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Sigma Public Management Profiles No. 3

Serbia and Montenegro - State Union Level

OECD









SIGMA

Support for Improvement in Governance and Management

A joint initiative of the OECD and the European Union, principally financed by the EU

PUBLIC MANAGEMENT PROFILES OF WESTERN BALKAN COUNTRIES:

SERBIA AND MONTENEGRO

STATE UNION LEVEL

(as of October 2003)

For easier reference, separate Profiles have been established for the State Union level of Serbia and Montenegro, the Republic of Montenegro, and the Republic of Serbia. The province of Kosovo is governed, since June 1999, by the UN Interim Mission to Kosovo. A separate Profile of Kosovo follows the three Profiles of Serbia and Montenegro.

THE SIGMA PROGRAMME

The Sigma Programme — Support for Improvement in Governance and Management — is a joint initiative of the Organisation for Economic Co-operation and Development (OECD) and the European Union, principally financed by the EU.

Sigma supports partner countries in their efforts to improve governance and management by:

- Assessing reform progress and identifying priorities against baselines which reflect good European practice and existing EU legislation (the *acquis communautaire*);
- Assisting decision-makers and administrations in building institutions and setting up legal frameworks and procedures to meet European standards and good practice;
- Facilitating donor assistance from the EU and other donors inside and outside Europe by helping to design projects, ensuring preconditions and supporting implementation.

Sigma's working partners are governments in:

- Most EU candidate countries — Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia and Turkey.
- Western Balkan countries — Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, and Serbia and Montenegro / Montenegro, Serbia and Kosovo.
- Russia (under OECD financing).

The Sigma Programme has set its priorities to support reform efforts of partner countries in the following areas:

- Design and Implementation of Reform Programmes
- Legal Framework, Civil Service and Justice
- External Audit and Financial Control
- Public Expenditure Management
- Policy-making and Co-ordination Capacities, including Regulatory Management
- Public Procurement

For further information on Sigma, consult our web site:
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TABLE OF CONTENTS

1. Political background 5

2. Constitutional Framework 6
2.1 Constitutional Bases 6
2.2 Nature of the State 7
2.3 Division of Powers 7

3. Head of State 8
3.1 Electoral Rules 8
3.2 Main Responsibilities 8
3.3 Office of the Head of State 9
3.4 Head of State in Legislative Process 9

4. Parliament 9
4.1 Electoral Rules 9
4.2 Main Powers of Parliament 9
4.3 Internal Organisation 10
4.4 Legal Status of Members of Parliament 10
4.5 The Legislative Process 11

5. The Central Executive 12
5.1 Legal Bases of Executive Authority and Administration 12
5.2 Composition and Powers of the Government (Council of Ministers) 12
5.3 Division of the Executive Power 13
5.4 The Office of Government 14
5.5 Line Ministries 16
5.6 Central Non-Ministerial Bodies 18
5.7 Inter-ministerial Coordination 19
5.8 Governmental Preparatory Legislative Process 20
5.9 Executive Budgeting Process 20
5.10 Advisory and Consultative Arrangements 21

6. Executive Linkages 21
6.1 The Executive and the President 21
6.2 The Executive and Parliament 21
6.3 The Executive and Political Parties 22
6.4 The Executive and Civil Society 22
6.5 The Executive and the Media 22

7. Deconcentration and Decentralisation 23

8. Personnel Management in Public Administration 23
8.1 Legal Bases and Principles of Public Employment 23
8.2 Personnel Management 23

9. Control and Supervision Over Administration 23
9.1 Internal Control and Supervision and 9.2 External Audit and Control 23
9.3 Public Redress 23

10. Specific Topics 25
10.1 Public Procurement 25
10.2 Combating Fraud and Corruption 25
10.3 Access to Public Information 25
10. Rights of Minorities 25
10.5 E-Government 26

11. Management of European Integration 26
11.1 The Institutional Framework of EU-Related Policy-Making 26
11.2 Managing the Approximation of Laws 27
11.3 Implementing the Acquis Communautaire 27
11.4 Managing Technical Assistance 27

12. Plans for Reform and Modernisation 27

13. Key Statistical Data 27
13.1 Data on the Budget and 13.2. Personnel Data 27

14. Useful Internet Links 29

1. Political background

On the basis of the proposal and approval of the National Assembly of the Republic of Serbia and the Assembly of the Republic of Montenegro, the new Constitution of the Federal Republic of Yugoslavia (FRY) was adopted and promulgated on 27 April 1992. In this way, these two members of the former Socialist Federal Republic of Yugoslavia formed a new Federal State.

The past decade has seen armed conflicts in the area of the former Yugoslavia, the internal dictatorship of the regime of Slobodan Milosevic in Serbia, the absence of a real multi-party system, international isolation, very grave economic and social conditions in the country and NATO intervention. At the early federal presidential elections, held on 24 September 2000, the candidate of the Democratic Opposition of Serbia (DOS) Vojislav Kostunica carried the day. The regime in power tried to rig the elections but the people toppled the dictator's regime in a peaceful way on 5 October 2000.

In October 2000 Vojislav Kostunica took over the office of FRY President. A coalition Government was formed including the representatives of the DOS and the Socialist People's Party (SNP) of Montenegro of Predrag Bulatovic, given that the Democratic Party of Socialists (DPS) of Milo Djukanovic that is in power in Montenegro boycotted the presidential and parliamentary federal elections. A new FRY Assembly was formed including representatives of the DOS. It is noteworthy that this was not only about a change of power by means of elections but about the beginning of a long and difficult process of changing the very bases of the political and economic system of government in the country. The citizens showed their firm commitment to this at the elections. This was the beginning of an in-depth transformation of society and of the process whereby it would become based on the principles of parliamentarianism, the rule of law, market economy and respect for human and minority rights.

The process of identifying solutions for the restructuring of relations between Serbia and Montenegro within a joint state lasted over two years. On 14 March 2002 the Agreement on the Proceeding Points for the Restructuring of Relations between Serbia and Montenegro was signed in Belgrade (Belgrade Agreement). It lays down the main principles for the elaboration and adoption of the future Constitutional Charter and for the setting up of the future State Union bodies.

On the basis of the Belgrade Agreement the Constitutional Charter of the State Union of Serbia and Montenegro (hereinafter referred to as the Constitutional Charter) was passed on 4 February 2003, along with the Law for the Implementation of the Constitutional Charter of the State Union of Serbia and Montenegro (hereinafter referred to as the Law for the Implementation of the Constitutional Charter).

On 3 March 2003 the Assembly of Serbia and Montenegro (hereinafter referred to as the Assembly) was constituted. Dragoljub Micunovic was elected President of the Assembly on behalf of the Democratic Opposition of Serbia (DOS). In accordance with Article 20 of the Constitutional Charter, the MPs are elected from each of the member states in line with European and democratic standards on the basis of the laws of the member states in proportion to their representation in the Assemblies. For the first two years MPs will be elected indirectly and after that period through direct elections. The Assembly is mono-cameral and includes 126 MPs, 91 of which are from the Republic of Serbia and 35 from Montenegro.

The composition of the Assembly after the elections is given in the table below:

ASSEMBLY OF SERBIA AND MONTENEGRO
(as constituted on 4 March 2003)

Republic of Serbia / Republic of Montenegro

Political party	Number of seats	Political party	Number of seats
Democratic Party	18	Democratic Party of Socialists	14
Democratic Party of Serbia	17	Socialist People's Party	9
Socialist Party of Serbia	12	Social Democratic Party	4
Serbian Radical Party	8	Serbian People's Party	3
Social Democratic Party of Serbia	5	Liberal Alliance	2
Party of Serbian Unity	5	People's Party	2
Civic Alliance of Serbia	4	People's Concord	1
Liberals of Serbia (ex New Democracy)	4		
Christian Democratic Party of Serbia	3		
League of Social Democrats of Vojvodina	3		
Democratic Center	2		
Democratic Alternative	2		
Alliance of Vojvodina Hungarians	2		
Movement for a Democratic Serbia	1		
Reformists of Vojvodina	1		
MP Group Serbia	1		
New Serbia	1		
Socialist People's Party	1		
Coalition Vojvodina	1		

With the adoption of the resolution of the United Nations General Assembly 55/12 the Federal Republic of Yugoslavia became a full member of the United Nations on 1 November 2000. In this way, a comprehensive process was initiated for the regulation of membership of the FRY in all UN specialised agencies or in international organisations associated with the UN.

The Federal Republic of Yugoslavia was admitted to the Organisation for Security and Cooperation in Europe (OSCE) on 10 November 2000.

The State Union of Serbia and Montenegro was admitted to the Council of Europe on 3 April 2003 and the application for membership of the Partnership for Peace was submitted 19 June 2003.

2. Constitutional Framework

2.1 Constitutional Bases

The provisions of the Belgrade Agreement lay down the principles on which the Constitutional Charter will be based and the manner of its adoption. The Signatories to this Agreement are: the President of the Federal Republic of Yugoslavia Vojislav Kostunica, Vice-Prime Minister in the Federal Government Miroljub Labus,

President of the Republic of Montenegro Milo Djukanovic, Prime Minister of the Republic of Serbia Zoran Djindjic, and the Prime Minister of the Republic of Montenegro Filip Vujanovic, in the presence of the High Representative of the European Union for Common Foreign and Security Policy, Javier Solana. The decision to promulgate the Constitutional Charter of the State Union of Serbia and Montenegro was passed on 4 February 2003 by the Federal Assembly at the sittings of the Chamber of Citizens and the Chamber of the Republics. Prior to that, the Constitutional Charter had been adopted by the National Assembly of the Republic of Serbia on 27 January 2003 and the Assembly of the Republic of Montenegro on 29 January 2003.

