

**TRANSPARENCY INTERNATIONAL GOVERNMENT DEFENCE ANTI-CORRUPTION  
INDEX - SERBIA 2015**

**COMMENTS OF THE MINISTRY OF DEFENCE OF THE REPUBLIC OF SERBIA ON**

Based on the content analysis of the Assessment of Building Integrity and Corruption Risk Level (hereafter Assessment) within the responsibility of the Ministry of Defence of the Republic of Serbia which has been made by the organization „Transparency International“, and for the purpose of presenting the objective information to the public, we submit the following comments:

**GENERAL COMMENTS:**

**A large number of findings specified within explanations regarding evaluation of questions on the corruption level in defence system of the Republic of Serbia, provides a rational for opening discussion on the expert level.**

**Since the statements made by the organizations outside the defence system (NGOs and daily newspapers) and also a large number of secondary sources of information have been referenced in comments included in this material, the question of assessment validity can be raised. Also, the statements of anonymously interviewed personnel of MoD and SAF have been used as a source of information, which we consider improper.**

**In the following text, our comments are given regarding the questions for which we believe it is useful to give the right guidelines to assessors or where (in our opinion) the assessment of corruption risk in defence system of the Republic of Serbia has not been done properly.**

**External assessors (members of Belgrade Center for Security Studies) have been conducted anonymous talks with some personnel of the MoD and SAF in regard to some of the questions. Such sources and comments are disputable, their reliability cannot be checked, their nature is subjective and in our opinion they should not be used in such a research.**

**MOD COMMENTS ON INDIVIDUAL QUESTIONS OF THE ASSESSMENT:**

1-1 Defence and Security Policy
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**TIUK.DEF 1.01: Is there formal provision for effective and independent legislative scrutiny of defence policy?**

**Opinion:** MoD is not qualified for this question.

**Comment:** MoD is not qualified for this question, but it should be noted that obligations of the Defense Inspectorate, concerning reporting, are shown in the comment to the question 14. These obligations are clearly specified by the Law on Defence and the Rules of Procedure of the Defense Inspectorate, and reports are being submitted regularly. Also, we underline that there is not, neither there has ever been identified, any undue pressure in the work of the Inspectorate.

**Suggested score:** 4

**TIUK.DEF 1.02: Does the country have an identifiable and effective parliamentary defence and security committee (or similar such organisation) to exercise oversight?**

**Opinion:** MoD is not qualified for this question.

**Comment:** /

**Suggested score:** /

**TIUK.DEF1.03: Is the country's national defence policy debated and publicly available?**

**Opinion:** Disagree

**Comment:** The statement: "Public debates on Defence Strategy (DS) and National Security Strategy (NSS) were conducted during 2009 New Year holidays" is not correct, bearing in mind that the public debate on the National Security Strategy of the Republic of Serbia and the Defence Strategy of the Republic of Serbia lasted one month and a half, and it was performed in the period from 15<sup>th</sup> December 2008 to 31<sup>st</sup> January 2009.

It is also not true that the public debate on the Law on Amendments to the Law on the Serbian Armed Forces and the Law on Amendments to the Law on Defence that was held in February 2014 had the character of expert consultations.

All public debates on the Law on Amendments to the Law on the Serbian Armed Forces and the Law on Amendments to the Law on Defence in 2014 were open to the public and representatives of mass media. About those events media reported on several occasions.

**Suggested score:** 3

**TIUK.DEF1.04: Do defence and security institutions have a policy, or evidence, of openness towards civil society organizations (CSOs) when dealing with issues of corruption? If no, is there precedent for CSO involvement in general government anti-corruption initiatives?**

**Opinion:** Disagree

**Comment:** The Ministry of Defence considers cooperation with civil society organizations to be very important and, thereafter, it makes efforts, in accordance with its capabilities and legal competencies, to support and accept all constructive initiatives as well as to respond to requests of the organizations addressing to the Ministry of Defence.

Thereby, the Ministry of Defence is opened to cooperate with CSOs also about issues related to defence system reform which has been carried out continually and according to plans in the Ministry of Defence and the Serbian Armed Forces. In that regard, there are many examples of successful cooperation, like composing and sending answers to numerous questions from questionnaires of the Belgrade Centre for Security Policy in the period from 2010 to 2014, within which certain questions were related to anti-corruption issues.

**Suggested score:** 3

**TIUK.DEF1.05: Has the country signed up to international anti-corruption instruments such as, but not exclusively or necessarily, UNCAC and the OECD Convention? (In your answer, please specify which.)**

**Opinion:** Agree

**Comment:** /

**Suggested score:** /

**TIUK.DEF1.06: Is there evidence of regular, active public debate on issues of defence? If yes, does the government participate in this debate?**

**Opinion:** Disagree

**Comment:** The Belgrade Centre for Security Policy published a report on costs of the explosion at ammunition storages in Serbia, based on research that was conducted during 2011. In the explanation of the assessment it was stated that the Ministry of Defence refused to provide information about possible causes of the explosion, whereby the debate about causes of the explosion of ammunition in storage "Paraćinska utrine" in 2006 has been specifically stated. However, according to the order of the competent investigating judge of the High Court in Jagodina, from 10<sup>th</sup> January 2012, a representative of the Defense Technologies Department of the Material Resources Sector of the Ministry of Defence took part in providing expertise on the causes of the emergency in a separate object "Paraćinska utrine", after which the results of the expertise were submitted to the High Court in Jagodina in March 2012. Based on the above mentioned, it follows that the Ministry of Defence has not made obstruction, considering that at the time of publication of the Report of the Belgrade Centre for Security Policy, determining the cause of the explosion was still in progress.

**Suggested score:** 3

**TIUK.DEF1.07: Does the country have an openly stated and actively implemented anti-corruption policy for the defence sector?**

**Opinion:** Disagree

**Comment:** Information on all the activities carried out within the framework of the South-Eastern Europe Defence Ministerial Cooperation Process (SEDM) has been regularly published. This applies particularly to the information about activities of the NATO Building Integrity Tailored Program for the Defence Sector in South Eastern Europe. For more information, see also the comment to the question 34.

**Suggested score:** 3

**TIUK.DEF 1.08: Are there independent, well-resourced, and effective institutions within defence and security tasked with building integrity and countering corruption?**

**Opinion:** Disagree

**Comment:** Through amending the existing Rules of Procedure of the Inspector General, which is currently ongoing process, the Ministry of Defence will seek to modify the previous way of the Inspector General's functioning and this is also one of the recommendations *de lege ferenda* imposed by the Ombudsman. The position of the Ombudsman is as follows: "The prohibition and not making available information on the activities that are in progress to the organs of control and supervision is outdated and obsolete concept of work". He cited, as examples, institutions supervision department in Belgium and Sweden.

Also, we point out that after each inspection conducted in a controlled entity, the Defence Inspectorate submits an order for removal of deficiencies observed during the inspection. All subjects covered by this order are required to inform the Inspectorate on the eliminated deficiencies and to submit evidence in this regard. In this way, the Defence Inspectorate affects the controlled entity after the inspection as well, by carrying out preventive action.

Additionally, the statement which claims that the Defence Inspectorate has "weak competence and insufficient resources" is not true. Resources of the Defense Inspectorate are sufficient and allow the accomplishment of tasks in accordance with the prescribed competencies. At the meeting held on 24<sup>th</sup> April 2014 in the Ministry of Defence, the representative of the Defence Inspectorate pointed out that the assistance from other inspecting groups outside the Ministry of Defence that is used in the work of the Defence Inspectorate does not mean that the resources of the Defence Inspectorate are insufficient, rather it means that the assistance of those groups is necessary for other reasons, namely that they are experts in specific fields. In other cases personnel of the MoD and SAF (also experts in specific areas) is being engaged to reinforce inspection teams.

As for the other allegations, we emphasize the following:

The Defence Inspectorate, in realization of its legal responsibilities, deals with corruption not only through inspection of operational ability (and not readiness), but through all areas of inspection control, such as inspection controls of material and financial operations, construction activities, labor relations, administrative procedures, obligations of defense (military, labor and material obligation), etc.

The Defence Inspectorate does not have weak jurisdiction and insufficient resources. The Law on Amendments to the Law on Defense has just amended and enhanced competencies and clarified and explained certain issues, thereby creating conditions for further upgrading the Defence Inspectorate's work.

The Rules of Procedure of the Defense Inspectorate (published in Official Military Gazette 26/15) came into force in 02.10.2015.

**Suggested score:** 3

**TIUK.DEF9: Does the public trust the institutions of defence and security to tackle the issue of bribery and corruption in their establishments?**

**Opinion:** Agree

**Comment:** /

**Suggested score:** /

**TIUK.DEF1.10: Are there regular assessments by the defence ministry or another government agency of the areas of greatest corruption risk for ministry and armed forces personnel, and do they put in place measures for mitigating such risks?**

**Opinion:** Disagree

**Comment:** Representatives of ACA (Anti-Corruption Agency) stated that assessments which are carried out in cooperation with representatives of MoD and SAF, have been performed using the method from general to individual. Firstly, areas with corruption risks were identified, and then employers gave their assessments of corruption risks in particular areas, processes and individual activities.

**Suggested score:** 3

1-2 Defence Budgets
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**TIUK.DEF 1.11: Does the country have a process for acquisition planning that involves clear oversight, and is it publicly available?**

**Opinion:** Agree

**Comment:** State has planning process which includes clear scrutiny.

The process of creating the Public Procurements Plan exists in application which is specially designed for planning and reporting about public procurements. Ordering party (one of them is the MoD) in deadlines prescribed by the law, submits Public Procurements Plan through electronic communication to the Department for Public Procurement. Obligation of the Department for Public Procurement is to submit those plans to the State Audit Institution. Reporting act (quarterly and annually reports) is realized in the same way. The Public Procurements Plan and quarterly reports about its realization have been published on the MoD web site within the Information Booklet on the MoD work.

Considering procurement plans in the area of defence and security (according to articles 127. and 128. of the Law on Public Procurements), plans are submitted to the Minister of defence for approval, and the Plan, according to the article 127. of the Law on Public Procurements, is submitted to the Government of the Republic of Serbia which adopts Conclusion on implementing the acts and informs about that the Committee for defence and internal affairs of the National Assembly of the Republic of Serbia.

The MoD controls the process of planning on the following levels:

- Initiator – internal financial control and control of purposefulness of procurement,
- The General Staff of the SAF – The Head of the SAF General Staff proposes the Equipment Plan of the SAF, and the Minister of defence approves it,
- On the level of completing the Procurements Plan – the Department for Procurement controls the compliance with conditions prescribed by the laws.

In the MoD, the process of the execution (of procurement) is controlled by:

- Defence Inspectorate for all procurements,
- Internal Audit of the MoD,
- Military Security Agency, from the aspect of access to secret information and industrial security,
- Directorate for Property and Legal Affairs, from the aspect of correctness of submitted contracting relation.
- Accounting Centre, from the aspect of accuracy of the payroll documentations.

Monitoring of the process of procurement planning, on the state level, is executed by:

- Department for Public Procurement,
- State Audit Institution,
- Budget inspection.

**Suggested score:** 3

**TIUK.DEF 1.12: Is the defence budget transparent, showing key items of expenditure? This would include comprehensive information on military R&D, training, construction, personnel expenditures, acquisitions, disposal of assets, and maintenance.**

**Opinion:** Agree

**Comment:** Programme budget model is stipulated by the Law on Budget System and it has been entirely applied at all levels of government, starting from the preparation of the budget for 2015. Program structure of the MoD contains two programs and 27 program activities, as well as projects

inside them. In the Law on the Budget of the Republic of Serbia for 2015, for each program all program activities (or projects) are shown separately, with individually allocated funds appropriations.

