

# Screening report

## Republic of Serbia

### Chapter 22 – Regional policy and coordination of Structural Instruments

**Date of screening meetings:**

Explanatory meeting: 1-2 October 2014

Bilateral meeting: 28-29 January 2015

## I. CHAPTER CONTENT

The *acquis* under this chapter consists mostly of framework and implementing regulations, which do not require transposition into national legislation. These regulations define the rules for drawing up, approving and implementing the European Structural and Investment Funds (ESIF) programmes which will be reflected in each country's territorial organisation. These programmes are negotiated and agreed with the Commission, but implementation is the responsibility of the Member States.

A **legislative framework** has to be put in place allowing for multi-annual programming at national and regional level and budget flexibility, enabling co-financing capacity at national and local level and ensuring sound and efficient financial control and audit of interventions. Member States must respect EU legislation in general when selecting and implementing projects, in areas relating to regional policy and Structural Instruments such as public procurement, competition and environment, non-discrimination and equality between men and women.

The **institutional framework** includes designating and establishing all structures at national and regional level required by the regulations as well as setting up an implementation system with a clear definition of tasks and responsibilities of the bodies involved. The institutional framework also requires establishing an efficient mechanism for inter-ministerial coordination as well as the involvement and consultation of a wide partnership of organisations in the preparations and implementation of programmes.

Adequate **administrative capacity** has to be ensured in all relevant structures. This includes recruiting and training qualified and experienced staff and establishing measures to retain such staff. In this context, Member States need to make the necessary organisational arrangements, adapt procedures and organisation charts and prepare accompanying documents.

The **programming** process covers the preparation of a Partnership Agreement (PA) and a series of operational programmes (OP) including ex-ante evaluations. Member States have to organise broad partnerships for the preparation of programming documents. They have to ensure that a sufficient pipeline of projects is established allowing for a full financial implementation of programmes. Member States will also have to carry out specific information and publicity measures with regard to the Structural Instruments.

Establishing a **monitoring and evaluation** system includes the setting up of monitoring and evaluation structures and processes in different relevant bodies as well the installation of a comprehensive and computerised management information system (MIS) accessible and usable for all concerned bodies.

A specific framework for **financial management and control** including audit must be set up. This includes designating and establishing all structures required by the regulations as well as setting up an implementation system with a clear definition of tasks and responsibilities of the bodies involved.

## II. COUNTRY ALIGNMENT AND IMPLEMENTATION CAPACITY

This part summarises the information provided by Serbia and the discussion at the screening meetings.

Serbia indicated that it accepts the *acquis* under this chapter and does not expect any difficulties in implementing the *acquis* by accession.

### II.a. Legislative framework

Serbia stated that its legislative framework is partially in line with EU policies and legislation most relevant for the implementation of EU Cohesion Policy, i.e. competition policy and state aid, public procurement, anti-discrimination and gender equality, environmental policy and transport.

According to Serbia, environmental legislation is largely defined by the laws on Environmental Protection, Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA) that are all partially aligned with the *acquis*. Alignment with the EU directives in the field of environmental impact assessment is foreseen by 2018.

Serbia stated that the legal framework regulating the various forms of state aid is partially in line with the *acquis*. As regards horizontal state-aid Serbia indicated that its legislation is partially aligned with the *acquis*, and that the adoption of a new regulation by end 2015, will ensure full alignment. According to Serbia, the rules for granting *de minimis* aid are completely harmonised. Serbia stated that full alignment with the EU guidelines on regional state aid will be achieved by end 2015. Serbia is in the process of aligning all the rules for granting aid in the form of compensation for the provision of service of general economic interest. Serbia indicated that the adoption of the rules for granting state aid in the transport sector is planned to be completed until the end of 2016.

In the area of public procurement, Serbia stated that the existing national legislation is partially aligned with the *acquis*, and that full harmonisation is expected by end 2017.

Serbia indicated that legislation in the area of anti-discrimination and gender equality is partially aligned with the *acquis*. Serbia stated that full transposition of the *acquis* on this area is planned for end 2017.

