

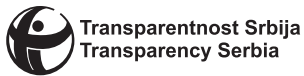


Transparentnost Srbija  
Transparency Serbia

# POLITICAL INFLUENCE ON PUBLIC ENTERPRISES AND MEDIA

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Kingdom of the Netherlands

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## Summary

**Research rationale:** Public enterprises have been identified as the most problematic area in the fight against corruption in Serbia<sup>1</sup>. The system of party control and coalitional “share of prey” in these companies, which functioned for decades, have not ceased by the adoption of the Law on Public Enterprises of 2012, which proclaimed the depoliticization and greater transparency and accountability, as showed by the Transparency Serbia research from 2014<sup>2</sup>. Bearing in mind the inherent purpose of public enterprises, their dominant position in the market and the ability to buy media influence, the costs of sponsorship and marketing emerge as their most disputable expenditures. The problems pointed out by TS and other actors<sup>3</sup> have only partially been resolved by the new Law on Public Enterprises of 2016.

**Research topic:** For this reason, Transparency Serbia researched the implementation of the Law on Public Enterprises of 2016. We analyzed the professionalization of public enterprise management through the selection of directors and supervisory boards, transparency of their work, and compliance with legal obligations, as well as the relationship of public enterprises with the media, where we observed advertising costs, sponsorships and donations, and accompanying reports. The research covered the legal framework in general and the documents collected for 30 public enterprises.

**The Law and By-laws:** Some of the major shortcomings in the new Law on Public Enterprises (in force since March 2016), to which TS indicated in a timely manner<sup>4</sup>, became evident during the first

1 In the National Integrity System Study from 2015, conducted according to the Transparency International methodology, “Public Enterprises” received by far the lowest evaluation among 16 key institutions and sectors. [http://www.transparentnost.org.rs/images/dokumenti\\_uz\\_vesti/TS\\_report\\_NIS\\_2015.pdf](http://www.transparentnost.org.rs/images/dokumenti_uz_vesti/TS_report_NIS_2015.pdf)

2 The Effects of new Law on Public Enterprises – professionalization or politicization <http://www.transparentnost.org.rs/images/stories/inicijativeianalize/Efekti%20novog%20Zakona%20o%20javnim%20preduzecima-politizacija%20ili%20profesionalizacija,%20oktobar%202014.pdf>

3 The most notable were the two reports on media composed by the Anti-Corruption Council in 2011 and 2015. <http://www.antikorupcija-savet.gov.rs/en-GB/reports/cid1028-3007/report-on-the-possible-impact-of-public-sector-institutions-on-media-through-financing-of-advertising-and-marketing-services>

4 [http://www.transparentnost.org.rs/images/dokumenti\\_uz\\_vesti/Zakon\\_o\\_JP\\_komentari\\_i\\_primedbe.doc](http://www.transparentnost.org.rs/images/dokumenti_uz_vesti/Zakon_o_JP_komentari_i_primedbe.doc)

18 months of the Law implementation. This particularly applies to the solutions from the transitional provisions of the Law. A by-law, which should stipulate adequate compensation for experts managing public enterprises - “conditions and criteria for determining the level of incentives for Directors and Executive Directors of Public Enterprises” - has not been adopted one year after the deadline. In addition, the act that should regulate the professional development of the chair and members of supervisory boards in the field of corporate governance has not yet been adopted either.

**Directors and Supervisory Board Members:** Even though the legal deadline for the appointment of directors expired in March 2017, acting directors are still running almost all of the observed public enterprises six months later. At the local level, enterprises are managed by directors appointed in the 2013 competition, when they were clearly identified as “party candidates” in the local media. When it comes to supervisory boards, 29 out of 30 public enterprises are composed of members who do not meet legal requirements or whose qualifications cannot be determined from their resumes. Therefore, it can be concluded that one of the goals for adoption of this law, the professionalization of the management of public enterprises and their depoliticization, has not been accomplished.

### **Statistics:**

**Violations of the Law, irregularities or lack of evidence** that the Law was respected:

- **In 28 cases** irregularities were found **in relation to directors and the selection of directors**. In 15 cases, **the deadline for the competition** for the selection of directors expired<sup>5</sup>; **in seven cases the acting director was appointed for the period longer than the legal maximum of 12 months**; in two cases the “acting director” was appointed for the period longer than the legal maximum by “rotating” acting directors; in two cases it was disputable whether the director or the

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5 Data collection was completed in August 2017, so it is possible that the director was appointed in the meantime.

acting director **fulfill (or fulfilled) the legal requirements** for that function; while two cases were disputable because the directors were appointed in 2012<sup>6</sup>.

