

Standard Summary Project Fiche – IPA centralised programmes

Project Number 07: Capacity Building and IT Assistance to the Commission for the Protection of Competition

1. BASIC INFORMATION

- 1.1 CRIS Number:** 2011/022-585
- 1.2 Title:** Capacity Building and IT Assistance to the Commission for the Protection of Competition
- 1.3 ELARG Statistical Code:** 03.08 European standards. Competition policy.
- 1.4 Location:** Republic of Serbia

Implementing arrangements:

- 1.5 Contracting Authority:** EU Delegation to the Republic of Serbia
- 1.6 Implementing Agency:** EU Delegation to the Republic of Serbia
- 1.7 Beneficiary (Including Details of Project Manager):**

Ministry / agency:	Commission for the Protection of Competition.
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Financing:

- 1.8 Overall Cost (VAT excluded):** EUR 3 million
- 1.9 EU Contribution:** EUR 3 million
- 1.10 Final date for contracting:** 2 years after the signing of the Financing Agreement (FA)

1.11 Final date for execution of contracts: 4 years after the signing of the FA

1.12 Final date for disbursements: 5 years after the signing of the FA

2. OVERALL OBJECTIVE AND PROJECT PURPOSE

2.1 Overall Objective:

Increase the ability of RS to assume the obligations stemming from the SAA in the field of competition.

2.2 Project Purpose:

Strengthening institutional capacity of the Commission for Protection of Competition (hereinafter: "CPC") for more efficient enforcement of competition policy, with expected economic benefits for consumers and market participants.

2.3 Link with AP / NPAA / EP / SAA

The European Partnership from February 2008 sets out the short-term priorities (section: *European standards*, subsection: *Competition*):

- Improve existing anti-trust legislation in line with the SAA requirements and strengthen the administrative capacity of the Competition Commission to ensure efficient and independent enforcement of the rules in line with the EU acquis.
- Improve merger control procedures in order to strengthen the efficiency of the Competition Commission.

The European Partnership (section: *European standards*, subsection: *Competition*) highlights the following medium-term priorities:

- Implement State aid legislation and ensure that the authority monitoring state aid functions effectively.

Stabilisation and Association Agreement, (*Title VII Approximation of laws, law enforcement and competition rules, Article 73 "Competition and other economic provisions"*) states the following:

1. The following are incompatible with the proper functioning of this Agreement, insofar as they may affect trade between the EU and Serbia:

i) all Agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition;

ii) Abuse by one or more undertakings of a dominant position in the territories of the EU or Serbia as a whole or in a substantial part thereof;

According to the 2010 Progress Report, some progress can be reported in the area of **anti-trust**. Implementing legislation pursuant to the law on competition protection was adopted, further aligning Serbia with the Interim Agreement (IA) requirements. This covers notably market definition, merger notifications, individual and block exemptions for restrictive agreements fines and leniency program. The Commission for the Protection of Competition (CPC) has continued its activity and has adopted decisions on mergers and abuse of dominant positions further improving its track record. It has also adopted guidelines for implementing legislation. The services of the Commission for the Protection of Competition were restructured, notably by establishing separate divisions for economic analysis and legal affairs. The CPC's capacity to carry out economic analysis has been strengthened. A number of cooperation agreements were signed with sector-specific regulators as well as with competition authorities of some EU Member States and neighbouring countries. The president and members of the Council of the Commission for the Protection of Competition were elected by the Serbian Parliament in October 2010. However, the law on competition protection has been undermined by the adoption of some conflicting horizontal legislation notably on mandatory car insurance. The financial plan of the CPC for 2010 has not yet been adopted by the Government. The CPC's capacity to carry out economic analysis and to deal with procedural matters remains to be further strengthened in order to fully implement with the IA requirements. Moreover, the CPC needs to improve its expertise and knowledge in procedural matters. The capacity of the judiciary to deal with substantive issues of competition remains weak and significant efforts are needed in this respect. A solid enforcement record remains to be demonstrated.

2.4 Link with MIPD

Capacity Building and IT Assistance to the Commission for the Protection of Competition falls under the Public Administration sector and its objective to improve the efficiency and effectiveness both at central and local level and to build the capacity of national institutions.

The main goal is to support policy reforms for EU integration. Focus will be on capacity building for policy reforms, and implementation of the existing legal and strategic framework. Particular attention will be paid to the administrative capacities in the European integration process. There is a need to strengthen capacities in all line Ministries dealing with EU *acquis*; to enhance policy coordination and enable the country to align and implement the EU *acquis* effectively, as well as to meet the requirements for the implementation of IPA assistance under the Decentralised Management System (DIS).

2.5 Link with National Development Plan

N/A.

2.6 Link with National/Sectoral Investment Plans

Amended “National Programme for EU Integration of Republic of Serbia into the European Union from December 2009”- abridged version (hereinafter: NPI). The following sections of NPI are consistent with the project:

- Point 2.2. Capacity to cope with competitive pressure and market forces within EU, 2.2.2. Physical Capital, reorganisation of companies within the sector (page 64) states the following: “*In accordance with the Memorandum on 2009 Budget and Economic*

*and Fiscal Policy including projections for the years 2010 and 2011, adopted by the Government on the proposal of the Ministry of Finance (Macroeconomic Framework for the period 2009-2011: the Price Policy Guidelines), the liberalisation of prices in Serbia will be continued in the next three years. Gradual foreign trade liberalization and advancement of **competition policy***”.

- Point: 3.30. International economic relations, 3.30.1 Common Trade Policy, 3.30.1.1.1 *Legal Framework* page 265) points out: “At the same time, starting from the provisions of the CEFTA agreement, the Republic of Serbia having presided the Sub-Committee for customs and rules on the origin of goods during 2009, presented the activity plan for 2010 when it will preside over CEFTA. This program, adopted by the Government, focuses the upcoming CEFTA activities on the so-called “new fields... The fourth priority is to take into consideration **the competition policies within the CEFTA**. The objective is that pursuant to Article 19, 20 and 21 of the CEFTA Agreement. It should be ensured that all parties to CEFTA apply sufficient policies of **competition protection**, in order to use the effects of market liberalization to the greatest extent.

