituted to carry out interrelated tasks that require engagement of at least three civil servants or general service employees or both.

## Managing a Division, Section and/or Group

### **Article 16.**

Head of Division shall manage a division. Chief of Section shall manage a section. Group Leader shall manage a group.

## Responsibility of the Head of Division, Chief of Section, and/or Group Leader

### **Article 17.**

- (1) When a unit is positioned within a department, heads of divisions, chiefs of sections, and/or group leaders shall answer to the Principal and the Assistant-Principal with regard to his/her own work and the functioning of his/her unit. [The managing officers shall answer to] the Principal and the Secretary, when the unit is positioned within a secretariat. [The managing officers shall answer to] the Principal only when the unit is not subordinated to a department or a secretariat or when it is positioned within an Authority where there is no any department or secretariat.

- (2) If a division, section or group is positioned within an Integrated Authority or a Government's service whose director is accountable to the Secretary-General of the Government, the Head of Division, Chief of Section and/or Group Leader shall then answer for their own work and the performance of their respective units to:
  - 1) the Director of the Integrated Authority or the Director of a Government's service, when there is no any department within the said authorities or any assistant-director in charge of the affairs for which the unit is formed to handle;
  - 2) the Director of the Integrated Authority, and an assistant-director managing a department i.e. the Director of a Government's service, and an assistant-director of a Government's service, when the unit is formed within a department of an Integrated Authority or a Government's service;
  - 3) the Director of the Integrated Authority, and an assistant-director that does not manage a department, when there are no departments within the Authority but there are assistant directors managing the affairs from fields of activities for which the unit is formed.

## Special Names for Divisions, Sections and/or Groups

### **Article 18.**

- (1) A subordinate unit need not to be titled division, section or group but the founding Authority may assign it another, distinct name that better reflects its domain of activities. Nevertheless, all requirements for constituting divisions, sections and/or groups must still be satisfied.
- (2) The Bylaw shall serve to make a subordinate unit bearing a distinctive name compatible with a division, section or group.

## European Integrations

### **Article 19.**

If the European Integration affairs do not directly fall under the domain of an Authority, it (the Authority) must assign a department, as a rule, the one that is the most connected to the European integrations, to carry out the said activities.

## Autonomous Executor

### **Article 20.**

- (1) An autonomous executor shall be a civil servant or a general service employee whose job is positioned out of any internal unit due to a [distinctive] character of his/her work that prevents it from association with any unit.
- (2) The autonomous executor shall work under direction and supervision of the Principal i.e. the Director of an Integrated Authority i.e. the Director of a Government's service accountable to the Secretary-General of the Government.

### III. TERRITORIAL UNITS OF AN AUTHORITY

#### Article 21.

- (1) Pursuant to the Regulation on Administrative Districts, district or other territorial units may be constituted by the Bylaw to carry out tasks from the domain of the Authority out of its headquarters. Divisions, sections, and/or groups may be constituted within a district or another territorial unit.
- (2) The Bylaw must make a subordinate unit formed under a distinctive name within a territorial unit compatible to a division, section or group.

### IV. GROUPS CONSTITUTED BY SPECIAL ACTS

#### Coordinating Body

##### Article 22.

- (1) The Government may establish, by its decision, a coordinating body to direct particular activities from the domain of several ministries and special organizations.
- (2) A coordinating body shall be composed of ministers and shall be managed by either the President of the Government, or the Vice-president of the Government, or the minister under whose portfolio fall most of the activities for which the coordinating body is established.
- (3) By the decision establishing a coordinating body, the Government shall also determine its composition, responsibilities, deadline to submit its report to the Government, as well as other matters of relevance for the functioning of the coordinating body.
- (4) The Government shall decide on the issues that are not agreed upon within the coordinating body.

#### Project Group

##### Article 23.

- (1) A project group may be established to carry out a task that requires collaboration of several Authorities i.e. integrated authorities that cannot be carried out in the course of a civil servant's regular duties.
- (2) The Principal of an Authority i.e. the Director of an Integrated Authority, under whose domain the project group task falls shall establish the project group by his/her ruling.
- (3) The ruling establishing a project group shall also specify, among others things, its composition and the managing officer, the deadline for accomplishing the task, and the modes for reducing the regular workload of the [engaged] civil servants.
- (4) A civil servant coming from another authority i.e. an integrated authority may become a member of a project group subject to consent

of his/her Principal i.e. the Director of his/her integrated authority. Modes for reducing the civil servant's regular workload and other issues shall be determined by an agreement between the principals and/or directors of the integrated authorities.

### Joint Body

#### **Article 24.**

- (1) A joint body may be established to carry out tasks whose nature requires participation of several Authorities.
- (2) The representative of the Authority under whose domain most of a joint body's tasks fall shall manage the Body.
- (3) The composition and the responsibilities of a joint body, and other issues relevant for its functioning shall be regulated by an agreement.
- (4) The Government shall resolve disputes related to the establishment and functioning of a joint body.

### Special Working Group

#### **Article 25.**

- (1) The Principal, the Director of an Integrated Authority or the Director of a Government's service that is accountable to the Secretariat-General of the Government may establish a special working group and appoint experts from appropriate fields thereto to provide expert assistance regarding the most complex project tasks.
- (2) The ruling establishing the project group shall also specify its responsibilities, composition and the managing officer, the deadline for accomplishing the tasks and other issues relevant for the functioning of the group.
- (3) Subject to the Minister of Finance's consent, the financing of a special working group's functioning shall be governed by an administrative direction issued by the Minister of State Administration and Local Government.

## **V. DRAFTING AND PASSING THE BYLAW**

### Documentary Foundation

#### **Article 26.**

- (1) Putting together a documentary base for drafting the Bylaw (hereinafter: the Documentary Foundation) shall precede the drafting of the Bylaw.
- (2) The Documentary Foundation shall:
  - 1) cite the legal provisions that govern the domain of an Authority;
  - 2) list state administration tasks carried out by the Authority;
  - 3) present the extent, type and complexity of the Authority's tasks from the year preceding the drafting of the Documentary Foundation;

- 4) specify reasons and explain proposal for restructuring of the Authority;
  - 5) specify the number of state secretaries and civil servants working in appointive positions, the number of posts of employment broken down by rank (for civil servants) or type of job (for general service staff), and the number of civil servant and general service employees needed per each post of employment;
  - 6) provide an explanation for the number of civil servants and general service employees requested.
- (3) The Principal must base the Bylaw on the state of the affairs depicted in the Documentary Foundation.

### Territorial Units covering Areas larger or smaller than the Territory of an Administrative District

#### **Article 27.**

If the Bylaw foresees formation of territorial units covering area larger or smaller than the area of an administrative district (two or more administrative districts, one or more municipalities, a city or an autonomous province), the Documentary Foundation shall obligatory contain a specification of data and reasons for constituting such territorial units instead of district ones (accessability; effectiveness; extent, frequency and the nature of state administration tasks, etc.).

### Submission of the Bylaw and the Documentary Foundation for Opinion

#### **Article 28.**

The Principal shall submit the Bylaw and the Documentary Foundation thereunder to the Ministry of State Administration and Local Government, the Ministry of Finance and the Human Resources Management Service for opinion.

### Power of the Ministry of State Administration and Local Government

#### **Article 29.**

The Ministry of State Administration and Local Government shall be obligated to propose the Government not to sanction the Bylaw if:

- 1) the Bylaw is not in compliance with the statute or another regulation governing the relevant field of state administration;
- 2) the Ministry deems the organization of the Authority, as foreseen in the Bylaw, is not sound;
- 3) the Bylaw stipulates formation of a territorial unit in contradiction to the requirements set forth in the Regulation on Administrative Districts, or it foresees a territorial unit to perform state administration affairs that are not permitted.