The defense budget is divided into three functions: military defense, civil defense (crisis management) and defense elsewhere classified (for the budget fund for financing the housing needs of professional members and employees of the MoD).

Source:

1) The Law on the Budget of the Republic of Serbia for 2014]. "Official Gazette RS", 142/2014: Subchapter 18 and 18.1.

**Suggested score:** /

**TIUK.DEF1.12A: Is there a legislative committee (or other appropriate body) responsible for defence budget scrutiny and analysis in an effective way, and is this body provided with detailed, extensive, and timely information on the defence budget?**

**Opinion:** Disagree

**Comment:** An Annual financial report on the expenditure of funds assigned for financing of defence of the Republic of Serbia is submitted to the Treasury of the Ministry of Finance of the Republic of Serbia in the form, content and deadlines, accordant to the regulations of the budget system of the Republic of Serbia. The final account of the budget of the Republic of Serbia also includes the data on the expenditures of the Ministry of Defence. Financial data from the report on expenditures are publicly available through the Treasury, through which all payments are made.

Pursuant to the Article 229 of the National Assembly Rules of Procedure, which regulates issues of informing the relevant committees on the work of ministries, the Secretariat of the MoD prepares the information on the work of the Ministry of Defense, which also includes the data on quarterly implementation of the financial plan and it forwards them to the Committee for Defence and Internal Affairs of the National Assembly.

**Suggested score:** 3

**TIUK.DEF1.12B: Is the approved defence budget made publicly available? In practice, can citizens, civil society, and the media obtain detailed information on the defence budget?**

**Opinion:** Agree with comments

**Comment:** The reason for delayed response of the Ministry of Defence to requests for information of public importance is not the lack of capacity of the Ministry of Defence, but a complex structure of the MoD and tight deadlines for all kinds of responses (15 days).

**Suggested score:** /

**TIUK.DEF1.13: Are sources of defence income other than from central government allocation (from equipment sales or property government allocation (from equipment sales or property disposal, for example) published and scrutinised?**

**Opinion:** Disagree

**Comment:** The funds from the budget and other sources of funding are approved by the Budget Law of the Republic of Serbia.

Other sources of funding are:

➤ Income from sale of non-financial assets (source 09)

- Income from repurchase of apartments owned by the state;
  - Income from sale of real estate of the SAF - Master Plan and
  - Income from sale of movable property.
- Donations (sources 06 and 08)
- Contracted donations (international, domestic).
- Part of own income from the specific activity (source 04)
- Research,
  - Education,
  - Development,
  - Modernization,
  - Overhaul
  - Production and trade,
  - Testing,
  - Quality control and codification of armament and military equipment and
  - Metrology activities.

On the basis of amendments to the Budget system law, starting from 2013, own revenues were abolished for all spenders, including the MoD, but later, starting from 1st of January 2014, the MoD got the opportunity to handle a smaller portion of revenue, obtained from performing specific activities.

When they are not used in the current year, these revenues and incomes are transferring to the next year (approved by the Budget Law) and become the source 13 or 15.

The MoD can only take obligations up to the level of their realization - charging of these incomes or receipts but only if the level of generated incomes and receipts is lower than the approved appropriations.

If realized i.e. repaid revenues are higher than the planned, the MoD, in accordance with the regulations for the budget system, submits a request to the Ministry of Finance of the Republic of Serbia to increase appropriations. Only if the appropriations are increased, the MoD can use incomes higher than planned.

The MoD has no separate accounts for revenue collection, but all subaccounts, that record incomes, are located in the Ministry of Finance of the Republic of Serbia..

**Suggested score:2**

**TIUK.DEF 1.14: Is there an effective internal audit process for defence ministry expenditure (that is, for example, transparent, conducted by appropriately skilled individuals and subject to parliamentary oversight)?**

**Opinion:** Agree

**Comment:** The Internal Audit Unit of the MoD was established in 2010 and of five job positions, according to the Rules on job positions classification, four are filled, namely: the position of Head of the Unit and three job positions for internal auditors. Three of the four auditors are certified as internal auditors and one auditor, after theoretical training, must undergo the practical training under supervision of auditors from the Ministry of Finance. The Department for Organization of the MoD requested the increase of the number of job positions in the Unit for four executors. So far, the auditors have conducted 20 audits and given 232 recommendations in relation to the following:

public procurement, employment, personal income, business trips abroad, donations, office administration and others.

Internal auditors of the Ministry of Defence have received safety certificates for the level of classification "TOP SECRET".

The system of internal audit in the public sector of the Republic of Serbia is set so that auditors' findings inform the manager of the organization in which they are employed. There is no obligation on the auditor to inform its recommendations to the Government, as it is regulated in some European countries. The only obligation is to submit, until March 31, a report on the results achieved in the previous year to the Ministry of Finance, that is, to the Central Unit for Harmonization. Reports of internal auditors are the property of users of public funds and they are treated the same way as all documents that are marked with different degrees of secrecy.

On that basis, we believe that the claim that the Internal Audit Unit of the MoD "lacks the transparency or parliamentary scrutiny or both" is untrue, because it acts on the same way as it is systemically set out in whole public sector of the Republic of Serbia.

In accordance with its obligation under Article 81 of the Budget System Law, the MoD, as budget beneficiary, started with the implementation of financial management and control (hereinafter referred to as FMC) in 2011.

The implementation of FMC in MoD and the SAF is an upgrade in comparison with the earlier developed system of supervision and internal controls which has been developed in the MoD for many years.

By decisions of the Minister of defence, the Deputy Minister for budget and finance has been appointed as a person responsible for financial management and control in MoD and SAF, while the heads of organizational units of the MoD and of administrative bodies within the MoD are identified as persons responsible for establishment and development of FMC in organizational units to which they are heads of.

The Plan of Activities for the implementation of financial management and control in MoD and SAF (hereinafter: Plan of Activities) is adopted in January 2011. In accordance with the Plan of Activities, the following activities were carried out in 2011:

- The training of personnel responsible for the implementation of FMC is completed in organizational units of MoD and SAF, as well as the training of members of the working groups. The training was carried out by the Sector for Internal Control and Internal Audit of the Ministry of Finance and Economy of the Republic of Serbia, which is responsible for defining common criteria and standards for the establishment and functioning of financial management and control in the public sector, as well as to monitor the implementation and evaluation of the quality of financial management and control in the public sector,
- The list and description of business processes on the level of all beneficiaries of funds was made,
- Business processes maps on the level of all users were made.

Based on the activities carried out during 2011 the preconditions were created for the implementation of the most important activities for the full establishment of the FMC system in MoD and SAF in 2012, which were aimed at managing risks for the achievement of the goals to reduce them to an acceptable level.

Risk management, as an element of the FMC system, is an essential upgrade of the earlier system of supervision and internal control in MoD and SAF.



The starting point for successful risk management in MoD and SAF is the Risk Management Strategy, approved by the Minister of defence in April 2012, with a goal to:

- Provide a unified framework for identifying, assessment, solving, monitoring and reporting on risk management at all levels,
- Ensure that the risk management covers all areas of risk,
- Define the roles, authorizations and responsibilities in the risk management process.

The process of identifying and assessing risks is completed at all levels, by which patterns of risk management and risk registers are formed at all levels of beneficiaries of funds in MoD and SAF, with the caveat that the process of identification and risk assessment is a permanent process.

The process of assessing the adequacy of existing control activities is completed as well as the proposals for their possible modifications or introduction of new control activities (also a permanent process), in order to reduce the risk to an acceptable level.

Strategic risk register of MoD and SAF is adopted, in accordance with the Risk Management Strategy and it is established within the Budget and Finance Sector.

By establishing the Register of risks at the level of the beneficiaries of funds and the Registry of strategic risk of the MoD all the activities included in the Action Plan are practically implemented, by which the cycle of implementation of FMC system in MoD and SAF is concluded.

Also, in accordance with its obligation under Article 81 of the Budget System Law, in March 2013, the Ministry of Finance and Economy of the Republic of Serbia, submitted the Annual Report on the system of financial management and control of the MoD for the year 2012.

During the contacts that the Department of Budget and Finance had with the Department of Internal Control and Internal Audit of the Ministry of Finance and Economy, and in realizing the training in MoD and SAF, representatives of that sector repeatedly stressed the fact that the MoD, compared to other budget users, is the most advanced in the implementation of FMC.

This fact was also said in point 3. (The Accounting system) of the State Audit Institution Report on audit of the component parts of the financial reports of the MoD for 2012 (Paragraph 3), which was published at the following link [http://www.dri.rs/images/pdf/revizija2013/1\\_26122013\\_13.pdf](http://www.dri.rs/images/pdf/revizija2013/1_26122013_13.pdf).

Regarding the comment that “regular quarterly reports which are submitted to the Committee for Defence and Internal Affairs indeed contain information on budgetary expenditures, but it is unclear whether some of them include the results of internal audits”, we can say that the quarterly report of the MoD for the Committee for Defense and Internal Affairs, for July-September 2014, contains the main activities of internal audit of the MoD for that period, containing the following: in the reporting period “Compensation for housing costs” were revised in the Social Insurance Fund for the Military Personnel. Because of detected weaknesses, 14 recommendations for improvement of the audited system were given. Also, on 23 September 2014, an extraordinary audit of the Military Medical Academy began, where the subject of the audit was “Negotiated procedure without publication of public procurement calls for submitting proposals with the doo Magna Pharmacia”.

In the explanation of the interviewer, remains that “it is not foreseen that the Defence Inspectorate reports to the National Assembly, so that lawmakers can rely only on the information obtained from the Ministry”. Our comment on this finding would be: Article 28, paragraph 3 and 4, of the Rules of Procedure of the Defense Inspectorate stipulates that “The Annual Report on the implementation of the Plan of inspection with the analysis of the situation in the work of Defense Inspectorate, the

Director of the Defense Inspectorate shall submit to the Minister of defense and the President of the Republic until 31 January of the current year for the previous year”.

Also, pursuant to Article 32, paragraph 1 and 2 of the Rules of Procedure of the Defense Inspectorate, monthly reports are also being delivered, both to the President of the Republic and to the Minister of Defence. Such an obligation derives from Article 18, paragraph 2 of the Law on Defense, which stipulated that Defence Inspectorate regularly reports to the President and Minister of Defence on the determined findings.

Proof:

- Report of the Ministry of Defence Committee on Defence and Internal Affairs, for July-September 2014 and
- Rules of Procedure of the Defense Inspectorate, “Official Military Gazette“, no. 26/15.

**Suggested score:** /

**TIUK.DEF 1.15: Is there effective and transparent external auditing of military defence expenditure??**

**Opinion:** Disagree

**Comment:** Lately, the influence of the State Audit Institution on the work of government authorities has been significantly enhanced. The proof is the fact that the State Audit Institution in 2014 inspected the use of motor vehicles in MoD and SAF and found that the MoD is the only state administration authority which has a fully regulated and controlled system of the use of motor vehicles.

**Suggested score:** 3

#### 1-3 Nexus of Defence and National Assets

**TIUK.DEF 1.16: Is there evidence that the country's defence institutions have controlling or financial interests in businesses associated with the country's natural resource exploitation and, if so, are these interests publicly stated and subject to scrutiny?**

**Opinion:** Disagree

**Comment:** When considering this issue it should be taken into account that the economic potential of these properties is very small compared to the assets held by the Ministry of Defence. See also comment to the question No. 30

**Suggested score:** 3

#### 1-4 Organized Crime

**TIUK.DEF1.17: Is there evidence, for example through media investigations or prosecution reports, of a penetration of organized crime into the defence and security sector? If no, is there evidence that the government is alert and prepared for this risk?**

**Opinion:** Agree

**Comment:** Cooperation of MSA, Military Police, Ministry of Interior and the Prosecutor's Office for Organized Crime has been demonstrated in case of the arrest of six persons 04/06/2014 suspected for the crime of abuse of official position regarding the sale of surplus armament and military equipment.

