



The logo features a stylized sunburst or starburst symbol above the words 'BUILDING INTEGRITY' in a blue, serif font.



BUILDING INTEGRITY

SELF ASSESSMENT

**PEER REVIEW REPORT
SERBIA**

- Belgrade, 2th November 2012 -

SERBIA - BUILDING INTEGRITY SELF ASSESSMENT PEER REVIEW REPORT

OVERVIEW

1. The Building Integrity Self-Assessment Process is a part of the practical tools developed in the framework of the Building Integrity (BI) Programme. The BI Self-Assessment Questionnaire provides nations with a snapshot of current structures and practices. The subsequent BI Peer Review helps nations to confirm areas of good practice and those that may require further effort.
2. In line with the government's support of the Building Integrity Programme within the South Eastern Defence Ministerial (SEDM) framework, the Serbian Minister of Defence expressed the interest to carry out a Self-Assessment. It was submitted to NATO by the end of March 2012.
3. The reply of the Republic of Serbia to the Self-Assessment Questionnaire was thorough and provided essential information in most areas. The commitment shown by senior leadership and MoD officials in the Peer Review meetings demonstrate Serbia's commitment to reform and promote integrity, transparency and accountability within the MoD.
4. The Defence and Internal Affairs Committee of the Parliament of the Republic of Serbia stressed that the new Government and Parliament are strongly committed to counter corruption. This determination is also shown by the appointment of the Minister of Defence who has also been appointed as the Government's coordinator in fighting corruption.
5. This report is focused on the Peer Review of the Self-Assessment Questionnaire completed by the MoD of the Republic of Serbia. Extensive meetings and interviews were conducted between 25 - 27 June, and 17 - 20 September 2012 and on 2nd November 2012.
6. The Ministry of Defence has assessed the most vulnerable areas of corruption to be: procurement, medical support and administration, conscription, emoluments regarding travel expenses, housing, compensation for combat injuries and management of facilities and resources.
7. A National Anti-Corruption Strategy¹ is in place, and the MoD is implementing an internal anti-corruption/integrity plan and 13 subordinate units have been tasked to develop their own independent plans by the 1st December 2012. The National Strategy should be developed into an action plan which will allow a systematic implementation. NATO BI programme assistance is available, if requested.
8. There appear to be a framework of legal and other policies in place in Serbia related to anti-corruption which provides the tools and mechanisms for policy implementation². The appointment of the Minister of Defence as the governmental coordinator on anti-corruption issues may be an indication of the government's determination to fight corruption and would consolidate the political support.

¹ http://www.rai-see.org/serbia/index.php?option=com_content&view=category&layout=blog&id=34&Itemid=54

² Anti-Corruption Agency Act, unofficial translation OSCE Mission to Serbia, amended November 2008, www.osce.org/serbia/82789.

9. The national anti-corruption efforts are led by the Anti-Corruption Agency (Agency), an authority which reports directly to Parliament³. It is engaged in several meaningful prevention measures which are seen as essential and are in the main welcomed by society. However, the Agency has not yet recruited to the agreed staffing level and currently 22 of the authorised 97 posts remain vacant⁴.
10. The Peer Review Team noted that there is no planned anti-corruption awareness education for civilian or military personnel. The potential risk of encountering corruption while on operations is not specifically highlighted during pre-deployment training. In particular, it was noted that no training is available for contracting personnel who may in the future, be deployed in support of Serbian units. This has to be seen on the fact that SAF units deployed abroad are embedded in a multinational logistical framework and do not have any responsibility for independent procurement.
11. The Peer Review Team noted several examples of good practices and these are highlighted in the detailed findings and comments.
12. The Peer Review Team offers the following general recommendations for Serbia's consideration:
 - a. The NATO Peer Review Team recommended that Serbia consider the appointment of a Government official to coordinate the implementation of the "National Anti-corruption Strategy" and to provide a focal point for the development of an Action Plan within the MoD. This recommendation has been implemented and work should now concentrate on planning, implementing and monitoring the effect of the strategies and plans being put into action.
 - b. The Action Plan should address the recommendations from this report to strengthen transparency, accountability and integrity. It is further recommended that a progress report is produced after approx. 6 month of implementation for further discussion with NATO IS / PASP.
 - c. Initiate systematic and comprehensive anti-corruption awareness education for all civilians and military personnel. Encourage senior leadership to openly promote programmes to build integrity and increase transparency and accountability.
 - d. Consider harmonizing the Budget Law and the Public Procurement Law with a view to achieving the best value for money⁵.
 - e. Further develop and refine the system of Planning, Programming, Budgeting and Execution (PPBE), introduced in 2008.⁶
 - f. Develop a pre-deployment anti-corruption education module for all deploying units and consider specialist training on procurement and financial management for those personnel being sent abroad.
 - g. Invite Serbia to make a follow-up report on implementation in spring 2013.

