

ANNEX C3: Legal mandate - Case of Serbia

The text below is an example of how a law can incorporate the principles of dialogue between the government and the business community. The blue highlights point to the specific articles that inscribe the public-private dialogue into the law.

REPUBLIC OF SERBIA

REPUBLICAN SECRETARIAT FOR LEGISLATION

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#### PROPOSAL OF AMENDMENTS TO THE RULES OF OPERATION OF THE GOVERNMENT OF THE REPUBLIC OF SERBIA

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In Belgrade, 11 October 2004.

In accordance with article 9 para.1 of the Law on the Government of the Republic of Serbia («Official Gazette of the RS», No. 5/91 i 45/93),

The Government of the Republic of Serbia issues the following

DECISION OF AMENDMENTS TO THE RULES OF OPERATION OF THE GOVERNMENT OF THE REPUBLIC OF SERBIA

Article 1.

In the Rules of Operation of the Government of the Republic of Serbia, («Official Gazette of the RS», No. 6/02, 12/02, 41/02 and 99/03), article 29. is being amended as follows:

«An act which is being proposed by the Government to the National Assembly is being prepared by the proposer in the form of a draft, and the act which is being adopted by the Government is being prepared by the proposer in the form of a proposal.

In the procedure of preparation of a law which significantly changes the legal regime in a certain area or which regulates issues which are of particular interest for the public, the proposer has to previously perform public discussion, and he can perform it in other cases when they consider that this is necessary.

The program of public discussion and term in which the public discussion is being performed is determined by the competent Board of the Government at the proposal of the proposer.

If the proposer does not perform the public discussion in accordance with the program which has been determined by the competent board, or does not propose to the competent board the performance of the public discussion although he had to, the competent board shall, while considering the draft law, oblige the proposer to perform an additional public discussion, i.e. it shall determine itself the obligation of performance of the public discussion, the bodies which shall perform the public discussion and the term in which it has to be performed.»

Article 2.

In article 30 para.1. after point 4) point 5) is added as follows:

«5) The Office for European Integration – in the cases of harmonization with the EU regulations ».

Para 2. is amended as follows:

«In the preparation of a draft law, other regulation and general act which is adopted by the Government, the proposer has to obtain the opinion of other ministries and special organizations when the subject which is being regulated enters their competence or is of interest for them ».

Article 3.

Article 34. is amended as follows:

« A draft law, other regulation and general act, i.e. proposal of the general act to be adopted by the Government, is submitted to the Government in the form in which it is adopted, with a statement of reasons.

The statement of reasons must contain:

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- 1) the constitutional, i.e. legal basis;
- 2) the reasons for adoption of the act, which contains also: the determination of the problem which the act has to resolve, the aims which are being obtained by adoption of the act, whether other options for the resolution of the problem have been considered except adoption of an act and which are they and why adoption of the act is the best option for the resolution of the problem;
- 3) an explanation of the basic legal institutes and particular solutions;
- 4) evaluation of the means necessary for the implementation of the act;
- 5) An analysis of the effects of the act, which contains the following explanations: Who and how is likely to be affected by the solutions proposed in the act, what are the likely costs for the citizens and economy, in particular small and medium enterprises, are the positive effects of adoption of the act such that they justify the costs, does the law stimulate the entry of new business entities on the market and does it stimulate market competition, have all interested stakeholders had the chance to expose their views about the draft law and which measures are going to be undertaken during implementation in order to fulfill the scope of the law. If the proposer considers that the statement of reasons of the act does not have to contain such analysis, he has to state the reasons for which he considers that;
- 6) general interest for which a retroactive effect is being proposed, if the act contains provisions for which retroactive effect is foreseen;
- 7) the reasons for adoption of the law in accordance with an urgent procedure, if an urgent procedure is proposed, with listing of the damaging consequences to the life and health of the people, security of the Republic and operation of the bodies and organizations which would occur as a consequence of the non adoption of the law in an urgent procedure;
- 8) The reasons for which it is proposed that the law, other regulation or general act should become effective before the eighth day from the day of its publication;
- 9) an overview of the provisions which are being amended (the overview is being prepared so that the part of the text which is being amended is crossed over and the new text which replaces or amends the existing text is written with capital letters).

As an attachment to the draft law, a Statement of Compliance of the draft law with the regulations of the European Union must be submitted, which contains the evaluation of the compliance of the draft law with the relevant legislation of the European Union, and if there are no such regulations of the EU – a statement of this fact. An overview of the executive acts with terms for their adoption is also attached to the draft law.

An individual act is submitted by the proposer with a statement of reasons, which contains the relevant facts on the basis of which the adoption of the act is proposed.»

Article 4.

Article 43. is amended as follows:

«The materials which are being presented for consideration and deciding to the Government are available to the public when the competent board issues a conclusion proposing to the Government the adoption of the act, except draft laws for which public discussion is being effected.

The material which represents a state, military or official secret are presented to the Government with the sign “strictly confidential” or “confidential”, a special evidence is kept of these material and they are

used and treated in accordance with special rules and instructions of the Secretary General of the Government.

On a material of a confidential nature the proposer identifies the type of secrecy and level of confidentiality with a special visible sign.

A confidential material must be accompanied by a statement of reasons explaining why it has been given this qualification.

Draft laws which are submitted to the Government for consideration and adoption, can not be placed into the category of confidential material.

Article 5.

This Decision becomes effective on the eighth day from its publication in the «Official Gazzette of the Republic of Serbia ».