- **ANNEX 1** – Planned Government legislative activities to implement the National Programme for Integration of the Republic of Serbia into the EU (NPI) for the period of 2010-2012, regarding Commission for Protection of Competition (page 312):
 - Regulation on procedure for establishing administrative measures imposed by Commission;
 - Regulation on procedure for establishing behavioral and structural measures;
 - Regulation on conditions for immunity from fines within the measure for protection of competition;

Government of Republic of Serbia recently adopted above mentioned provisions stated in Annex 1 and Annex 2 of Amended “National Programme for EU Integration of Republic of Serbia into the European Union from December 2009”

Trade Development Strategy of the Republic of Serbia (*adopted by the Government of the Republic of Serbia, on 27th February 2009, Official Gazette 15/2009*) underlines:

Article 3.1 “...the pro European oriented development policy is required for the Republic of Serbia, and **by strengthening the policy of competition** through further liberalization of import, **amendments to the anti-monopoly laws and their strict enforcement**; *Article 4.1* refers to competition policy as a segment of trade that should be intensively developed in new conditions, together with other internal market policies;

Article 5.1.2 points out the functions of the **Commission for Protection of Competition and its legal position as an autonomous, independent organization with the authority to protect the market competition in the Republic of Serbia from illegal abusive practise of dominant firms on the market.**

National Strategy of Economic Development of the Republic of Serbia for the period 2006 – 2012 in the following articles underlines the following:

Article 8.4 makes **notion of Competition policy**, as one of basic policies for efficient integration to EU market, next to consumer protection, state aid and public procurement.

Article 8.4.1. thus provides **as one of the major goals of this strategy independent work of the Commission for Protection of Competition** and adherence to the principles of silent consent; with efficient court settlement in the area of protection of competition. These goals are integral part of the Project in reaching the goal of more efficient enforcement by the CPC, independent of other Government bodies.

Strategy for Attracting Foreign Direct Investments (*adopted by the Government of the Republic of Serbia on 16th March 2006, Official Gazette 22/2006*) points out the following:

Article 7.3. titled *Improving overall competitiveness* sets as major goal increase of competition in all markets. It deals with the activities related to the Project so as to allow for the level-playing field for all potential investors and foster market entries, for the benefit of consumers and future market liberalization.

3. DESCRIPTION OF PROJECT

3.1 Background and Justification:

Background

The process of liberalization of the Serbian market and introduction of an open market economy started after 2001, with first major privatizations of previously state owned companies. The Commission for Protection of Competition, as a state regulatory body, has been established for the very first time in April 2005 based on the provisions of the Law on Protection of Competition (“Official Gazette of the RoS”, no. 79/05). The Antimonopoly Department was mainly a price regulator, as the Antimonopoly Law from 1996 did not regulate merger control but merely monopoly position and unlawful agreements. The Antimonopoly Department was established within the Federal Government of Serbia and Montenegro and as of 2003 in the Ministry of Trade, Tourism and Services of the Republic of Serbia.

The Commission for protection of competition is run by a decision-making body Council of the Commission and the President of the Commission. Case-handlers are grouped into three separate departments, i.e. Department on Assessing the Abuse of Dominant Position, Department on Assessment of Restrictive Agreements and Department on Merger Control. Expert staff of the Commission also includes financial and general affairs department. The expert staff is controlled and directly guided by the Secretary, selected by the Council.

Representative of the CPC is also a member of the State Aid Council and thus the knowledge of the state aid rules and practices would significantly contribute to adequate implementation of state aid legislation and secure that any possible impediment of competition, as a result of aid provided, is avoided. Until the entry into force of a Law in 2005, regulating merger control, the previously concentrated markets, owned by the state, opened-up and various market participants acquired dominant or close to dominant position in the process of privatization. In that respect, there are a number of highly concentrated markets on the territory of Serbia that could now be only safeguarded and available for new entries and

increase of competition pressure with the proper implementation of competition law and policy.

For the abovementioned reasons, as well as the defaults of the Law on Protection of Competition the enforcement record of the Commission for Protection of Competition has not proven to be sufficiently efficient in the years following 2005. This was mainly due to the fact of established judicial system of review through misdemeanor courts and the lack of enforcement and investigative powers of the CPC.

The new Law on Protection of Competition (*“Official Gazette of the Republic of Serbia”, no. 51/09*) that entered into force is expected to regulate at least some of the shortcomings of the previous one. The new Law and its entry into force on November 1, 2009 have been followed up with adoption of numerous regulations that are bringing Serbian competition in line with positive EU competition law. These include regulations on relevant market, merger notification, block exemption of vertical, research and development and specialization agreements, while the process on adoption of leniency application, method for calculating fines and imposition of other measures is currently undergoing.

CPC has entered into cooperation agreements in the form of memoranda with almost all sector regulators on the Serbian market. Such protocols on cooperation in proceeding cases in particular industries and obligation on confidential data-sharing have been established with the National Bank of Serbia, Energy Agency, and Agency for Telecommunication and are negotiated with the Ministry of Interior (Commercial Crime Directorate) and Ministry of Justice (Public Prosecutor Office).

Justification

Introduction of open market economy invites for successful implementation and enforcement of competition law and by-laws. Identification and dismantling secret cartels (price-fixing, customer and territory allocation, bid-rigging) will allow new market entries; increase products offered on the market and lower the prices for the end consumers. At the same time, discovery of dominant firms’ abusive conducts and adequate merger analysis provide for competitive environment and allow entries of new products, investments and lowering of prices.

The Project shall strengthen capacity of the Serbian Commission for Protection of Competition (hereinafter: CPC) to introduce free and unimpeded competition on the Serbian market. The Project shall arm the case-handlers within the CPC with the necessary theoretical knowledge on illegal practices in accordance with EU legislation, instruments for identifying cartel agreement, abuse of dominant position and assessing mergers. The Project shall also add significantly to the transparency of the work of the CPC and increase knowledge of its role of undertakings participating on the market.

It is expected that the project will allow for the improvement of competition policy implementation and enforcement. Also, the widespread knowledge among the businesses operating in Republic of Serbia as well as consumers is of utmost importance for understanding the process of protection of competition.