³ www.acas.rs/

⁴ This paragraph is not within the responsibility of the Ministry of Defence.

⁵ This recommendation is not within the responsibility of the Ministry of Defence.

⁶ The PPBE system was introduced in the Ministry of Defence and the Serbian Armed Forces in 2008, when the first Rulebook on planning, programming, budgeting and execution in MoD and SAF was approved. This Rulebook regulates planning, programming, budgeting and execution of plans and programs within the responsibility of the Ministry of Defence and the Serbian Armed Forces. After the finalization of optimization of PPBE system, the Defence Minister approved the new Rulebook on PPBE in MoD and SAF in 2011.

- h. Establish a BI point of contact to follow-up with NATO IS/PASP to take advantage of its programmes and activities.
- i. Recommend a follow-up visit to review the progress.
- j. Recommend to publish this report on the MoD website.

DETAILED FINDINGS AND COMMENTS
DEMOCRATIC CONTROL AND ENGAGEMENT

13. Democratic control of the Serbian Armed Forces is regulated by the Constitution of the Republic of Serbia. The Law on Defence stipulates that the President of the Republic, in accordance with the law, commands the Armed Forces of Serbia and appoints and dismisses the Chief of the General Staff of the Armed Forces of Serbia, with the advice of the Defence Minister.
14. The National Assembly has the authority to: issue decisions in respect of wartime and peacetime, and declare the state of war or state of emergency, adopt the basic strategic documents in the field of defence, enact laws on ratification of international treaties in the field of defence and military cooperation, decide on the use of the Armed Forces of Serbia outside the borders of the Republic of Serbia, adopt the defence budget, and supervise the work of security services. In addition, since 2007, there is an Ombudsman who can submit proposals for laws to Parliament and Government. The National Security Strategy⁷ and Defence Strategy⁸ of the Republic of Serbia were adopted by the National Assembly in October 2009 and are public documents.
15. The Parliamentary Defence and Internal Affairs Committee has a range of powers but has not fully deployed all its influence to address the questions of reinforcing the independent authorities with adequate resources⁹.
16. Currently, they lack the experience to deal with all the issues they face and to introduce all the changes required¹⁰.
17. According to the Committee, transparency is insufficient in the defence system of the Republic of Serbia. The main areas of concern are public procurement, trade in armaments and military equipment and the sale of surplus assets (real estate and equipment). The major irregularities are perceived to be within the MoD and not within the General Staff and its subordinate units.
18. Concern was expressed at the lack of transparency of the ownership of the media. It was agreed that this is something which needs to be investigated¹¹.
19. The Law on Defence, the Law on the Armed Forces of Serbia, the Law on the Basis of Security Services Organization of the Republic of Serbia and the Law on the Military Security Agency and Military Intelligence Agency guide the functioning of the MoD and the armed forces. The General Staff of the Armed Forces of Serbia is within the Defence Ministry and is required to perform its duties in accordance with the law and under the authority of the President and Defence Minister.
20. Unlike most EU security agencies, and in accordance with the provisions of the Law on the Military Security Agency (MSA) and Military Intelligence Agency, the MSA detects, investigates and documents, among other things, criminal corruption acts within the MoD and the SAF. It can apply special investigation techniques in accordance with the provisions

⁷ http://www.mod.gov.rs/eng/dokumenta/strategije/Strategija_nacionalne_bezbednosti_RS_eng.pdf

⁸ http://www.mod.gov.rs/eng/dokumenta/strategije/Strategija_odbrane_RS_eng.pdf

⁹ This paragraph is not within the responsibility of the Ministry of Defence

¹⁰ This paragraph is not within the responsibility of the Ministry of Defence

¹¹ This paragraph is not within the responsibility of the Ministry of Defence

of the Criminal Procedure Code. The MSA is a separate legal entity and informs the Minister of defence directly of ongoing investigations¹².