In accordance with Article 67 of the Constitutional Charter, the Law for the Implementation of the Constitutional Charter was passed in the same way and at the same time as the Constitutional Charter.

The Constitutional Charter is the highest legal act.

Pursuant to Article 20, paragraph 2 of the Law for the Implementation of the Constitutional Charter, the member states are under the obligation to harmonise their constitutions with the Constitutional Charter and the State Union's ratified international instruments within six months of the date of the entry into force of the Constitutional Charter. The same Article stipulates that federal laws and other federal regulations that fall within the competence of the State Union under the Constitutional Charter are to be enforced as the State Union's legal acts unless contrary to the Constitutional Charter. The institutions of the State Union are under the obligation to harmonise these regulations with the Constitutional Charter within one year of the effective date of the Constitutional Charter.

The member states are under the obligation to harmonise their laws and other regulations with the Constitutional Charter, the ratified international instruments of the State Union and the laws of the State Union by 31 December 2003.

The Constitutional Charter and the Law for the Implementation of the Constitutional Charter were published in the *Official Gazette of Serbia and Montenegro* No. 1/2003. These documents are available in Serbian and English on the following web site: www.gov.yu.

As the highest legal act of Serbia and Montenegro, the Constitutional Charter regulates issues and competences of the State Union, regulates institutions of the State Union as well as its competences. The Constitutional Charter also regulates the issue of leaving the State Union as well as the issue of changes to the Constitutional Charter. Laws as general administrative legal acts regulate in principle issues which are in the competency of Serbia and Montenegro. Implementation of the laws is ensured by secondary legislation acts.

2.2 Nature of the State

The name of the State Union is Serbia and Montenegro and it is based on the equality of the two member states — the State of Serbia and the State of Montenegro. Serbia and Montenegro is a Republic and the State is defined, given the relations between the member states, as being closer to the form of a union. Serbia and Montenegro has a parliamentary system.

The goals of Serbia and Montenegro are, in accordance with Article 3 of the Constitutional Charter: respect for human rights of all persons under its jurisdiction; respect for human dignity, equality and the rule of law; integration into European structures and particularly the European Union; harmonisation of the regulations and practices with European and internationals standards; the development of a market economy based on free enterprise, competition and social justice; and the establishment and ensuring of the unhindered operation of a common market in its territory by means of coordination and harmonisation of economic systems of the member states in accordance with the principles and standards of the European Union.

2.3 Division of Powers

The State Union's institutions are the following: the Assembly, the President, the Council of Ministers and the Court.

Powers are divided into the executive, the legislature and the judiciary. Legislative power is vested in the Assembly, executive power is vested in the Council of Ministers and judicial power is vested in the Court of Serbia and Montenegro. The President of Serbia and Montenegro presides over the Council of Ministers and administers its proceedings.

There is no special provision in the Constitutional Charter regulating the competences of the member states, whereas the competencies of the State Union are regulated in a very detailed manner.

3. Head of State

3.1 Electoral Rules

The rules on the election of the head of state are enunciated in the Constitutional Charter and the Law on the Election and the Termination of Term of Office of the President of Serbia and Montenegro (Official Gazette of SCG, No 8/2003). The President of Serbia and Montenegro (hereinafter referred to as the President) is elected by the Assembly, in that the President of the Assembly and the Vice-President of the Assembly jointly submit to the Assembly their proposal of a candidate within 15 days of the date when the Assembly has been constituted. The proposed candidate may be any citizen of Serbia and Montenegro who has turned 18 years of age and has contractual capacity. The President's term of office is four years and the President may not come from the same member state for two terms in a row. The President is accountable for his work to the Assembly. The President's term of office may end prior to the term for which he has been elected by resignation, by relief of duty, or by dissolution of the Assembly. Resignation is submitted to the Assembly which, at its next sitting, takes note of the President's resignation, whereby the President's term ends. The Assembly may relieve the President of his duty if it is established that he has violated the Constitutional Charter which is established by the Court of Serbia and Montenegro.

The decision of the Court specifying that the President has violated the Constitutional Charter is immediately communicated by the President of the Assembly to MPs and to the President of Serbia and Montenegro. The Assembly raises this decision for a debate at its sitting and the President of Serbia and Montenegro has the right, prior to decision-making on relief of duty, to make a statement on the allegations made in the course of the debate at the sitting. Upon the completion of the hearing, the Assembly decides on the relief of duty of the President of Serbia and Montenegro. The President of Serbia and Montenegro is relieved of duty if the majority of the total number of MPs has voted in favour of relief of duty provided that the majority of the total number of MPs from each member state also voted in favour (Article 14 and 15 of the Law on the Election and Termination of Term of Office of the President of Serbia and Montenegro).

The President whose term of office has been terminated due to the dissolution of the Assembly continues in office pending the election of a new President.

The duty of the President who has resigned or has been relieved of duty is taken over on a provisional basis by the Vice-President of the Assembly (Article 17, Paragraph 3 of the Law on the Election and Termination of the Term of Office of the President of Serbia and Montenegro).

3.2 Main Responsibilities

The competences of the President of Serbia and Montenegro are laid down by Article 26 of the Constitutional Charter: the President represents Serbia and Montenegro at home and abroad; presides over the Council of Ministers and administers its proceedings; proposes to the Assembly the candidates for members of the Council of Ministers and relief of duty of its members; is a member of the Supreme Defence Council; passes decrees on the appointment and recall of diplomatic-consular delegations of Serbia and Montenegro and receives letters of accreditation and recall from foreign diplomatic representatives; confers awards and other honours; promulgates laws passed by the Assembly and regulations passed by the Council of Ministers; calls elections for the Assembly and discharges other duties as laid down by the Constitutional Charter.

3.3 Office of the Head of State

By the decision on the setting up of the Office of the President of Serbia and Montenegro (Official Gazette of SCG, No. 19/2003) the President's Office has been established as a support service for execution of the duties of the President.

The President appoints and recalls the following officials: Chef de Cabinet; Special Advisors to the President; Advisors to the President; and the Chief of Protocol. In addition to the Special Advisor, an Advisor on Defence; an Advisor on International Economic Relations and Finance, as well as an Advisor on Information have also been appointed.

The following departments have been established as part of the President's Office: the Clerk's Department, the Department of Medals, and the Accounting Department.

The appointed persons and other employees at the Office assist the President in the performance of the duties falling within the competence of the President of Serbia and Montenegro; as for the duties falling within the purview of the Chair of the Council of Ministers, the President is assisted by the staff at the General Secretariat of the Council of Ministers.

3.4 Head of State in Legislative Process

The President's role in the legislative process is, formally, very limited — he promulgates laws passed by the Assembly and does not possess the right to veto them. On the other hand, given that the President presides over the Council of Ministers and administers its proceedings, he exerts a decisive influence on the draft laws proposed by the Council of Ministers.

4. Parliament

4.1 Electoral Rules

Article 20, paragraph 3 of the Constitutional Charter regulates the main issues related to the election rules. The Assembly is unicameral. MPs are elected from each member state in accordance with European and democratic standards on the basis of the laws of the member states. For the period of two years following the adoption of the Constitutional Charter, in March 2003, MPs were elected from the members of the Parliaments of the member states, in proportion to their representation. After this initial period, MPs will be elected for a four-year period in direct elections, which are scheduled for 2005. The provisions of Article 9 of the Law for the Implementation of the Constitutional Charter oblige the President of Serbia and Montenegro to call direct parliamentary elections, so that these elections must be held upon the expiry of a two-year time limit of the date when the first convocation of the Assembly was constituted.

4.2 Main Powers of Parliament

The Assembly decides on the Constitutional Charter and passes laws and other regulations on the following: the institutions set up in accordance with the Constitutional Charter; implementation of international law and conventions laying down the obligations of Serbia and Montenegro to cooperate with international courts of law; declaration and lifting of the state of war subject to prior approval by the assemblies of the member states; military issues and defence; membership of Serbia and Montenegro in international organisations and the rights and duties arising from such membership subject to the prior approval by the competent bodies of the member states; establishment of borders of Serbia and Montenegro subject to the prior approval of the Assembly of the member state in whose territory the border is located; issues relating to standardisation, intellectual property, measurements and precious metals and statistics; immigration and asylum policy, the visa regime and integrated border management in accordance with EU standards; ratification of international treaties and agreements of Serbia and Montenegro; annual revenues and expenditures necessary for the financing of the competences entrusted to Serbia and Montenegro at the proposal of the competent bodies of the member states and the Council of Ministers; prevention and removal of obstacles to the free movement of people, goods, services and capital within Serbia and Montenegro; election of the President of Serbia and Montenegro and the Council of Ministers; the flag, the anthem and the coat-of-arms of Serbia and Montenegro; and other duties laid down by the Constitutional Charter (Article 19).

At the first sitting, the Assembly elects the President of Serbia and Montenegro (Article 8 of the Law for the Implementation of the Constitutional Charter). Within five days of the date of his election, the President proposes to the Assembly the candidates for members of the Council of Ministers. The Assembly has power to recall of the President of Serbia and Montenegro (see Section 3.1.). The Assembly elects the judges of the Court of Serbia and Montenegro.