As regards the ex-ante conditionalities introduced in the new regulatory framework for ESIF, Serbia stated that the majority of ex-ante conditionalities are considered as being only partially fulfilled. Serbia indicated that major efforts will be needed for fulfilling conditionalities related to the strategic framework, in the field innovation and Research and Development (R&D), in Information and Communication Technologies and in support of small and medium sized enterprises (SMEs). As regards the conditionalities related to low carbon economy, climate change, environment and transport, Serbia noted that further efforts will be needed in strengthening capacities in the area of climate change, risk prevention, setting proper pricing policies (water) and promoting economically viable investments. According to Serbia, as regards the conditionalities related to employment, social inclusion, education and public administration improvements are needed in enhancing authorities' capacities for policy implementation.

Serbia indicated that multi-annual budget programming is provided for in Serbia's national budget planning only for capital investment projects. The State budget in Serbia is adopted on an annual basis; however budget beneficiaries are obliged to give their projections of expenditures for the next two years. The legislation in force allows for transferring of funds between budget lines and programmes. More specifically, Serbia stated that the commitments undertaken in accordance with the approved appropriations, but not executed during the given year, are transferred to the coming financial year.

Serbia stated national co-financing of EU assistance is secured on an annual basis. Serbia indicated that the law on Budget System provides that the funds allocated for co-financing of EU projects cannot be used for other purposes and if budget users do not plan enough funds for co-financing of EU funded projects the funds will be provided from other appropriations of the same budget user. The indicative needs for co-financing are provided by the Law on Budget on an annual basis. According to Serbia, the National Fund is responsible for providing an opinion to the Ministry of Finance on the adequacy and correctness of co-financing needs defined by the Law on Budget.

As regards the co-financing capacity of the sub-national level, Serbia stated that sub-national authorities can co-finance EU projects. Serbia specified that the Government has issued instructions for the budget preparation by sub-national authorities, inviting them to secure the adequate funds for co-financing of EU funded projects, for which they are final beneficiaries. According to Serbia, the existing legislation provides that sub-national authorities are notified by the Contracting Authority, in accordance with payment forecasts, and are required to transfer the co-financing to the account of the National Fund, in the National Bank of Serbia.

Based on the existing legislation, the subnational authorities draw their revenues from several sources. Serbia stated that the main source of revenue is local taxes, fees and charges defined by subnational authorities. Subnational authorities are also independent by law to borrow funds; however, they need the opinion of the Ministry of Finance before they decide on borrowing as well as to respect the restrictions on borrowing, as stipulated in the Law on Public debt. Finally, there are budget transfers from the national budget, depending on the level of development of municipalities, i.e. the less developed a municipality is, the more support from the national budget it will receive.

Serbia indicated that its legal framework on financial control is essentially regulated by the Law on the Budget System and relevant secondary legislation. This legislation contains the main concepts of managerial responsibility and accountability. It also defines which public bodies are required to establish functionally independent internal audit structures. The territorial organisation of Serbia is defined by the law on Regional Development and regulation on Nomenclature of Statistical Territorial Units (NUTS) which has defined and established statistical regions at NUTS I, NUTS II and NUTS III levels.

## **II.b. Institutional framework**

Serbia stated that it has designated the management and implementation structures for the instrument of pre-accession assistance (IPA). The conferral of management powers for IPA (2007-2013 period) was approved by the Commission in March 2014 through which decentralised implementation system (DIS) is the management modality for part of IPA 2013 National Programme. The CBC programmes with EU Member States continue to be implemented under shared management. The entrustment of budget implementation tasks which will allow implementation in indirect management for IPA II has been launched.

According to Serbia the key structures dealing with IPA are the National IPA Coordinator (NIPAC), the Competent Accredited Officer (CAO), the National Authorising Officer (NAO), the National Fund (NF), and the Office for the Audit of EU funds. IPA management and implementation is organised at the level of operating structures per IPA component

Serbia stated that it has identified -on a preliminary basis- the authorities that will be responsible for carrying out the obligations under the ESIF. In this context, Serbia indicated that these structures will be based on the institutional framework developed for the implementation of IPA and will also take into account the revised regulatory framework of the EU Cohesion Policy for 2014-2020. In case of institutional continuity Serbia informed that the existing structure will be strengthened to ensure effective, efficient and accountable management of the ESIF.