(<http://www.rts.rs/page/stories/sr/story/135/Hronika/1614816/Hap%C5%A1enja+zbog+prodaje+naoru%C5%BEanja.html>).

Based on a common criminal charges of the Military Police and Military Intelligence Agency, on August 25th 2014, three former members of the MoD and SAF were deprived of their liberty and criminal charges were filed against them on reasonable suspicion for having committed the criminal offense of abuse of official power during the acquisition of three-dimensional radar in the amount of about 4.45 million EUR.

(<http://www.novosti.rs/vesti/naslovna/hronika/aktuelno.291.html:508803-Zbog-mucki-sa-nabavkom-vojne-opreme-uhapsen-bivsi-direktor-Tehnickog-opitnog-centra>).

Military Security Agency, in cooperation with the Military Police, discovered two cases of corruption - in military healthcare system and in field of resolving personnel issues of members of the MoD and SAF (human resources management).

In the first case, on December 12th 2014, four persons (two doctors, employed at the MoD, and two civilians) were deprived of their liberty suspected of several criminal offenses of bribery and abuse of power in connection with the provision of medical services, prescribing and the verification recipes for the issuance and sale of orthopedic devices, by which certain companies are favored with the aim to obtain substantive benefit. ([http://www.mod.gov.rs/sadrzaj.php?id\\_sadrzaja=7619](http://www.mod.gov.rs/sadrzaj.php?id_sadrzaja=7619))

In the other case, on December 22nd 2014, a person employed in the MoD was arrested for corrupt activities in resolving personnel issues in MoD and SAF (human resources management). Five persons have been interrogated as the suspects (three of SAF members and two civilians). Against the above stated persons criminal charges were filed for criminal offenses of bribery and trading in influence. ([http://www.mod.gov.rs/sadrzaj.php?id\\_sadrzaja=7667](http://www.mod.gov.rs/sadrzaj.php?id_sadrzaja=7667))

Apart from criminal prosecution before the relevant courts of Serbia, for all the personnel of the MoD and SAF, holders of corruption and other criminal activities in the aforementioned cases, the authorities have initiated command and disciplinary accountability to the military disciplinary courts.

**Suggested score:** /

**TIUK.DEF1.18: Is there policing to investigate corruption and organised crime within the defence services and is there evidence of the effectiveness of this policing?**

**Opinion:** Agree

**Comment:** From the standpoint of legal jurisdiction, MSA is responsible for collection of evidence for corruption offences (abuse of official position, active and passive bribery, trading in influence and money laundering) and organized crime offences.

Thanks to the measures taken earlier, after the discovery of an organized criminal group, in the defense system in a longer period (since 2009) there was no organized criminal activity. There have been cases of abuse of official position, where the MSA applied its powers based on the directions and management of authorized prosecutors and courts, and work on these cases was carried out strictly in accordance with the Law on MSA and MIA, as well as the Law on Criminal Procedure. Given the sensitivity of this issue, in accordance with the legal provisions, MSA is obliged to respect the presumption of innocence for all persons against whom the measures are taken and which are under the procession in the competent courts, until they are legally convicted and found guilty. The public is regularly informed of certain actions taken from the MSA against executors of corruption

offences. These individual cases did not represent a significant security threat to the defense system. Besides that, it is important to note that there is a good starting point for assessing that, in the defense system the level of corruption risk is lower, because the internal organization of MoD and SAF provides that all persons who are admitted to work in MoD and SAF, as well as persons who are within MoD and SAF allocated to the responsible duty, are subject to security checks in accordance with the Rules of the Vetting Procedures Performed by MSA (published in the "Official Military Gazette" no. 18/2010).

**Suggested score:** /

1-5 Control of Intelligence Services
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**TIUK.DEF1.19: Is there policing to investigate corruption and organised crime within the defence services and is there evidence of the effectiveness of this policing?**

**Opinion:** MoD is not qualified for this question.

**Comment:** /

**Suggested score:** /

**TIUK.DEF1.20: Are senior positions within the intelligence services filled on the basis of objective selection criteria, and are appointees subject to investigation of their suitability and prior conduct?**

**Opinion:** Agree

**Comment:** Regarding recruiting staff for MSA, the Law on MSA and MIA clearly and unambiguously prescribes the manner of performing the selection and appointment of directors of MSA and the MIA and their deputies.

Besides that, recruitment of MSA personnel is in more detail prescribed in the Regulation on Specific Criteria and Procedure for Admission to Employment and Termination of Employment in MSA and MIA ("Official Gazette of the Republic of Serbia", No. 86/2010, which points to the fact that the recruitment of staff, from the lowest to the highest levels is completely transparent).

Selection criteria for the position of director of MSA and MIA are regulated by the Law on MSA and MIA, which provides that only persons who have finished the War College and who have previously obtained at least nine years of experience in intelligence and security affairs can be appointed as directors of these agencies.

The Law on Defence defined the intelligence and security operations as security, counterintelligence, intelligence and military police operations. The accurate determination of the listed tasks has been stipulated by the Law on MSA and MIA and the Law on Serbian Armed Forces.

In addition to the above, a person being appointed as a director of the MSA or MIA must fulfill the conditions stipulated by the Regulation on the Specific Criteria and Procedure of Admission to Employment and Termination of Employment in MSA and MIA, which means that they must fulfill security, professional and psychological-medical criteria.

The current directors of the Military Security Agency and Military Intelligence Agency were appointed by the Decree of the President of the Republic of Serbia in November 2014.

**Suggested score:** /

**TIUK.DEF1.21: Does the government have a transparent and well-scrutinised process for arms control decisions that align with international protocols? (Please specify which protocols apply.)**

**Opinion:** Disagree

**Comment:** The following bylaws have not been adopted yet, so by the time of their adoption, the previously issued documents remain in power: Decision on criteria for issuing licenses for the export of weapons, military equipment and dual-use goods, the Rulebook on keeping the register of persons who may perform foreign trade in controlled goods, the Rulebook on forms of requests for the issuance of permit, license form and other forms that accompany foreign trade in controlled goods.

The legal act regulating area of dual-use goods export is the Law on Export and Import of dual-use goods. It is also in jurisdiction of the Ministry of Trade, Tourism and Telecommunications.

By-laws defined the national control lists, namely the National Control List of Armament and Military Equipment (NCL AME) and the National Control List of Dual-Use Goods. Both lists are fully harmonized with those adopted by the EU and are being updated annually.

Import and export of armament and military equipment may be performed only on the basis of a license issued by the Ministry of Trade, Tourism and Telecommunications, and can be performed by the physical and legal entities registered for performing those activities by the competent ministry.

After conducted procedure of registration in the Register, the responsible Ministry issues a Decree for period of 5 years, while the mode of keeping the Register, the registration procedure and the required documents are regulated by the Rulebook on Keeping the Register of Persons who May Perform Foreign Trade in Controlled Goods.

For performance of individual transaction of export, import, brokering or providing technical assistance with a known amount and type of armament and military equipment or services of technical assistance, under the conditions stipulated by contract, a person submits a license request to the responsible ministry.

Before decision-making on a specific request, the relevant ministry (Ministry of Trade, Tourism and Telecommunications) provides the approval of the Ministry of Foreign Affairs, Ministry of Defence, Ministry of Interior and Security Information Agency.

In process of granting approval for issuance of permits, the relevant ministries, among other activities, consider the criteria taken from the EU Code of Conduct on Arms Export.

In case that one of the relevant ministries withholds consent on issuing permits the Government decides on the issue.

The relevant ministry has the possibility to subtract, change or terminate licenses already issued in the following cases: if the license was issued on the basis of false information or the conditions have changed significantly since issuing of the license; that a foreign trade deal jeopardized the security, foreign policy and economic interests of Serbia, or that the exporter/importer has ceased to comply with the conditions under which the license was issued.

Between all relevant authorities, as well as with the Customs Administration and the Directorate of Civil Aviation, there is a good communication while sensitive cases are often being resolved through inter-ministerial harmonization, according to the competency of individual agencies.

The Annual Report on Performed Foreign-Trade Transfer of Controlled Goods for 2012 was adopted in July 2014. The period covered by this report includes time from 01/01/2012 to 31/12/2012. The reason for so "long" period of preparation of the report was necessity to present the implementation of all permits issued in 2012, to which validity term expired in late 2013. Our report is one of the few reports that, in addition to review of permits issued, also contains information on their implementation.

The draft of the Annual Report on the Transfers of Controlled Goods for 2013 is in the intersectional process of harmonization.

After adoption by the Government, the Annual Report on the Transport of Controlled Goods is being published in the Official Gazette of the Republic of Serbia and delivered to the National Assembly of the Republic of Serbia for information.

In August 2013 the Republic of Serbia signed the Arms Trade Treaty (ATT), that was ratified by adoption of the Law on Ratification of the Arms Trade Treaty (Official Gazette of RS-International Treaties No. 14-14).

Since adoption of the UNSC Resolution 1540, which referred to proliferation of nuclear, biological and chemical weapons as the main threat to international peace and security, there has been underlined the obligation of all States Parties to adopt and implement effective laws, as well as to apply them in practice through establishment of national control systems in this area and taking measures for their implementation. In this regard and in order to promote efficient system of import and export control of armament, military equipment and dual-use goods, the Republic of Serbia adopted the National Action Plan for Implementation of the Resolution 1540 (in April 2012), and established the Working Group for Implementation of the NAP. The updated version of the Matrix and the National Report under this resolution were submitted in April 2014.

In April 2013, the Republic of Serbia became a full member of the export control regime of the Nuclear Suppliers Group (NSG). Application for membership of the Wassenaar arrangement is pending.

There is also is pending another law from this area - the Bill on International Limitation Measures.

In terms of the ATT clauses relating to corruption, in accordance to the Law on Export and Import of Armament and Military Equipment, when deciding on the issuance of permits, it is being considered whether or not such exports might have negative impact on relationship between the government-end user and the international community, particularly on the government-end user's attitude to terrorism, international organized crime and application of international law.

This law also envisages exchange of information on export and import of NGOs and brokers with other countries and international organizations, in accordance with the international obligations of the Republic of Serbia.

The Criminal Code of the Republic of Serbia, among other issues, defines punitive measures in cases of illegal manufacture, trade and possession of weapons prohibited for use, violation of sanctions imposed by the international organizations, terrorism and the financing of terrorism, terrorist association as well as conspiracy in order to commit criminal activities.

**Suggested score: 3**

2-1 Asset Disposals

**TIUK.DEF1.22: How effective are controls over the disposal of assets, and is information on these disposals, and the proceeds of their sale, transparent?**

**Opinion:** Agree with comments

**Comment:** We agree with the score, but not with submitted conclusion.

**Suggested score:** /

**TIUK.DEF1.23: Is independent and transparent scrutiny of asset disposals conducted by defence establishments, and are the reports of such scrutiny publicly available?**

**Opinion:** Disagree

**Comment:** Finding of the SAI that the "internal audit is underdeveloped in most state institutions" corresponds to the condition in 2011. In the meantime, the Internal Audit Unit was staffed with a total of four auditors including three with the certificates. All recommendations made by the internal auditors (232 recommendations provided in 20 audits, March 1st, 2015) are based on objectively established state and systems weaknesses, so that the implementation of the recommendations will contribute to the improvement of individuals or organizational units and the MoD as a whole. Activities of internal auditors are based on a three-year Strategic Plan of internal audit, on which basis the Annual Work Plan is adopted. The starting point for the development of work plans are risks, so that the alienation of properties is the subject of interest for internal auditors when the level of risk is set as an indicator for planning activities.