The project shall provide for specific methods and practice used by developed antitrust authorities as well as within the EU Commission. The experience shared with the Serbian case handlers should prove to be of specific importance in identifying competition constraints

and methods and instruments to be used during investigation and decision making procedure. At the same time, the project should allow for practical introduction of the work of other developed antitrust authorities. Besides being thought on specific competition law issues, guides for case handlers should be produced so as to be used in future assessment of particular cases before the CPC. The project should also address general public and undertakings on the Serbian market so as to make them aware of the importance of free and unconstrained competition on the market.

Case-handlers in the Commission for Protection of Competition shall be better placed and more knowledgeable of practice in Competition law cases before the EU Commission, European Court of Justice and Court of First Instance as well as competition law and policy development and practice before national authorities of the EU Members States. This will allow for more productive work of the CPC that would deter undertakings from engaging in illegal practices such as cartelizing the Serbian market or abusing dominant position on the market. Increase in the number of prosecuted cases as well as the number and value of fines imposed by the CPC would allow for the free market competition and rise of small and medium size entrepreneurs with laying down all necessary market conditions for new entrants.

Project shall allow the CPC staff to be aware of the practice and positive legislation in application in the EU when applying specific antitrust and merger provisions. This would enhance the work of the CPC and provide for more authoritative decisions of the CPC, following EU practice

3.2 Assessment of Project Impact, Catalytic Effect, Sustainability and Cross Border Impact

The training provided for the CPC staff would add significant value in market analysis and spotting the possible violations of competition law and policy in Serbia. Obtained knowledge would on long-term basis be implemented in enhancing competition enforcement after termination of the Project.

It is expected that the training thus provided in the course of the Project be of such a nature as to teach the staff not only of the adopted provisions of the law and practical experience but also the theoretical sources for future follow-up and implementation of competition law and policy.

CPC, as a young institution, has as primary objective to increase the number of trained case handlers necessary for adequate and effective competition enforcement. The Project would form the current staff to train the future employees in the CPC of all the practices thought and practical experience in implementing competition policy so as to allocate the benefits of the Project onto the future employees admitted to the CPC.

Project could also allow for decrease in future running costs for CPC through use of econometric analysis and economic market researches, since the CPC is currently outsourcing professional economic institutes for this purpose.

Thanks to knowledge gained through theoretical and practical training the current staff of CPC will be better placed to train the new and incoming staff once the project ends, thus

allowing for continuing growth of the authority without significant further investments in the capacity of the staff, and ensuring sustainability of projects results.

Once developed/procured database and forensic software will continuously be upgraded on the basis of CPC future needs. Funding is secured in CPC budget for this purpose.

Produced manuals and guides would be of great importance in the handling of different cases before the CPC as these would allow the CPC staff to consult the theory available in Serbian when dealing with particular cases of law violations. At the same time, these manuals would raise awareness of competition rules and policy among other state authorities also.

The regional countries could also benefit from the Project, as its successful implementation would provide for well-trained staff that could further spread the theoretical and practical concepts adopted when participating in numerous seminars and congresses organized for the regional countries.

Adopting of full-body EU regulation in competition also enhances protection of competition, state aid control, boosts development of SMEs and affects increase in employment rate. Namely, effective competition law enforcement allows the growth in market economy and the economy of Serbia as a whole.

Serbian competition law applies also on all acts taking place outside of the borders of Republic of Serbia but affecting or threatening to affect Serbian market. Thus, concentration of undertakings taking place abroad, in case merging parties have registered presence in Republic of Serbia, need to notify such transactions to the CPC and obtain clearance prior to implementing merger. In the same manner cartel agreements set up and implemented abroad but having effects on the Serbian market may be prosecuted under the Serbia competition law as is the case *vice versa*.

3.3 Results and Measurable Indicators

Result 1: CPC expert service and the CPC Council acquired expertise, ability and capacity for conducting proper investigations during dawn raids, while Administrative judges became knowledgeable on the value of direct and circumstantial evidence in competition law cases and undertakings became fully aware of negative effects of cartel agreements.

Measurable indicators:

- Increase in the direct evidence collected;
- Number of CPC decisions conducted in accordance with the Law and not procedurally disputed by the Administrative court;
- Administrative court judges give particular value to direct and indirect evidence collected in cartel cases.

Result 2: Sophisticated econometric methods in market analysis introduced during investigations and in support of CPC decisions with full understanding of economic concepts expressed in the judgments of the Court when deciding on the merits of the case; regulators acquired knowledge on economic assessment of mergers in regulated and network industries.

Measurable indicators:

- Number of competition violations supported by economic analysis/models;
- Number of confirmations of CPC decisions in the process of judicial reviews;
- Number of Administrative court judgments deciding on the merits of the case, acting in full jurisdiction, in precedential cases.

Result 3: Case handlers trained on early discovery of secret cartel agreements and parallel behaviors, for complex merger analysis and enforcement of issued merger conditions with officers in the Public Procurement Office trained on discovery of collusive tendering.

Measurable indicators:

- Number of antitrust cases opened;
- Number of leniency applicants;
- Enforcement and observance of the issued merger conditions increased by the undertakings;
- Number of drafted guidance related to cartel agreements and merger;
- Number of instigated proceedings for collusive tendering.

Result 4: The market participants and regulators in Republic of Serbia acquired general knowledge in practice of the EU Commission, European Court Justice and Court of First Instance, as adopted in the EU Commission decisions and judgments on competition law.

Measurable indicators:

- Increase in the number of CPC decisions and Court judgments based on the EU law and European courts decisions and practice;
- Increased number of requests made by the undertakings in assessing mergers and restrictive agreements;
- Number of Consultations with Stakeholders;
- Number of Training modules provided and market participants trained.

Result 5: Database containing the set of documents, i.e. requests of the parties, decisions and opinions of the CPC since its establishment

Measurable indicators:

- All documents held by the CPC or issued in previous cases are made easily accessible to the third parties showing legal interest;

- Standard and balanced practice of the CPC in defining relevant markets and application of competition law institutes and policy improved (as adopted in practice and defined in the EU law);
- Number of Analytical Reports on existing legal and institutional framework.