21. The Law on the Military Security Agency and Military Intelligence Agency gives this institution access to personal records and related data including telephonic records (Articles 12 and 13). According to a ruling by the Constitutional Court of the Republic of Serbia¹³, elements of these articles violate the Constitution of the Republic of Serbia. The Court ordered amendments to be made to the law accordingly. The amendments to the current legislation are under preparation.
22. The Communication Strategy of the MoD is based on the Constitution of the Republic of Serbia, the Public Information Law and the Law on Free Access to Information of Public Importance¹⁴. The Ministry of Defence informs the public on the regular basis about its activities and attained results on the Internet site of the Ministry of Defence (within responsibility of the Department for Public Relations). A number of guidelines and documents produced by the MoD confirm that there is an active program related to public information. Serbian media have shown significant interest in defence issues. Corruption and criminal activities are also reported proactively by the department of the MoD.
23. The Independent Ombudsman of the Government of the Republic of Serbia has a total of 67 positions, all of which are filled. Due to the increasing number of pending cases, he estimates that he needs additional 30 inspectors¹⁵.
24. The Ombudsman mentioned that a significant number of court rulings concerning MoD decisions have not yet been implemented. These include decisions relating to housing and pensions.
25. It was pointed out that the Defence Inspectorate's mandate does not include the investigation of complaints relating to soldier's/employees rights in the MoD. However, it was suggested that, instead of going to court, many complaints could be dealt with by the MoD administratively.
26. Concerns were expressed about the legal and administrative arrangements regarding security clearance and the classification of documentation which are currently totally inadequate. This leaves the system open to abuse and arbitrary decision. These problems have been highlighted in other discussions¹⁶.
27. According to the MoD, there is no basis for concern regarding legal and administrative arrangements with regard to security clearance. The area of security clearance is regulated for access to classified information at all levels of classification by the Data Secrecy Law, as well as for all other areas, such as recruitment, regulation of military obligation and appointing, which are completely regulated by the Rule Book on security clearance for personnel, which MSA executes.
28. The Commissioner for Information of Public Importance and Personal Data Protection¹⁷ is an autonomous public authority, who exercises his powers independently and whose competences are set by Article 44 of the Law on Personal Data Protection¹⁸. The

¹² <http://www.vba.mod.gov.rs/index.html>

¹³ <http://www.ustavni.sud.rs/page/home/en-GB>

¹⁴ <http://www.lexadin.nl/wlg/legis/nofr/eur/lxweser.htm>

¹⁵ This paragraph is not within the responsibility of the Ministry of Defence

¹⁶ This paragraph is not within the responsibility of the Ministry of Defence.

¹⁷ <http://www.poverenik.org.rs>

¹⁸ <http://www.lexadin.nl/wlg/legis/nofr/eur/lxweser.htm>

Commissioner primarily has two main areas of responsibilities: freedom of access to information and protection of personal data. This covers all ministries including the MoD¹⁹.