As for the availability of audit reports, they are available as much as the reports of other users of public funds in the Republic of Serbia, namely, they are internal documents intended for management and as such are available to: audit subject, authority of the audit subject, if needed, and to the State Audit Institution in the form of the annual report to the Central Harmonization Unit of the Ministry of Finance.

Proof:

- Rulebook on common criteria for organization and standards and methodological guidelines for the conduct and reporting of internal audit in the public sector, "Official Gazette of RS, no. 99/11 and 106/13.

In accordance with the organizational and mobilization changes in the defense system, the surplus mobile assets are being defined, through the process of declaring surplus armament and military equipment (based on proposal of units-users of the assets), after which the tactical holder submits proposal to declare assets as surplus. The Decision on Declaring Surplus Mobile Assets, in accordance with the Decision on Empowers, is being issued by the relevant authority.

The next step is the procedure of sales which is implemented in accordance with the Regulations on Material Management in the MoD and SAF, then the decision-making process in accordance with the Decision on the Sale of Mobile Assets, which is being signed by the relevant officer (in accordance with the Decision on Empowers).

When the armament and military equipment (hereinafter referred to as AME) are concerned, the decisions are being issued by the Minister of Defence, in accordance with the Directive on the Method of Preparation of Materials and Acts within Jurisdiction of the MoD.

On the basis of the Decision on Sale, the relevant authority is being tasked to perform the process of sale of mobile assets, in accordance with the Decision on Empowers. The tender documentation is being developed, and for those mobile assets that are not AME, sales procedure is implemented by public announcement, in accordance with the Regulations on Material Management at the MoD and SAF. For AME, the sales process is implemented by inviting the companies registered for foreign trade and production.

Regarding AME, the sale can be performed on the national market, where only commercial companies that have permits to manufacture AME have right of participation (Law on Production and Trade of Weapons and Military Equipment), or on the international market, where the right of participation belongs to companies acting as commissioners, that are licensed by the Ministry of Trade for AME. (Regulation on Special Purpose Assets).

An auditor or “independent state organ” can perform control of the complete procedure and all the documents included in the process, and control of that kind was performed at the MoD during 3013, as well as in its subordinated unit responsible for sale and procurement of mobile assets.

All the listed documents, except publicly announced sales competitions, are not public documents, but they may be obtained for information, on a submitted request and after approval of the relevant organ.

Internal audit on implementation of the listed procedures is being performed within the MoD and SAF while independent control is being performed by the Defense Inspectorate.

References:

- Decision on Empowers for Procurement of Mobile Assets, Labor and Services and Disposal of mobile assets at the MoD and SAF, (Official Military Journal 1/14), Одлука о овлашћењима за набавку покретних ствари, радова и услуга и располагање покретним стварима у МО и ВС (СВЈ 1/14),
- The Rulebook on Material Management at the MoD and SAF (Official Military Journal 3/09, 2/10, 19/11 and 1/14), Правилник о материјалном пословању у МО и ВС (СВЈ 3/09, 2/10, 19/11 и 1/14),
- Directive on Mode of Preparation of Acts from Jurisdiction of the MoD (February 2011), Директива о начину припреме материјала и аката из надлежности МО (фебруар 2011. година),
- Law on Production and trade of Armament and Military Equipment (Official Gazette of the Federal Republic of Yugoslavia, No. 41/96, Official Gazette of Serbia and Montenegro, No. 7/2005 – other law), Закон о производњи и промету наоружања и војне опреме ("Сл. лист СРЈ", бр. 41/96, "Сл. лист СЦГ", бр. 7/2005 - др. закон и "Сл. гласник РС", бр. 85/2005 - др. закон),
- Regulation on Assets of Special Purpose (Official Gazette of R. Serbia, No. 82/2008 and 47/2010), Уредба о средствима посебне намене (СГ РС бр. 82/2008 и 47/2010).

**Suggested score:** 3

2-2 Secret Budgets

**TIUK.DEF1.24: What percentage of defence and security expenditure in the budget year is dedicated to spending on secret items relating to national security and the intelligence services?**

**Opinion:** Disagree

**Comment:** Through this question it is possible to evaluate the procurement of goods which have been implemented in accordance with the Plan of Procurement of Assets for Defense and Security which were implemented in accordance with the Regulation on the Procurement of Assets for Defense and Security. Small value purchases should not be classed as secret elements, because they are being planned and conducted in accordance with the Law on Public Procurement, and not applying the Regulation on the Procurement of Assets for Defense and Security.



In this regard, on the of level the Ministry of Defence, it is possible to present in percentage amounts of funds spent for these elements.

Accordingly, small value purchases cannot be classified as secret elements. Considered in this way, the share of secret elements of the MoD would be about 6 percent of the total budget. We believe that this question evaluates only elements of the budget that are completely inaccessible to the public and not small value purchases. Having in mind that the budget of MoD is significantly higher than the budget of other subjects of defence, we believe that the overall percentage of secret elements in all procurements could not be higher than 7 percent.

**Suggested score:** 2

**TIUK.DEF1.25: Is the legislature (or the appropriate legislative committee or members of the legislature) given full information for the budget year on the spending of all secret items relating to national security and military intelligence?**

**Opinion:** Disagree

**Comment:** The Regulation on the procurement of assets for defense and security is adopted. It entered into force on January 1st 2015.

**Suggested score:** 3

**TIUK.DEF1.26: Are audit reports of the annual accounts of the security sector (the military, police, and intelligence services) and other secret programs provided to the legislature (or relevant committee) and are they subsequently subject to parliamentary debate?**

**Opinion:** MoD is not qualified for this question.

**Comment:** /

**Suggested score:** /

**TIUK.DEF1.27: Off-budget military expenditures are those that are not formally authorised within a country's official defence budget, often considered to operate through the 'back-door'. In law, are off-budget military expenditures permitted, and if so, are they exceptional occurrences that are wellcontrolled?**

**Opinion:** Agree with comments

**Comment:** All defence expenditures are recorded in the official defense budget. There are no extra-budgetary expenditures of the MoD.

The provisions of Art. 174 through 175 of the Code of Criminal Procedure ("Official Gazette of RS", No. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013 and 55/2014) regulate simulated (business) deals. The afore mentioned provisions stipulate that simulated (business) deals as a special evidentiary action carry out on the basis of a reasoned order by the judge for preliminary proceedings, after a previously submitted proposal of the public prosecutor. Based on the above mentioned order, this special evidentiary action can be executed, among others, by the authorized person from the MSA.

**Suggested score:** /

**TIUK.DEF1.28: In practice, are there any off-budget military expenditures? If so, does evidence suggest this involves illicit economic activity?**

**Opinion:** Disagree

**Comment:** It is not known that in practice there has been recorded off-budget spending.

**Suggested score:** 4

**TIUK.DEF1.29:** In law, are there provisions regulating mechanisms for classifying information on the grounds of protecting national security, and, if so, are they subject to effective scrutiny?

**Opinion:** Agree

**Comment:** /

**Suggested score:** /

## 2-2 Military-owned Businesses

**TIUK.DEF1.30:** Do national defence and security institutions have beneficial ownership of commercial businesses? If so, how transparent are details of the operations and finances of such businesses?

**Opinion:** Disagree

**Comment:** Affairs that arise from business domains related to hunting, forest and wildlife are being fully implemented in accordance with laws and bylaws in effect. In that context they can be considered subject to public oversight. Forestry and hunting grounds of Military Institution "Morović" (which includes the section of "Karadorđevo") and Military Institution "Tara", are approved by the Ministry of Agriculture and the Environment Protection, which performs technical supervision over operations of these institutions relating to hunting, forest and wildlife and without consent of that Ministry no logging or hunting may be performed.

The Republic of Serbia, not the defense institutions, is the one that has ownership over significant commercial enterprises. Overseeing the management of these companies is responsibility of defense institutions, on behalf of the Government of the Republic of Serbia. Data on the operations and financial results of these companies are publicly available, while the details on their operations and finances which protect the security and defense interests are protected.

Also, a group of seven factories that produce weapons and military equipment is included in the category of important commercial enterprises: Prvi partizan, Krušik, Sloboda, Milan Blagojević-Namenska, Prva iskra - Namenska proizvodnja, Zastava oružje, and Prva petoletka Namenska.

These factories are bicameral joint stock companies constituted in accordance with the Company Law (9). The interests of the Republic of Serbia are secured through representation of members from the MoD in supervisory boards of those companies. The final bill for this company is regularly composed in accordance with the Law on Accounting and Auditing (10), and being submitted to the Business Registers Agency (11), after which those data are available to the public.

### SOURCES:

(1) The Air Force Technical Overhaul Institute "Moma Stanojlović", <http://www.vs.rs/index.php?content=4197f640-aa94-102e-9d5d-000c29270931>

(2) Technical Overhaul Institute "Kragujevac"  
<http://www.trzk.co.rs/Srpski/istorijat.htm>

(3) Technical overhaul Institute "Čačak"  
[http://www.trzcacak.rs/sr/o\\_nama.html](http://www.trzcacak.rs/sr/o_nama.html)

(4) Tourism and Recreation Military Institution „Tara“ [http://www.hotelitara.mod.gov.rs/sr/o\\_nama#.U1elrSeVrFI](http://www.hotelitara.mod.gov.rs/sr/o_nama#.U1elrSeVrFI)

(5) Tourism and Recreation Military Institution "Morović" <http://www.vumorovic.rs/>

- (6) Tourism and Recreation Military Institution "Dedinje" <http://www.vudedinje.mod.gov.rs/ोजना>
- (7) State Audit Institution: Report on Audit over the Ministry of Defence for 2012, page.10 available at: [http://www.dri.rs/images/pdf/revizija2013/1\\_26122013\\_13.pdf](http://www.dri.rs/images/pdf/revizija2013/1_26122013_13.pdf)
- (8) Answers of the MoD to the Questionnaire of the Belgrade Center for Security Studies: 1026-15/13, 5.3.2014.
- (9) The Company Law, Official Gazzette of R. Serbia 36/11
- (10) the Law on Accounting and Auditing, Official Gazzette of R. Serbia 46/06, 111/09, 99/11 and 62/13
- (11) Serbian Business Register Agency: [www.apr.gov.rs](http://www.apr.gov.rs)

**Suggested score:** 2

**TIUK.DEF1.31: Are military-owned businesses subject to transparent independent scrutiny at a recognised international standard?**

**Opinion:** Disagree

**Comment:** Finding of the SAI that the "internal audit is underdeveloped in most state institutions" corresponds to the condition in 2011. In the meantime, the Internal Audit Unit was staffed with a total of four auditors including three with the certificates. All recommendations made by the internal auditors (217 recommendations provided in 19 audits, September 26, 2014) are based on objectively established state and systems weaknesses, so that the implementation of the recommendations will contribute to the improvement of individuals or organizational units and the MoD as a whole. Activities of internal auditors are based on a three-year Strategic Plan of internal audit, on which basis the Annual Work Plan is adopted. The starting point for the development of work plans are risks, so that the alienation of properties is the subject of interest for internal auditors when the level of risk is set as an indicator for planning activities.