Result 6: Developed and implemented forensic software and related hardware.

Measurable indicators:

- Increase in the collected direct evidence of infringement during searches of business and private premises used in ruling on final decisions of the CPC;

3.4 Activities:

Activities related to Result 1:

- Provision of trainings and simulations on methods used during evidence collection in other authorities applied in CPC investigations;
- Organize workshops on methods for searching premises and collection of documents;
- Workshops for Administrative court judges on the value of direct/indirect evidence presented in cartel cases (tacit agreements v. parallel behavior, freedom of agreement v. restrictive agreements etc.);
- Workshops and seminars for undertakings on harms done by cartel agreements for the market and state economy, on potentially high fines for instigating and participating in cartels and negative publicity for the companies;
- Study visits of CPC expert service to the DG Competition and member states' authorities, i.e. their cartel departments/units;
- Producing Leaflets on price fixing, bid rigging and market allocation schemes;
- Publications on general issues on competitions law and benefits of leniency program for participants in restrictive agreements (preparing TV, radio and newspapers ads and commercials addressing wider public and undertakings).

Activities related to Result 2:

- Deliver trainings on application of economic models in defining the goals of investigation;
- Organize workshops and simulations on determination of economic effects of violations;
- Workshops and seminars for the Administrative court judges on economic institutes applied in competition law cases and their particular use in case analysis;

- Workshops and seminars for sector regulatory authorities for analysing unilateral conducts in network industries (natural monopolies);
- Realize study visits to the EC DG Competition and member states' authorities, i.e. their abuse of dominance departments and/or economic sectors;
- Provide guidance for case handlers on application of economics in competition law enforcement.

Activities related to Result 3:

- Deliver trainings and workshops on methods applied for early discovery of cartel agreements;
- Trainings and workshops for case handlers in the Public procurement office of the Republic of Serbia on discovery of bid-rigging cases;
- Guidance produced for Public procurement office in methods used for investigating collusive tendering;
- Support to the implementation of leniency program;
- Realize study visits to member states' relevant competition authorities (cartel departments/units).

Activities related to Result 4:

- Provide trainings on development of particular competition law institutes in the judgments of the CFI and ECJ;
- Organize and conduct workshops on economic rationale behind the EU Commission decisions and ECJ/CFI judgments;
- Carry out trainings and simulations about liberalization of regulated markets;
- Prepare and implement trainings and workshops on ways of cooperation between CPC and businesses on enforcing competition law;
- Produce case-handlers' guide on the most significant practice before the ECJ/CFI and national courts

Activities related to Result 5:

- Designing and development of database;
- Trainings of CPC personnel on the use of the established IT system.

Activities related to Result 6:

- Delivery and installation of the forensic software and related hardware;

- Provision of trainings for CPC staff, on adequate use of the forensic software during the raids.

3.5 Conditionality and Sequencing:

Conditions for the implementation of the Project depend on the CPC, i.e. its Council to secure the presence of the majority of staff in the course of trainings in the CPC and during visits of other competition authorities while on training. The use of the data base is conditional on the adoption of internal rules within the CPC on the usage and access to data base by different departments within the CPC. These rules shall be adopted by the CPC Council, after final approval of the Project, and in any case not later than two (2) months prior to the implementation of the Project.

Full-implementation and benefits expected to arise from the Project are also conditional upon others institutions' availability for the participation in the Project, i.e. primarily Administrative Court, Serbian Chamber of Commerce, Public Procurement Office, Regulators in different market sectors (telecommunication, energy, banking etc.). CPC will initiate contacts with these institutions for the purpose of running the Project and ensuring their availability and active participation. CPC already has a number of signed Protocols on cooperation with these institutions and their active participation in all projects and/or activities organized by the CPC in connection with the competition issue. In addition, CPC will enter into a special agreement with these institutions, on the basis of the existing Protocols, so as to ensure their active participation. The project components and activities do not involve sequencing.

3.6 Linked activities

1) Assistance to the Commission for Protection of Competition - ACPC (implemented through CARDS 2006) provided for continuing training of the CPC staff on theoretical and practical level. This project showed good results in enhancing the capacity of the staff to deal with complex cases. The project of ACPC has 36 months duration (started from 2007).

This Project would thus provide for the lessons not covered by the ACPC and provide CPC staff to stay updated with current developments of the competition law and policy within the EU and Member States. The Project would add significant value to the one currently implemented, that elapsed at the end of 2010, with the building of data base and forensic software. That would enable more efficient work of the CPC.

2) Technical Assistance to support the State Aid control system in Serbia (IPA 2008) – Project with European Union Delegation to the Republic of Serbia. The overall objective of this project is to assist the Republic of Serbia in meeting the requirements of the Stabilisation and Association process in the field of State Aid control and therefore reducing regional growth disparities. The contract started implementation on 5 July, 2010 and thus will be complementary to the activities envisaged under the present project. .

3) Public Administration Reform/European Integration/Consumer Protection (CARDS 2006). Since September 2007, this EU-funded project has provided technical assistance in the area of consumer protection law and policy both to State institutions and to non-governmental associations involved in advancing consumer rights in Serbia. A component of the Project has

also involved assistance in the area of Information Technology applications facilitating compliance with the new product safety legislation. The Project has been extended until October 2010.

4) *Strengthening consumer protection in Serbia – IPA 2009.* The overall objective of this project is to contribute to the protection of consumer rights and interests in Serbia through development of legislative and institutional frameworks for consumer protection, in accordance to the EU *acquis*, and adoption of laws and bylaws in the following areas: misleading advertising, unfair commercial practice, protection of collective consumer interests and out-of-court settlement of consumer disputes.

5) *Strengthening the Serbian Public Procurement System (IPA 2007).* Twinning project within IPA 2007 program, contribute to the development and strengthening of a stable, transparent and competitive public procurement system in the Republic of Serbia in accordance with EU standards. The Twinning project will have 21 months duration, starting from second quarter 2010.

6) *Competitiveness and Enterprise Development.* The USAID Competitiveness Project is a four-year, \$14.7 million initiative launched in October 2007 to promote economic growth by substantially increasing the competitiveness of Serbian SMEs in leading sectors to increase sales, exports, investment and jobs.