29. The Commissioner's office receives from 400 to 500 requests per month; currently 3000 are waiting to be processed. Currently only 37 positions have been filled out of the approved and funded staffing level of 69. However, despite funding being available to recruit the additional staff to reach the ceiling of 69, suitable office accommodation has not been provided by Parliament. This has been an outstanding requirement for seven years. Recruitment is currently stopped until additional accommodation is provided²⁰.
30. The serious lack of personnel, only 46% recruited of the approved ceiling, has had a significant effect on implementing its mandate. This in turn may have a detrimental effect in terms of confidence in the institution but also in the wider public administration²¹.
31. The two main areas for concern were identified as: firstly the lack of a legally defined document classification system, this in turn leads to the second area for concern, which is the arbitrary withholding of information by government institutions which if correctly classified could be released. Conversely, this situation may also lead to a leakage of sensitive information²².
32. The number complaints against the MoD are few. However, those raised relate to sensitive issues such as procurement and financial management.
33. The Commissioner expressed concern regarding the lack of transparency in the Serbian system of government. This was highlighted by the dismissal of between 700 and 800 out of 2500 state prosecutors and judges in 2009 and 2010. It was reported that no justification was given to individuals for their dismissal. After complaints received, all dismissed judges had to be reinstated. However, he was concerns that this episode has damaged the Serbian judicial system and has a detrimental effect on public confidence²³.

RECOMMENDATIONS

- a. Consider developing a strategic communication plan to ensure that society is informed of progress in the MoD's efforts on implementing the "National Anti-corruption Strategy".
- b. In the twice a month magazine which are distributed to all units and civilian staff it is recommended to promote integrity, accountability and transparency.

¹⁹ This paragraph is not within the responsibility of the Ministry of Defence.

²⁰ This paragraph is not within the responsibility of the Ministry of Defence.

²¹ This paragraph is not within the responsibility of the Ministry of Defence.

²² This paragraph is not within the responsibility of the Ministry of Defence.

²³ This paragraph is not within the responsibility of the Ministry of Defence.

NATIONAL ANTI-CORRUPTION LAWS AND POLICY²⁴

34. Serbia has ratified numerous U.N. and Council of Europe conventions on anti-corruption instruments. There is a range of anti-corruption legislation and policy guidance contained in the National Strategy for Combating Corruption. There is the Action Plan for implementation of the National Strategy for Combating Corruption, and a Memorandum of Understanding between the Anti-Corruption Agency (Agency) and Government of the Republic of Serbia on cooperation in fulfilling their obligations under the National Strategy for Combating Corruption. The accountability of government to Parliament on this topic can not be assessed. The situation is primarily due to the high degree of dependence of MPs on political parties, or more specifically the party leadership; however progress is being made in this area.
35. The Agency is autonomous from the Government and reports directly to Parliament. Reports are generally submitted to Parliament through the Ministry of Justice who has no jurisdiction to make changes or alter any reports designated for Parliament.
36. The government's anti-corruption efforts are led by the Agency. It is engaged in several focused anti-corruption prevention measures including management of the system of asset declaration, elaboration of integrity plans and whistle blower protection.
37. The Agency was initially envisaged to have up to 150 positions, but this number was subsequently reduced to 97 of which 75 positions are actually filled²⁵.
38. In order to protect whistle-blowers, the Agency can offer assistance in accordance with the law and it can protect the anonymity of such individuals. For the time being, the legal framework is not fully in place. However, the actual occurrence of whistle-blowing is still very limited. During the past two years the Agency has only registered 16 reports, of which several seem to involve abuse of the whistle-blower scheme.
39. The registration and verification of asset declaration of public officials are two of the Agency's most important competences. The current legal framework means a strengthening of many relevant provisions, including the Agency's competency to verify the declarations and the designation as a misdemeanour the failure to provide information about assets. The Agency maintains an electronic register of asset declarations. A total of 20,000 public officials are under the obligation to declare assets. In 2011, a total of 650 declarations have been verified and about 2,000 in September 2012. Almost every new government official has met this obligation after the general elections in May 2012 by submitting their asset declaration form. The Agency stressed the importance of having strong judicial support and improved cooperation with the Republic Public Prosecution.
40. The Agency monitors the progress of the procedures and policies for implementation of the current Anti-Corruption Strategy which was adopted in 2005. A new Strategy is under discussion at Government level. Proper monitoring of the effectiveness is difficult to assess or perhaps even impossible without well developed ministry-level action plans against which performance can be measured.
41. The Agency has been invited to assess draft legislation to meet the requirements of propriety and regularity.

²⁴ Paragraphs 34 to 43, including the recommendations are not within the responsibility of the Ministry of Defence.

²⁵ As of September 20, 2012.