The Council of Ministers is accountable for its work to the Assembly. The Assembly and its working bodies may request that the Council of Ministers provide information and data about the activities falling within the purview of the Council of Ministers and the activities of the ministries and other agencies of government administration (Articles 31 and 32 of the Law on the Council of Ministers — *Official Gazette of SCG*, No. 21/2003).

4.3 Internal Organisation

The Assembly elects from its MPs President and Vice-President of the Assembly. They should not come from the same member state. The President of the Assembly and the President of Serbia and Montenegro should not be from the same member state.

The Assembly makes its decisions by the majority of votes of the total number of MPs. For a decision to be adopted the majority of the total number of MPs from each member state must also vote for it (Articles 21, 22 and 23 of the Constitutional Charter). The first sitting of the Assembly pending the election of its President is chaired by the oldest MP accompanied by the youngest one.

The sittings of the Assembly are called by the President of the Assembly at his own initiative or based on the conclusion of the Assembly or on the proposal of 30 MPs in the Assembly or on the proposal of the Council of Ministers. The President of the Assembly sends to the MPs an invitation with a draft agenda 10 days prior to the date of the sitting. The President of Serbia and Montenegro, the Council of Ministers and the Assemblies of the member states are notified that the sitting has been called and informed of the draft agenda. At the opening of the sitting, the President of the Assembly makes announcements regarding the draft agenda. An MP has the right to make a proposal to amend the draft agenda. The Assembly votes on each and every proposal to amend its agenda as well as on the agenda as a whole after which the President of the Assembly announces the agreed agenda (Provisional Rules of Procedure of the Assembly of Serbia and Montenegro — *Official Gazette of SCG*, No. 7/2003, from now onward referred to as the Provisional Rules of Procedure).

Since the Assembly is still operating in accordance with the Provisional Rules of Procedure (Draft Rules of Procedure have been submitted to parliamentary procedure), no committees have been established.

An MP has the right to request from the President of the Assembly information that he needs in order to discharge his MP function. The Assembly's official publications are regularly communicated to him along with information and documentation materials regarding the items on the agenda of a particular sitting of the Assembly as well as regarding other issues under the Assembly's responsibility. An MP has at his disposal for his work at the Assembly the Assembly Library and documentation along with working premises and premises for meeting citizens. Technical and other duties required by the Assembly and its MPs are carried out by the Assembly Service which is headed by the Assembly's Secretary General (Provisional Rules of Procedure).

The MPs have very little support. Each MP Group is only entitled to one expert for legal and economic affairs and one technical secretary, both of whom are provided by the appropriate Assembly service. An MP Group may bring in a person not belonging to the technical services of the Parliament as their permanent technical assistance staff. Such a person is paid by the Assembly. MP Groups rely in their work on the assistance of political party committees. Such committees prepare draft laws that MP groups put forward before the Parliament or prepare opinions for them on the Government's legislative initiatives or those launched by other MP groups.

4.4 Legal Status of Members of Parliament

An MP exercises his rights and duties in accordance with the Constitutional Charter, the Law, and the Rules of Procedure. An MP is required to take part in the proceedings of the Assembly and may not be denied

entry and the right to stay in the Assembly building (Articles 15 and 16 of the Provisional Rules of Procedure). An MP has freedom of speech in the Assembly and enjoys immunity for the words uttered and for other acts carried out in his capacity as MP. He may not be called to account, taken into custody or punished without the Assembly's approval, except if caught at committing of a criminal offence punishable by over five years in prison (Article 24 of the Constitutional Charter). An MP is duty-bound to personally inform the President of the Assembly about his absence from the Assembly sitting, who then informs the Assembly accordingly (Article 17 of the Provisional Rules of Procedure). An MP may not be recalled by the Assembly of a member state for any position he aired or the way he voted in the Assembly (Article 5, paragraph 3 of the Law for the Implementation of the Constitutional Charter).

There are no legal restrictions for MPs' business activity.

4.5 The Legislative Process

A draft law may be submitted to the Assembly by the Council of Ministers, an MP and the Assembly of a member state (Article 25 of the Constitutional Charter).

The procedure for the adoption of a law is initiated with the submission of a draft law. This draft law has to be submitted in the form in which it is to be passed and such a draft must be accompanied by an explanatory note. The explanatory note of the draft law must include: the constitutional basis for the adoption of the law; the grounds and goals for the adoption of the law; and the explanation of the main legal concepts and legal solutions. If the draft law entails the assumption of financial commitments the explanatory note must also include an estimate of the amount required for its implementation. When the draft law stipulates that particular provisions are to have retroactive effect the sponsor is required to elaborate in particular on the public interest with regard to those provisions (Articles 66 and 67 of the Provisional Rules of Procedure).

The sponsor of the draft law sends the draft law to the President of the Assembly. If the draft law is put forward by the Assembly of a member state, it is required to designate its representative to take part in the debate on the draft law in the Assembly. The draft law is communicated immediately to MPs (Article 68 of the Provisional Rules of Procedure).

The President of the Assembly is required to include the draft law in the agenda not later than two months from the date on which the draft law was sent to MPs but not before the expiry of a 30-day time limit of the date when the draft law was sent to MPs. If the sponsor of the draft law is a body other than the Council of Ministers, the President of the Assembly will send that draft law to the Council of Ministers for its opinion within not more than 10 days. If the Council of Ministers fails to produce the opinion within the set time limit, the President of the Assembly may place those draft laws on the agenda of the sitting (Article 70 of the Provisional Rules of Procedure).

The proposal to amend the draft law (amendment) may be submitted by all authorised sponsors to the President of the Assembly not later than five days prior to the date of the sitting (Article 71 of the Provisional Rules of Procedure).

The draft law is first debated in principle and if the Assembly adopts the draft law in principle the draft law is debated in detail. After the debate is over, along with the vote on the details, the Assembly proceeds to vote on the draft law as a whole. The sponsor has the right to withdraw his draft law until the end of the debate (Articles 73 to 75 of the Provisional Rules of Procedure).

Of the 29 draft laws that the Assembly adopted from March to September 2003, only one draft law was submitted by an MP (Dusan Petrovic, Democratic Party). All other draft laws were proposed by the Council of Ministers.

The sponsor of a draft law may propose that the draft law be adopted under an urgent procedure only if that is necessary in order to prevent and eliminate major disturbances in the economy, when so required by national interests or by other emergency or urgent needs in the country (Article 76 of the Provisional Rules of Procedure).

Of the 29 draft laws passed by the Assembly (March — September 2003), 21 draft laws were proposed under an urgent procedure (the Law on the Ratification of the Statute of the Council of Europe; the Law on

the Ratification of the Framework Agreement between the FRY and the European Union; the Law Amending the Law on Cooperation between the FRY and the International Criminal Tribunal etc.).

The adopted draft laws are published in the *Official Gazette of Serbia and Montenegro* in accordance with the Law on Publishing Federal Laws, Other Regulations and Secondary Legislation (*Official Gazette of the Federal Republic of Yugoslavia*, No. 53/92) and the Decision on the Manner of Publishing Federal and Other Regulations in the *Official Gazette of the Federal Republic of Yugoslavia* (Nos. 5/93 and 24/93).

There are no other consultation procedures, and there is no law regulating lobbying.

5. The Central Executive

5.1 Legal Bases of Executive Authority and Administration

The laws and regulations governing the executive branch of power are the following:

- The Constitutional Charter, and particularly Articles 33-45;
- The Law for the Implementation of the Constitutional Charter, Articles 10 and 14;
- The Law on the Election and Termination of the Term of Office of the Council of Ministers (*Official Gazette of SCG* No. 9/2003);
- The Law on the Council of Ministers (*Official Gazette of SCG* No. 21/2003);
- The Decree on the Establishment of Ministries, Organisations and Services of the Council of Ministers (*Official Gazette of SCG* No. 25/2003);
- The Decree on the Principles of Internal Organisation and Systematisation of Job Posts at the Ministries, Organisations and Services of the Council of Ministers (*Official Gazette of SCG* No. 25/2003);
- The Rules of Procedure of the Council of Ministers.

Since this is a newly-formed State Union, the powers of the executive and administrative authorities have been defined by the above-mentioned regulations; if one adds to this the fact that Communist dictatorship was in place for almost half a century in the territories of the former Yugoslavia, it is clear that one cannot speak about any custom or tradition determining the actions of the executive branch of power.

5.2 Composition and Powers of the Government (Council of Ministers)

The President of Serbia and Montenegro presides over the Council of Ministers and runs its activities pursuant to Article 26 of the Constitutional Charter. In addition to the President of Serbia and Montenegro, the Council of Ministers also includes the Minister of Foreign Affairs, the Minister of Defence, the Minister of International Economic Relations, the Minister of Internal Economic Relations and the Minister of Human and Minority Rights.

The President of Serbia and Montenegro proposes to the Assembly candidates for Ministers and candidates for Deputy Ministers of Defence and Foreign Affairs. Two candidates for a minister are from the same member state as the President of Serbia and Montenegro and three are from the other member state. The candidates for the Minister of Foreign Affairs and the Minister of Defence are from different member states as well as their Deputies. The Assembly votes for the list of candidates for the Council of Ministers. If the list does not get the required majority of votes, the President may propose lists of candidates two more times and if neither list gets the required majority, the Assembly will be dissolved and elections called within 60 days of the date when the first list of candidates was proposed. The procedure of election and termination of the term of office of the Council of Ministers is to be regulated by law (Article 35 of the Constitutional Charter).