3.7 Lessons Learned

ACPC Project proved as very useful for development of general knowledge of Competition Law among the great number of undertakings on the market as well as among the judges sitting in Administrative Court and CPC staff. The Project may for instance allow for more discussion among the judicial and administrative law enforcement staff (i.e. Court and CPC), maybe in organization of training with the joint presence of both judicial and CPC staff present and same types of lecture.

Project should particularly be focused on the positive competition law in the EU, both in the view of new developments in case handled currently by the EU Commission and the viewpoints taken by the European Court of Justice and Court of First Instance in its judgments. It has to be ensured that the institutes thus developed and adopted are implemented in Republic of Serbia in both administrative and judicial procedures so as to guarantee legal certainty for all market participants.

4. INDICATIVE BUDGET (AMOUNTS IN M€)

Title: Capacity Building and IT Assistance to the Commission for the Protection of Competition			SOURCES OF FUNDING									
			TOTAL EXP.RE	IPA EU CONTRIBUTION		NATIONAL CONTRIBUTION					PRIVATE CONTRIBUTION	
ACTIVITIES	IB (1)	INV (1)	EUR (a) = (b) + (c) + (d)	EUR (b)	%(2)	Total EUR (c) = (x) + (y) + (z)	% (2)	Central EUR (x)	Regional/ Local EUR (y)	IFIs EUR (z)	EUR (d)	% (2)
Activity 1,2,3,4 and 5												
Contract 1. Service Contract	X	–	2.8	2.8	100%							–
Activity 6												
Contract 2. Supply Contract	–	X	0.2	0.2	100%							–
TOTAL IB			2.8	2.8	100%							
TOTAL INV			0.2	0.2	100%							
TOTAL PROJECT			3.0	3.0	100%							

Amount net of VAT

(1) In the Activity row use “X” to identify whether IB or INV

(2) Expressed in % of sum of each line of the Total Expenditure (column (a))

5. INDICATIVE IMPLEMENTATION SCHEDULE (PERIODS BROKEN DOWN PER QUARTER)

Contracts	Start of Tendering	Signature of contract	Project Completion
Contract 1.	T	T +Q3	T +Q11
Contract 2.	T +Q2	T +Q5	T +Q7

6. CROSS CUTTING ISSUES

6.1 Equal Opportunity

The project will be implemented in a way which provides equal opportunities for participation for those within for Commission for Protection and for all other involved beneficiaries the activities of the project is to ensure absence of discrimination on the grounds of gender, color, ethnic origin or religion. The number of men and women participating in training events will be monitored during the project and this information will be used to identify any potential discrimination.

6.2 Environment

The project has no negative impact on the environment. The project will be implemented in a way which is as environmentally friendly as possible and this includes the use of re-cycled paper and the advanced use of electronic filing rather than paper based systems.

6.3 Minorities

The project will be implemented in a way which does not discriminate against any individual on the grounds of their gender, ethnic origin, race or religion. Training will be organised in a way which makes events accessible for all potential participants. Information on the individuals receiving support under the project will be monitored during the project and this information will be used to identify any potential discrimination.

ANNEXES

- I. Log frame in Standard Format
- II. Indicative amounts contracted and Disbursed per Quarter over the full duration of Programme
- III. Description of Institutional Framework
- IV. Reference to laws, regulations and strategic documents:
 - Reference list of relevant laws and regulations
 - Reference to AP /NPAA / EP / SAA
 - Reference to MIPD
 - Reference to National Development Plan
 - Reference to national / sectoral investment plans
- V. Details per EU funded contract (where applicable)

ANNEX I: LOGICAL FRAMEWORK MATRIX

LOGFRAME PLANNING MATRIX FOR PROJECT FICHE		Programme name and number:	
Title: Capacity Building and IT Assistance to the Commission for the Protection of Competition		Contracting period expires 2 years after signature of the Financing Agreement	Disbursement period expires 5 years after signature of the Financing Agreement
		Total budget : EUR 3 million	IPA budget:EUR 3 million
Overall objective	Objectively verifiable indicators	Sources of verification	
Increased Ability of the Republic of Serbia to assume obligations provided in the Stabilisation and Association Agreement by supporting Competition Protection Authorities	Continuing efficiency and independence of the Commission for the Protection of Competition (strengthened by increasing administrative capacity and improving its procedures and results).	-Internal Rules and Procedures - Reports produced by EC (on internal market and SAA implementation) - Annual Report of the CPC as adopted by the National Assembly of Serbia - EC Progress Reports	
Project purpose	Objectively verifiable indicators	Sources of verification	Assumptions
Strengthening institutional capacity of the Commission for Protection of Competition (hereinafter: "CPC") for more efficient enforcement of competition policy, with expected economic benefits for consumers and market participants.	Number of law violations handled by CPC; Number of confirmed decisions of the CPC in the judicial review; - Increased number of measures, policy papers and legal instruments in the competition sector.	Annual Report of the CPC as adopted by the National Assembly of Serbia Website of the CPC Publications issued by, or in cooperation with the CPC - Project Reports	Serbian Government continues to be committed on supporting further building of free market economy based on the principles of competition rules and procedures Serbian Government confirms the role and the competencies of the Commission for Protection of Competition