## Power of the Ministry of Finance

### **Article 30.**

The Ministry of Finance must propose the Government not to sanction the Bylaw if there are no monies secured in the Republic of Serbia Budget for all civil servant and general service employees of the Authority that are specified in the Bylaw.

## Power of the Human Resources Management Service

### **Article 31.**

The Human Resources Management Service must propose the Government not to sanction the Bylaw if:

- 1) the classification of jobs of civil servants and general service employees has not been properly made, particularly when measures for assessment of posts of employment has been improperly applied;
- 2) the final job descriptions do not contain all required elements or if an element of a final job description has been improperly determined;
- 3) more than 10% i.e. 20% of the total number of civil servants have been foreseen to work in the ranks of senior counsellors i.e. independent counsellors;
- 4) the Bylaw has not been harmonized with the adopted Human Resources Plan.

## Sanction by the Government

### **Article 32.**

- (1) Having obtained opinions from the Ministry of State Administration and Local Government, the Ministry of Finance, and the Human Resources Management Service, the Principal shall pass the Bylaw and submit it to the Government for sanction.
- (2) Enclosed with the Bylaw, the Documentary Foundation, the obtained opinions and a written explanation for disregarding objections stated by the Ministry of State Administration and Local Government, the Ministry of Finance, and/or the Human Resources Management Service shall be submitted to the Government.
- (3) The Authority shall transmit the Bylaw approved by the Government to the Ministry of State Administration and Local Government, the Ministry of Finance, and the Human Resources Management Service.

## Amending and Supplementing the Bylaw

### **Article 33.**

The provisions of this regulation governing drafting and passing the Bylaw shall apply to the preparation and adoption of amendments and supplements to the Bylaw.

## **VI. TRANSITIONAL AND FINAL PROVISIONS**

### **1. TRANSITIONAL PROVISIONS**

Deadline for Passing New Bylaws and their Entering into Force

**Article 34.**

The Authorities must pass the new bylaws on internal organization and staffing tables by 1 April 2006. The bylaws shall enter into force on 2 July 2006.

Employment with the Cabinet of a Minister

**Article 35.**

Employment with cabinets of ministers shall be constituted on fixed-term basis as of the end of the term in office of the minister acting on the day this regulation enters into force.

Interim Powers of the Ministry of State Administration and Local Government

**Article 36.**

By 1 July 2006, the Ministry of State Administration and Local Government shall be exercising the powers of the Human Resources Management Service prescribed by this regulation.

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### **2. FINAL PROVISIONS**

Invalidation of Preceding Normative Acts

**Article 37.**

The Regulation on Principles for Internal Organizing and Staffing Tables of Ministries, Special Organizations, and Services of the Government ("The Official Herald of the Republic of Serbia, No. 95/2005) shall cease to apply as of the entry of the present regulation into force.

Entry of this Regulation into Force

**Article 38.**

This regulation shall enter into force on the eight day after its publication in "The Official Herald of the Republic of Serbia.

According to Article 39, paragraphs 1 and 3, of the State Administration Act (“The Official Herald of the Republic of Serbia”, No. 79/05), the Government [hereby] passes

# **REGULATION ON ADMINISTRATIVE DISTRICTS**

**“OFFICIAL HERALD OF THE REPUBLIC OF SERBIA”, NO. 15/2006**

## **I. CONTENT OF THE REGULATION**

### **Article 1**

- (1) This regulation shall establish administrative districts and govern their names, territory and seats.
- (2) This regulation shall also govern the conditions under which the ministries, special organisations and administrative authorities within the ministries (hereinafter: state administration authorities) may establish territorial units for two or more administrative districts, or for one or more municipalities, or a city or an autonomous province.

## **II. ADMINISTRATIVE DISTRICT. NAMES, SEATS AND TERRITORY OF ADMINISTRATIVE DISTRICTS**

### **1. ADMINISTRATIVE DISTRICT**

Definition of Administrative District

### **Article 2**

An administrative district is a territorial centre of the State Administration that encompasses the subordinate units of all state administration authorities established for the territory of the district.

## What State Administration Affairs are allowed at the Administrative District Level

### **Article 3**

At an administrative district level, a state administration authority may adjudicate administrative cases in the first instance, as well as decide on appeal against first-instance decisions passed by the holders of public powers from the district; supervise the operations of the holders of public powers, and to perform administrative inspections.

## Position of State Administration Authorities with regard to Carrying Out Activities at Administrative District Level

### **Article 4**

- (1) A state administration authority shall autonomously decide whether to perform certain state administration tasks from its domain at the administrative district level or not.
- (2) A state administration authority shall decide thereof on the occasion of passing its Bylaw on Internal Organization and Staffing Table (hereinafter: the Bylaw).

## District Territorial Units of State Administration Authorities

### **Article 5**

- (1) If a state administration authority decides to carry out at least one state administration task at the administrative district level, the authority shall be obligated to establish its district territorial unit by its Bylaw.
- (3) The Bylaw shall specify the state administration tasks performed by the district territorial unit of the state administration authority.
- (1) The seat of the district territorial unit shall be in the seat of the administrative district.

## Subordinate Units within a District Territorial Unit

### **Article 6**

- (1) By its Bylaw, a state administration authority may establish one or several internal subordinate units within its district territorial unit.
- (2) The seat of a subordinate unit of a district territorial unit may be outside the seat of the administrative district, if that makes a state administration authority more accessible to the third parties that exercise their rights, obligations or legal interest before the authority, or makes easier for the authority to oversee the parties subjected to its control (hereafter: the Parties).

## 2. HEAD OF ADMINISTRATIVE DISTRICT

### Powers of the Head of Administrative District

#### Article 7

- (1) There shall be the Head of an administrative district. The Head of an administrative district shall:
  - 1) coordinate the activities of the district territorial units of state administration authorities;
  - 2) monitor the application of the directives and operational instructions issued to the district territorial units of state administration authorities;
  - 3) monitor the implementation of the business plans of the district territorial units and provide conditions for their functioning;
  - 4) monitor the performance of the employees in the district territorial units of state administration authorities and propose the Principal of a state administration authority to initiate a disciplinary action against an employee;
  - 5) cooperate with the territorial units of state administration authority that carry out their state administration tasks in the territory of the district but are established to cover the territory larger or smaller than the territory of the administrative district;
  - 6) cooperate with the municipalities and cities in order to improve the functioning of the district territorial units of state administration authorities or the territorial units of state administration authorities established for a smaller or larger territory that are active in the district.
- (2) A state administration authority shall transmit to the Head of an administrative district the directives and operational instructions issued to its district territorial unit, as well as the excerpt from the state administration authority business plan pertinent to its district unit.

### Accountability of the Head of an Administrative District

#### Article 8

- (1) The Head of an administrative district shall answer for his/her work to the Minister of State Administration and Local Government, and the Government.
- (2) Upon the proposal of the Minister of State Administration and Local Government and in accordance with the Civil Servants Act, the Government shall appoint the Head of the administrative district to a five-year's term.

### Support Service of Administrative District

#### Article 9

- (1) There shall be a Support Service of an administrative district.
- (2) The Support Service of an administrative district shall be responsible for the expert and technical support to the Head of the administrative district and for the common affairs of all district territorial units of state administration authorities.