- Of the **30 observed enterprises**, only **two directors were selected** in accordance with the provisions of the new Law on Public Enterprises, and **in 11 enterprises they were selected before the new Law** entered into force. **Two enterprises** are still managed by **the directors appointed in 2012**, before the previous Law entered into force (these PE held no competitions until 2017, despite the fact that the previous Law stipulated this to be done in June 2013). **The total of 14 public enterprises are managed by acting directors**. One public enterprise was shut down during the study.
- Out of the **30 observed PEs**, **irregularities were found in case of 29** in relation to the **composition of the supervisory boards**, i.e. in regards to meeting the legal requirements for the SB members. The qualifications for one to four members were disputable. In most cases, TS was able to determine on the basis of the available resumes or submitted data that SB members did not fulfill legal requirements (the most common requirements in question were: “at least three years of work experience in jobs related to public enterprise affairs” or “five years of work experience in jobs which require higher education degree”). In other situations, the submitted and published documents were not sufficient to determine with certainty whether the conditions were met.

**Transparency** is an area in which **progress has been made** gradually, over the past 18 months, at least on the observed sample, which was also influenced by our research. Thus, at the beginning of the research, only one of the 30 PEs had published all the documents and information required by the Law (plans, reports, resumes, etc.). After we issued numerous statements to public enterprises and

<sup>6</sup> In these cases, it is also illegal or, at the very least, disputable that the appointed directors continued performing that function without a new competition after the previous Law from December 2012 entered into force.

their founders, these obligations were met by eight enterprises at the end of the monitoring, while ten companies established a system of regular publishing, even though the publication of certain documents is still late. TS warned municipal assemblies that some local public enterprises do not even have a website and we alerted the responsible ministry to remind all local government units to legal obligations and prescribed penalties.

**Media Relations:** As for media relations, we found that several public enterprises concluded contracts with media or entered sponsorship contracts in order to monitor the activities of the company. Some public enterprises ignored the requests to deliver their media contracts. Among them is the PE *Pošta Srbije* which had the highest number of sponsorship agreements with the media. Given the partial availability of the requested information, it is not possible to draw a conclusion on the extent to which the relations between this PE and the media were inappropriate or in accordance with the regulations and media standards. However, received contracts revealed several cases where the media agreed to the obligations that could impair the independent editorial policy. In addition, we identified some cases of the public procurement of advertising space in print media with specifications that clearly “targeted” a particular medium.



## Rationale and Scope of the Research

The project “Political Impact on Public Enterprises and the Media”<sup>7</sup> explores the link between two important problems in the field of corruption in Serbia. **The political influence on public enterprises (PE)** opens the door for the misuse of public funds and corruption. In addition to being used for “pumping out” money and for employment based on political affiliation, PEs are also used to buy **media influence** through advertising, sponsorships, and donations.

Depoliticization and professionalization of public enterprises was one of the government’s promises in 2012. The Law on Public Enterprises<sup>8</sup>, adopted in December 2012, made significant improvements over the previous one (from 2000), but it also left room for non-transparent behavior and, consequently, for corruption. However, the holes in the Law were not so much of a problem as the lack of (political) will to implement the Law.

The practice has not changed after the adoption of new provisions. The political influence on PEs and their politicization (instead of professionalization) resulted in public enterprises being among the companies with the greatest losses. In 2014, the Fiscal Council concluded that “state and public enterprises threaten to siphon Serbian public finances” and that “party management of state companies is one of the major cause of the current problems” in PE.

In its 2014 report, Transparency Serbia (TS) concluded that the implementation of the 2012 Law on Public Enterprises is one of the largest examples of unfulfilled promises and expectations”. TS then made 25 recommendations for improving the regulations and practices related to PE. After the public presentation, the report and recommendations were presented to the representatives of the Ministry of Economy at a special meeting in November 2014. The second opportunity to talk with the representatives of the Ministry

<sup>7</sup> The project was supported by the Ministry of Foreign Affairs of the Kingdom of the Netherlands at the competition. All of the above viewpoints belong to Transparency Serbia and cannot in any way be considered to reflect the views of the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

<sup>8</sup> A detailed analysis of the 2012 Law and comparison with previous solutions from TS research, Effects of the new Law on Public Enterprises–politicization or professionalization October 2014.pdf.

of Economy on this topic was in February 2015, while working on the National Integrity System Study - the chapter on state owned companies. Some of our recommendations were included in the draft of the new Law on Public Enterprises, but many “holes” still remained, as well as the key question - will there be a will for its implementation this time?

In February 2016, a new Law on Public Enterprises was adopted, the application of which is one of the topics of this research. On the other hand, **the field of state and political advertising** remained intact. After the adoption of the Law on Advertising in January 2016, which did not regulate this area, a political promise was given that the issue would be resolved by a special law.