Results	Objectively verifiable indicators	Sources of verification	Assumptions
1. CPC expert service and the CPC Council acquired expertise, ability and capacity for conducting proper investigations during dawn raids while Administrative judges became knowledgeable on the value of direct and circumstantial evidence in competition law cases; undertakings became fully aware of negative effects of cartel agreements.	Increase in the direct evidence collected; Number of CPC decisions conducted in accordance with the Law and not procedurally disputed by the Administrative court; Administrative court judges give particular value to direct and indirect evidence collected in cartel cases;	1.1 Final decisions of the CPC in administrative proceedings 1.2 Final judgments of the Administrative court	- Commitment of senior officials in CPC Council to implementation of new expertise Commitment of the CPC staff and other beneficiaries actively participate in the project activities
2. Sophisticated econometric methods in market analysis introduced during investigations and in support of CPC decisions with full understanding of economic concepts expressed in the judgments of the Court when deciding on the merits of the case; regulators acquired knowledge on economic assessment of mergers in regulated and network industries.	Number of competition violations supported by economic analysis/models; Number of confirmations of CPC decisions in the process of judicial reviews; Number of Administrative court judgments deciding on the merits of the case, acting in full jurisdiction, in precedential cases.	2.1. Decisions of the CPC 2.1. CPC annual report and publications; 2.2. Final judgments of the Administrative court;	Cooperation and coordination among Administrative Courts All Regulatory Authorities confirmed and enhanced.
3. Case handlers trained on early discovery of secret cartel agreements and parallel behaviors, for complex merger analysis and enforcement of issued merger conditions with officers in the Public Procurement Office trained on discovery of collusive tendering.	Number of antitrust cases; Number of leniency applicants; Enforcement and observance of the issued merger conditions increased by the undertakings; Number of drafted guidance related to	3.1. Decisions on opening proceedings by the CPC 3.2. Requests for leniency application and number of signed statements by the applicants; 3.3. Annual Report of the CoC as adopted by the National Assembly of	- Key stakeholders involved in implementation of competition policy dedicated and capacitated to carry out this process

Results	Objectively verifiable indicators	Sources of verification	Assumptions
	cartel agreements and merger; Number of instigated proceedings for collusive tendering.	Serbia 3.4. Legal opinions of the CPC	
4. The market participants and regulators in Serbia acquired general knowledge in Practice of the EU Commission, European Court Justice and Court of First Instance, as adopted in the EU Commission decisions and judgments on competition law	- Increase in the number of CPC decisions and Court judgments based on the EU law and European courts decisions and practice; - Increased number of requests made by the undertakings in assessing mergers and restrictive agreements; - Number of Consultations with Stakeholders; -Number of Training modules provided and market participants trained.	4.1. Decisions of the CPC and judgments of the Administrative court 4.2. Requests filed by the undertakings to the CPC; 4.3. CPC Project Report 4.4. Guidance, notices and other newsletters issued by the CPC	Continued cooperation and coordination with other regulators
5. Database containing the set of documents, i.e. requests of the parties, decisions and opinions of the CPC since its establishment.	All documents held by the CPC or issued in previous cases are made easily accessible to the third parties showing legal interest; Standard and balanced practice of the CPC in defining relevant markets and application of competition law institutes and policy improved (as adopted in practice and defined in the EU law; - Number of Analytical Reports on existing legal and institutional framework.	5.1. Regularly updated and available database; 5.2. Annual Report of the CPC as adopted by the Serbian national Assembly 5.3. Reports generated by the CPC from the database, Competition sector statistics	All stakeholders involved in the Project taking active part and showing willingness to cooperate.
6. Developed and implemented forensic	Increase in the collected direct evidence	6.1. Final decisions of the CPC in	

Results	Objectively verifiable indicators	Sources of verification	Assumptions
software and related hardware	of infringement during searches of business and private premises used in ruling on final decisions of the CPC	administrative proceedings	

Activities	Means & Costs	Assumptions
<p>Activities related to result 1:</p> <p>1.1. Provision of trainings and simulations on methods used during evidence collection in other authorities applied in CPC investigations;</p> <p>1.2. Organize workshops on methods for searching premises and collection of documents;</p> <p>1.3. Study visits of CPC expert service to the DG Competition and member states' authorities, i.e. their cartel departments/units;</p> <p>1.4. Producing Leaflets on price fixing, bid rigging and market allocation schemes;</p> <p>1.5. Publications on general issues on competitions law and benefits of leniency program for participants in restrictive agreements (preparing TV, radio and newspapers ads and commercials addressing wider public and undertakings)</p> <p>1.6. Workshops for Administrative court judges on the value of direct/indirect evidence presented in cartel cases (tacit agreements v. parallel behavior, freedom of agreement v. restrictive agreements etc.);</p> <p>1.7. Workshops and seminars for undertakings on harms done by cartel agreements for the market and state economy, on potentially high fines for instigating and participating in cartels and negative publicity for the companies;</p>	<p>One (1) Service Contract (EUR 2.8 million)</p> <p>One (1) Supply Contract (EUR 0.2 million)</p>	<p>Minimum 70% of CPC staff available and willing to participate</p> <p>Competent and well-experienced consultants in handling the cases</p>
<p>Activities related to the result 2:</p> <p>2.1. Deliver trainings on application of economic models in defining the goals of</p>		<p>Topics are addressed and discussed for the purpose of practical</p>

Activities	Means & Costs	Assumptions
<p>investigation;</p> <p>2.2. Organize workshops and simulations on determination of economic effects of violations;</p> <p>2.3. Realize study visits to the EC DG Competition and member states' authorities, i.e. their abuse of dominance departments and/or economic sectors;</p> <p>2.4. Provide guidance for case handlers on application of economics in competition law enforcement</p> <p>2.5. Workshops and seminars for the Administrative court judges on economic institutes applied in competition law cases and their particular use in case analysis;</p> <p>2.6. Workshops and seminars for regulatory authorities for analysing unilateral conducts in network industries (natural monopolies);</p>		implementation
<p>Activities related to result 3:</p> <p>3.1. Deliver trainings and workshops on methods applied for early discovery of cartel agreements;</p> <p>3.2. Support to the implementation of leniency program</p> <p>3.3. Realize study visits to member states' relevant competition authorities (cartel departments/units)</p> <p>3.4. Trainings and workshops for case handlers in the Public procurement office of the Republic of Serbia on discovery of bid-rigging cases;</p> <p>3.5. Guidance produced for Public procurement office in methods used for investigating collusive tendering;</p>		Courts and businesses support
<p>Activities related to result 4:</p> <p>4.1. Provide trainings on development of particular competition law institutes in the judgments of the CFI and ECJ;</p> <p>4.2. Organize and conduct workshops on economic rationale behind the EU</p>		Interest of consumers and market participants

Activities	Means & Costs	Assumptions
Commission decisions and ECJ/CFI judgments; 4.3. Carry out trainings and simulations about liberalization of regulated markets; 4.4. Prepare and implement trainings and workshops on ways of cooperation between CPC and businesses on enforcing competition law 4.5. Produce case-handlers' guide on the most significant practice before the ECJ/CFI and national courts		
Activities related to result 5: 5.1. Designing and development of database; 5.2. Trainings of CPC personnel on the use of the established IT system.		
Activities related to result 6: 6.1. Delivery and installation of the forensic software and related hardware; 6.2. Provision of trainings for CPC staff, on adequate use of the forensic software during the raids.		