Indicatively, Serbia stated that the Serbian European Integration Office (SEIO), which is the NIPAC's technical secretariat, will assume the role of the Coordinating Body and depending on the number of operational programmes (OPs), possibly that of a Managing Authority (MA). Depending on the content and structure of the OPs, line ministries may assume the role of the MA too. Serbia also indicated that the role of the Certifying Authority (CA) will be assumed by the Ministry of Finance, while the function of the Audit Authority will be performed by the Office for the Audit of EU funds. Serbia informed that for European Territorial Cooperation programmes, SEIO, currently the national authority for cross-border cooperation, will become the Managing Authority.

Coordination among bodies involved in the programming and implementation of EU assistance is conducted through regularly established consultations, coordination meetings and monitoring activities. Serbia stated that in this process, the active participation of all authorised project/programme/action applicants, the European Commission, bilateral and multilateral donors, International Financial Institutions (IFIs), representatives of civil society organisations, as well as local self-government bodies is ensured to allow better coordination.

Serbia indicated that the requirement of sectoral coordination under IPA II (2014-2020) is served by the Sector Working Groups (SWG), a key mechanism per sector for determining and formulating national priorities for EU and other development assistance, with the participation of representatives of all concerned sectoral actors, including bilateral donors and IFIs. According to Serbia, the civil society is involved in the work of these groups, as well as the subnational level, being represented by the Standing Conference of Towns and Municipalities.

Serbia stated that inter-institutional coordination between the different layers of administration at national and sub-national level is provided by the Republic Secretariat for Public Policies. According to the law on Ministries, the mandate of this body is the establishment and coordination of a system for strategic planning and preparation of public policies.

### **II.c. Administrative capacity**

Serbia stated that capacities for the management of EU funds are continuously being developed. Serbia indicated that despite staff being neither stable nor adequate in numbers to deal with increasing needs under IPA, there is a critical mass of experienced staff retained in the relevant bodies. According to information provided by Serbia, there is no staff retention

policy in place, but it is the Government's priority to develop one by end 2016. The largest percentage of staff turnover takes place at senior level positions.

Currently, 274 officials are engaged in the system established for the implementation of IPA funds, out of the 395 permanent posts. Serbia indicated that the training of public administration staff is provided by the Law on Civil Servants. Training programmes related to the project cycle of EU funds are developed on the basis of needs assessments carried out by the SEIO. In addition, ad hoc trainings are organised in accordance with the current needs of civil servants, with support from projects and donors. Serbia stated that, since 2007, the Human Resource Management Service has carried out on average 15 training programmes per year focusing on project cycle management and attended by a high number of civil servants. Serbia informed that special training modules for decentralised implementation (DIS) under IPA I (2007-2013) have been implemented since 2008. Serbia indicated that the SEIO, as the coordinator for cross-border cooperation, has organised a series of training events covering the full cycle of project life since 2007.

Serbia indicated that the planning of capacity building measures for ESIF will be based on the current institutional set-up and the continuity between IPA and ESIF authorities. As regards the capacity building at the subnational level, Serbia informed the Commission that a draft strategy for professional training in local government is currently under adoption. Serbia stated that the strategy complements general public sector reforms and envisages the appropriate use of funds allocated for the adequate training of staff at subnational level.

#### **II.d. Programming**

Serbia stated that currently an important number of national programming documents and strategies are in place with either direct or indirect relevance with the EU Cohesion policy. According to Serbia the current strategic framework consists of more than 100 strategies adopted by the Government and covering all sectors, out of which only 16% of objectives are harmonised. Most of the strategies lack action plans and are not linked to budgetary provisions. Serbia stated that currently, a process of consolidation of different strategic documents is ongoing by the Public Policy Secretariat (PPS). The PPS is also mandated to establish a national planning system, defining the hierarchy, standardised methodology, and level of responsibility as regards the adoption of strategic documents.

Serbia stated that as regards the planning of international development assistance, the National Priorities for International Assistance (NAD) for 2014-2017, with projections until 2020, constitute the backbone document ensuring coherence with national objectives. The NAD was based on the existing national strategies, including the National Programme for the Adoption of the Acquis (NPAA). Serbia indicated that the programming of priorities funded under IPA is coherent with NAD and NPAA.