As for the availability of audit reports, they are available as much as the reports of other users of public funds in the Republic of Serbia, namely, they are internal documents intended for management and as such are available to: audit subject, authority of the audit subject, if needed, and to the State Audit Institution in the form of the annual report to the Central Harmonization Unit of the Ministry of Finance.

**Proof:**

- Rulebook on common criteria for organization and standards and methodological guidelines for the conduct and reporting of internal audit in the public sector, "Official Gazette of RS, no. 99/11 and 106/13.

In accordance with the organizational and mobilization changes in the defense system, the surplus mobile assets are being defined, through the process of declaring surplus armament and military equipment (based on proposal of units-users of the assets), after which the tactical holder submits proposal to declare assets as surplus. The Decision on Declaring Surplus Mobile Assets, in accordance with the Decision on Empowers, is being issued by the relevant authority.

The next step is the procedure of sales which is implemented in accordance with the Regulations on Material Management in the MoD and SAF, then the decision-making process in accordance with the Decision on the Sale of Mobile Assets, which is being signed by the relevant officer (in accordance with the Decision on Empowers).

When the armament and military equipment (hereinafter referred to as AME) are concerned, the decisions are being issued by the Minister of Defence, in accordance with the Directive on the Method of Preparation of Materials and Acts within Jurisdiction of the MoD.

On the basis of the Decision on Sale, the relevant authority is being tasked to perform the process of sale of mobile assets, in accordance with the Decision on Empowers. The tender documentation is being developed, and for those mobile assets that are not AME, sales procedure is implemented by public announcement, in accordance with the Regulations on Material Management at the MoD and SAF. For AME, the sales process is implemented by inviting the companies registered for foreign trade and production.

Regarding AME, the sale can be performed on the national market, where only commercial companies that have permits to manufacture AME have right of participation (Law on Production and Trade of Weapons and Military Equipment), or on the international market, where the right of participation belongs to companies acting as commissioners, that are licensed by the Ministry of Trade for AME. (Regulation on Special Purpose Assets).

An auditor or "independent state organ" can perform control of the complete procedure and all the documents included in the process, and control of that kind was performed at the MoD during 3013, as well as in its subordinated unit responsible for sale and procurement of mobile assets.

All the listed documents, except publicly announced sales competitions, are not public documents, but they may be obtained for information, on a submitted request and after approval of the relevant organ.

Internal audit on implementation of the listed procedures is being performed within the MoD and SAF while independent control is being performed by the Defense Inspectorate.

References:

- Decision on Empowers for Procurement of Mobile Assets, Labor and Services and Disposal of mobile assets at the MoD and SAF, (Official Military Journal 1/14), Одлука о овлашћењима за набавку покретних ствари, радова и услуга и располагање покретним стварима у МО и ВС (СВЈ 1/14),
- The Rulebook on Material Management at the MoD and SAF (Official Military Journal 3/09, 2/10, 19/11 and 1/14), Правилник о материјалном пословању у МО и ВС (СВЈ 3/09, 2/10, 19/11 и 1/14),
- Directive on Mode of Preparation of Acts from Jurisdiction of the MoD (February 2011), Директива о начину припреме материјала и аката из надлежности МО (фебруар 2011. година),
- Law on Production and trade of Armament and Military Equipment (Official Gazette of the Federal Republic of Yugoslavia, No. 41/96, Official Gazette of Serbia and Montenegro, No. 7/2005 – other law), Закон о производњи и промету наоружања и војне опреме ("Сл. лист СРЈ", бр. 41/96, "Сл. лист СЦГ", бр. 7/2005 - др. закон и "Сл. гласник РС", бр. 85/2005 - др. закон),
- Regulation on Assets of Special Purpose (Official Gazette of R. Serbia, No. 82/2008 and 47/2010), Уредба о средствима посебне намене (СГ РС бр. 82/2008 и 47/2010).

**Suggested score: 2**

2-4 Illegal Private Enterprise

**TIUK.DEF1.32: Is there evidence of unauthorised private enterprise by military or other defence ministry employees? If so, what is the government's reaction to such enterprise?**

**Opinion:** Disagree

**Comment:** In “Guidance for assessment” is stated for score 2 that “there is some evidence unauthorized private enterprise”, but in the explanation is stated that there is not any evidence of “unauthorized private enterprise”. Our opinion is that on this issue Serbian defense system should be scored with the 3 points.

In the Rule of Service of the SAF, the rights, duties and obligations of personnel of the Serbian Armed Forces are defined. It is stipulated that a member of the SAF can work for hire or reward out of the unit or can perform professional activity independently. Also, the Law on Amendments to the Law on the Serbian Armed Forces defined that work of the Serbian Armed Forces personnel for reward or outside the unit or independent performance of professional services is no longer sanctioned as a violation of discipline.

**Suggested score:** 3

### 3-1 Conscription and Recruitment

**TIUK.DEF1.34: Do the Defence Ministry, Defence Minister, Chiefs of Defence, and Single Service Chiefs publicly commit - through, for example, speeches, media interviews, or political mandates - to anti-corruption and integrity measures??**

**Opinion:** Agree

**Comment:** Commitment of the MoD and SAF to measures aimed to build integrity and suppress corruption has been demonstrated through adoption of the Plan of Activities on Building Integrity at the MoD and SAF in 2014 and 2015, through the need analysis and possibilities of MoD and SAF for training programs in BI (about what NATO has been informed), as well as through numerous public statements of the MoD and SAF representatives given on issues related to building integrity.

On several occasions, representatives of the MoD and SAF spoke in public on determination of the national defence system to achieve the “zero level of tolerance” for corruptive practices and to constant advancement of the state of integrity at the defence system of the Republic of Serbia. The Assistant Minister for Defence Policy gave a presentation at the NATO BI Conference in Monterey (USA) on 28th of February 2013. The presentation was very well taken and resulted with an invitation from the NATO side for a representative of the Serbian MoD to participate at the Conference of the States Parties to the United Nations Convention against Corruption, held in Panama (November 2013) where he was supposed to speak within the NATO Panel.

From 12th to 14th of April 2013, the Atlantic Council of Serbia organized a seminar named “Speak as you write and read as it was written II” which was tailored for journalists from the former Yugoslav area – specialists for issues of security and defence. Senior leaders of the MoD and SAF (ranked as assistant-ministers and heads of departments) participated at the seminar. Within the seminar, one of the given presentations was completely focused on participation at the NATO Building Integrity Programme.

In the interview of the Assistant Minister for Defence Policy, given to the Defence Magazine (Odbrana, 1st June 2013), one page of the text was covering importance of building integrity and international cooperation in that area.

In the Defence Magazine (Odbrana) from 1st of August 2013, an authorized article was published, aiming to bring closer to the entire personnel of the defence system importance of activities from BI area and anti-corruption, as well as the importance of the cooperation established between the MoD and the Transparency International Defence and Security Programme.

At the Embassy of the Slovak Republic (which is the official NATO Contact Embassy for Serbia), upon invitation from the NATO Military Liaison Office in Belgrade, a representative of Serbian MoD spoke in presence of defence representatives of the NATO-member states and participants of the NATO Partnership for Peace Process. The topic was participation of the MoD and SAF at the NATO BI Programme, as well as the goals, importance and results achieved of that program.

At the editorial office of the New Magazine, on July 17th 2013, a round table was held treating the issue “Whether or not Serbia-NATO relations are going to change after beginning of the negotiation process on the accession to the European Union?”. The assistant minister for defence policy spoke on it, also discussing, among other issues, on engagement of the MoD and SAF in area of building integrity and anti-corruption.

In period between June 2013 and April 2014, representatives of the Defence and Security Programme, Transparency International United Kingdom, visited the Serbian MoD 4 times. Each of those visits was covered with written information being published at the official web-site of the MoD, presenting the content of the dialogue.

On November 19th 2013, upon the invitation of the NATO International Staff, a representative of the Serbian MoD gave a lecture at the Armenian MoD (in Yerevan) on the methodology implemented and lessons learned by the MoD and the Serbian Armed Forces from the Building Integrity Self-Assessment and Peer Review process, performed in cooperation with the NATO, during 2012.

During 2014 the MoD joined the program “Partnership for Integrity in the Security Sector, which is being implemented by non-governmental organization “Belgrade Centre for Security Policy” and financially supported by the USAID. Within that Program, the first three-day inter-agency consultations of the Serbian Security Sector were organized in July 2014. Continuing the same Program, the first Conference was held on September 17th 2014. The Conference was attended by the US Ambassador in Serbia, Minister of Defence and the State Secretary at the Ministry of Defence who used this opportunity to declare in public devotion to goals of building integrity and anti-corruption.

Prove:

- Information on the regional seminar for media:  
[http://www.mod.gov.rs/sadrzaj.php?id\\_sadrzaja=5124](http://www.mod.gov.rs/sadrzaj.php?id_sadrzaja=5124)
- An interview of the Assistant Minister for Defence Policy, given to the Defence Magazine on June 1st 2013. Мирослав Јовановић, помоћник министра за политику одбране, Снага партнерства, Одбрана, 01. 06. 2013, pp 18-21.

**Suggested score:** /

**TIUK.DEF1.35: Are there effective measures in place for personnel found to have taken part in forms of bribery and corruption, and is there public evidence that these measures are being carried out?**

**Opinion:** Disagree

**Comment:** Score should be checked. Assessor graded this question with 3, and on TI UK web site score is still 2.

To the cases of abuse of official position there should be added a case of arrestment of 6 persons on 6th April 2014. (one of them was from the MoD) suspected for the crime of power abuse in connection with the sale of surplus armament and military equipment.

(<http://www.rts.rs/page/stories/sr/story/135/Hronika/1614816/Hap%C5%A1enja+zbog+prodaje+naoru%C5%BEanja.html>)

Based on a common criminal charge of the Military Police and Military Intelligence Agency, on 25 August 2014, three former members of the MoD and SAF were deprived of their liberty and criminal charges were filed against them on reasonable suspicion of having committed the criminal offense of abuse of official power during the acquisition of three-dimensional radar in the amount of about 4.45 million EUR.

(<http://www.novosti.rs/vesti/naslovna/hronika/aktuelno.291.html:508803-Zbog-mucki-sa-nabavkom-vojne-opreme-uhapsen-bivsi-direktor-Tehnickog-opitnog-centra>).

Military Security Agency, in cooperation with the Military Police, cut two cases of corruption - in military health and in field of resolving personnel questions of members of the MoD and SAF.

In the first case, on December 12th 2014, four persons were deprived of their liberty (two doctors, employed at the MoD, and two civilians) suspected of several criminal offenses of bribery and abuse of power in connection with the provision of medical services, prescribing and the verification recipes for the issuance and sale of orthopedic devices, by which certain companies are favored with the aim to obtain material benefits.

([http://www.mod.gov.rs/sadrzaj.php?id\\_sadrzaja=7619](http://www.mod.gov.rs/sadrzaj.php?id_sadrzaja=7619))

In the other case, on December 22nd 2014, a person employed at the MoD was arrested for corrupt activities in resolving personnel issues in MoD and SAF (human resources management). Five persons have been interrogated as the suspects (three of them SAF personnel and two civilians). Against the above stated persons criminal charges were submitted for criminal offenses of bribery and trade of influence.

([http://www.mod.gov.rs/sadrzaj.php?id\\_sadrzaja=7667](http://www.mod.gov.rs/sadrzaj.php?id_sadrzaja=7667))

**Suggested score:** 3

**TIUK.DEF1.36: Is whistleblowing encouraged by the government, and are whistle-blowers in military and defence ministries afforded adequate protection from reprisal for reporting evidence of corruption, in both law and practice?**

**Opinion:** Disagree

**Comment:** Whistleblowers Protection Law was adopted by the National Assembly of the Republic of Serbia, on 25th November 2014. This law regulates alerting, alert procedure, whistleblower rights, obligations of state and other agencies and organizations in connection with the corruption alert, as well as other issues of importance for alerting and protecting whistleblowers.