Precondition: Memoranda on Active Involvement of the Administrative Court judges, assistant judges and staff as well as Memorandum with the Serbian Chamber of Commerce; Memorandums to be signed between CPC and the named institutions signed before start of project implementation.

ANNEX II: INDICATIVE AMOUNTS CONTRACTED AND DISBURSED PER QUARTER OVER THE FULL DURATION OF PROGRAMME

Contracted	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Total
Contract 1			2.8									2.8
Contract 2.					0.2							0.2
Cumulated			2.8	2.8	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0
Disbursement	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Total
Contract 1					0.84	0.42		0.42	0.42	0.42	0.28	2.8
Contract 2.					0.12		0.08					0.2
Cumulated					0.96	1.38	1.46	1.88	2.30	2.72	3.0	3.0

ANNEX III - DESCRIPTION OF INSTITUTIONAL FRAMEWORK

The Commission for protection of Competition has been established in April 2006, after the adoption of the Law on protection of Competition in October 2005. The Law regulated for the very first time anti-trust issues together with rules and procedure for merger control. Anti-trust issues have been regulated already during the 1990's in the than Former Republic of Yugoslavia (later State Union of Serbia and Montenegro) but merger control was not part of legislation up until 2006.

The new Law on Protection of Competition has been adopted in June 2009 and started to be applied as of November 1, 2009. On the basis of the new Law certain provisions have been amended so as to meet requirements of the undertakings (thresholds for merger notification have been raised) and of the CPC (instruments necessary for adequate enforcement of the Law, ex. provisions regarding collection of data, conducting of dawn raids, leniency application, imposition of fines and enforcement etc.).

The new Law, with some already identified deficiencies causing problems in enforcement, still provided provisions in accordance with the positive legislation in force in the EU at the moment of its entry into force. Still, further amendments and improvements will be necessary in the upcoming years with the change of competition law and policy within the EU.

The new Law in accordance with the solution from the previous one provides for the Council of the CPC as a decision making body. Council of the CPC consists of the President of the CPC and four members all elected by the National Assembly of Serbia. Still, contrary to the composition of the previous Council and powers thus linked to it, the new Law provides for much greater powers of the President of the CPC alone. This is further based on the fact that the President of the CPC is now elected directly by the National Assembly, while the previous Law envisaged that five members elect one amongst them for the President.

The expert service of the CPC consists of three departments with so called case-handlers, one department dealing with general and financial affairs and an international cooperation department. Departments are based on the nature of the case that is being dealt with before the CPC, i.e. restrictive agreements, abuse of dominance or merger control case.

The new Law also provided for the number of by-laws to be adopted on the basis of positive Regulations and Guidance in force within the EU. In this respect the Government of RS has already adopted five (5) Regulations that include: Block Exemption Regulation for Vertical Agreements, Block Exemption Regulation for Specialization Agreements, Block Exemption Regulation for Research and Development Agreements as well as Regulation on Criteria for Determining Relevant Market, Regulation on Content and Manner for Notification of Concentration and Regulation on Content of Request for Individual Exemption of Restrictive Agreements.

ANNEX IV -REFERENCE TO LAWS, REGULATIONS AND STRATEGIC FRAMEWORK

The European Partnership from February 2008 (the recent and latest available) sets out the short-term priorities (section: *European standards*, subsection: *Competition*) such as:

- Improve existing anti-trust legislation in line with the SAA requirements and strengthen the administrative capacity of the Competition Commission to ensure efficient and independent enforcement of the rules in line with the EU acquis.
- Improve merger control procedures in order to strengthen the efficiency of the Competition Commission.

The European Partnership highlights the following medium-term priorities (section: *European standards*, subsection: *Competition*):

- Implement State aid legislation and ensure that the authority monitoring state aid functions effectively.

Stabilization and Association Agreement, (*Title VII Approximation of laws, law enforcement and competition rules*), Article 73 “*Competition and other economic provisions*”) states the following:

1. The following are incompatible with the proper functioning of this Agreement, insofar as they may affect trade between the EU and Serbia:

- i) all Agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition;
- ii) abuse by one or more undertakings of a dominant position in the territories of the EU or Serbia as a whole or in a substantial part thereof;

European Commission 2009 Progress Report (*Section 4 European standards, subsection 3.1.5 - Competition*) points out the following:

“There has been good progress in the area of anti-trust. The new Law on Competition Protection was adopted in July 2009, following a wide and transparent public debate. These legislative developments mark a step forward in alignment with the SAA and the Interim Agreement. A number of implementing laws need to be adopted.

In 2008 the Commission for the Protection of Competition dealt with about the same number of cases as in 2007, further building its track record. As in previous years, the majority of the competition cases in 2008 (around 84%) related to merger control. The number of cases concerning agreements which considerably prevent, restrict or distort competition more than doubled in 2008, compared with the previous year. The number of cases of abuse of dominant positions decreased to two in the same period. Work on competition advocacy among government officials, regulators, judges, the business community and the general public has continued. However, the Commission for the Protection of Competition needs to strengthen its capacity to carry out economic analyses when dealing with cases. The enforcement capacity of the judiciary remains weak for lack of specialised knowledge”.

Overall, Serbia remains moderately advanced in meeting the SAA requirements the area of anti-trust, including mergers. The new legislative framework needs to be completed and fully enforced. The new legislation on State aid needs to be followed up by adoption of implementing legislation and establishment of an operationally independent State aid authority.

In the MIPD 2009-2011 (*Section 2.3.1.2 Socio-Economic, Criteria Objectives and choices point 5, pg. 24*) points out: “Enhancing the investment climate and support to small and medium sized enterprises; Develop national institutional capacities for the implementation of anti-trust policy, a competitive Serbian business environment and industry capable of sustaining the competitive pressure of the European market”.