42. Actions taken to date in reducing the risk for corruption include the following: developing a plan for integrity in state bodies, adoption of regulations on adequate salaries, rotation of persons in sensitive positions, financial disclosure reporting requirements for persons in senior positions and those who work in sensitive positions, respect for the rules on conflict of interest, obligation to report gifts received by officials and employees in state bodies during protocol activities, as well as other measures and activities to eliminate opportunities for corruption. The level of implementation of these measures can not be currently assessed.
43. The government is attempting to raise awareness, educate the public and gain public support for the implementation of its anti-corruption strategy. There are two units within the Agency, one which is responsible for providing information to the public, ensuring that there is maximum exposure of the work being carried out in anti-corruption and of the policies and regulations which have been passed. The second unit is the Training and Education Unit who work both internally and also with external partners, for example NGOs. The Anti-Corruption website is well established, provides a great deal of information, and is regularly updated. Currently the website is not in English but work is underway to complete the translation.

RECOMMENDATIONS

- a. Analyse all bodies currently involved with building integrity measures and good practices and consider options to improve efficiency.
- b. Review the cooperation between Agency and Republic Public Prosecutor in order to optimise the effectiveness of the Anti-Corruption Strategy.

ANTI-CORRUPTION POLICY IN DEFENCE AND SECURITY

44. The Ministry of Defence is committed to implement anti-corruption measures of the National Strategy, the Anti-Corruption Action Plan and the Memorandum of Understanding. The Minister of Defence and the CHOD have, through their staff, developed and put in place a Code of Honour of the SAF Members. An extract of this documentation has been produced as a small card which must be carried by all military personnel.
45. Based on the Law on the Anti-Corruption Agency, 13 institutions within MoD have been tasked to develop and adopt their own integrity plans by the 1st December 2012. Within the Ministry of Defence there is a unit responsible for internal audit. It is crucial that auditors are trained in order that they are able to advice on transparency, accountability and integrity of the financial system.
46. There are a significant number of regulations and policies related to ethical behaviour and integrity that apply to MoD personnel, both civilian and military. Apparently, knowledge of all the rules, regulations and procedures has improved significantly with the promulgation of the Code of Honour and the issuing of the individual cards to personnel. The aspect of whistle blowing and protection for such individuals who report suspicious activity is addressed by regulations contained in the Anti-Corruption Agency Act²⁶, which states that a civil servant or a person employed by bodies of the Republic of Serbia who in good faith reports possible corruption cannot suffer adverse consequences.
47. In order to protect whistle-blowers, the Agency can offer assistance in accordance with the law and it can protect the anonymity of such individuals. Whistle-blowers can contact the Agency directly without escalating concerns through the military chain of command.
48. The government appoints the Inspector General for a period of five years, following the proposal of the Defence Minister, and the advice of the National Security Council. The Inspector General is accountable to the Defence Minister, and submits a report on the conducted control to the competent committee of the National Assembly at least once a year. The Inspector General must not be a member of a political party, or perform any other public function. The introduction of the Inspector General within the MoD and the reorganizing of internal controls in the Military Security Agency and Military Intelligence Agency have reinforced oversight and control mechanisms. The Inspector General's office appears to be well organised although understaffed to carry out the number of planned inspections.
49. The Defence Inspectorate has a wide remit and examples include areas such as inspections within the Serbian Armed Forces relating to operations and functions and implementation of the decisions and acts affecting the system of defence management. The organizational units of the Ministry of Defence which are responsible for inspection (Defence Inspectorate) and internal audit (Internal Audit Section) execute a wide range of regular and unscheduled controls and audits, within their functional responsibilities. They also enjoy close cooperation with a number of public sector organisations such as The Public Procurement Office and the Inspectorate of Labour from the Ministry of Labour and Social Policy.