**Suggested score:** 3

**TIUK.DEF1.37: Is special attention paid to the selection, time in post, and oversight of personnel in sensitive positions, including officials and personnel in defence procurement, contracting, financial management, and commercial management?**

**Opinion:** Disagree

**Comment:** The MoD and SAF pay special attention to selection of persons appointed to sensitive positions, first of all for selection of best available candidates and reducing possibility for corruption to emerge.

In suppressing corruption, the MoD and SAF have developed tools such as: performing security background check for individuals being appointed to sensitive positions, considering propositions on the candidates for sensitive posts at the Personnel Council of the MoD and the Personnel Commission of the Chief of the General Staff, as well as rotation at sensitive positions after expiration of some time.

For individuals to be selected and appointed to sensitive posts, besides fitting to conditions previously defined in formation requests for the concrete post, it is also necessary to get a positive evaluation at the security background check, being performed by the Military Security Agency.

The process of implementation of security checks, the same kind of evaluation results and security checks prescribed by the Regulations of the vetting procedure performed by the Military Security Agency ("Official Military Gazette", no. 18/2010).

For appointment to office on sensitive positions at the MoD and SAF, a complete security check is being performed which includes research through evidence of the Military Security Agency, Military Police, Security-Informative Agency, Ministry of Interior Affairs, organizational units of the MoD and SAF, Justice system and other state organs. The research includes gathering relevant information on the individual being subject to the check and also relevant information on all the averaged members of a joint household. If necessary, an authorized officer of the Military Security Agency interviews the individual being subject to the check and other persons that he/she named in the questionnaire who might contribute to the check outcome.

Besides the previously listed, data are also being checked on the person subjected to the check and members of a joint household (named by the subject in the Questionnaire for Complete Security Check), by use of special procedures and measures of secret information gathering from jurisdiction of the Military Security Agency that do not request court approval. Interview with the person subjected to security check or with other persons listed in the security check questionnaire (who might contribute to relevance of the check) may also be applied.

Further on, during election of persons on sensitive positions for whose appointments the Minister of Defence is responsible, Personnel Council is formed in MoD, which considers all proposals for appointment of persons on sensitive positions and suggests to the Minister of Defence which persons to appoint.

In the work of Personnel Council participate: state secretaries, assistant-ministers, heads of independent departments, directors of the Military Security and the Military Intelligence Agency, Director of the Defence Inspectorate, Deputy-Chief of the General Staff of the Serbian Armed Forces and the Head of the Human Resources Department (J-1) of the General Staff of the Serbian Armed Forces.

At the level of the General Staff of the SAF for appointments from jurisdiction of the SAF General Staff, the Personnel Commission of the Chief of General Staff was established, having the same role as the Personnel Council at the Ministry of Defence. It is composed by the Deputy-Chief of General Staff, deputy-commanders of operative levels and heads of departments of the SAF General Staff.

Besides performing security checks and considering individuals proposed for appointment to sensitive positions at sessions of the Personnel Council and the Personnel Commission of the Chief of General Staff, there is an introduced mechanism of rotation at sensitive positions.

In general, rotation at sensitive positions is being performed after expiration of a period lasting from 2 to 4 years that a person spends at a sensitive post.



During 2014, an identification of specifically sensitive workplaces in context of building integrity and corruption risks was performed within the Serbian MoD. The categorization of sensitive posts was based on types of workplaces in which appointed individuals participate and the jobs that they perform. In first half of 2015, the list of sensitive positions was submitted to the organizational units of the MoD for review and eventual updating.

**Suggested score:** 3

3-2 Payroll, Promotions, Appointments, Rewards
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**TIUK.DEF1.38: Is the number of civilian and military personnel accurately known and publicly available?**

**Opinion:** Disagree

**Comment:** It is planned that the strength of the administrative part of the MoD, including the General Staff of the SAF, should be approximately 3% of the total strength of the MoD and the SAF. In the period until 2020, we will be striving to reach the following projected structure of personnel in the SAF: 15% of officers, 25% of non-commissioned officers, 45% of professional soldiers and 15% civilians.

**Suggested score:** 1

**TIUK.DEF1.39: Are pay rates and allowances for civilian and military personnel openly published?**

**Opinion:** Agree

**Comment:** /

**Suggested score:** /

**TIUK.DEF1.40: Do personnel receive the correct pay on time, and is the system of payment well-established, routine, and published?**

**Opinion:** Agree with the score, but not with the comment.

**Comment:** The two cases mentioned by assessor, in the considered period of 15 years, do not distort good practice. Particularly bearing in mind that one of the two cases is still unresolved, because in one of the disputes it is not clear which among governmental institutions is responsible for the payment of salaries.

The assessors (representatives of the BCSP) performed anonymous interviews with individual members of the MoD regarding certain issues. These sources and comments are questionable, cannot be verified, subjective in nature, and we believe that in this research should not be used.

**Suggested score:** /

**TIUK.DEF1.41: Is there an established, independent, transparent, and objective appointment system for the selection of military personnel at middle and top management level?**

**Opinion:** Disagree

**Comment:** The assessors (representatives of the BCSP) performed anonymous interviews with individual members of the MoD regarding certain issues. These sources and comments are questionable, cannot be verified, subjective in nature, and we believe that in this research should not be used.

Regarding provision of objectivity in appointments, we point out that the ranking of candidates for appointment is prescribed by applying the Criteria for the Establishment of a List of Candidates for Appointment to the Formation Position of Higher Rank, for Sending to Education and Training for Promotion to a Higher Rank. Also, when there is a need to fill a vacant post or to perform vertical and horizontal carrier movement of personnel, there is an established practice according to which organizational units are required to declare only the competencies that are necessary for appointment to the vacant structural position, instead of searching for individuals, i.e. for a specific person qualified to perform certain duties.

In this way, the assumption of personal relationship in appointments is being significantly reduced. Selection for appointment becomes more objective through proposing several candidates which are further being considered by advisory bodies composed of officers responsible for decision-making (collegia, staff councils, etc.). After such a process, selection is being conducted and a final proposal for appointment is submitted. For appointment and promotion of officers of the rank of colonel and above, as well as for sending individuals to education and training in the context of career development, which brings advancement and progress, Council for Human Resource Management is formed at the MoD. In addition to this, selection of personnel for certain appointments will be regulated precisely by creation of the mentioned new regulations on personnel selection and evaluation of persons in SAF and MoD.

**Suggested score:** 3

**TIUK.DEF1.42: Are personnel promoted through an objective, meritocratic process? Such a process would include promotion boards outside of the command chain, strong formal appraisal processes, and independent oversight.**

**Opinion:** Disagree

**Comment:** The assessors (representatives of the BCSP) performed anonymous interviews with individual members of the MoD regarding certain issues. These sources and comments are questionable, cannot be verified, subjective in nature, and we believe that in this research should not be used.

On the issue of provision of objectivity in appointments, we emphasize that during the selection of candidates for education and training, as well as promoting, the specified criteria are being applied: for composition of candidates lists, for appointment to posts of a higher rank, for sending personnel to education and training and for promotion to higher ranks.

We also state that, based on amendments to the Law on the Serbian Armed Forces, we acceded to creation of a new Regulation on Conditions in the Service of Professional Military Personnel and on Promotion of Officers and Non-Commissioned Officers, as well as on new regulations on personnel selection and evaluation of persons in the SAF and MoD. Those changes should significantly improve the promotion system. In addition, system of appointment by competence has been established which already improved the level of objectivity in promotion, as promotion is closely linked with appointments.

**Suggested score:** 3

3-3 Conscription and Recruitment
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**TIUK.DEF1.43: Where compulsory conscription occurs, is there a policy of not accepting bribes for avoiding conscription? Are there appropriate procedures in place to deal with such bribery, and are they applied?**

**Opinion:** Agree

**Comment:** /

**Suggested score:** /

**TIUK.DEF1.44: With regard to compulsory or voluntary conscription, is there a policy of refusing bribes to gain preferred postings in the recruitment process? Are there appropriate procedures in place to deal with such bribery, and are they applied?**

**Opinion:** Disagree

**Comment:** At the MoD and SAF there is only a voluntary military service.

**Suggested score:** 3

#### 3-4 Salary Chain

**TIUK.DEF1.45: Is there evidence of 'ghost soldiers', or non-existent soldiers on the payroll?**

**Opinion:** Agree

**Comment:** /

**Suggested score:** /

**TIUK.DEF1.46: Are chains of command separate from chains of payment?**

**Opinion:** Agree

**Comment:** /

**Suggested score:** /

#### 3-5 Values and Standards

**TIUK.DEF1.47: Is there a Code of Conduct for all military and civilian personnel that includes, but is not limited to, guidance with respect to bribery, gifts and hospitality, conflicts of interest, and post-separation activities?**

**Opinion:** Disagree

**Comment:** In the MoD and SAF the guidelines for conduct of MoD and SAF personnel related to gifts are clearly prescribed in the Directive on the Protocol at the MoD and SAF, which is in line with the Law on the Anti-Corruption Agency and the Rule on Gifts to Officials ("Official Gazette of RS" no. 81/2010). Accordingly, all organizational units of the MoD and SAF established commissions to record gifts received by their members.

**Suggested score:** 3

**TIUK.DEF1.48: Is there evidence that breaches of the Code of Conduct are effectively addressed ,and are the results of prosecutions made publicly available?**

**Opinion:** Agree

**Comment:** /

**Suggested score:** /

**TIUK.DEF1.49: Does regular anti-corruption training take place for military and civilian personnel?**

**Opinion:** Agree

**Comment:** In the MoD and SAF has been realizing, through regular training classes, trainings in the application of regulations governing: official correspondence and office operations in the SAF; procedures on gifts; act on such reports of corruption and ethical and professionally unacceptable practices; information and technological security in the SAF.

It is a fact that during 2013 and in first half of 2014, at the MoD and SAF, education and training from area of building integrity and anti-corruption used to be performed mainly through participation at courses, seminars and workshops that were organized within the NATO Building Integrity Programme, through seminars organized in Belgrade in cooperation with the Naval Postgraduate School of the US Armed Forces from Monterey and through sending personnel of the MoD and SAF to be trained at the Defence Academy of the United Kingdom (the last mentioned started in March 2013 and it is intended to be regulated in the future by a bilateral agreement on cooperation).

For participation at courses, seminars and workshops organized abroad, the NATO usually defined quotas of two representatives (equal for all the countries participating in the Program). However, written reports on participation of the MoD and SAF representatives at any course/seminar or workshop related to issues of building integrity were composed in detailed form and distributed to more than 20 relevant organizational units of the MoD and SAF. All the available material in electronic form (presentations, literature, conclusions of the workshop/seminar/course and proposals for future work) was attached to the reports too. Due to the described approach, the number of individuals and organizational units to whom the content of BI-related education and training became available, was multiplied, while conclusions and proposals from the reports were used for further planning and proposing measures related to building integrity.

When selecting participants of training programs performed during 2013, in most cases the applied approach was that one of two participants was the permanent Point of Contact for issues of building integrity (in order to provide continuity in informing) while the other one was selected after sending a request for proposition of candidates to relevant organizational units of the MoD and SAF, directly responsible for the topic of concrete education or training program. For example: Strategic Planning Department of the Defence Policy Sector sent its representative to the workshop treating corruption risks in a defence system which was held in Sarajevo, in March 2013. The Procurement Department of the Material Resources Sector was represented at the workshop in Sofia (April 2013) focused on integrity in procurement. Project Management Direction sent its representative to the NATO Defence Leadership in Building Integrity Course (in November 2013) and Personnel Department of the Human Resources Sector was represented at the workshop on integrity in human resources management, held in Chisinau (Moldova), in May 2014.