In the MIPD 2009-2011 (*Section 2.3.1.3 - Ability to assume the obligations of membership,*

Objectives and choices, point 4, pg. 26) states the following: “Support State Aid and the Competition Protection authorities to meet EU anti-trust and state-aid standards. Ensure the independence of the Commission on Competition”.

Amended “National Programme for EU Integration of Republic of Serbia into the European Union from December 2009”- abridged version (hereinafter: NPI). The following sections of NPI strongly refer to the project:

- Point 2.2. Capacity to cope with competitive pressure and market forces within EU, 2.2.2. Physical Capital, Reorganization of companies within the sector (page 64) states the following: “*In accordance with the Memorandum on 2009 Budget and Economic and Fiscal Policy including projections for the years 2010 and 2011, adopted by the Government on the proposal of the Ministry of Finance (Macroeconomic Framework for the period 2009-2011: the Price Policy Guidelines), the liberalization of prices in Serbia will be continued in the next three years. Gradual foreign trade liberalization and advancement of **competition policy***”.
- Point: 3.30. International economic relations, 3.30.1 Common Trade Policy, 3.30.1.1.1 Legal Framework page 265) points out: “*At the same time, starting from the provisions of the CEFTA agreement, the Republic of Serbia having presided the Sub-Committee for customs and rules on the origin of goods during 2009, presented the activity plan for 2010 when it will preside over CEFTA. This program, adopted by the Government, focuses the upcoming CEFTA activities on the so-called “new fields... The fourth priority is to take into consideration **the competition policies within the CEFTA**. The objective is that pursuant to Article 19, 20 and 21 of the CEFTA Agreement. It should be ensured that all parties to CEFTA apply sufficient policies of **competition protection**, in order to use the effects of market liberalization to the greatest extent.*
- **ANNEX I** – Planned Government legislative activities to implement the National Programme for Integration of the Republic of Serbia into the EU (NPI) for the period of 2010-2012, regarding Commission for Protection of Competition (page 312):
 - Regulation on procedure for establishing administrative measures imposed by Commission;
 - Regulation on procedure for establishing behavioral and structural measures;

- Regulation on conditions for immunity from fines within the measure for protection of competition;
- **ANNEX 2** – Planned legislative activity of the Government aimed at the implementation of the National Programme for Integration of the Republic of Serbia into the EU (NPI) for the period 2010 – 2012, as per the structure of Chapter 3 (harmonisation with EU *acquis*), 3. Ability to take on the obligations arising from EU membership, 1.8 Competition Policy:
 - Regulation on procedure for establishing administrative measures imposed by Commission;
 - Regulation on procedure for establishing behavioral and structural measures;
 - Regulation on conditions for immunity from fines within the measure for protection of competition

Government of Republic of Serbia recently adopted above mentioned provisions stated in Annex 1 and Annex 2 of Amended “National Programme for EU Integration of Republic of Serbia into the European Union from December 2009”

Trade Development Strategy of the Republic of Serbia (*adopted by the Government of the Republic of Serbia, on 27th February 2009, Official Gazette 15/2009*) underlines:

Article 3.1 “...the pro European oriented development policy is required for the Republic of Serbia, and **by strengthening the policy of competition** through further liberalization of import, **amendments to the anti-monopoly laws and their strict enforcement**; *Article 4.1* refers to competition policy as a segment of trade that should be intensively developed in new conditions, together with other internal market policies;

Article 5.1.2 points out to the functions of the **Commission for Protection of Competition and its legal position as an autonomous, independent organization with the authority to protect the market competition in the Republic of Serbia from illegal abusive practice of dominant firms on the market.**

National Strategy of Economic Development of the Republic of Serbia for the period 2006 – 2012 in the following articles underlines the following:

Article 8.4 makes **notion of Competition policy**, as one of basic policies for efficient integration to EU market, next to consumer protection, state aid and public procurement.

Article 8.4.1. thus provides **as one of the major goals of this strategy independent work of the Commission for Protection of Competition** and adherence to the principles of silent consent; with efficient court settlement in the area of protection of competition. These goals are integral part of the Project in reaching the goal of more efficient enforcement by the CPC, independent of other Government bodies.

Strategy for Attracting Foreign Direct Investments (*adopted by the Government of the Republic of Serbia on 16th March 2006, Official Gazette 22/2006*) points out the following:

Article 7.3. titled **Improving overall competitiveness** sets as major goal increase of competition in all markets. It deals with the activities related to the Project so as to allow for the level-playing field for all potential investors and foster market entries, for the benefit of consumers and future market liberalization.

ANNEX V- DETAILS PER EU FUNDED CONTRACT:

The project will be implemented through one (1) Service Contract for Results 1-5, and one (1) Supply Contract for Result 6

Modalities of implementation of project	
Results	Type of Contract
1. CPC expert service and the CPC Council acquired expertise, ability and capacity for conducting proper investigations during dawn raids while Administrative judges became knowledgeable on the value of direct and circumstantial evidence in competition law cases; undertakings became fully aware of negative effects of cartel agreements.	One (1) Service Contract (2.800.000 EUR) for Results 1,2,3,4 and 5. One (1) Supply contract (200.000 EUR) for Result 6.
2. Sophisticated econometric methods in market analysis introduced during investigations and in support of CPC decisions with full understanding of economic concepts expressed in the judgments of the Court when deciding on the merits of the case; regulators acquired knowledge on economic assessment of mergers in regulated and network industries.	
3. Case handlers trained on early discovery of secret cartel agreements and parallel behaviors, for complex merger analysis and enforcement of issued merger conditions with officers in the Public Procurement Office trained on discovery of collusive tendering.	
4. The market participants and regulators in Serbia acquired general knowledge in Practice of the EU Commission, European Court Justice and Court of First Instance, as adopted in the EU Commission decisions and judgments on competition law.	
5. Database containing the set of documents, i.e. requests of the parties, decisions and opinions of the CPC since its establishment.	
6. Developed and implemented forensic software and related hardware.	