For the purposes of IPA, Serbia indicated that programming work is structured by two main documents; the Action Documents (AD) which are annual programming documents, and the Sector Planning Documents (SPD) that serve multi-annual planning, and facilitate the annual programming exercise with the EU. Serbia stated that the NAD could be transformed into a Partnership Agreement (PA), as the logic of both documents is comparable and in some areas compatible. Likewise, Serbia indicated that as the SPD uses a forward looking planning approach, it plans to transform them into Operational Programmes, to fulfil the ESIF programming requirements.

Serbia stated that, following the application of an objective and transparent methodology for project selection, it has developed a single project pipeline of investment projects per sector, covering energy, transport, environment and business related infrastructure. The priorities identified therein will be the object of financing from the national budget, IPA, IFIs and other bilateral donors. Serbia indicated that all identified projects are in line with national strategies and serve the EU priorities per sector. The methodology provides a mechanism whereby selected projects are accompanied by an analysis of technical maturity in separate stages and identification of responsible/competent institution in each phase. The SEIO is the responsible institution for the coordination and update of the single project pipeline. Serbia indicated that the preparation of project documentation is supported by the EU funded Project Preparation Facility. Serbia informed that it also uses the Joint Assistance for Supporting Projects in European Regions (JASPERS) to support the process of project preparation since 2013.

As regards the partnership principle in programming, Serbia stated that the current system of Sector Working Groups that operate in programming EU and other international development assistance, will be transformed into a smaller number of multi-sectoral Working Groups (WGs) having a central role in the preparation of the PA and OPs. Serbia stated that when composing the WGs, the partnership principle will be respected, i.e. representatives of the civil society, business associations and other non-government organisations, representatives of regional and local authorities will be invited to WGs meetings and the necessary conditions for their active participation will be ensured. Serbia added that stakeholders will be able to provide comments in writing on the draft PA and OPs at different stages of development of these documents, as well as on consultative workshops. Key partners identified in the programming phase will be involved in the implementation and monitoring of OPs. Serbia clarified that some social partners are not yet involved in the programming process of IPA and other development assistance, but it plans to include them at a future stage.

## **II.e. Monitoring and evaluation**

Serbia stated that it is building up experience, mainly under IPA, in monitoring and evaluating at both programme and project level. Serbia confirmed that the administration has limited capacity for results -oriented monitoring and evaluation both at national and subnational levels. The administration lacks a general methodology, guidelines, manuals and a management information system (MIS) for monitoring and evaluation of project/ programmes that could be used broadly and cover all public investments and programmes.

Serbia indicated that the current system of monitoring and evaluation of IPA programmes will constitute the basis for the future system under the ESIF. Serbia specified that, in the context of the NAD, it has developed and established a system of results-oriented monitoring and evaluation of international development assistance. In the context of IPA under decentralised implementation system (DIS), monitoring functions are carried out by the IPA Monitoring Committee and other relevant monitoring committees in line with the IPA Framework Agreement and the relevant national legislation. The IPA Monitoring Committee is in charge of reviewing overall progress and achievement of results/objectives/impact of all IPA financed programmes, while lower level committees review the achievement of results/objectives/impact in their respective IPA components/sectors. Serbia indicated that, where applicable, monitoring sub-committees are formed on sector basis (corresponding to the relevant Sector Working Groups, formed for the purposes of planning and programming) to review the implementation of IPA funded actions.

Serbia stated that evaluations of IPA (2007-2013) are carried out by externally contracted independent experts. The coordination, organization of evaluation and follow up of recommendations is performed by the SEIO.

Serbia indicated that IPA structures involved in the management and implementation of IPA assistance currently use the manual system for the implementation and management of IPA operations, with a limited use of existing IT systems for communication, data exchange and processing. Serbia informed that an electronic version of management information system for (MIS) is in the process of development for IPA. An MIS shall provide information that is needed to manage and implement IPA assistance efficiently and effectively.

#### **II.f. Financial management and control**

Serbia stated that its financial management and control system is determined by the requirements of the pre-accession instruments. In this context, Serbia has established an operational framework for financial management and control (including audit) under IPA. The standards and procedures related to financial management and the internal control process are provided for by national legislation. Serbia indicated that the principle of separation between authorities involved in IPA implementation is provided for by national legislation.