- (3) The seat of the Support Service of an administrative district shall be in the seat of the district.
- (4) The rules on the State Administration shall apply to the Support Service of an administrative district.

### Managing the Support Service of an Administrative District

#### Article 10

- (1) The Head of an administrative district shall run the Support Service of the administrative district.
- (2) The Head of an administrative district shall decide on the rights and obligations of the employees of the Support Service of the district.

### Powers of the Ministry of State Administration and Local Government

#### Article 11

- (1) The Ministry of State Administration and Local Government shall control the purposefulness of the work of the Support Service of an administrative district; monitor professional skills of its employees, and issue operational instructions to the Support Service.
- (2) Operational instructions shall serve as guidance for the organization of the work process in the Support Service of an administrative district, as well as for the work of its staff.

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## 3. NAMES, SEATS AND TERRITORY OF ADMINISTRATIVE DISTRICTS

#### Article 12

The administrative districts shall be established with the following names, seats and areas of coverage:

- 1) North Bačka Administrative District-for the territory of the municipalities of Bačka Topola, Mali Idoš and Subotica, with the seat in Subotica;
- 2) Mid Banat Administrative District-for the territory of the municipalities of Žitište, Zrenjanin, Nova Crnja, Novi Bečej i Sečanj with the seat in Zrenjanin;
- 3) North Banat Administrative District-for the territory of the municipalities of Ada, Kanjiža, Kikinda, Novi Kneževac, Senta and Čoka, with the seat in Kikinda;
- 4) South Banat Administrative District-for the territory of the municipalities of Alibunar, Bela Crkva, Vršac, Kovačica, Kovin, Oponovo, Pančevo and Plandište, with the seat in Pančevo;
- 5) West Bačka Administrative District-for the territory of the municipalities of Apatin, Kula, Odžaci and Sombor, with the seat in Sombor;
- 6) South Bačka Administrative District-for the territory of the municipalities of Bač, Bačka Palanka, Bački Petrovac, Beočin, Bečej,

- Vrbas, Žabalj, Srbobran, Sremski Karlovci, Temerin, Titel and for the city of Novi Sad, with the seat in Novi Sad;
- 7) Srem Administrative District-for the territory of the municipalities of Indija, Irig, Pećinci, Ruma, Sremska Mitrovica, Stara Pazova and Šid, with the seat in Sremska Mitrovica;
- 8) Mačva Administrative District-for the territory of the municipalities of Bogatić, Vladimirci, Koceljeva, Krupanj, Loznica, Ljubovija, Mali Zvornik and Šabac, with the seat in Šabac;
- 9) Kolubara Administrative District-for the territory of the municipalities of Valjevo, Lajkovac, Ljig, Mionica, Osečina and Ub, with the seat in Valjevo;
- 10) Danube Administrative District-for the territory of the municipalities of Velika Plana, Smederevo and Smederevska Palanka, with the seat in Smederevo;
- 11) Braničevo Administrative District-for the territory of the municipalities of Veliko Gradište, Golubac, Žabari, Žagubica, Kučevo, Malo Crniće, Petrovac and Požarevac, with the seat in Požarevac;
- 12) Šumadija Administrative District-for the territory of municipalities of Arandjelovac, Batočina, Knić, Topola, Rača and for the city of Kragujevac with the seat in Kragujevac;
- 13) Morava Administrative District-for the territory of the municipalities of Despotovac, Jagodina, Paraćin, Rekovac, Svilajnac and Čurpija, with the seat in Jagodina;
- 14) Bor Administrative District-for the territory of the municipalities of Bor, Kladovo, Majdanpek and Negotin, with the seat in Bor;
- 15) Zaječar Administrative District-for the territory of the municipalities of Boljevac, Zaječar, Kanjaževac and Sokobanja, with the seat in Zaječar;
- 16) Zaltibor Administrative District-for the territory of the municipalities of Arilje, Bajina Basta, Kosjerić, Nova Varoš, Požega, Priboj, Prijepolje, Sjenica, Užice, Čajetina, with the seat in Užice;
- 17) Moravica Administrative District-for the territory of the municipalities of Gornji Milanovac, Ivanjica, Lučani and Čačak, with the seat in Čačak;
- 18) Raška Administrative District-for the territory of the municipalities of Vrnjačka Banja, Kraljevo, Novi Pazar, Raška and Tutin, with the seat in Kraljevo;
- 19) Rasina Administrative District-for the territory of the municipalities of Aleksandrovac, Brus, Varvarin, Kruševac, Trstenik and Čičevac, with the seat in Kruševac;
- 20) Nišava Administrative District-for the territory of the municipalities of Aleksinac, Gadžin Han, Doljevac, Merošina, Ražanj and Svrljig and for the city of Niš, with the seat in Niš;
- 21) Toplica Administrative District for the territory of the municipalities of Blace, Žitorađa, Kuršumlija and Prokuplje, with the seat in Prokuplje;

- 22) Pirot Administrative District-for the territory of the municipalities of Babušnica, Bela Palanka, Dimitrovgrad and Pirot, with the seat in Pirot;
- 23) Jablanica Administrative District-for the territory of the municipalities of Bojnik, Vlasotince, Lebane, Leskovac and Crna Trava, with the seat in Leskovac;
- 24) Pčinja Administrative District-for the territory of the municipalities of Bosilegrad, Bujanovac, Vladičin Han, Vranje, Preševo, Surdulica and Trgovište, with the seat in Vranje;
- 25) Kosovo Administrative District-for the territory of the municipalities of Glogovac, Kačanik, Kosovo Polje, Lipljan, Obilić, Podujevo, Uroševac, Štimlje, and for the city of Priština, with the seat in Priština;
- 26) Peć Administrative District-for the territory of the municipalities of Dečani, Đakovica, Istok, Klina and Peć, with the seat in Peć;
- 27) Prizren Administrative District-for the territory of the municipalities of Gora, Orahovac, Prizren and Suva Reka, with the seat in Prizren;
- 28) Kosovska Mitrovica Administrative District-for the territory of the municipalities of Vučitrn, Zvečan, Zubin Potok, Kosovska Mitrovica, Leposavić and Srbica, with the seat in Kosovska Mitrovica;
- 29) Kosovo-Morava Administrative District-for the territory of the municipalities of Vitina, Gnjilane, Kosovska Kamenica and Novo Brdo, with the seat in Gnjilane.

### **III. TERRITORIAL UNITS OF STATE ADMINISTRATION AUTHORITIES WITH THE AREA OF COVERAGE LARGER OR SMALLER THAN THE TERRITORY OF AN ADMINISTRATIVE DISTRICT**

#### **1. WHAT STATE ADMINISTRATION TASKS MAY BE CARRIED OUT BY TERRITORIAL UNITS WITH THE AREA OF COVERAGE LARGER OR SMALLER THAN THE TERRITORY OF AN ADMINISTRATIVE DISTRICT**

##### **Article 13**

Through its territorial units covering the area that is either larger or smaller than the territory of an administrative district, a state administration authority may carry out the tasks that are [typically] performed at the administrative district level, as well as other state administration tasks from its domain only if [better] efficiency and accessibility of the state authority by the Parties is secured thereby.



## **2. DECISIONS ON FORMING TERRITORIAL UNITS COVERING AREAS LARGER OR SMALLER THAN THE TERRITORY OF AN ADMINISTRATIVE DISTRICT**

### **Article 14**

- (1) A state administration authority shall autonomously decide whether to form a territorial unit that will cover an area that is either larger or smaller than the territory of an administrative district.
- (2) A territorial unit with a larger or smaller area of coverage shall be constituted by the Bylaw which shall also specify the state administration tasks to be performed by the unit.