We investigated whether the new Law contributed to the professionalization of public enterprise management and the reduction of direct political influence. When it comes to the area of media and political advertising, the intention was to open a debate on solutions to regulate this area and to encourage the responsible ministry to draft the relevant law. Namely, the Anti-Corruption Council’s “Report on the possible impact of public sector institutions on the media through the payment of advertising and marketing services” from 2015 concluded that advertising and marketing of public sector institutions created a very strong relationship between the media and representatives of all levels of government. In this research, Transparency Serbia wanted to determine the relationship of public enterprises and the media (the sample did not include state-owned enterprises organized as joint-stock companies or limited liability companies), the rights and obligations that were included in the PE advertising and marketing contracts, as well as the costs of donations and sponsorships. We first focused on the year 2015, a year that was not covered by the Council’s report and during which the 2012 Law on Public Enterprises was applied. Next, we focused on 2016 (in which the new Law on Public Enterprises was adopted, new forms for reporting costs were implemented, and new management selection process was initiated). Finally, we addressed the plans for costs and expenditures in 2017.

The monitoring included 30 public enterprises, founded by the Government of Serbia, the Provincial government of Vojvodina, and local self-governments. During the implementation of the project, one of the PEs included in the sample (*Elektromreža Srbije*) was transformed into a joint-stock company. The monitoring of this enterprise was continued in line with the obligations of this company in its new status. One of the observed local public utility companies (*Zrenjanin Tourist Center*) was shut down as a result of the reorganization of indirect budget users in that city.

**PEs founded by the Government of Serbia or the Government of the Autonomous Province of Vojvodina:**

1. PE *Elektroprivreda Srbije (Serbia Electric)*; 2. PE *Srbija Gas*; 3. PE *Srbijašume (Serbia Forests)*; 4. Public water company *Srbijavode (Serbia Waters)*; 5. PE *Elektromreža Srbije (Electric Network of Serbia)*; 6. PE *Službeni Glasnik (Official Gazzette)*; 7. PE for underground coal exploitation *Resavica*; 8. PE *Putevi Srbije (Serbia Roads)*; 9. PE *Pošte Srbije (Serbia Posts)*; 10. PE *Skijališta Srbije (Ski Resorts of Serbia)*; 11. PE *Zavod za Udžbenike (Institute for Textbooks)*; 12. PE National Park *Fruška Gora*; 13. PE *Nuklearni Objekti Srbije (Nuclear Objects of Serbia)*; 14. Public water company *Vode Vojvodine*; 15. PE *Vojvodinašume (Vojvodina Forests)*;

**PEs founded by local self-governments:**

16. Public Utility Company (PUC) *Parking servis (BG)*; 17. PUC *Gradska čistoća (BG) (City Cleaning)*; 18. PUC *Informatika, NS*; 19. PUC *Toplana, NI (Heating)*; 20. PUC *Paraćin*; 21. PE *Ingas, Indjija*; 22. PE *Zrenjanin Tourist Center*; 23. PE *Direkcija za urbanizam, KG (Urban Planning)*; 24. PUC *Vodovod (Water Supply), Surdulica*; 25. PE *Direkcija za gradjevinsko zemljište i puteve (Building Land and Roads), Bosilegrad*; 26. PE *Komunalac, Pirot*; 27. PUC *Napredak Sokobanja*; 28. PUC *Gradska toplana (Heating) Novi Pazar*; 29. PE *Zoološki vrt (ZOO), Jagodina*; 30. PE *Subotica-trans*.



# Legal Framework

## The New Law on Public Enterprises

The new Law on Public Enterprises (Official Gazette 15/2016) brought several improvements over the previous one (2012), but a number of serious shortcomings is still present. During the Law adoption, TS pointed out<sup>9</sup> to certain shortcomings and urged the MPs<sup>10</sup> to rectify them. **Transitional provisions** allow **one year for the implementation of the competition** under the new law and **there is no deadline for the completion of the competition announced in mid-2013**. The Law has allowed a **far-off deadline for the provisional function of “acting director”**. Setting a deadline of one year for “acting director” and opening the possibility to appoint another person as an “acting director” after the expiration of that deadline (and so on), **undermines the concept of professionalization** and public competitions for the appointment of directors.