²⁶ Anti-Corruption Agency Act, unofficial translation OSCE Mission to Serbia, amended November 2008, www.osce.org/serbia/82789

PERSONNEL, EDUCATION AND TRAINING

50. The Law on the SAF, Book of Rules of the SAF, and the Directive for Protocol guide civilian and military personnel in their actions that may concern gift giving and provision of hospitality, conflict of interest and other practices that are corruption risks. These have been distributed to all organizational units of the MoD and SAF and are available to all personnel. The Code of Honour of the SAF Members has been distributed to each member of the MoD and SAF. However, education to promote good practices as well as ethics in the defence system is ongoing at the Military academy, but it is necessary to organize ethical education on all levels in the Mod and SAF on the values and norms of the Code of Honor of SAF Members.
51. Frequency of rotation of the staff in "sensitive posts" has not been specifically regulated. When professional military officers are concerned, staying at certain positions is preconditioned by meeting the promotion requirements and assigning to some other position and it significantly shortens the time they spend at certain duty (average time an army officer spends at certain assignment is from four to seven years). When talking about civilian staff, there are not special time limitations, and their fluctuation is far less frequent that with the military officers, usually being related to organizational changes and individual professional development.
52. A new model of selection within MoD and SAF is in progress. A proposal of the criteria and instructions for its implementation have been written, and part of it has been being experimentally implemented from the beginning of 2011 in the area of selection and ranking of candidates for certain forms of education and professional development as well as for assignment to some specific duties.
53. The new selection and recruitment programme was fully in place earlier this year defines criteria for recruitment and promotion is fully transparent. There is also a self check system online where candidates can see positions available and check promotion potential for a position, this is in no way a guarantee of promotion or selection for a position - a formal application is required where appropriate.
54. Candidates are assessed by a Personnel Commission, and a report with recommendations and justifications are submitted to the CHOD for a final decision on promotions. There is transparency in the new system and information which can be made public is available.
55. Personnel employed within Procurement are also subject to additional checks and disclosures of any interest in any companies by them or their families which may adversely affect their position. Personnel are also rotated on a regular basis as an anti corruption measure.
56. Accepting corporate hospitality is limited to the transport, accommodation and meal costs during some activities. A special agreement is sometimes concluded which contains an obligatory clause noting the absence of any future mutual obligations relating to the activity. After the agreement is confirmed, the final decision on participation in some activities is made based upon an order signed by the Minister of Defence, the Section Head, or MoD and SAF Independent Departments.
57. The Accounting Centre, an internal organizational unit of the Budget and Financial Department of the MoD, calculates salaries and other payments for personnel, makes payroll and salary reports, pays the salary and keep records on salaries and other income. It was confirmed that the Accounting Centre only pays what is authorised by the Personnel

Department, and this is in accordance with the normative acts by which employee benefits are regulated.

58. Organizational units of the Ministry of Defence, in the process of realization of their activities and tasks according to their functional responsibilities, contribute to building integrity and reducing corruption risks.

RECOMMENDATIONS

- a. Consider a MoD public information campaign to promote integrity, accountability and transparency of the personnel recruitment system.
- b. Establish and review regularly the list of all sensitive posts within the MoD.
- c. Review procedures and develop a system to manage the rotation of these posts.
- d. Establish a BI point of contact to follow-up with NATO IS / PASP to take advantage of its programmes and activities.
- e. Identify training and education needs and make use of existing resources for both civilian and military personnel, eg. NATO BI Training and Education Plan; Professional Development workshops within the framework of NATO's Tailored Programme for South Eastern Europe, Defence Leadership Course in Building Integrity at NATO School Oberammergau etc).