## **3. TERRITORIAL UNITS FOR THE AREA OF TWO OR MORE ADMINISTRATIVE DISTRICTS**

### **Article 15**

- (1) A state administration authority may form a territorial unit that will cover the territory of two or more administrative districts, if the extent, frequency and presence of the relevant state administration affairs in the territory and the cooperation with other authorities justify so.
- (2) The seat of a territorial unit covering the territory of two or more administrative districts may be either in the seat of the administrative district which is equally distant from the Parties or in the seat of the administrative district where most of the Parties are present.
- (3) The specialist service of the administrative district carrying out tasks for the district territorial units shall also perform these tasks for the employees of the unit established for the territory of two or more districts working in its administrative district that are positioned in the administrative district.

## **4. TERRITORIAL UNITS FOR ONE OR MORE MUNICIPALITIES OR FOR A CITY**

### **Article 16**

- (1) A state administration authority may constitute a territorial unit for one or more municipalities, or a city, if the magnitude and incidence of the state administration tasks (tax, survey, etc) or their nature (customs tasks, tasks of the port administration, etc) make their performance at this level more rational, efficient and punctual.
- (2) Subject to the same conditions, subordinate internal units (branches, etc) may be formed within territorial units covering one or more

municipalities or a city but their seats do not have to be in the seat of the [superior] territorial unit.

## **5. TERRITORIAL UNITS THAT UNITE THE ACTIVITIES OF TERRITORIAL UNITS FORMED FOR ONE OR MORE MUNICIPALITIES OR A CITY**

### **Article 17**

- (1) A state administration authority may constitute a superior territorial unit which would unify the activities of the territorial units formed for one or more municipalities or a city (centres, etc).
- (2) Superior territorial units shall be formed if the number of the subordinate territorial units established for municipalities or a city and/or the number of the Parties and the nature of state administration tasks justify so.

## **6. TERRITORIAL UNITS FOR AN AUTONOMOUS PROVINCE**

### **Article 18**

A state administration authority may form a territorial unit for an autonomous province if the nature of the state administration tasks is to a great extent directly connected to the peculiarities deriving from the status of an autonomous province.

## **IV. STATUS OF THE TERRITORIAL UNITS IN RELATION TO THE MAIN INTERNAL UNITS IN THE SEAT OF A STATE ADMINISTRATION AUTHORITY**

### **Article 19**

The district and other territorial units of a state administration authorities shall be integral parts of the main internal units from the seat of a state administration authority whose tasks they carry out either directly or indirectly, through one or more subordinate territorial units.

## V. OVERSIGHT BY THE MINISTRY OF STATE ADMINISTRATION AND LOCAL GOVERNMENT

### Article 20

- (1) By issuing opinions on the Bylaws of the ministries and special organizations, the Ministry of State Administration and Local Government shall ensure that all the requirements prescribed by this regulation for the establishment of the territorial units are satisfied. In the same manner, the Ministry shall control whether the district territorial units are carrying out the state administration tasks allowed by this regulation.
- (2) In its opinion, the Ministry of State Administration and Local Government must propose the Government not to consent to the Bylaw stipulating formation of territorial units outside the requirements prescribed by this Regulation or stipulating performance of state administration task by district territorial units that are not allowed by this regulation.

## VI. TRANSITIONAL AND FINAL PROVISIONS

### Status of the Head of an Administrative District before the Appointment as a Civil Servants

#### Article 21

- (1) As long as the heads of the administrative district are not appointed as civil servants, they shall continue to work in accordance with the rules, including those on termination of office, that were in force on the day of their [initial] appointment.
- (2) If the office of a head of an administrative district who is not appointed as a civil servant terminates, the new head of the administrative district shall be appointed in accordance with the rules that were in force on the day of the appointment of the [preceding] head.

### Invalidation of the Preceding Normative Acts

#### Article 22

As of the day this regulation enters into force the Regulation on Manners of Performing Tasks of the Ministries and Special Organizations outside their Seats (“The Official Herald of the Republic of Serbia”, No. 3/92, 36/92, 52/92, 60/93 and 5/95) shall cease to apply.

### Entry of this Regulation into Force

#### Article 23

This Regulation shall enter into force on the eighth day from its publication in “The Official Herald of Republic of Serbia”.

According to Article 42, paragraph 4, of the State Administration Act („The Official Herald of the Republic of Serbia”, No. 79/05), the Government [hereby] passes

## **REGULATION ON WORK OF ADMINISTRATIVE DISTRICT COUNCIL**

**“OFFICIAL HERALD OF THE REPUBLIC OF SERBIA”, NO. 15/2006**

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### Content of the Regulation

#### **Article 1**

This regulation shall govern the work of the Council of an administrative district (hereinafter: the Council).

### Domain of the Council

#### **Article 2**

The Council shall coordinate relations of the district territorial units of the ministries, special organisations and the authorities integrated within the ministries (hereinafter: the state administration authorities) with municipalities and cities from the territory of the administrative district, as well as propose ways of improving the functioning of the administrative district, territorial units of the district itself and the territorial units of the state administration authorities formed to operate in an area larger or smaller than the district that performs state administration tasks in the territory of the administrative district.

### Composition of the Council. Working Methods of the Council

#### **Article 3**

- (1) The Council shall consist of the head of the administrative district, presidents of the municipalities and the mayors of the cities from the territory of the administrative district.
- (2) The Council shall decide on the matters from its domain at its sessions.

## Sessions of the Council

### **Article 4**

- (1) The Head of the administrative district shall convene and chair a session of the Council.
- (2) The sessions of the Council shall be held at least once in two months.
- (3) The Head of the administrative district shall be obligated to convene a session of the Council if requested by at least two thirds of the members of the Council.
- (4) As a rule, a session of the Council shall be held in the seat of the district.

## Participation in the Work at the Session of the Council

### **Article 5**

Depending on the agenda, the representatives of the district territorial units of the state administration authorities and of the territorial units of the state administration authorities formed to cover an area larger or smaller than the very district and operating in its territory, the representatives of the municipal and city authorities and services from the territory of the administrative district, and experts for certain fields may participate at a session of the Council without the right to vote.

## Council's Decision-making

### **Article 6**

- (1) The Council shall decide by a majority vote of its members.
- (2) The Council shall decide by passing declarations.

## Furnishing Council's Declarations

### **Article 7**

The Head of the administrative district shall be obliged to furnish a declaration carrying a Council's proposal to the Minister of State Administration and Local Government and principals of the state administration authorities with territorial units formed at the district level or covering an area larger or smaller than the district and operating in its territory.

## Reporting on Council's Performance

### **Article 8**

At least once a year, the Head of an administrative district shall submit a report on the performance of the Council to the Minister of State Administrative and Local Government.

## Secretary of the Council

### **Article 9**

- (1) There shall be a Secretary of The Council.
- (2) The Council shall designate the Secretary from the civil servants from the Support Service of the administrative district.

## Specialist and Technical Support to the Council

### **Article 10**

The Support Service of the administrative district shall provide specialist and technical support to the Council.

## Council Rules of Procedure

### **Article 11**

The Council shall pass its Rules of Procedure.

## Entry of this Regulation into Force

### **Article 12**

This regulation shall enter into force on the eighth day from its publication in „The Official Herald of the Republic of Serbia”.