We especially highlight importance of organizing workshops on issues of building integrity and anti-corruption in Belgrade (in cooperation with NATO, DCAF and Office of the UNDP/SEESAC Serbia) during which it was possible to include at the same time in training programs over 30 officers and civil servants of the MoD and SAF, selected from various organizational units (but also servants from other governmental institutions that cooperate with the defence sector on issues of anti-corruption). From 18th to 20th of June 2013, the workshop on the topic „Integrity in Defence Budgeting and Finance“ was held. In days between 11th and 13th of June 2014, another workshop was organized on the topic „Integrity in Outsourcing and Public-Private Partnerships“ at which also over 30 officers and civil servants from the MoD and SAF took participation.

Workshop on the topic Building Integrity in Defence Procurement was realized in the period from March 30th to April 1th, 2015 in Belgrade. The lecturers were representatives of the "Transparency International UK" and Transparency Serbia. In the above workshop, the topic of corruption in

contracting in peacekeeping operations also was reviewed, as well as the use of external resources, public - private partnerships, and especially corruption and anti-corruption strategies, as well as procurement legislation in the EU.

An anti-corruption training for members of forces declared for operations abroad, given in phase of pre-deployment preparation, is planned to be regularly organized at the Peacekeeping Operations Centre, Joint operations Command, Headquarters of the Serbian Armed Forces.

**Suggested score:** /

**TIUK.DEF1.50: Is there a policy to make public outcomes of the prosecution of defence services personnel for corrupt activities, and is there evidence of effective prosecutions in recent years?**

**Opinion:** Agree

**Comment:** /

**Suggested score:** /

#### 3-5 Small Bribes and Favours

**TIUK.DEF1.51: Are there effective measures in place to discourage facilitation payments (which are illegal in almost all countries)?**

**Opinion:** Agree

**Comment:** /

**Suggested score:** /

#### 4-1 Disregard of Corruption In-Country

**TIUK.DEF1.52: Do the armed forces have military doctrine addressing corruption as a strategic issue on operations?**

**Opinion:** Agree

**Comment:** /

**Suggested score:** /

**TIUK.DEF1.53: Is there training in corruption issues for commanders at all levels in order to ensure that these commanders are clear on the corruption issues they may face during deployment? If so, is there evidence that they apply this knowledge in the field?**

**Opinion:** Agree with comments

**Comment:** In June 2014, an anti-corruption education module in the MoD and SAF was drafted, which will be implemented in pre-deployment phase for SAF forces. The present draft will be upgraded in cooperation with representatives of the Defense Academy of the United Kingdom and the Transparency International UK.

**Suggested score:** /

#### 4-2 Corruption within Mission

**TIUK.DEF1.54: Are trained professionals regularly deployed to monitor corruption risk in the field (whether deployed on operations or peacekeeping missions)?**

**Opinion:** Disagree

**Comment:** In multinational operations to which contingents of the SAF are being sent, contingents include instructed members of the Military Security Agency, who, among other issues, perform the tasks of general security and prevent criminal activities (including preventing corruption) of members of the contingent.

**Suggested score:** 2

#### 4-3 Contracting

**TIUK.DEF1.55: Are there guidelines, and staff training, on addressing corruption risks in contracting whilst on deployed operations or peacekeeping missions?**

**Opinion:** Disagree

**Comment:** In June 2014, an anti-corruption education module in the MoD and SAF was drafted, which will be implemented in pre-deployment phase for SAF forces. The present draft will be upgraded in cooperation with representatives of the Defence Academy of the United Kingdom and the Transparency International UK.

In addition to the previously stated, the MoD is currently implementing a significant number of activities related to building integrity before deployment to multinational operations.

Accordingly, the MoD of the Republic of Serbia sent the head of the Training Division / Center for Peacekeeping Operations / Joint Operations Command/ General Staff of the SAF to the first Course on Building Integrity for Senior Managers in the defense system, which was held at the Defence Academy of United Kingdom in Shrivenham, from 17th to 19th of March 2014.

In parallel, the talks were held with representatives of the Defence Academy of the United Kingdom, related to organization of courses on building integrity in pre-deployment phase for participants of multinational operations in the Republic of Serbia. Also, it is planned to send three representatives of MoD and SAF (one of whom shall be from the Center for Peacekeeping Operations) to the UK Defence Academy in 2015, in order to familiarize with the work of the UK DA and the Transparency International United Kingdom in the area of building integrity. The mentioned individuals will be teachers in BI training process, at courses that will, among other issues, also implement pre-deployment training to multinational operations.

Workshop on the topic Building Integrity in Defence Procurement was realized in the period from March 30th to April 1th, 2015 in Belgrade. The lecturers were representatives of "Transparency International UK" and "Transparency Serbia". In the above workshop, the topic of corruption in contracting in peacekeeping operations also was reviewed, as well as the use of external resources, public - private partnerships, and especially corruption and anti-corruption strategies, as well as procurement legislation in the EU.

Contracting during the engagement in operations abroad or peacekeeping missions is being carried out by internally prescribed procedure of the Center for Peacekeeping Operations. The prescribed procedure contains the basic principles of public procurement. Training of members of the MoD and SAF for 2015 is planned through two themes of common plan professional specialist training: First part of the year - Previous experience in the implementation of public procurement and Second part of the year - the implementation of public procurement procedure in the field of defense and security. Participants of mentioned thematic training are also members of the Center for Peacekeeping Operations.

**Suggested score:** 3

#### 4-4 Contracting

**TIUK.DEF1.56: Private Military Contractors (PMCs) usually refer to companies that provide operational staff to military environments. They may also be known as security contractors or private security contractors, and refer to themselves as private military corporations, private military firms, private security providers, or military service providers.**

**Opinion:** Agree

**Comment:** /

**Suggested score:** /

#### 5-1 Government Policy

**TIUK.DEF1.57: Does the country have legislation covering defence and security procurement and are there any items exempt from these laws?**

**Opinion:** Disagree

**Comment:** The Regulation on the Procurement Procedure in the Field of Defense and Security was adopted at the session of the Government of the Republic of Serbia on 1st of August 2014 and published in the "Official Gazette of RS", no. 82/14. Implementation of the Regulation started from 1st January 2015. By the end of 2014, the Decree on the Funds for Specific Purposes is being implemented ("Official Gazette of RS", no. 82/2008 and 47/2010) (2).

Adoption of the Regulation was prescribed by the Public Procurement Law and it represents a bylaw. The Regulation is compatible with the EC Directive 81/09.

With the mentioned Regulation, for the first time in the Ministry of Defence, transparency and civil control of the implementation of procurement raised to a higher level in accordance with European legislation and practice. The EU has highly positively assessed the progress in the enforcement of the Law on Public Procurement in Serbia, as well as of the work of the Directorate of Public Procurement ([www.blic.rs/Vesti/Politika/453587/Miscevic-Pozitivna-ocena-Brisela-za-oblast-javnih-nabavki](http://www.blic.rs/Vesti/Politika/453587/Miscevic-Pozitivna-ocena-Brisela-za-oblast-javnih-nabavki)). The Law on Public Procurement envisages exemption in certain cases in the implementation of procurement in the field of defense and security.

The Public Procurement Law does not apply to procurement:

- 1) for which contracts were allocated in accordance with international treaties that the Republic of Serbia concluded with another state or international organization;
- 2) that are indispensable and exclusively focused on the needs of intelligence activities;
- 3) which are carried out abroad, when military or police forces are deployed out of the territory of the Republic of Serbia, if operational needs require contracts to be concluded with companies or governmental entities in the area of operations;
- 4) in the framework of cooperation based on research and development of new products, which is being performed jointly by the Republic of Serbia and one or more states or international organizations, if applicable to the following phases of the whole or a part of the work and life cycle of the product;
- 5) where application of the public procurement procedure would lead to disclosure of information that are considered essential for security, on the basis of a Government's Decision.

**Suggested score:** 2

**TIUK.DEF1.58: Is the defence procurement cycle process, from assessment of needs, through contract implementation and sign-off, all the way to asset disposal, disclosed to the public?**

**Opinion:** Disagree

**Comment:** In December 2014, the Procurement Department of the Material Resources Sector at MoD, delivered the Instruction for Procurement Planning for 2015 to the holders of the program, program activities and projects. This document comprised normative framework for the preparation of procurement, defined dynamical plan of preparation, creation and adoption of plans and procurement. It also provided precise instructions for defining procurement cases, determining types of procedure and proposed organizational units of the MoD and SAF responsible to carry out procurement.

By adoption of the Law on the Budget of the Republic of Serbia for 2015 ("Off. Gazette of RS", No. 142/2014) funds were approved for funding the MoD by programs, program activities and projects. With adoption of the Decision on the Financing the Ministry of Defence of the Republic of Serbia for 2015 and the Decision on Amending Decision on the Financing the Ministry of Defence of the Republic of Serbia in 2015, conditions were created to develop and adopt the Procurement Plan for 2015 for the MoD and the SAF, in accordance with Article 51 of the Law on Public Procurement ("Off. Gazette of RS" no. 124/12, 14/15, hereinafter referred to as the Law).

The Defence Minister, within the legal deadline, passed Decision on the Adoption of Procurement Plan for 2015 in the MoD and the SAF. Integral parts of the Minister's Decision on adopting the procurement plan are:

- 1) The Procurement Plan (public procurement and procurement on which the Public Procurement Law does not apply), 30 January 2015
- 2) The Procurement Plan in the Field of Defence and Security, according to Article 127 of the Law (30th January 2015)
- 3) The Procurement Plan in the Field of Defence and Security under Article 128 of the Law (30 January 2015).

Procurements being undertaken under Article 39, paragraph 2 of the Law, shall be carried out in accordance with the Decision of the Authorization for the Purchase of Movable Property, Works and Services and the Disposal of Movable Property in the Ministry of Defence and the Serbian Armed Forces y ("Official Military Gazette", No. 1/14).

Needs of the Ministry of Defence for Procurement (equipping) are available for public inspection through the Strategic Planning documents issued at the level of the Republic of Serbia and are publicly available on the website of the Ministry of Defence.

Financial resources for conducting procurements for the current year and the implementation of projects for 3 years are available to the public through the Budget Law for the current year.

All the public procurements are advertised and available for examination at the Public Procurement Portal of the Republic of Serbia and the portal of the Ministry of Defence. Information about public procurement and procurement in the field of defense and security are available on web portals, while for purchases outside of the Public Procurement Law (Article 128), report has been delivering for the Government of the Republic of Serbia and the Committee on Defense and Internal Affairs of the National Assembly of the Republic of Serbia.

**Suggested score:** 3



**TIUK.DEF1.59: Are defence procurement oversight mechanisms in place and are these oversight mechanisms active and transparent?**

**Opinion:** Agree

**Comment:** Monitoring mechanisms:

On the level of the Republic of Serbia:

- Committee for Defence and Interior Affairs of the National Assembly of the R. of Serbia,
- The State Audit Institution (SAI),

On the level of the Government in the Ministry of Defence:

- Internal Audit Branch,
- Defence Inspectorate,
- The General Inspector of Services,
- Criminal investigative group.

On the level of the Material Resources Sector of the MoD:

- control of material and financial operations.

On the level of the Supply Department of the Material Resources Sector of MoD:

- internal control requirements for the procurement.