After two years, the Ministers of Foreign Affairs and Defence switch posts with their Deputies (Article 42 of the Constitutional Charter).

The Assembly passes decisions by a majority of votes from the total number of MPs provided that the decision is also supported by a majority of the total number of MPs from each member state (Article 23 of the Constitutional Charter).

The Assembly may give a vote of no-confidence to the Council of Ministers or to a particular minister or deputy minister and the motion for such a vote may be made by at least 10 MPs. The motion is submitted to the Assembly in writing with an explanatory note specifying the reasons why the vote of no-confidence is proposed. The President of the Assembly communicates such a motion immediately to the MPs and the President of Serbia and Montenegro. The motion may be placed on the agenda of the Assembly not sooner than five and not later than 15 days of its submission. At its sitting the Assembly opens a hearing on the motion. After the hearing, the Assembly casts a vote of no confidence in the Council of Ministers or in a particular member thereof.

The Government may ask for vote of confidence.

The minister and his deputy must answer to the Council of Ministers if in the implementation of their rights and performance of their duties they fail to pursue the policy course set by the Council of Ministers or if they fail to ensure the enforcement of the laws and secondary legislation. In case of irregularities the President of Serbia and Montenegro may point to the irregularities or submit a proposal to the Assembly for the relief of duty of the minister or deputy minister concerned. The proposal for the decision on responsibility may also be submitted by a member of the Council of Ministers with an explanatory note attached thereto. Such a procedure is considered to be urgent and in its course the Assembly must make it possible for the minister or his deputy to make a statement on the facts which are the underlying reason for raising the question of his accountability as well as provide information and data of relevance to the establishment of such accountability (Articles 24, 25, 26 and 27 of the Law on the Council of Ministers).

The sittings of the Council of Ministers are also attended, in addition to the members, by the following: the Deputy Ministers of Foreign Affairs and Defence; the Secretary General of the Council of Ministers; the Director of the Legislation Service and the Director of the Information Directorate. The officials of the administrative bodies as well as the Advisors to the President may attend sittings if invited.

The Council of Ministers takes decisions by a majority of votes and in case of a tie, the President casts the decisive vote if at least one minister from the other member state has voted in favour (Article 36 of the Constitutional Charter).

5.3 Division of the Executive Power

The President of Serbia and Montenegro presides over the Council of Ministers and runs its activities (Article 26, line 2 of the Constitutional Charter).

The Council of Ministers charts and implements the policy of Serbia and Montenegro in tune with the joint policy and interests of the member states; coordinates the work of the ministries; proposes to the Assembly draft laws and other regulations falling within the competence of the ministries; appoints and relieves of duty the Heads of Diplomatic-Consular Representative Offices of Serbia and Montenegro and other officials; passes secondary legislation, decisions and other regulations required for the implementation of the laws; and discharges other executive functions (Article 33 of the Constitutional Charter).

The joint policy and interests of the member states are determined by the Council of Ministers in the procedure of coordination and harmonisation with the competent institutions of the member states. The Council of Ministers determines the policy for implementation, ensures implementation and directly implements (enforces) laws, secondary legislation, decisions and other regulations (Article 3, paragraph 2 and Article 5, paragraph 1 of the Law on the Council of Ministers).

Pursuant to the Decree on the Establishment of Ministries, Organisations and Services of the Council of Ministers (hereinafter referred to as the Decree on the Establishment of Ministries), the Ministries, organisations, the General Secretariat of the Council of Ministers and Services have been set up and their organisation and scope of activity have been determined.

The Council of Ministers ensures the following:

1. That the ministries define proposals for determining and implementing the Council of Ministers policy, prepare the policy for the enforcement of laws and secondary legislation, prepare draft laws and draft secondary legislation, settle administrative matters and carry out administrative supervision;
2. That the organisations (institutes, directorates, archives, offices) carry out the duties of harmonisation and coordination, administrative duties and technical duties, notably:
    a) At the institutes, administrative duties are carried out as well as technical-analytical duties entailing long-term research;
    b) At the directorates, particular administrative and other duties are carried out requiring organisational autonomy;
    c) At the archives, research is conducted along with gathering, protection, processing and use of historical archival records;
    d) At the offices, harmonisation and coordination duties are performed in the fields for which they have been established.
3. At the General Secretariat of the Council of Ministers and at the Services, normative-legal, administrative-supervisory and technical duties falling within the competence of the Council of Ministers and/or technical and other duties necessary for the functioning of the Council of Ministers and its bodies are carried out;
4. At collegiate bodies (commission, body, committee, etc.), the duties requiring expertise of a multi-disciplinary and related nature that are of relevance to the decision-making process are carried out (Articles 1 and 2 of the Decree on the Establishment of Ministries).

5.4 The Office of Government

The General Secretariat of the Council of Ministers performs duties to meet the needs of the Council of Ministers that concern the discharge of their functions and performance of their duties; organises, prepares and calls Council of Ministers sittings; and organises the sittings of working and advisory bodies in accordance with the relevant conclusions of the Council of Minister. It likewise keeps uniform records on employees working with the administrative bodies and agencies of the Council of Ministers; develops and upgrades the IT system of Serbia and Montenegro; and provides IT support to the Council of Ministers.

The Secretary General is appointed and may be relieved of duty by the Council of Ministers. The Secretary General has a Deputy from the other member state who acts in his stead in case of his absence or inability to be present and carries out the duties entrusted to him by the Secretary General. The Deputy Secretary General is appointed and may be relieved of duty by the Council of Ministers at the proposal of the Secretary General himself. At the General Secretariat, Assistant Secretary Generals may also be appointed. They are appointed and may be relieved of duty by the Council of Ministers at the proposal of the Secretary General.

Advisors to the Council of Ministers, who carry out the most complex expert duties requiring special autonomy in the work process, may be appointed at the General Secretariat. Such Advisors are appointed and may be relieved of duty by the Council of Ministers at the proposal of the President of Serbia and Montenegro (Articles 21, 24 and 25 of the Decree on the Establishment of Ministries).

The General Secretariat is composed of the following:

1. Secretary General's Office;
2. Division on Council of Ministers sittings and maintenance of relations between the Council of Ministers and other SCG institutions and the member states' Governments which consists of:
    a) Sitting Preparation and Support Unit for Maintenance of Relations with the SCG Assembly and institutions and member states' Government;
    b) Council of Ministers Working Bodies, Advisory Bodies and Commissions and Ad Hoc Council of Ministers Working Bodies Unit.
3. General Affairs Division including the following:
    a) Legal and Human Resources Unit and the Translation and Interpretation Unit;

b) Communications and Encoding Center;

c) Clerk's Office and the Archives.

4. Property Division, including the following:

a) Normative-Legal Issues of SCG Property Section;

b) Unit for the Enforcement of the Laws on the SCG Property and Property Record-keeping;

c) Section for the Implementation of the Succession Agreements;

d) Office for the Protection of SCG Property and Other Interests;

e) Public Procurement Group.

5. IT Division including the following:

a) The SCG IT System Development and Upgrading Unit;

b) The IT Support to SCG Administrative Bodies Section.

The Rules on the Internal Organisation and Systematisation of Job Posts at the General Secretariat have systematised 81 job posts with 148 operators. Of that number, 14 persons are elected or appointed by the Assembly or the Council of Ministers (Secretary General, Deputy Secretary General, four Assistants, and eight Advisers to the Council of Ministers); and 134 of them are civil servants. In addition, particular high-ranking officials, elected by the Assembly, are also employed, namely: the Minister of Foreign Affairs, the Minister of International Economic Relations, the Minister of Internal Economic Relations, and Deputy Minister of Defence.

The Council of Minister's Rules of Procedure prescribes that the Council of Ministers is to set up permanent working bodies and may also establish ad hoc working bodies (Article 15 of the Rules of Procedure).

The permanent working bodies of the Council of Minister are the following:

- The Legal System Committee;
- The Economic Relations Committee;
- The Foreign Policy Committee;
- The Administrative Commission.

The Legal System Committee considers issues relating to the following: freedoms, rights and duties of man and the citizen as laid down by the Constitutional Charter or the Charter on Human and Minority Rights and Civil Liberties (*Official Gazette of SCG*, No. 6/2003); cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY); system of accountability and sanctions for any violation of laws and other regulations; the defence and security policy of the SCG; and organisation, work and status of employees with the organisations and services of the Council of Ministers; draft laws and other regulations of the Assembly and the Council of Ministers particularly with regard to their compatibility with the legal system of the member states and international law.

The Economic Relations Committee considers issues relating to the following: making proposals, defining and enforcement of Serbia and Montenegro policy in the field of international economic and financial relations; drafting laws and other secondary legislation in this field; coordination and harmonisation of the member states' economic systems; harmonisation of customs procedures and harmonisation of the relevant regulations with European and international standards; considering the draft documents on the annual revenues and expenditures of Serbia and Montenegro; examining documents for the development of statistical research programs; and examining the draft starting points for negotiations with international financial and trade organisations.