# PUBLIC AGENCIES ACT

“OFFICIAL HERALD OF THE REPUBLIC OF SERBIA”, NO. 18/2005 & 81/2005

## I. PRINCIPAL PROVISIONS

### Definition of a Public Agency

#### Article 1

- (1) A public agency is an organization established to carry out developmental, specialist and/or regulatory tasks of public interest.
- (2) Depending on the purpose of a public agency, another statute may regulate certain matters regarding the status of a public agency differently than the present one.

### Requirements for Establishing a Public Agency

#### Article 2

- (1) A public agency shall be established if its developmental, specialist, and/or regulatory responsibilities do not require a constant direct political supervision, and if a public agency can perform [these tasks] more efficiently than a state administration authority, particularly when these tasks can entirely or mostly be financed from the fees paid by the users of services rendered.
- (2) The Founder must be authorised to establish a public agency by a particular statute.

### Entrusting a Public Agency with Public Powers

#### Article 3

A public agency may, by a statute, be entrusted the following powers of state administration:

- 1) Promulgation of normative acts implementing statutes and other enactments of the National Parliament and the Government;
- 2) Determination of administrative cases in the first instance;
- 3) Issuance of public documents, and record keeping.

## Independence of a Public Agency

### Article 4

- (1) A public agency shall be independent in its functioning.
- (2) The Government may not direct the functioning of a public agency or try to conform it to the functioning of state administration authorities.

## Legal Capacity of a Public Agency

### Article 5

- (1) A public agency shall have the capacity of a legal person that is acquired by registration with the court registry.
- (2) Internal territorial units of a public agency may be created to perform the functions of the agency in a particular territory.

## Financing a Public Agency

### Article 6

A public agency shall be financed from the fees paid by the users of the services rendered, gifts (donations), sponsors' contributions (sponsorship), the Republic of Serbia Budget and other contributions and revenues that a public agency obtains in compliance with the law.

## Rules Applied to Public Agencies

### Article 7

- (1) The rules related to the state administration shall apply to the functioning of a public agency with regard to legality [of its operations], professionalism, political neutrality, impartiality, the use of the official language and script, professional qualifications and training of employees that discharge entrusted state administration responsibilities, and office management.
- (2) Unless otherwise is prescribed by this or another statute, the general labor regulations shall apply to rights, obligations, responsibilities and salaries of the Director and employees of a public agency.
- (3) In order to prevent conflict of private and public interests, activities that employees of a public agency are not allowed to carry out on their own behalf and for their own account or as agents of another legal or natural person may be specified in the act establishing a public agency.

## **II. ESTABLISHMENT OF A PUBLIC AGENCY BY THE REPUBLIC OF SERBIA**

### Exercise of the Founder's Prerogatives

#### Article 8

- (1) The Government shall exercise the Founder's prerogatives in behalf of the Republic of Serbia, unless otherwise is prescribed by a statute.

- (2) The ministry under whose domain the responsibilities of a public agency fall shall propose the decisions to the Government.
- (3) If a public agency's responsibilities fall under the domain of more than one ministry, then the ministries shall assentingly propose decisions to the Government, unless otherwise is prescribed by this or another statute.
- (4) The Founder's prerogatives are not transferable.

## Act Establishing a Public Agency

### **Article 9**

- (1) The Founder shall issue the act establishing a public agency whereby regulating the following:
  - 1) the name, seat and purpose of a public agency;
  - 2) tasks and business of a public agency;
  - 3) rights, obligations and responsibilities of a public agency for its liabilities in legal commerce;
  - 4) the domain of activities and composition of offices within a public agency and their interrelationship;
  - 5) rights and obligations of the Founder towards a public agency and vice versa;
  - 6) the initial assets secured by the Founder for establishment of a public agency and commencement of its functioning;
  - 7) resources, methods and conditions for acquiring assets for functioning of a public agency;
  - 8) other issues relevant for establishment and functioning of a public agency, and the matters that are to be regulated by the act establishing a public agency as commanded by this or another statute.
- (2) An act establishing a public agency shall be published in "The Official Herald of the Republic of Serbia".

## Initial Assets of a Public Agency

### **Article 10**

- (1) Pursuant to the act establishing a public agency, the Founder shall secure office premises, equipment and other assets for the start of a public agency's operations from the property at disposal or the Republic of Serbia budget.
- (2) The office premises and equipment secured by the Founder shall be the property of the Republic of Serbia while a public agency shall have the right to enjoyment.
- (3) Grants and contributions given by national and foreign legal and natural persons for the establishment of a public agency may be used for the start of operations of the public agency.

## Registering the Establishment of a Public Agency in the Court Registry

### **Article 11**

- (1) Upon the issuance of an act establishing a public agency, the Founder shall appoint an interim director of the public agency who shall make

preparations for the start of the public agency operations under the supervision by the Founder.

- (2) Establishment of a public agency shall be registered in the court registry.
- (3) Enclosed with the application for registration in the court register, the interim director of a public agency shall submit the documents on the establishment of the public agency, as well as those on his/her appointment [to the office].

## Appointments to Principal Offices of a Public Agency

### Article 12

Having a public agency registered in a court registry, the Founder shall appoint the Managing Board of the public agency. Having conducted a public competition the Founder shall appoint the Director of the public agency.

## III. OFFICES OF A PUBLIC AGENCY

### 1. TYPES OF GOVERNING BODIES AND CONFLICT OF INTERESTS

#### Types of Governing Offices

##### Article 13

- (1) The governing offices of a public agency shall be the Managing Board and the Director.
- (2) It may be prescribed by a separate law that there are certain additional offices within a public agency, or totally different bodies, or that the Managing Board and/or the Director have powers that differ from the ones prescribed by this statute.

#### Conflict of Interests

##### Article 14

- (1) The Managing Board members and the Director are officials in the sense of the statute regulating conflict of interests in discharge of public offices.
- (2) Restrictions and obligations the Managing Board members and the Director are subjected to may, by a statute or by the act establishing a public agency, be expanded beyond the limits set forth in the statute that regulates conflict of interests in the discharge of public office.

### 2. MANAGING BOARD

#### Domain of the Managing Board

##### Article 15

- (1) The Managing Board shall: adopt the annual business plan, the financial plan of the public agency, and reports that a public agency is

to submit to the Founder; pass regulations and other legal acts of general applicability of the public agency, except the bylaw on the internal organisation of the agency and its staffing table; direct the work of the Director and issue operational instructions to him/her; oversees the functioning of a public agency; and perform other tasks prescribed by this or another statute or by the act establishing the public agency.

- (2) The Managing Board, or the person the Board authorises so, shall always be free to inspect the business records and other documentation of the public agency.

## Requirements for Appointment to the Managing Board. Competence for Appointment. Number of Managing Board Members

### **Article 16**

- (1) A person eligible for employment with the state administration, who is an expert in one or more fields from the domain of the public agency, who has a university degree, who is not an employee of the public agency, whose appointment would not provoke a conflict of public and private interests, and who satisfies other requirements prescribed by a separate statute or the act establishing the public agency may be appointed to the Managing Board.
- (2) The Founder shall appoint all the Managing Board members, unless some are possibly appointed by the users of the agency's services.
- (3) The number of the Managing Board members may not be smaller than three and bigger than seven and it shall be specified by the act establishing the public agency.

## Status of the Managing Board Members

### **Article 17**

- (1) A Managing Board member shall be appointed for a five-year term and may be reappointed.
- (2) Different duration of the term of office for Managing Board members, and limitation on the number of reappointments may be prescribed by a statute.
- (3) The Managing Board members shall be bound to keep confidentiality of public agency secrets.
- (4) The Managing Board members shall receive remuneration for their work in accordance with the criteria specified by the act establishing the public agency.