**Suggested score:** /

**TIUK.DEF1.60: Are actual and potential defence purchases made public?**

**Opinion:** Disagree

**Comment:** All the public procurements have been presented to the public.

Procurement in the area of defense and security is being realized in cooperation with the companies registered for foreign trade of armament and military equipment, and also with manufacturers of AME from the country.

For complex armament and military equipment the procurements are realized through the state-owned Public company "Jugoimport - SDPR", established by the Government of Serbia and fully owned by the Republic of Serbia.

The new Regulation on Public Procurement defines that:

- There is no exclusivity of state enterprises,
- Tenders are made public (not to the full extent of information);
- Competition is open.

**Suggested score:** 4

**TIUK.DEF1.61: What procedures and standards are companies required to have - such as compliance programmes and business conduct programmes - in order to be able to bid for work for the Ministry of Defence or armed forces?**

**Opinion:** Disagree

**Comment:** In the process of harmonizing the legislation of the Republic of Serbia with the EU *acquis communautaire* there has been a change in regulations relating to the procurement of goods,

services and works for the Ministry of Defence. The Law on Public Procurement ("Off. Gazette of RS", 124/12), for the first time, in the Republic of Serbia, in a unique way, arranged procurement system for the whole sector of defence and security, with a goal to archive greater transparency, oversight of public funds and competition.

Procurement of goods, services and works which includes (in whole or in part) the data that are being treated in accordance with the Law on Personal Data Protection, are being performed in accordance with the Regulation on the Public Procurement Procedure in the Field of Defense and Security (from 01 January 2015). The mentioned Regulation relates to the procurement of arms and military equipment according to the Decision on Establishing the National Control List of Weapons and Military Equipment, as well as the works and services to be procured for the needs of MoD, and contain protected information.

For participation in public procurement procedures in the field of defense and security, companies should fulfill the conditions stipulated by the Data Secrecy Law ("Off. Gazette of RS", no. 104/09), which refers to the certification of the company for access to classified information (basic level of security checks to access information classified "CONFIDENTIAL" and "RESTRICTED") and to meet the organizational and technical conditions for safeguarding of classified information, which will be delivered on the basis of the contractual relationship. These two areas are regulated by the Regulation on the Content, Form and Method of Delivery of Certificates for Access to Classified Information and the Regulation on Special Measures for Protection of Classified Information, relating to the determination of fulfillment of organizational and technical conditions on the basis of the contractual relationship.

Certification creates conditions for companies to participate in procurement procedures in defence and security sector, both with other public authorities in the Republic of Serbia or in other countries with which the Republic of Serbia has concluded and ratified international agreements on mutual exchange and protection of classified information. Certification of companies is carried out by the Office of the Council for National Security and Protection of Classified Information (NSA).

**Suggested score:** 2

#### 5-2 Capability Gap and Requirements Definition

**TIUK.DEF1.62: Are procurement requirements derived from an open, well-audited national defence and security strategy?**

**Opinion:** Disagree

**Comment:** These documents are not outdated and are still being applied. The National Security Strategy is a dynamic document and its constant improvement and adjustment is a permanent task of the highest competent state authorities. Defence Strategy is being reviewed and upgraded depending on the security situation in the neighborhood of the Republic of Serbia, its interests, economic opportunities, and changes in other factors which define it.

**Suggested score:** 2

**TIUK.DEF1.63: Are defence purchases based on clearly identified and quantified requirements?**

**Opinion:** Disagree

**Comment:** Procurement of Armament and Military Equipment (AME) in the MoD and SAF is regulated by the Rulebook on equipping the Yugoslav Army (Official Military Gazette 25/1996).

This Rulebook defines the activities during all the stages of equipping. Since the moment of its adoption, all the activities, provided by it are consistently implemented and respected.

The Tactical study (TS), prescribed in the Regulations, is being made by the tactical holder – the responsible organizational unit of General Staff of SAF in cooperation with the organizational units of the SAF and the internal organizational units of MoD. The corner stone for creation of the TS is in the long-term plans for scientific research and development of the SAF. The TS is a basic document of the process of equipping the resources of AME, and an integral part of the study are the initial tactical and technical requirements (TTR) of new resources with the criteria for exploitation in war and peace, with the appropriate measurable parameters.

After analyzing and adopting the TS, next step is development of Previous analyzes. It represents a basic document based on which a decision is made on programming tasks. Within this document has been reviewed and approved the initial tactical-technical requirements which are made according to current Defence Standards of the Republic of Serbia (DSRS) 1096 -Tactical and technical requirements for the development of resources. Based on previous analyzes, adopted tasks of research and development are entered in the medium term and annual plans of scientific research which provides funding and the realization of the program.

After approval of the Previous analysis (PA), the next step is preparation of Programme of realization, which is the basic document for programming of development and equipping the Army. With the programming (through drafting and adoption of the Programme of realization) following has been realized: establishing, adoption and approval of the concept of solutions, the pace of implementation, phases, timelines, and costs of routes, namely, optimal variant of realization of research and development tasks, capture of production, procurement and abroad finished products, as well as equipping the research and development capacity, the capacity for realization of the production of armaments and of test centers.

After creating and adoption of the Programme implementation, next step are corrections of plans of scientific research and equipping, as well as regulation of the competencies and responsibilities of the financing and execution of the tasks.

After the adoption of the Programme implementation, next step is inclusion of resulting financial elements in an annual plan for equipping, and, after the approval of the Annual Plan of Procurement of Goods and Services in the MoD, in accordance with the approved defense budget, next step is beginning of procurement.

Tactical holder, on basic of the previously approved program documents and approved funding for the implementation, launches Request for Purchase. In it, in accordance with the provisions of program documents, all elements of importance for the realization of procurement are import - delivery time, the criteria for selection of bidders, the demands for quality, the way of receiving the assets, etc., and previously approved tactical and technical requirements are annexes to requests for procurement. The same document proposes persons from the composition of tactical holder and the final beneficiary for participation in the commission for the procurement.

The request, on the level of technical holder, is being analyzed and supplemented by elements from the domain of integrated logistics support in accordance with standard DSRS 8196 - Activities and tasks of integrated technical security during the life of the system resources or AME (if they were not fully encompassed by the present request) and then, with the proposal of an expert from the composition of the technical holder to participate in the Procurement Commission, is being forwarded to the Supply Department of the MoD, as a competent organizational unit for realization of the procurement.

Upon receiving the request, the Supply Department forms Committee out of its personnel, to which it joins the previously proposed representatives of tactical and technical holder and starts to prepare tender documentation. It must, without changes, encompass all elements of previously submitted requests for procurement related to the performance of the required assets that are being procured, including all elements defined by Defence Standard of the R. of Serbia DSRS 0477 - Elements to be considered in contracting resources and systems, perform referencing on the standards, by which, should be checked fulfillment of requirements and a clear and unambiguous way define the criteria necessary for adequate information to potential bidders to participate in the procurement.

Following the submission of bids, commission opens and selects bidders. Before the conclusion of the contract, representatives of tactical and technical holder must analyze the submitted technical elements of the available resources and give consent to the compliance required and the offered features.

Delivery of the assets is being realized through quantitative and qualitative reception, which include verification of the performance of the Technical Test Center, and by the Plan and Programme of the tests, previously prepared in a manner to allow the verification of compliance with the set of technical requirements, as well as checking the quality of the products by the Military Quality Control. In the case of evidence of compliance with set requirements, the end user realizes admission and operational verification of assets, and by obtaining his positive statements, conditions are created to make payment of the agreed amount to the supplier, namely, the repayment of bank guarantee or promissory note, as a mechanism of protection of the purchaser in case that a part of the amount is paid in advance before the physical delivery and admission of payment.

It is important to point out that, depending on the complexity of the assets (the decision is made at the level of the Tactical Studies), model of equipping through its own development, or procurement of finished goods from the country and abroad (decided at the level of PA), the process of procurement may not always be identical to the continent described, because in itself may include more intermediate steps, for example, procurement of samples for verification, after the adoption of Previous analyzes, and before creating of the Program of realization.

**Suggested score:** 4

5-3 Tender Solicitation, Assessment and Contract Award
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**TIUK.DEF1.64: Is defence procurement generally conducted as open competition or is there a significant element of sing sourcing (that is, without competition)?**

**Opinion:** Agree

**Comment:** /

**Suggested score:** /

**TIUK.DEF1.65: Are tender boards subject to regulations and codes of conduct and are their decisions subject to independent audit to ensure due process and fairness?**

**Opinion:** Agree

**Comment:** /

**Suggested score:** /

**TIUK.DEF1.66: Does the country have legislation in place to discourage and punish collusion between bidders for defence and security contracts?**

**Opinion:** Disagree

**Comment:** The information presented by an authorized assessor indicate that in Republic of Serbia there are laws and procedures that prohibit consultation in the procurement process.

**Suggested score:** 4

#### 5-4 Contract Delivery and In-Service Support

**TIUK.DEF1.67: Are procurement staff, in particular project and contract managers, specifically trained and empowered to ensure that defence contractors meet their obligations on reporting and delivery?**

**Opinion:** Disagree

**Comment:** Number of the appointed procurement officers corresponds to the needs of the defence system and no significant shortage of staff in this area is expected to occur.

**Suggested score:** 4

**TIUK.DEF1.68: Are there mechanisms in place to allow companies to complain about perceived malpractice in procurement, and are companies protected from discrimination when they use these mechanisms?**

**Opinion:** Agree

**Comment:** /

**Suggested score:** /

**TIUK.DEF1.69: What sanctions are used to punish the corrupt activities of a supplier?**

**Opinion:** Agree

**Comment:** /

**Suggested score:** /

#### 5-6 Offset Contracts

**TIUK.DEF1.70: When negotiating offset contracts, does the government specifically address corruption risk by imposing due diligence requirements on contractors? Does the government follow up on offset contract performance and perform audits to check performance and integrity?**

**Opinion:** Agree

**Comment:** /

**Suggested score:** /

**TIUK.DEF1.71: Does the government make public the details of offset programmes, contracts, and performance?**

**Opinion:** Agree

**Comment:** /

**Suggested score:** /

**TIUK.DEF1.72: Are offset contracts subject to the same level of competition regulation as the main contract?**

**Opinion:** Agree

**Comment:** /

**Suggested score:** /

5-6 Agents / Brokers

**TIUK.DEF1.73: How strongly does the government control the company's use of agents and intermediaries in the procurement cycle?**

**Opinion:** Agree with score, but disagree with conclusions

**Comment:** We agree with the score, but not with conclusions of the evaluator.

**Suggested score:** /

5-7 Financing Package

**TIUK.DEF1.74: Are the principal aspects of the financing package surrounding major arms deals, (such as payment timelines, interest rates, commercial loans or export credit agreements) made publicly available prior to the signing of contracts?**

**Opinion:** Disagree

**Comment:** According to previously mentioned transparency of procurement, we believe that this question should be evaluated by grade 2.

**Suggested score:** 2

5-8 Seller Influence

**TIUK.DEF1.75: Does the government formally require that the main contractor ensures subsidiaries and sub-contractors adopt anti-corruption programmes, and is there evidence that this is enforced?**

**Opinion:** Disagree

**Comment:** According to findings which were stated by authorized assessor, we believe that there are arguments for evaluating this question by grade 2.

**Suggested score:** 2

5-9 Seller Influence

**TIUK.DEF1.76: How common is it for defence acquisition decisions to be based on political influence by selling nations?**

**Opinion:** Disagree

**Comment:** There is no evidence that procurement in defence is based on political will of countries which selling concerned goods and services.

**Suggested score:** 3