The Foreign Policy Committee considers issues relating to the following: examination of documents on the implementation of economic and social reforms and harmonisation of SCG laws with EU regulations in order to sign the Stabilisation and Association Agreement; maintenance of political, economic, scientific-technical, educational-cultural and information cooperation between SCG and other states and international

organisations; planning and mutual adjustment of the administrative bodies' international activity; considering the proposed decisions to open embassies abroad; considering the situation of migrant workers abroad; considering the situation of foreign nationals in SCG; considering documents concerning the issuance of diplomatic and official passports and visas.

The Administrative Commission deals with the issues falling within the purview of the Council of Ministers in administrative procedure: considering the issues of financing of SCG and using the reserve funds; deciding on the property-legal issues having to do with the state union property; deciding on the use of official premises; considering status-related, personnel, administrative-legal and housing issues at the Council of Ministers; deciding on the complaints lodged by applicants for vacancies; keeping records on the high-ranking officials appointed to administrative bodies; and carrying out other duties as well relating to the status of employees with the administrative bodies.

The issues considered at sittings of the Council of Ministers must be considered beforehand by the Council of Ministers Committee depending on the nature of the matter at hand.

The Council of Ministers may set up a Council or another advisory body whose tasks, membership and methods of work will be defined in the act on their establishment. Such an advisory body may also adopt its own Rules of Procedure (Articles 18, 19, 20, 21, 22 and 25 of the Rules of Procedure of the Council of Ministers).

The main political bodies of the President of Serbia and Montenegro are the Special Advisor, Advisor on Defence, Advisor on International Economic Relations and Finance, and Advisor on Information (see Section 3.3.).

5.5 Line Ministries

The responsibilities of the ministers are defined in the Constitutional Charter.

Article 5 of the Decree on the Establishment of the Ministries, Organisations and Services of the Council of Ministers specifies the ministries and organisations forming part thereof.

The line ministries are as follows:

- Ministry of Foreign Affairs
- Ministry of Defence
- Ministry of International Economic Relations
- Ministry of Internal Economic Relations
- Ministry of Human and Minority Rights

The Ministry of Foreign Affairs carries out the duties relating to the following: implementation of the agreed foreign policy and maintenance of relations between SCG and other states, international organisations and institutions; monitoring of the situation and development of international relations as well as bilateral cooperation with other states; proposing to the Council of Ministers to establish or break off diplomatic relations with a foreign state; proposing that SCG become a member of an international organisation; and participating in the conclusion, ratification and implementation of international treaties and commitments of SCG as well as other duties as determined by the law.

The Ministry of Defence carries out duties relating to the following: policy of defence and defence strategy; planning and preparation of mobilisation of citizens and the Armed Forces of SCG in case of a state of emergency or a state of war; implementation of the rights and duties of citizens with regard to national defence; and planning, organising and preparing civil defence in case of a state of emergency and a state of war as well as other duties laid down by the law.

The Ministry of International Economic Relations carries out duties related to the following: proposing, charting and implementing the policy of SCG in the field of international economic and financial relations in tune with the joint policy and interests of the member states; drafting of laws along with other administrative

acts in the mentioned fields; and negotiation and coordination of implementation of international agreements including contractual relations with the EU as well as other duties that would be of interest to the member states in these fields. Within this Ministry there are also: the Office of the Customs Administration of Serbia and the Customs Administration of Montenegro, which carry out duties arising from the Action Plan for the Harmonisation of the Economic Systems of Serbia and Montenegro and have been specified by a separate Council of Ministers decision.

The Ministry of Internal Economic Relations carries out duties relating to the following: coordination and harmonisation of the economic systems of the member states in order to ensure smooth functioning of the common market in Serbia and Montenegro, including free movement of goods, services and capital; creating conditions for a market economy; harmonisation of customs procedures; and monitoring and implementation of free trade agreements and other duties on which the member states reach agreement. This Ministry includes:

- The Accreditation Body of SCG;
- The Intellectual Property Institute;
- The Standardisation Office;
- The Institute of Measurements and Precious Metals.

The Accreditation Body is an organisation and a collegiate body that carries out duties relating to the following: assessing the capacities and competence of companies for conducting tests, defining patterns, controlling and certification of products, processes and services as well as other duties stipulated by the law.

The Intellectual Property Institute carries out duties related to the following: intellectual property rights, copyright and neighbouring rights.

The Standardisation Institute carries out duties relating to the following: development, definition and adoption of standards, technical recommendations, instructions and related documents for products, processes and services; certification of products, processes and services as well as other duties laid down by the law.

The Institute of Measurements and Precious Metals carries out duties relating to those having to do with the measurement units system and control of measurements and precious metals as well as other duties laid down by the law.

The Ministry of Human and Minority Rights carries out duties related to the following: exercise and implementation of the rights and liberties of man and the citizen and the rights of ethnic minorities guaranteed by the Charter on Human and Minority Rights and Civil Liberties, international treaties and laws; monitoring the situation and proposing measures for the promotion of the legal system in the field of human and minority rights in tune with international instruments in this field and coordinating work with the member states for the implementation and compliance with international conventions for the protection of human and minority rights as well as other duties laid down by the law (Articles 6, 7, 8, 9 and 10 of the Decree on the Establishment of Ministries).

The Decree on the Principles of Internal Organisation and Systematisation of Posts at the Ministries, Organisations and Services of the Council of Ministers (hereinafter referred to as the Decree on Principles) defines a uniform model of internal organisation of the ministries. In addition to these principles, the Decree also defines the types of organisational units and terms and conditions for their establishment, administration of organisational units and the procedure for the adoption of the rules on international organisation and systematisation of posts (Article 1 of the Decree on Principles).

The internal organisation and systematisation of job posts ensures competent, efficient and economical performance of duties falling within the purview of a ministry, organisation and service. This organisation and systematisation is defined by the Rules that are issued by the minister or high-ranking official who runs the organisation or service concerned, subject to the approval of the Council of Ministers (Article 1 and Article 2, paragraphs 1,2 and 3 of the Decree on Principles).

The duties from the scope of activity of the ministries, organisations and services are performed, as a rule, within the organisational units. The basic organisational unit is a division and, at the level of a ministry, the ministry's Secretariat. Internal organisational units may be established as departments, units and groups. At particular ministries, organisations and services organisational units with different names may also be established (such as administration, agency, fund).

A Division is established to perform duties that constitute a separate field of activity. A ministry Secretariat performs duties of interest to the ministry as a whole or duties the performance of which ensure smooth, efficient and harmonised work of all divisions within the ministry concerned as well as to perform expert and other duties to meet the needs of the minister and his deputy. A Section is established in order to carry out normative and analytical functions and has at least six operators. A Unit is established in order to perform related administrative and administrative-supervisory duties and has at least four operators. A Group is set up in order to perform normative and analytical functions and has at least two operators. An Inspectorate carries out the duties of administrative supervision of bodies of government administration.

Article 17 of the Decree on Principles stipulates that organisational units at the ministries, organisations and services are to run by:

- A Department is run by an Assistant Minister or Assistant Head;
- A Secretariat of a ministry is run by the Secretary of the Ministry and the Secretariat of the Ministry of Foreign Affairs is run by the Secretary General;
- A Section is run by the Head of the Section;
- A Unit is run by the Head of the Unit;
- A Group is run by its Chief.

5.6 Central Non-Ministerial Bodies

Article 11 of the Decree on the Establishment of Ministries, Organisations and Services of the Council of Ministers defines the organisations and services outside the ministries, namely:

- The Service for the Organisation and Status of Government Bodies of the Council of Ministers;
- The Service for Financing the Competences of SCG;
- The Legislation Service;
- The Information Directorate;
- The Bureau of Statistics;
- The Office of SCG for Association with the EU;
- The Archives of SCG;
- The Council of Ministers Common Affairs Service;
- The Air Service.

The Service for the Organisation and Status of Government Bodies of the Council of Ministers carries out the duties relating to the organisation and functions of administrative bodies and the status of their staff.

The Service for Financing the Competences of SCG carries out the duties relating to the following: development of the draft acts on annual revenues and expenditures for the financing of the State Union competences in coordination with the member states; development of the plan of needed funds broken down by category of recipient and user; and other duties upon the order of Secretary General and the Council of Ministers.

The Legislation Service carries out duties relating to the development and promotion of the legal system of SCG; ensures the methodological unity and compatibility of the laws and other acts with the Constitutional

Charter and the laws in their adoption procedure; gives opinions on laws and other acts in the course of their preparation procedure; supervises the publication of the laws and other regulations in the *Official Gazette*.

The Information Directorate performs the following duties: informs the general public at home and abroad via mass media and the Internet about the activities of the Council of Ministers, its ministries and administrative bodies of SCG; monitors on a comparative basis and analyses the reports made by national and foreign mass media on the activities of the Council of Ministers; registers foreign media outlets, foreign reporter bureaus and foreign correspondents; and deals with other issues in the information field in accordance with the state union laws.

The Bureau of Statistics carries out duties in line with the needs of SCG and relevant international institutions related to the development of statistical research programs; coordinates the elaboration of uniform methodologies and standards for statistical research; regularly communicates statistics of relevance to the work of the Ministries and other administrative bodies; and performs other duties as well.