## Appointment of Representatives of Public Agency's Clients to the Managing Board

### **Article 18**

- (1) If stipulated so by the act establishing a public agency, representatives of a public agency's clients may be appointed to the Managing Board, and may have up to half of the Managing Board membership.

- (2) If the clients are organised into interest groups, the Founder shall appoint the representatives of the clients to the Managing Board upon the proposal of such interest associations. Otherwise, the representatives shall be appointed after a public competition.
- (3) Clients themselves may appoint their representatives to the Managing Board by direct and secret ballot, if authorized so by the act establishing the public agency.
- (4) The mode by which the Founder collects proposals of interest groups, the procedure of the public competition, the mode by which the clients appoint their representatives to the Managing Board, and the criteria for the appointment shall be regulated by the act establishing the public agency.

### Limitations on Appointments of Clients' Representatives to the Managing Board

#### **Article 19**

- (1) The representatives of the existent or prospective beneficiaries of financial incentives or means given by a public agency may not be appointed to the public agency Managing Board.
- (2) The representatives of the clients to whom the services of the aforesaid beneficiaries are intended shall be appointed instead, unless the act establishing the public agency prescribes that the representatives of some other groups of clients shall be appointed.
- (3) The Founder shall be obligated to enable proportional representation of different clients or groups of clients in the Managing Board.

### President of the Managing Board. Passing the Managing Board Decisions

#### **Article 20**

- (1) The Founder shall designate the President of the Managing Board from the Managing Board's members the Founder has appointed.
- (2) The Managing Board shall pass decisions by a majority vote of all of its members.
- (3) The Managing Board shall adopt its Rules of Procedure.

## **3. DIRECTOR**

### Domain and Tenure

#### **Article 21**

- (1) The Director shall represent and act in the name of the public agency; shall manage the operations and functioning of the public agency; shall pass acts of individual applicability of the public agency; shall decide on rights, obligations and responsibilities of the public agency employees; shall prepare and execute the Managing Board decisions,

and shall perform other tasks as may be prescribed by this or another statute or by the act establishing the public agency.

- (2) The Director shall issue the bylaw on the public agency's staffing table.
- (3) A Director shall be appointed for a five-year term renewable. Term in office may be regulated differently and/or number or reappointments may be limited by a statute.

## Requirements for Appointment of the Director

### **Article 22**

A person eligible for appointment to the Managing Board, who has at least five years of work experience in one or more fields from the public agency's domain, and satisfies other requirements stipulated by a statute or the act establishing the public agency, may be appointed as the Director.

## Responsibilities of the Director

### **Article 23**

- (1) The Director shall be responsible for lawfulness of the public agency functioning.
- (2) The Director ought to submit a report on his/her work whenever requested by the Managing Board.
- (3) The Director ought to keep the public agency secrets confidential.

## Appointment of the Director. Public Competition

### **Article 24**

- (1) The Founder shall appoint the Director upon a public competition.
- (2) The Managing Board shall administer the public competition.

## Publishing Vacancy Announcements

### **Article 25**

- (1) A vacancy announcement for appointment of the Director shall be published in "The Official Herald of the Republic of Serbia" and another daily newspaper which is circulated throughout the Republic of Serbia.
- (2) The application period may not be shorter than 15 days from publishing the vacancy notice in "The Official Herald of the Republic of Serbia".

## Content of Vacancy Notice

### **Article 26**

The vacancy notice shall list: the requirements an applicant must satisfy; the documentation that must be enclosed with the application; the deadline for submission of applications; the authority to whom an application is to be submitted; the name of a person that can give information on the recruitment process; information on the

selection procedure; the time frame for notifying the applicants about the beginning of the selection procedure, as well as other information relevant to the appointment.

## Selection Procedure

### **Article 27**

- (1) Firstly, the Managing Board shall make a list of applicants who have satisfied the requirements for the appointment, and then it shall carry out the selection procedure amongst the candidates.
- (2) Professional qualifications of each candidate shall be established during the selection procedure pursuant to the criteria set forth in the act establishing the public agency.
- (3) Upon conclusion of the selection process, the Managing Board shall shortlist candidates that have reached the requested score, and shall submit the list to the Founder.

## Appointment of the Director

### **Article 28**

- (1) The Founder shall appoint the Director from the list of candidates submitted by the Managing Board.
- (2) The Founder shall dispatch the ruling on the appointment of the Director to all candidates who have applied for the post.
- (3) Under monitoring by an official, a candidate who has participated in the selection procedure shall be given access to the documentation enclosed with the application of the appointed candidate, as well as the documentation on the selection procedure.
- (4) When none of the applicants have achieved the required score, the applicants shall be informed on the failure of the public contest. The job advertising shall be repeated.

## Rights of a Candidate who has not been appointed

### **Article 29**

- (1) A candidate who has not been appointed may not contest the ruling on the appointment by his/her complaint.
- (2) The unsuccessful candidate may initiate an administrative lawsuit against the ruling on appointment, if he or she believes that he or she satisfies the requirements for appointment but was not included in the selection procedure; or that the appointed candidate does not satisfy requirements for the appointment; or that the fair outcome of the selection procedure could have been affected by certain irregularities that occurred during the process; or for other reasons prescribed by the statute governing administrative litigation.
- (3) If the court annuls the ruling on the appointment, the Founder shall dismiss the Director within 30 days from the receipt of the final court decision.

## **4. EARLY TERMINATION OF A MANAGING BOARD MEMBER'S OR THE DIRECTOR'S OFFICE**

### All Reasons

#### **Article 30**

- (1) The term of a Managing Board member or the Director shall terminate before the expiration of the appointed term of office in case of resignation or dismissal.
- (2) Resignation shall be submitted to the Founder and it shall become effective upon the receipt by the Founder.
- (3) Upon the receipt of the resignation the Founder shall issue a ruling acknowledging the cessation of the office of a Managing Board member or the Director.

### Grounds for Dismissal. Competence for Deciding on Dismissal

#### **Article 31**

- (1) A Managing Board member or the Director shall be dismissed if he or she no longer satisfies the requirements for the appointment; or does not discharge the duties prescribed by the present or another statute or the act establishing the public agency; or if he or she is convicted of a criminal offence punishable with imprisonment exceeding six months or [is convicted] of an offence that makes him or her unsuited to the office of a Managing Board member or the Director.
- (2) The Director shall be also dismissed if by negligent or disorderly work he or she causes great damage to the public agency; or neglects and negligently performs his or her duties so that significant disturbances in the operations of the public agency have occurred or can occur.
- (3) The Founder shall decide whether there are grounds for dismissal of a Managing Board member or the Director.

### Procedure for Identifying Grounds for Dismissal

#### **Article 32**

- (1) The ministry that is mainly in charge of the public agency's domain shall commence and conduct procedure to verify grounds for dismissal of a Managing Board member or the Director *ex officio* or upon a motion of the Founder.
- (2) The Ministry ought to commence and conduct procedure for dismissal of the Director upon a motion by the Managing Board.
- (3) Once the Director or a Managing Board member is given an opportunity to present his/her position on the existence of reasons for dismissal, and the essential facts are verified, the Ministry shall hand over all the documents to the Founder and propose the issuance of the appropriate ruling.
- (4) The ruling on dismissal may not be appealed but may be challenged through the administrative lawsuit.