PLANNING AND BUDGET

59. In the Ministry of Defence, the Planning, Programming, Budgeting and Execution (PPBE) system has been established based upon the Rule Book on PPBE in the MoD and the Serbian Armed Forces (SAF), by which planning, programming, budgeting and execution of plans and programs within competence of MoD and SAF have been regulated. Based on this Regulation, long-term, mid-term and short-term plans have been developed and financial needs of programmes determined for the next budget year.
60. The Department for Budget exercises procedural controls over the budget and acquisition. Within the Budget and Finance Department is a member of staff who underwent training in PPBE at the Naval Postgraduate School, Monterey (US). This member of staff has worked with a small team of managers in the Department and has assisted in putting in place checks and balances to ensure that regulations of propriety and regularity are followed.
61. The Ministry of Defence prepares a Draft Financial Plan of Defence for each budget year based on the annually expressed needs of programs (organizational units of the MoD and SAF), Report on fiscal strategy and the Instructions of the minister responsible for finance in the Government of the Republic of Serbia for creating budget. This is in conjunction with budget laws issued by the Ministry of Finance.
62. Financial data from reports on MoD expenditures are public documents and available through the Ministry of Finance, which makes all payments on behalf of the MoD. Quarterly reports on the execution of the financial plan of the MoD are made to the Ministry of Finance.
63. Surplus real estate and equipment may be sold. A new law adopted in Parliament in September 2012 stipulates that the revenue from these sales will go back to the Treasury and will be allocated as part of the regular resource allocation and budget cycle.
64. Surplus real estate can be a significant drain on the budget as costs covering the minimal utilities and guarding must be budgeted for. The MOD is entering into agreements with local communities to use surplus real estate and therefore take on the financial implications.
65. The MoD's Internal Audit Section has adopted a strategic work plan for the period 2011-2013, and this serves as the basis for the development of annual work plans. The main objectives for the period 2011-2013 include raising awareness of risk management in the MoD, conducting audits of the main areas of the MoD in order to develop an overview of the effectiveness of the system, conduct training for individuals to acquire a certificate as a licensed internal auditor in the public sector and advanced training of staff.
66. In addition, the State Audit Office carries out audits of government agencies on the basis of an Annual Audit Program. The MoD was subjected to such audits in 2009 and 2011. Three persons within the Defence Inspectorate have passed training for auditors and one of them has been transferred to the MoD.

RECOMMENDATIONS

- a. Consider harmonizing the Budget Law and the Public Procurement Law with a view to achieving the best value for money.
- b. Training of additional auditors.

OPERATIONS

67. There is no specific military doctrine on how to address corruption issues on operations. An education module which highlights the impact of corruption on operations and addresses good practices should be included in pre-deployment training for SAF. NATO's Building Integrity Education and Training Plan²⁷ may serve as a basis.

RECOMMENDATIONS

- a. Consider developing an education module on the basis of the NATO Building Integrity Education and Training Plan.

²⁷ PO(2012)0364 and MCM-007S-2012, dated 18 July 2012.

PROCUREMENT

68. The Law on Public Procurement sets out a number of principles to include transparency of public procurement procedures. This requires the compulsory announcement or publishing of public procurement, and also the encouragement of competition between bidders. In addition, there are numerous rule books covering all aspects of the procurement process.
69. Procurements defined as confidential or sensitive are carried out in accordance with the provisions of a decree on special purpose items. These concern goods specified in the national control list of arms and military equipment and the national control list of dual purpose goods. Procedures are in place to deal with special or confidential procurements and the details are protected.
70. Arms and military equipment are procured from national Serbian producers in accordance with the regulations on arms and military equipment production and trade, and abroad only if such acquisitions cannot be made in the country. Procurement from abroad is made from producers or individuals established and registered for such sales with the authorized body of the exporting country.
71. Procurement in general is conducted centrally through the Procurement and Sales Directorate of the Supply Department of the MoD. Subordinate units have the authority to purchase some items based upon cost effectiveness and routine requirements such as maintenance and food.
72. The complete defence procurement cycle is a complex process which includes several phases: submission by subordinate commands of a procurement study to the Supply Department, initiating the procurement procedure, announcing the public call, creation of tender documents, submission of offers, opening offers, selection of the best offer and contracting with the selected bidder.
73. Upon receiving the request for the public procurement, an authorised official of the Procurement and Sales Directorate makes a decision on initiating the procurement, and forms a procurement commission which creates the tender documents and detailed specifications of conditions to be met by the procurement in question. Members of a procurement commission include: a lawyer responsible for the legal implementation of processes and procedures, meeting deadlines, fulfilment of offer conditions in compliance with regulations in force for bidders; an engineer, a professional from the tactical-technical level or the function holder who is responsible for assessing the quality of delivered goods or services; and an financier responsible for ensuring bidders fulfil all financial conditions, and for performing financial calculations and evaluations of the offer.
74. Personnel working in the procurement department are interviewed and only after successfully meeting all the criteria are certified to be employed in that department. All staff is required to declare any interests they or their families have in companies who are or may be listed on the list of Companies who may tender for the supply of goods and services. This list is maintained by the Ministry of Finance and Economy and only companies on that list can tender. Staff are also rotated to ensure propriety and regularity and as building integrity measure.
75. A military quality control unit under the Department of Logistics is responsible for determining the quality of procured goods and services. However, there are serious concerns that the procurement system is not transparent. The Defence and Internal affairs Committee of the Parliament of the Republic of Serbia expressed concern that there is evidence that one