The SCG Office for Association with the EU performs duties under the supervision and in agreement with the Ministry of International Relations pertaining to the following: coordination of technical-administrative duties between the future SCG negotiating team lead by the Minister of International Economic Relations and the ministries at State Union level as well as between them, and the Ministry for Foreign Economic Relations of the Republic of Serbia and the Ministry of Foreign Economic Relations and European Integration of the Republic of Montenegro as the line departments responsible for association with the EU; monitors, gathers and makes available information about the EU *acquis communautaire*; prepares meetings with the EU to discuss the association process; monitors the implementation of reforms in the association process; monitors the implementation of the EU financial aid programmes related to the association process; and coordinates preparations for the signature of the Stabilisation and Association Agreement (SAA).

The Archives of Serbia and Montenegro perform duties relating to the following: record-keeping, gathering, managing, rearranging, processing, making public, studying, protection and use of archival records and other materials generated by the Assembly, the President of Serbia and Montenegro, the Council of Ministers, the Court of Serbia and Montenegro, the Ministries and other administrative bodies of the Council of Ministers in their work.

The Council of Ministers Common Affairs Service carries out duties related to automatic data processing. These duties include elaboration and launching of projects for the automation of administrative and other operative duties carried out in Serbia and Montenegro, IT duties to ensure the functioning and development of the IT system; financial and material duties including the execution and monitoring of the use of funds provided for the work of Serbia and Montenegro, as well as other duties.

The Air Service carries out duties having to do with the delivery of air transport services to meet the official needs of the President of Serbia and Montenegro, the Council of Ministers and administrative bodies and/or the needs of the top-ranking officials of the member states as well as to meet the needs of third persons against compensation at market rates (Articles 12-20 of the Decree on the Establishment of Ministries).

Each ministry is run by a minister, and each institute, directorate, office, archives and service is run by a director. Each body is run by the chief of that body, and the General Secretariat is run the Secretary General. The Secretary General, Director of an institute, directorate, office, archives and service and chief of a body are appointed and may be relieved of duty by the Council of Ministers (Article 24, paragraphs 1, 2 and 3 of the Decree on the Establishment of Ministries).

5.7 Inter-ministerial Coordination

The Council of Ministers coordinates the work of the ministries of the Council of Ministers by adopting positions in principle of relevance to the preparation of proposals for charting and uniform pursuit of the charted policy, i.e. uniform enforcement of laws and secondary legislation. In order to monitor and implement an SCG policy, in harmony with the joint policy and the member states' interests, collegiate bodies may be set up at the ministries subject to parity representation of the member states. The Council of Ministers coordinates the work of the ministries by ensuring the operation of administrative bodies, organisations and services; by settling any disputes arising from conflict of competence (concurrent competences) and any other disputable issues arising between two or more administrative bodies in the performance of duties

falling within their competence and within their scope of activity; or by combining the activities of two or more ministries in order to carry out jointly certain tasks; and by examining and settling issues of relevance to the work of two or more ministries (Articles 6 and 7 of the Law on the Council of Ministers).

5.8 Governmental Preparatory Legislative Process

The Council of Ministers proposes draft laws to the Assembly along with other acts falling within the purview of its ministries in accordance with the policy of development, implementation and promotion of the legal system of Serbia and Montenegro and its harmonisation with European and international standards. If the Council of Ministers holds the view that the significance of the issues to be regulated by a particular law requires a preliminary debate, it may communicate to the Assembly the text of the draft law in order to have an exchange of views and in order to adopt a position on the issues regulated by the law concerned. The Council of Ministers may propose to the Assembly to have a public debate on the draft communicated to it involving the parties concerned. The Council of Ministers may withdraw its draft law before the vote is opened. The Council of Ministers gives an opinion to the Assembly on the draft law submitted by an MP or by either Assembly of the two member states (Articles 8, 9, 10, 11 of the Law on the Council of Ministers).

The Council of Ministers ensures the enforcement of the laws, secondary legislation, decisions and other regulations by creating conditions for their efficient implementation. In order to have the laws and other regulations of the Assembly enforced, the Council of Ministers issues decrees, decisions and regulations. A decree sets up and abolishes administrative bodies, organisations and services of the Council of Ministers and determines their organisation and scope of activity. A decision prescribes Council of Ministers measures for the enforcement of the laws passed in the Assembly. A regulation is a piece of secondary legislation which regulates particular issues and relationships that are not regulated by other general secondary legislation. A regulation as a separate act decides on appointments and relief of duty of high-ranking officials at administrative bodies. The Council of Ministers may also issue conclusions whereby positions and guidelines are formulated for the work of the Ministries and administrative bodies of the Council of Ministers (Articles 13 and 14 of the Law on the Council of Ministers).

An expert group of the competent ministry elaborates a draft law and transmits it to the Legislation Service for its opinion. If the law touches the competences of another ministry, it must be communicated to that ministry in order to obtain its opinion thereon. If it is necessary, the draft law is also sent to the Service for Financing the Competences of SCG or the Service for the Organisation and Status of the Administrative Bodies of the Council of Ministries. The ministry (the sponsor) considers the objections raised by the competent bodies and sends the final draft to the competent committee of the Council of Ministries. Upon the closure of the committee's sitting, the draft law accompanied by the opinions of the competent committee and the competent bodies is communicated to the Council of Ministers to reach a final decision thereon.

There is no obligation to carry out impact assessment.

The opinion of the competent bodies as well as that of the Council of Ministers Committees is not binding. However, it very rarely happens in practice that the Council of Ministers proposes to the Assembly a law if the competent bodies have given a negative expert opinion thereon.

The procedure for the elaboration and adoption of secondary legislation is identical to that with regard to laws.

5.9 Executive Budgeting Process

The member states provide the funds required for the performance of the entrusted competences and additional duties of SCG (Article 18 of the Constitutional Charter).

The Assembly passes acts on annual revenues and expenditures required for the financing of the competences entrusted to SCG at the proposal of the competent bodies of the member states and the Council of Ministers (Article 19, line 10 of the Constitutional Charter).

The Law Amending the Law on the Budget of the Republic of Serbia (*Official Gazette of the Republic of Serbia* No. 35/2003), notably Articles 6(a) and 6(b) regulates the transfer of funds from the member states'

budgets for the performance of the entrusted competences and additional duties of SCG in the total amount of Din 40 967 981 000, as follows:

The Republic of Serbia ensures funds totalling Din 38 219 095 000, or 93.3 per cent of the total funds allocated.

The Republic of Montenegro ensures funds totalling Din 2 748 886 000, or 6.7 per cent of the total funds allocated.

There is no Ministry of Finance on the level of Council of Ministers. There is no Budget of the State Union – this is all managed by Ministry of Finance of the Republic of Serbia.

5.10 Advisory and Consultative Arrangements

Advisory bodies at the level of a ministry may be set up in order to examine issues of preparation and/or implementation of a law or another regulation of the Assembly, decisions and other acts of the Council of Ministers as well as other issues of relevance to the performance of duties within the scope of activity of each particular ministry. This advisory body is established by the minister. If the advisory body reviews an issue falling within the purview of two or more ministries, it is established by the Council of Ministers at the proposal of the minister. The act on the setting up of this body defines its tasks and duties, membership, fees to be paid to persons to take part in its work and other issues of relevance to its work. The minister or the high-ranking official may set up expert working groups in order to prepare a draft law as well as in order to settle other issues within the ambit of the organisation concerned. Ad hoc working bodies may be appointed within the ministries in order to coordinate, harmonise the implementation of SCG policy in harmony with the joint policy and the member states' interests. These bodies are made up of representatives of the ministries concerned and the competent bodies of the member states. The representation is ensured on a parity basis. Collegia may also be set up within the ministries, with parity representation of the member states, in order to chart and implement a SCG policy in tune with the joint policy and the member states' interests (Article 29 of the Decree on the Establishment of Ministries).

6. Executive Linkages

6.1 The Executive and the President

Article 26, line 2 of the Constitutional Charter stipulates that the President of Serbia and Montenegro shall chair the Council of Ministers and run its activities. When the Council of Ministers session makes decisions, the President of Serbia and Montenegro has the right to vote as the Chairman of the Council of Ministers. In case of an equal number of votes at the session and provided that at least one minister from the other member state has voted in favour of the decision, the President of Serbia and Montenegro will cast the decisive vote. The President of Serbia and Montenegro also proposes to the Assembly candidates for ministers on the Council of Ministers. The President may submit a proposal to the Assembly for the relief of duty of a minister and he may, on behalf of the Council of Ministers, raise the question of confidence in the Council of Ministers to the Assembly. If the Assembly takes a vote of no-confidence in the Council of Ministers, the provisions of the Law on the Election and Relief of Duty of the President of Serbia and Montenegro will apply to the status and position of the President of Serbia and Montenegro (Article 34 of the Law on the Council of Ministers). If the list of candidates for the Council of Ministers proposed by the President of Serbia and Montenegro fails to win the support of the Assembly in three consecutive attempts, the Assembly will be dissolved and elections called. The period between the submission of the first and the third proposal of candidates may not exceed 60 days.

6.2 The Executive and Parliament

The Council of Ministers answers for its work to the Assembly (Article 37 of the Constitutional Charter and Article 31 of the Law on the Council of Ministers).

The Assembly and its working bodies may request from the Council of Ministers information and data on the affairs falling within its purview and on the activities of the ministries and other government agencies of the Council of Ministers. An MP at the Assembly may request from the Council of Ministers details falling under the competence of a ministry and other agencies of government administration of the Council of Ministers

that he needs in order to be able to directly discharge his functions (Article 32 of the Law on the Council of Ministers).