## Acting Director

### Article 33

- (1) If the office of the Director terminates before the expiration of his/her term, and upon a proposal by the Managing Board, the Founder shall appoint an Acting Director to a maximum of six months without advertising the job.
- (2) The Acting Director must be as eligible for appointment as the Director.

## Suspension of the Director

### Article 34

- (1) Until the issuance of a ruling on dismissal, the Founder may temporarily suspend the Director against whom the procedure for dismissal has been initiated.
- (2) The Founder shall temporarily suspend the Director on his/her own initiative or upon proposal of the Ministry conducting the procedure for the establishment of grounds for the dismissal.
- (3) The powers of the suspended director shall be assumed by the President of the Managing Board.

## IV. TASKS OF A PUBLIC AGENCY

### All Responsibilities of a Public Agency

#### Article 35

- (1) A public agency may simultaneously carry out developmental, specialist, and regulatory tasks prescribed by the act establishing the public agency in compliance with a statute.
- (2) Furthermore, pursuant to the act establishing the agency, the agency may perform other tasks related to the purpose for which it has been established.
- (3) A public agency may be entrusted with all state administration tasks that may, in general, be conferred to a public agency in accordance with this statute.

### Developmental and Specialist Tasks

#### Article 36

- (1) A public agency shall perform its developmental and specialist tasks in conformity with the purpose of its establishment.
- (2) The developmental tasks shall consist of encouraging and directing development in the fields from the public agency's domain, apportioning and disbursing financial incentives and other developmental means, undertaking measures that a public agency is authorised to take by a statute, and other tasks stipulated by the act establishing a public agency in compliance with a statute.

## Regulatory Tasks

### **Article 37**

- (1) The regulatory tasks of a public agency shall consist of rulemaking aimed at the implementation of legislative and other enactments of the National Parliament and the Government.
- (2) The normative acts issued by a public agency must, by nature and title, correspond to the regulations passed by the state administration authorities.
- (3) The Managing Board of a public agency shall pass the normative acts and have them published in "The Official Herald of the Republic of Serbia".

## Adjudication in Administrative Procedure

### **Article 38**

- (1) The Director of a public agency, or the person the Director authorises so, shall issue rulings in the administrative procedure.
- (2) Rulings of a territorial unit of a public agency shall be deemed as the first instance rulings of the public agency.
- (3) The Ministry in charge of a public agency's domain shall decide on appeals against the public agency's rulings.

## Oversight

### **Article 39**

- (1) A public agency shall oversee the designated and purposeful use of the disbursed financial means and incentives, as well as professionalism and purposefulness of the work of other persons specified by a statute or the act establishing the agency.
- (2) A public agency shall be obligated to make an oversight report and base its findings on the necessary documentation and statements of the parties.
- (3) The public agency shall submit the oversight report to the Ministry in charge of the public agency's domain.

## Establishment of Fees

### **Article 40**

- (1) In order to cover its service costs a public agency that charges its clients for services rendered shall issue a schedule of fees whereby it shall determine the price of each service.
- (2) A draft of the fee schedule shall be compiled by the Managing Board and published in at least one daily newspaper circulated throughout the territory of the Republic of Serbia together with a call to prospective clients to communicate their remarks and suggestions within a time limit not shorter than eight or longer than 30 days.
- (3) In addition, the opinions about the proposed fees from the ministry in charge of the public agency's domain, as well as the ministry in charge of public finances, shall be procured.

- (4) When submitting the catalogue of fees to the Founder for approval, the Managing Board ought to state, in the explanation, the goals that are to be achieved with the [proposed] fees, and reasons for disregarding objections and proposals of prospective clients and the ministries.
- (5) Once the Founder approves the fees, the schedule of fees shall be published in “The Official Herald of the Republic of Serbia” and shall enter into force after its publication.

## Bylaws on Functioning and Activities of a Public Agency

### **Article 41**

- (1) A public agency shall pass bylaws to regulate issues important for its functioning and activities in compliance with a statute and the act establishing the public agency.
- (2) The Managing Board of a public agency shall pass bylaws on functioning and activities of the public agency.
- (3) The bylaw on rights, duties, responsibilities and emoluments of the Director and the employees of a public agency shall be passed with consent of the Founder.

## **V. PROTECTION OF PUBLIC INTEREST**

### Rights of the Founder

#### **Article 42**

In addition to appointments and dismissals of a public agency’s Managing Board members and the Director, the Founder shall give its consent to the annual business plan, the financial plan of the agency, and other acts specified by this or another statute.

### Overseeing a Public Agency Rulemaking

#### **Article 43**

- (1) Before publishing its normative acts, a public agency ought to obtain the opinion of the ministry in charge of the public agency’s domain on the constitutionality and legality of the agency’s enactments. The ministry ought to communicate to the public agency an explained proposal how to harmonize its rules with the Constitution, statutes, regulations and other enactments of the National Parliament and the Government.
- (2) If a public agency does not act upon the proposal of the ministry, the ministry ought to propose the Founder to issue an order to stay the normative act and [all] acts of specific applicability thereunder, as well as to initiate procedure for reviewing its constitutionality and legality.
- (3) An order to stay a normative act shall enter into force on the day of its publication in “The Official Herald of the Republic of Serbia”, and shall

cease to be effective if the Founder does not initiate a procedure for reviewing the constitutionality and legality of the enactments within fifteen days.

## Overseeing Functioning and Transactions of a Public Agency

### **Article 44**

- (1) The ministry in charge of the public agency's domain shall oversee the performance of the agency regarding the conferred state administration tasks.
- (2) The ministry in charge of financial affairs shall inspect lawfulness and purposeful use of the public agency's assets and the [proper] application of the rules governing public finances and financial-accounting business.
- (3) The ministry in charge of public administration shall control the application of the statutory law on the use of the official language and script, office procedures, dealings with parties and clients, effectiveness and efficiency in conducting administrative proceedings, professional qualifications of employees that adjudicate administrative matters and their authorisations to decide administrative matters.

## Annual Public Agency Business Plan. Financial Plan

### **Article 45**

- (1) The Managing Board shall adopt the business plan and the financial plan of the public agency for the following year, and submit the plans to the Founder for approval by the 15<sup>th</sup> of December of the current year.
- (2) In accordance with the act establishing a public agency, the annual business plan shall contain the public agency's main objectives for the following year and methods for accomplishing these goals.
- (3) The annual business plan shall also include the proposed measures for achievement of more efficient and more cost-effective use of the public agency's assets.
- (4) A statute or the act establishing the public agency may require the agency to cover some other issues significant for its operations by its annual business plan as well.

## Performance Report. Financial Report

### **Article 46**

- (1) The Managing Board of a public agency shall adopt the annual performance report for the past year and submit the report to the Founder no later than 1 March of the current year.
- (2) The Founder may, in accordance with the act establishing the public agency, request the Managing Board of the public agency to submit an occasional report on the agency performance or a report on the execution of a certain task.

- (3) The Managing Board of a public agency shall adopt, and submit to the Founder, the financial report in compliance with the rules governing submission of final financial statements of public enterprises.