The responsible institution for auditing the functioning of the management and control systems is the Audit Authority Office for EU Funds. Serbia indicated that not all public beneficiary institutions have established an internal audit authority. Serbia confirmed that the Ministry of Finance and the respective ministries involved in IPA have an internal audit department. Serbia acknowledged that the internal audit functions generally face limitations linked to capacity and expertise of the available staff.

Serbia indicated that the Contracting Authority (CA) for IPA, located at the Ministry of Finance, verifies the correct implementation of operations under IPA. Serbia specified that verification checks are performed through desk-based and on-the-spot checks. The NAO is responsible for certifying the legality and regularity of expenditures before submitting payment requests to the Commission.

### **III. ASSESSMENT OF THE DEGREE OF ALIGNMENT AND IMPLEMENTING CAPACITY**

Overall, Serbia is partially aligned with the *acquis* in the fields covered by this chapter. By Serbia's accession to the EU, the application and enforcement of the *acquis* on regional policy and coordination of structural instruments will need to be fully ensured. Serbia's experience with DIS and its contribution to the development of implementation structures and mechanisms serves as a solid basis for the future responsibilities under EU Cohesion Policy. The experience to be progressively gained under IPA II (2014-2020), under the indirect management mode, is also expected to strengthen Serbia's capacity to manage effectively EU funds.

Serbia is at an early stage of preparations as regards the implementation of EU Cohesion policy. Specific gaps still need to be addressed in relation to the establishment of the institutional and administrative capacity and with regard to the definition of the implementation systems.

While Serbia has taken preliminary steps in the planning of institutional framework and in programming, the relevant structures will need to be designated, capacities further enhanced and management systems brought into compliance with the regulatory framework governing the implementation of the ESIF. Serbia needs to establish a computerised Management Information System (MIS) accessible by a wide range of users and build up adequate evaluation and audit capacity. It also needs to set up an efficient financial management and control system for the implementation of the ESIF.

### **III.a. Legislative framework**

Serbia has already taken steps to align with the relevant EU legislation and policies in areas that are a prerequisite for the proper implementation of EU Cohesion policy. It still needs to pay particular attention in attaining legislative alignment with the *acquis* in the areas of state aid, public procurement, environmental protection and statistics including on the establishment of common classification of territorial units for statistics (Regulation 1059/2003/EC). Legislation to address shortcomings in the above areas is under preparation.

Serbia has to make strong efforts to fulfil the required ex-ante conditionalities, introduced by the Common Provisions Regulation governing the ESIF. Particular attention needs to be paid to the conditionalities linked to the capacity of the administration to ensure proper policy implementation and enforcement.

Serbia's budget planning system, despite some built-in flexibility, allows only for annual planning. In this context, Serbia needs to adopt legislation providing for multi-annual budget planning. The co-financing of projects at national level is currently only provided for by the state budget. Co-financing from sources other than the State budget remains limited, despite the necessary legal provisions that are in place to allow for sufficient co-financing capacity. This is due to the current fiscal capacity of the country and constitutes an area of concern.

The subnational authorities can draw their revenues from multiple sources, including transfers from the State budget, and are independent in executing their own budgets. Local authorities can take loans for amounts no more than 50% of their revenues, which affects the capacity of local authorities to co-finance large infrastructure projects. A mechanism needs to be established to ensure a financially sound basis for investments at subnational level, and sufficient authority for project delivery, potentially across municipality boundaries.

### **III.b. Institutional framework**

Serbia has designated structures for the implementation of IPA, notably as regards the management of the IPA 2013 programme, and is in process for being entrusted with budget implementation tasks for IPA II (2014-2020). Serbia has indicated that the existing IPA architecture will constitute the basis for establishing the future institutional framework. Serbia will need to pay attention to rapidly ensuring full integration of the IPA structures and transfer of their functions into line ministries to ensure continuity. These need to gradually take full responsibility and ownership of policy planning and preparation.

Serbia has not yet formally designated the implementation structures for the ESIF. However, Serbia is quite advanced in the identification of the structures that will play key roles under the ESIF, indicating strong elements of institutional continuity, where possible.

Considering the complexity of functions which the ESIF will require, Serbia should ensure that the structure of coordination currently in place for managing EU assistance will be maintained and enhanced. At the same time, the functional independence of the future structures as a whole will need to be ensured, in particular as regards the future managing and certifying authorities and their responsibilities. Moreover, the coordination structure should support the Managing Authority (-ies) in the discharge of their responsibilities and in the decision-making capacity to manage and implement programmes under their responsibility.