company who had followed tender procedures and had their papers approved but later subjected to further investigation resulting in a tender being rejected for non-compliance.

76. The Public Procurement Law clearly stipulates the conditions when the supplier can be put on the negative list for procurement. Criminal proceedings for misusing power in public procurement have not been initiated so far by the MoD.
77. Legislation specifies that government agencies which have a budget in the Republic of Serbia are currently not allowed to use offsets in the process of contract implementation.
78. In accordance with the Rule Book on Material Operations in the MOD and SAF, all personnel in the chain of the procurement process must sign a statement that there is no conflict of interest in performing their duties in the process.

ENGAGEMENT WITH DEFENCE COMPANIES AND OTHER SUPPLIERS

79. The Supply Department in the MOD, is responsible for; the preparation of tender documents; validation of the financial aspects of the returned tenders and ensuring fulfilment of contractual obligations. Currently the Ministry of Finance and Economy maintains the list of those companies who after completing an annual questionnaire are approved for use by the Ministry of Defence. The Ministry of Defence can request the removal of a company from the approved list but must produce a case outlining the reason for this request to the Ministry Finance and Economy.
80. Prior to a specific tender being announced the Ministry of Defence can state that a negative reference applies to that specific company. However if that company lodges a complaint with the Ministry of Finance and Economy all tender action will cease until an investigation is undertaken.
81. The MoD is obliged to publish an advance announcement for those public procurements whose approximate value exceeds 50,000,000 RSD (450,000 euros). The Ministry of Finance and Economy has sole responsibility for managing the list of companies who are on the approved list.
82. There is no obligation for companies to have an ethics programme, but the possibility to require this exists. If, under the Public Procurement Law, a company or individual has been known to previously default on a contract or provide substandard goods or services, the MoD can inform the Ministry of Finance and Economy . The Ministry of Finance and Economy may decline to accept such a company in the procurement process, if justified.
83. If a bidder believes that his rights have been violated in the public procurement process, he may file a request for the protection of his rights. This is in accordance with the provisions of the Public Procurement Law which regulates procedures related to the protection of bidders' rights and public interest. The bidder submits his request to the MoD in compliance with the provisions of the law. It should be noted that the bidder can file the request in any phase of the procurement process.
84. In addition, filing a request for the protection of rights suspends any further procurement activity. In 2011 6 complaints were made, of these the Commission for the Protection of Rights supported 4 cases and a further 2 are under review.

RECOMMENDATIONS

- a. Review system of maintaining the list of potential bidders on the Ministry of Economics list of approved companies to whom tenders can be submitted²⁸.
- b. Review the Public Procurement legislation²⁹ for compliance with established international standards³⁰.

²⁸ This recommendation is not within the responsibility of the Ministry of Defence.

²⁹ This recommendation is not within the responsibility of the Ministry of Defence.

³⁰ For example: Directive 2009/81/EC on Defence and Security Procurement, July 2009. This recommendation is not within the responsibility of the Ministry of Defence.

- c. Consider development of an approved register by MoD of companies and suppliers which are authorized to provide services to the MoD.
- d. Review procurement procedures with a view to simplify the process for lower value contracts by establishing a monetary limit below which the procedure is less involved.
- e. Determine if legislation is necessary in order to require companies which do business with the MoD to have a written code of ethics.
- f. Review the composition of tender boards particularly to ensure transparency, propriety and regularity.
- g. Review current procedures to ensure that there is full transparency.
- h. Produce plan for management of staff ensuring that the regulations for rotation are in place and are operated.