## VI. RELATIONSHIP WITH CLIENTS

### Transparency

#### Article 47

- (1) A public agency ought, in an adequate way, primarily in premises where its clients are received, to inform the clients about: their rights and obligations; procedures for exercising those rights and obligations; its own functioning and domain; the ministries overseeing the public agency and ways of contacting them; as well as other information important for the transparency of a public agency's functioning and its relationship with its clients.
- (2) In undertaking this, a public agency shall be obligated to:
  - 1) display, in writing and in the premises where it deals with clients, the names of the Managing Board members, Director, employees that transact with the clients, the Managing Board member authorised to receive and examine the clients' remarks and suggestions, and other responsible officers;
  - 2) enable the public, clients and employees of the public agency to familiarise themselves with a summary of the annual business plan;
  - 3) present to the public all information that is by the law marked as information of public concern;
  - 4) disseminate information by phone or another means of communication available.
- (3) The Director of a public agency shall be accountable for the transparency of the public agency's operations.

### Transacting with Clients

#### Article 48

- (1) A public agency must maintain a proper relationship with its parties and clients.
- (2) A public agency shall be obligated to adapt its working hours to the needs of the clients.
- (3) At least once a year, a public agency must enable the clients to voice their feedback about the agency's performance and the quality of services rendered, and to propose modes for improvement thereof. The public agency shall make a special report pertaining to [the said interaction with the clients], which shall be incorporated in its annual performance report.

## Clients' Remarks and Suggestions

### **Article 49**

- (1) A public agency ought to enable its clients to voice their remarks and suggestions related to its performance, orally, in writing, by phone, or in the electronic format.
- (2) Clients' remarks and suggestions shall be received and examined by a public agency's Managing Board member empowered by the Managing Board to do so for a year, and who shall inform the Managing Board, the Director, the person to whom the remark refers to, and the client about his or her findings.

## **VII. FINANCING A PUBLIC AGENCY**

### Financing From the Budget and Collected Fees

#### **Article 50**

- (1) [The execution of] the state administration tasks entrusted to a public agency shall be financed from the Republic of Serbia Budget.
- (2) Monies from the fees collected for the services a public agency has rendered shall also be used for the financing the public agency and they shall be registered under a separate public agency's budget line.

### Financing from Gifts and Contributions

#### **Article 51**

Gifts, the public agency sponsor's contributions and other contributions given to the Founder or to the public agency shall represent revenue of the public agency, shall be registered under a separate public agency's budget line, and shall be used for the development of the public agency.

### Distribution of Revenue Surplus

#### **Article 52**

- (1) The surplus of the revenues of a public agency over its expenses shall be used for the development of the public agency, for rewarding the employees or it shall be transferred to the Republic of Serbia Budget.
- (2) Subject to the Founder's consent, the Managing Board of a public agency shall decide on distribution of the surplus.
- (3) The employees may be rewarded according to the criteria prescribed by a public agency's bylaw.

### Liability for Public Agency's Obligations

#### **Article 53**

- (1) A public agency shall be liable with its assets for its obligations.
- (2) The Founder shall be liable for the obligations of a public agency if the agency cannot fulfil its obligations from its assets or if

fulfillment of an obligation would seriously jeopardise the functioning of a public agency.

## VIII. CESSATION OF A PUBLIC AGENCY

### Article 54

- (1) A public agency shall cease to function if it is abolished or if its registration in the court registry is found invalid by a final court decision.
- (2) A public agency may be abolished if the rationale for its establishment have ceased to exist or if some other entity is able to fulfill the purpose of the public agency in a more efficient, effective and cost-efficient manner.
- (3) Pursuant to the authorisation from a statute, the Founder shall pass the ruling on the cessation of functioning of a public agency.

## IX. PUBLIC AGENCIES ESTABLISHED BY AUTONOMOUS PROVINCES AND UNITS OF LOCAL GOVERNMENT

Mode of Establishment. Exercise of Founders' Prerogatives. Responsibilities

### Article 55

- (1) When the requirements for the establishment of a public agency, as specified in this statute, are satisfied, and if authorised by its act of general applicability, an autonomous province and/or a unit of local government may establish a public agency.
- (2) An authority identified in the general act [of the autonomous province or the local government] shall exercise the the Founder's prerogatives on behalf of the autonomous province i.e. the local government.
- (3) An autonomous province and/or a unit of local government may entrust its public agency with tasks from its own original jurisdiction that correspond, by type and nature, to the state administration tasks that the Republic of Serbia may entrust to public agencies.

Application of Provisions of the Present Statute

### Article 56

- (1) Competent administrative authorities of an autonomous province or a local government shall oversee the rules and functioning of the public agency, as well as decide on appeals against the rulings passed in administrative proceedings by the public agency.

- (2) If the Founder of a public agency is a unit of local government, a person with at least three years of work experience in one or more fields from the domain of the public agency may be appointed as the Director of the public agency.
- (3) The provisions of this statute governing public agencies whose founder is the Republic of Serbia shall apply to all other matters.

## **X. TRANSITIONAL AND FINAL PROVISIONS**

### Application to Existing Agencies

#### **Article 57**

On the day when the present statute enters into force the provisions under Article 7, paragraphs 1 and 2 of this statute, the provisions of the present statute on conflict of interests in discharge of public office (Article 14), on oversight by a public agency (Article 39), on competences of the Director to pass a bylaw on the public agency's staffing table (Article 21, paragraph 2), on competence of the Managing Board to pass bylaws on functioning and transactions of a public agency (Article 41, paragraphs 1 and 2), on protection of public interest (Articles 42-46), and on relationship with the clients (Article 47-49) shall apply to the following agencies established by separate statutes:

- 1) Agency for Privatisation as established by the Agency for Privatisation Act ("The Official Herald of the Republic of Serbia", No. 38/01 and 18/03);
- 2) Republic Agency for Development of Small and Medium Size Enterprises as established by the Agency for Development of Small and Medium Size Enterprises Act ("The Official Herald of the Republic of Serbia", No. 65/01);
- 3) Agency for Tobacco as established by the Tobacco Act ("The Official Herald of the Republic of Serbia", No. 17/03);
- 4) Republic Agency for Spatial Planning as established by the [Landuse] Planning and Construction Act ("The Official Herald of the Republic of Serbia", No. 47/03);
- 5) Agency for Commercial Registries as established by the Agency for Commercial Registries Act ("The Official Herald of the Republic of Serbia", No. 55/04);
- 6) Agency for Licensing Bankruptcy Trustees/Insolvency Practitioners as established by the Agency for Licensing Bankruptcy Trustees/Insolvency Practitioners Act ("The Official Herald of the Republic of Serbia", No. 84/04);
- 7) Agency for Medications and Medical Equipment as established by the Medications and Medical Equipment Act ("The Official Herald of the Republic of Serbia", No. 84/04).

## Continuation of Work of the Existing Agencies' Management

### **Article 58**

- (1) On the day when the present statute enters into force, the supervisory boards of the agencies under Article 57 of this statute shall cease to function; the office of their members shall end, and the managing boards shall take over the responsibilities of the supervisory boards.
- (2) In the Republic Agency for Spatial Planning, on the day when the present statute enters into force, the Council of the Agency shall take over the Supervisory Board's responsibilities prescribed by this statute.
- (3) On the day when the terms of the managing boards and the directors appointed to the agencies under Article 57 of the present statute end, the provisions of the present statute governing the management of a public agency shall apply to these agencies.
- (4) If a term in office of a Managing Board member terminates before the expiration of the entire Managing Board's [regular] term, the new Managing Board member shall be appointed pursuant to the provisions of the statutes establishing the agencies under Article 57 of the present statute until the expiry of the [regular] term in office of the Managing Board member he/she replaced.

## Entry of the Present Statute into Force

### **Article 59**

The present statute shall enter into force on the eighth day from its publication in "The Official Herald of the Republic of Serbia".