An MP at the Assembly has the right to address an MP's question to the Council of Ministers or to a particular minister regarding the issues under their responsibility. The questions of MPs are addressed at the opening of the Parliament sitting. An MP may address and get replies to no more than three questions per sitting. An MP's question should be clearly formulated and must not have the characteristics of a debate on a particular issue. When a question is raised, the MP has the right to speak for up to three minutes. If the reply to the question is not given at the sitting of the Assembly, the President of the Assembly will communicate the MP's question to the Council of Ministers or the competent minister. After a reply has been given to the question raised, the MP who has raised the question has the right to make a comment on the reply to his question and the comment may last up to two minutes and decide whether he will raise a supplementary which may not take more than two minutes. When he gets an answer to his supplementary, the MP has the right to make a statement on the reply (Articles 88, 89 and 90 of the Provisional Rules of Procedure).

A sitting of the Assembly may be called, in addition to the President of the Assembly or 30 MPs, also by the Council of Ministers (Article 31 of the Provisional Rules of Procedure).

An MP has the right to make a proposal for the amendment to the draft agenda and to elaborate thereon within two minutes (Article 35 of the Provisional Rules of Procedure).

The Council of Ministers may propose that a law be passed under an urgent procedure only in exceptional cases. In case the urgent procedure for passing a law has been proposed by the MPs, the Council of Ministers gives its opinion thereon (Article 76 of the Provisional Rules of Procedure).

The Assembly may take a vote of no-confidence in the Council of Ministers and that proposal may be made by at least 10 MPs (Article 10 of the Law on the Election and Termination of the Term of Office of the Council of Ministers). The proposal must be placed on the Assembly's agenda no sooner than five and not later than 15 days of the date of its adoption (Article 11 of the Law on the Election and the Termination of the Term of Office of the Council of Ministers).

The Assembly may relieve of duty a minister or a deputy minister at the proposal of at least seven MPs (Article 15 of the Law on the Election and Termination of the Term of Office of the Council of Ministers).

The Assembly passes an act on annual revenues and expenditures required for the financing of the competences entrusted to Serbia and Montenegro at the proposal of the competent bodies of the member states and the Council of Ministers (Article 19, line 10 of the Constitutional Charter). The role of the Assembly in the process of execution of the budget is distinct in that the member states provide financial resources for the discharge of the entrusted functions and performance of additional duties of Serbia and Montenegro (Article 18 of the Constitutional Charter) – see Section 5.9 and Article 8 of the Law Amending the Law on the Budget of the Republic of Serbia).

6.3 The Executive and Political Parties

This issue falls under the competence of member states.

6.4 The Executive and Civil Society

Article 9 of the Law on the Council of Ministers makes it possible for the Council of Ministers to propose to the Assembly that, given the complexity of particular issues that are specified by law, a public debate be held. If the Assembly agrees to a public debate, the Council of Ministers will determine the method of holding the debate and designate the body to hold it as well as the time limit within which it is to take place which may not be shorter than 20 nor longer than 60 days.

6.5 The Executive and the Media

The Information Directorate informs the national and foreign public via mass media and via the Internet on the work of the Council of Ministers; follows on a comparative basis and examines the coverage by national and foreign mass media of the work of the Council of Ministers; studies the effects of information

dissemination of relevance to the work of the Council of Ministers; and carries out other duties in the field of information in accordance with State Union laws (Article 15 of the Decree on the Establishment of Ministries).

7. Deconcentration and Decentralisation

The competences of Serbia and Montenegro are very limited in scope so that the issues of regional and local self-government fall under the exclusive responsibility of the member states.

8. Personnel Management in Public Administration

8.1 Legal Bases and Principles of Public Employment

Since Serbia and Montenegro was formed only in 2003, the State Union has taken over a part of staff from the administration of the former Federal Republic of Yugoslavia. A number of staff of the administration of the former Federal Republic of Yugoslavia have been taken over by the member states' administrations given that the institutions that they used to work for were moved from the federal level to the level of responsibility of the member states.

8.2 Personnel Management

The issue procedure of employment will be settled following the setting up and the commencement of operation of the competent State Union bodies. The rights and duties of employees at the government administration will be regulated by a separate Law on the Government Administration of Serbia and Montenegro due to be passed. The Federal Republic of Yugoslavia had not passed a law regulating these relations. Instead, in force are particular provisions of the Law on the Fundamental Principles of the System of Government Administration and the Federal Executive Council adopted in 1978. This law is rather difficult to enforce given the current nature of relations for it was not even harmonised with the Constitutional of the Federal Republic of Yugoslavia and was drafted in the context of the constitutional order of the former Socialist Federal Republic of Yugoslavia.

The duties of employees as well as work posts are defined by the Rules on Internal Organisation and Systematisation of Posts that has been passed by the competent government body with the approval of the Council of Ministers.

9. Control and Supervision Over Administration

9.1 Internal Control and Supervision and 9.2 External Audit and Control

Given that the State Union was only recently formed, therefore particular issues from these two sections are not yet regulated. Some of them do not fall under the responsibility of Serbia and Montenegro.

9.3 Public Redress

Article 16 of the Law on the Council of Ministers lays down that the procedure with regard to administrative affairs within the ambit of the Council of Ministers to be conducted by a commission or another permanent working body set up by the Council of Ministers. This commission or working body has its Chairperson and a certain number of members. Upon the completion of the procedure, the commission or the working body submits to the Council of Ministers a written report and a proposal for a solution. These provisions apply also to the adjudication of administrative matters in second-instance proceedings. The Council of Ministers ensures the necessary conditions for the work of the Commission or the working bodies.

The Council of Ministers, in accordance with its competences, ensures that the Ministry carries out duties having to do with the adjudication of administrative matters and carries out administrative supervision. The General Secretariat and the relevant services carry out the normative-legal, administrative-supervisory, administrative and technical duties falling within the competence of the Council of Ministers and/or technical and other duties necessary for the functioning of the Council of Ministers and its bodies (Article 2, paragraph 1, items 1 and 3 of the Decree on the Establishment of Ministries).

Article 46 of the Constitutional Charter established the Court of Serbia and Montenegro. The Court's competences include decision-making on the legality of final administrative acts of the institutions of Serbia and Montenegro and decision-making on citizens' complaints when an institution of Serbia and Montenegro is alleged to have infringed upon the rights and liberties guaranteed by the Constitutional Charter, unless a different legal protection procedure has been provided for.

The Court has an equal number of members from both member states (Article 47, paragraph 1 of the Constitutional Charter). Article 14 of the Law on the Court of Serbia and Montenegro (*Official Gazette of SCG*, No. 26/2003) stipulates that the Court shall have eight judges.

The decision-making procedure of assessing the legality of final administrative acts of the State Union institutions is elaborated in Articles 76-95 of the Law on the Court of Serbia and Montenegro. These provisions stipulate that the right to institute proceedings shall be enjoyed by a natural or legal person if they hold the view that an administrative act has infringed upon a right of theirs or an interest based on law. The request for institution of proceedings may only be made against an administrative act. That is an act whereby an institution, or a body, of Serbia and Montenegro has, in the exercise of public powers, made a decision on a particular right or duty of a natural or legal person in the administrative matter concerned. The request for assessment of legality of administrative acts may be made if: the act does not comply with the law, another regulation or a statute; if the act has been passed by other than the competent body or if the competent body has overstepped its powers; if in adopting the act, the body concerned failed to observe the rules of procedure; also, if the factual situation has not been established in the right way; or an incorrect conclusion has been made on the basis of the established facts.

If the second-instance body fails, within two months, to pass a decision on the party's appeal against the first-instance decision and fails to do so also in the period of another seven days following a repeated request to that effect, the party may institute proceedings for assessment of the legality of the final administrative act as if the appeal had been rejected.

The decision approves or rejects the request as unfounded.

The appeals proceedings upon appeals lodged by citizens is regulated by Articles 62-67 of the Law on the Court of Serbia and Montenegro. A citizen's appeal may be filed by anyone who holds the view that an individual act or action of an institution of Serbia and Montenegro or a government body of a member state or organisation exercising public powers has infringed upon his human or minority rights unless another legal protection procedure has been provided for or unless protection has been provided in a member state. A citizen's appeal on behalf of the person whose human or minority right has been infringed upon may be lodged by another person or body in accordance with the law.

The appeal specifies what constitutes the infringement of human and minority right and defines the request on which the Court is to pass a decision. The appeal must be accompanied by a certified transcript of the challenged individual act and other evidence of relevance to decision-making.

Citizens may file a citizen's appeal within three months of the date of delivery of the individual act or of the date when the action infringing the human or minority right guaranteed by the Constitutional Charter was undertaken or suspended.

If it establishes that an individual act or action has infringed upon a human or minority right, the Court will annul the individual act or prohibit any further positive action or order that an action be taken and resulting consequences removed. The Court's decision accepting the appeal forms the legal grounds for a request for compensation of damages. If the Court assesses that the infringement of human and minority rights has been the result of enforcement of a general enactment on the basis of which the individual act was passed, it will pass a decision to institute proceedings for assessing the (legality of) that act. The Court may order that from the initiation of proceedings until the passing of the decision enforcement of the individual act or action, which were the pretext for the citizen's appeal, be suspended.

If an individual act or action has infringed a human or minority rights of several persons and only some have filed a citizen's appeal, the Court will take a decision affecting also the persons who have not filed an appeal if they are facing the same legal situation.