At a wider level, and within the framework of increasing transparency and accountability in the management of the ESIF, the coordination structure needs to ensure coherence between macro-economic policy objectives, on the one hand, and co-financing needs and objectives as required under ESIF, on the other.

In addition to a coordinating structure, the appropriate inter-ministerial coordination needs to be ensured to allow for effective implementation of ESIF.

### **III.c. Administrative capacity**

Overall, the experience of Serbia with multi-annual programming and management of EU-funded projects is currently limited for the existing staff. Serbia will need to put efforts in strengthening the capacity, both in terms of numbers and expertise, of the relevant IPA authorities, and particularly of the Office for the Audit Authority Office of EU funds.

Serbia has carried out a number of trainings on the management of EU funds under the IPA instrument. As Serbia lacks a comprehensive capacity building strategy, training programmes are organised on the basis of ad-hoc needs assessments conducted by the SEIO. Nevertheless, training activities should intensify to cover all the officials currently involved in IPA. Increased importance should be placed on strengthening the evaluation capacity of the public administration and the audit functions. Emphasis should be placed on the appropriate training of subnational authorities, especially those involved in implementing IPA programmes. For this purpose, Serbia is preparing a strategy for the professional development of employees in local government.

Given that most of the implementation structures for the ESIF have been identified, the relevant planned capacity building measures should broadly target the various stakeholder groups to improve the general awareness and understanding of the principles, practices and responsibilities that are required for the successful implementation of ESIF.

Serbia needs to ensure continuity and stability of the human resources who benefit, or will benefit, from capacity building measures. A sound staff retention policy targeting those officials who have or will progressively gain expertise in the management and implementation of EU funds needs to be ensured. In this context, Serbia needs to apply an efficient and attractive career planning and salary policy for civil servants across all bodies involved in IPA.

### **III.d. Programming**

Serbia has produced a number of policies and programming documents notably at national level, the most relevant of which encompass the national and IPA priorities. There is a proliferation of strategies in some sectors that need to be consolidated and accompanied by operational and budgeted action plans. The overarching national programming documents, i.e.

the NPAA and NAD, are consistent with the programming process under IPA. Serbia progressively gains sectoral and multi-annual planning capacity under IPA, paving the way for the programming needs under the ESIF.

Serbia has developed a single project pipeline, covering energy, transport, environment and business infrastructure, and following the application of a solid project selection methodology. Infrastructure projects from the pipeline are not limited to the purposes of IPA programming but also are subject to funding from the national budget, IFIs and other bilateral donors. The provision of technical assistance for project preparation provided by the EU needs to be transferred progressively to the Serbian authorities.

The coordination of programming at national level is inclusive and allows adequately for an effective programming process, with sectoral focus. Serbia needs to retain the same system and enhance it further to respond to the increased programming requirements under the ESIF.

### **III.e. Monitoring and evaluation**

Serbia is progressively building up experience in monitoring and evaluation, both within Ministries and other institutions involved in IPA, although the capacity for these functions remains limited. Serbia lacks a management and information system for monitoring and evaluation under IPA.

As regards the implementation of the EU Cohesion Policy, Serbia will need to mobilise adequate human and financial resources for the proper establishment of a monitoring and evaluation system. This will include the setting up of an integrated management information system which will not only combine physical and financial monitoring, but will also allow access and contribution to the data collection and entry of a broad group of bodies involved in the implementation of operations and final beneficiaries. It further needs to enable the linking up of electronic accounting systems with the management information system. In addition, the evaluation capacities of the staff will need to be strengthened.

Serbia needs to build on existing capacities and experience and prepare an overall monitoring and evaluation strategy in order to define the bodies that will deal with these functions under the future ESIF.

### **III.f. Financial management and control**

Serbia is in the process of establishing a framework for financial management and control (including audit) for all state expenditures. It should however be further developed to cover the needs of the EU Cohesion policy.

Serbia needs to define its financial management and control system (including internal and external audit) for the ESIF and pay due attention to the separation of functions and the independence of key bodies such as the Certifying Authority and the Audit Authority.