The Court will suspend the proceedings if: the citizen's appeal has been withdrawn; if the body that has issued the individual act annuls it, rescinds it or amends it in accordance with the request made in the appeal or if the action that caused the human or minority right to be infringed has stopped subject to the consent of the person filing the citizen's appeal; as well as if the procedural pre-requisites for the conduct of proceedings cease or disappear.

The concept of Ombudsman has not been stipulated by the Constitutional Charter and this issue is under the responsibility of the member states. The regulatory bodies, their establishment and operation are under the responsibility of the member states.

10. Specific Topics

10.1 Public Procurement

This issue is not regulated at State Union level. The Republic of Serbia has passed its Law on Public Procurement (*Official Gazette of the Republic of Serbia*, No. 39/2002). The manner in which these relations will be regulated in the future is an outstanding question.

10.2 Combating Fraud and Corruption

There are no State Union regulations governing these issues. Criminal legislation is under the exclusive responsibility of the member states.

As for the conflict of interest, Articles 20 and 21 of the Law on the Council of Ministers stipulate that a member of the Council of Ministers may not, in the course of his term of office, be a judge or another high-ranking official in government bodies or in the bodies of local self-government. During his term of office a member of the Council of Ministers may not perform honorary duties except if the Council of Ministers approves it. A member of the Council of Ministers may not, in relation to the discharge of his function, receive presents nor directly make other gains in other ways from legal and natural persons in Serbia and Montenegro or abroad.

10.3 Access to Public Information

The proceedings of the Council of Ministers are accessible to the public. The Council of Ministers ensures visibility of its activities by making information available to the press and to other mass media, by publishing official publications, through conferences between the members of the Council of Ministers and the representatives of mass media and by creating other conditions for the public to get acquainted with the decisions, positions and proceedings of the Council of Ministers. The Council of Ministers determines, in accordance with the law, which data and materials prepared to be considered at the sittings of the Council of Ministers and its working bodies or presented in the course of these sittings must be kept secret or which data and materials may be made public or made available to the public in another way only after the lapse of a certain time period (Article 36, paragraph 2 of the Law on the Council of Ministers).

10. Rights of Minorities

The member states regulate, ensure and protect human and minority rights and civil liberties in their respective territories. The achieved level of human and minority rights, individual and collective, and civil liberties may not be lowered. Serbia and Montenegro monitors the exercise of human and minority rights and civil liberties and ensures their protection in case such protection is not ensured in the member states (Article 9 of the Constitutional Charter).

Everyone has the right to effective court protection in case any of their human or minority rights have been violated or denied as well as the right to the elimination of the consequences of such a violation. Everyone who holds the view that any of their human or minority rights have been violated or denied by any individual act or action by a particular institution or the state union or the government body of a member state or organisation exercising public powers has the right to file a complaint to the court unless another kind of legal protection has been provided in the member state concerned, in accordance with the Constitutional Charter. The decisions of international bodies are enforced and the cost is borne by the state union and/or the member states depending on whether the state union institution and/or an administrative body of a

member state or organisation exercising public powers has violated or denied a right guaranteed under an international treaty in force in the territory of Serbia and Montenegro (Article 9 of the Charter of Human and Minority Rights and Civil Liberties).

For procedures, please see Section 9.3.

10.5 E-Government

A part of the General Secretariat of the Council of Ministers is the Information Technology (IT) Division which carries out duties related to development, management and technological modernisation of the IT system in agencies of government administration, delivery of IT support for the activities of the Council of Ministers and its electronic inter-connection with the state union bodies and with other institutions.

The Government's central web site is: www.gov.yu.

11. Management of European Integration

11.1 The Institutional Framework of EU-Related Policy-Making

The Council on European Integration was established by the Decision on the Establishment of the Council on European Integration (Official Gazette of SCG, No. 33/2003) as an advisory body to the Council of Ministers. This Council considers issues of membership of Serbia and Montenegro in the European Union, monitors, assesses and directs the integration process and initiates and encourages the taking of measures and activities geared to the good quality and timely implementation of recommendations and commitments related to European integration. Technical duties of preparation of the Council's sittings and implementation of its conclusions are carried out by the Office of Serbia and Montenegro for Association with the European Union under the supervision and in agreement with the Ministry of International Economic Relations and in cooperation with the competent bodies of the member states. The importance attached to this issue is best seen from the membership of the Council that includes top-ranking officials of the State Union and its member states. The Chairman and members of the Council are:

- President of Serbia and Montenegro and Chairman of the Council of Ministers – Chairman of the Council;
- Prime Minister of the Republic of Serbia;
- Prime Minister of the Republic of Montenegro;
- Minister of Foreign Affairs of Serbia and Montenegro;
- Minister of International Economic Relations of Serbia and Montenegro;
- Vice-Prime Minister of the Republic of Serbia;
- Minister of Foreign Economic Relations of the Republic of Serbia;
- Minister of Foreign Economic Relations and European Integration of the Republic of Montenegro;
- Minister of Finance of the Republic of Montenegro.

The Ministry of International Economic Relations carries out the duties related to the negotiation and coordination of the implementation of international agreements including the contractual relations with the European Union (Article 8 of the Decree on the Establishment of Ministries).

Pursuant to Article 11, paragraph 6 of the Decree on the Establishment of Ministries, the Office of SCG for Association with the European Union has been established.

This Office carries out duties related to the following: coordination of technical and administrative duties between the future negotiating team of SCG and the ministries at the level of Serbia and of Montenegro as well as between them and the Ministry of Foreign Economic Relations of the Republic of Serbia and the Ministry of Foreign Economic Relations and European Integration of the Republic of Montenegro as the line Ministry responsible for association with the EU; monitoring, gathering and providing of information on the

acquis communautaire of the European Union; preparation of meetings with the EU relating to the association process; monitoring of the implementation of reforms in the association process; monitoring of the implementation of the EU financial aid program related to the association process; coordination of preparations for the signature of the Stabilisation and Association Agreement.

11.2 Managing the Approximation of Laws

The monitoring of the process of harmonisation of national laws with the *acquis communautaire* of the EU is under the responsibility of the member states.

11.3 Implementing the Acquis Communautaire

The SCG Office for Association with the European Union, in cooperation with the competent bodies of the member states, organises training of administrative officers on European integration and coordinates the translation of the *acquis* of the EU.

11.4 Managing Technical Assistance

The SCG Office for Association with the European Union manages technical assistance in the fields related to the stabilisation and association process whereas the Ministry of International Economic Relations manages technical assistance related to other duties.

12. Plans for Reform and Modernisation

The reform process is only at an early stage.

13. Key Statistical Data

13.1 Data on the Budget and 13.2. Personnel Data

Transfer funds to Serbia and Montenegro from the budgets of the member states are regulated by Article 8 of the Law Amending the Law on the Budget of the Republic of Serbia for 2003. They are defined by purpose they are to serve and provided in the amounts indicated below.

For carrying out the entrusted competences and additional duties of Serbia and Montenegro, the member states have allocated funds in the total amount of Din 40 967 981 000 (see Section 5.9).

The breakdown of employees at the ministries and agencies of government administration of the Council of Ministers as well as their working assignments are regulated by the Rules on Internal Organisation and Systematisation of Job Posts which are passed by the competent administrative body subject to the approval of the Council of Ministers.

No.	Name of the State Administration Body	No.of State Officials	No. of Civil Servants	Total	Budget (Serbian Dinars)
1.	Government's Office	19	129	148	486 414 000
2.	Parliament of Serbia and Montenegro	126 (MP's)	75	201	203 804 000
3.	Service for Legislation	3	9	12	3 623 000
4.	Information Directorate	1	27	28	11 077 000
5.	Office of SCG for Association with the EU	1	14	15	5 635 000
6.	Service for Financing the Competences of SCG		9	9	572 616 000
7.	Service for the Organisation and Status of Government Bodies of the Council of Ministers		6	6	4 013 000
8.	Council of Ministers Common Affairs Service	3	496	499	368 488 000
9.	Air Service	1	29	30	1 596 320 000
10.	Ministry of Foreign Affairs			1 138	788 410 000 (in country) 2 738 583 000 (abroad)
11.	Ministry of Defence				37 829 000 000
12.	Ministry of International Economic Relations	4.	93	97	43 208 000
13.	Court of Serbia and Montenegro			30	21 292 000
14.	Office of the Customs Administration of Serbia and the Customs Administration of Montenegro			9	3 193 000
15.	Bureau of Statistic			35	57 092 000
16.	Ministry of Internal Economic Relations	2	38	40	17 118 000
17.	Accreditation Body of Serbia and Montenegro	2	18	20	9 883 000
18.	Intellectual Property Institute	3	101	104	35 019 000
19.	Standardisation Office	5	87	92	35 047 000
20.	Institute of Measurements and Precious Metals	4	141	145	162 649 000
21.	Ministry of Human and Minority Rights	3	29	32	49 608 000
22.	Archives of Serbia and Montenegro	3	55	58	19 433 000

14. Useful Internet Links

Serbia and Montenegro — central website: www.gov.yu

Government Information Centre: www.info.gov.yu

Serbia and Montenegro Ministry of Foreign Affairs: www.mfa.gov.yu

Federal Statistical Office: www.szs.sv.gov.yu

Standardisation Office: www.jus.org.yu

Ministry of Human and Minority Rights: www.humanrights.gov.yu