**Good news** are that the recruitment committee submits the list of best candidates and that the Ministry submits a proposal on **appointing the first person from the list**. This resolves the issue of the previous discretionary power of the Government to select any of the three proposed candidates. The law stipulates that the Ministry of Economy shall quarterly report to the Government on the PE reports on the implementation of plans. We pointed out that Government’s decree should more precisely regulate the content of these reports, as well as the publishing obligation. There are

9 <http://www.transparentnost.org.rs/index.php/sr/aktivnosti-2/pod-lupom/8182-komentar-i-primedbe-ts-na-nacrt-zakona-o-javnim-preduzecima>

10 <http://www.transparentnost.org.rs/index.php/sr/aktivnosti-2/pod-lupom/8197-apel-poslanicima-da-amandmanima-poprave-zakon>

also **useful novels** in terms of work transparency. TS pointed out to the Ministry of Economy to possible improvements (centralized publication of **aggregate data for all public enterprises, the data on the analysis of work reports**, the data on the fulfillment of duties, the evidence for complying the conditions for membership in the supervisory board, etc.).

### *By-laws*

The transitional provisions of the Law on Public Enterprises stipulate the deadlines from 60 days to six months for the adoption of six by-laws and for specifying the forms. TS monitored the adoption of the following by-laws to be adopted by the Government of Serbia:

1. Adoption of the Program for **additional professional training** of the president and members of supervisory boards in the field of corporate governance. (Article 18, paragraph 3 of the Law, the deadline of six months from the entry into force of the Law - until September 4, 2016)
2. Adoption of a by-law regulating **the conditions and criteria for determining the level of incentives** for directors and executive directors of PEs (Article 29, paragraph 2 of the Law, the deadline of six months from the entry into force of the Law - until September 4, 2016)

In July 2017, 10 months after the expiration of the deadline for the adoption of these two by-laws, we received the reply from the Ministry of Economy that “the introduction of corporate governance into public enterprises is a very complex process” and that “the draft of a corporate governance study is in progress and will be the result of measuring corporate governance levels in 25 public enterprises and corporations that perform activities of general interest, conducted by the Ministry of Economy in cooperation with the International Financial Corporation within the project of introducing corporate governance into public enterprises”. The reply further stated that that this study was the basis for developing guidelines for further

improvement and strengthening of corporate governance in public enterprises, which will provide the best indicators for the adoption of by-laws referred to in Article 18, paragraph 3 and Article 29, paragraph 2 of the Law”.

It should be noted that the Ministry of Economy, who was in charge of drafting the Law on Public Enterprises, prescribed the deadlines for drafting by-laws, so it is unclear how the Ministry was not able to conclude sooner that the introduction of corporate governance would be a complex task. Especially considering that a by-law aimed at regulating management incentives in a situation where a public enterprise performed positively was not adopted during the implementation of the previous Law on Public Enterprises (2012), although the adoption of such act was planned at that time as well.

3. Adoption of a by-law stipulating the **standards and criteria for determining the compensation** for the president and members of the supervisory board for their respective duties (Article 23, paragraph 2 of the Law, 90 days after the entry into force of the Law - until June 4, 2016)

This regulation was adopted with six months of delay, on December 15, 2016. The Government decision stipulated that the net compensation of supervisory board members in PE cannot be higher than the average net salary in September of the year proceeding the year for which the level of compensation is determined. President's compensation can be increased by 20%. Within this stipulation, the compensation is determined on the basis of the fulfillment of tasks and operations within the SB and the financial disclosure of the PE.

4. The adoption of the by-law stipulating the **Criteria for assessment of professional competence**, knowledge, and skills, which serves as the basis for determining the result of the candidates for appointment of a public enterprise director (Article 40, paragraph 4 of the Law, the deadline of 90 days from the entry into force of the Law - until June 4, 2016). The regulation was adopted by the Government of Serbia on July 27, 2016.

5. Also, the transitional provisions stipulated that the Minister of Economy will adopt the **forms to be used by PE for submitting their three-month reports** on the implementation of the annual or three-year business program (Article 63, paragraph 4 of the Law) within 60 days from the date of entry into force of the Law (up to May 4, 2016). The Minister prescribed the forms on April 1, 2016.

We paid special attention to the **criteria for selecting directors**. Immediately after the expiry of the legal deadline, TS addressed the Ministry of Economy<sup>11</sup> and the General Secretariat of the Government, pointed out the legal obligation, and reminded of the remarks and suggestions that our organization made when implementing the criteria after the adoption of the 2012 Law on Public Enterprises. The Government (in its technical mandate) adopted the Regulation<sup>12</sup> at the end of July 2016. However, according to the TS assessment, the regulation did not bring almost anything new compared to the previous one. The only indisputable benefit is the fact that the rules **will also be applied on the provincial and local level**, the cases which, according to the results of the TS research from 2014, reflected a great variety and often **sheer volunteerism** in determining the selection criteria.

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11 [http://www.transparentnost.org.rs/images/dokumenti\\_uz\\_vesti/dopis\\_Ministarstvo\\_privrede\\_kabinet\\_uredba.docx](http://www.transparentnost.org.rs/images/dokumenti_uz_vesti/dopis_Ministarstvo_privrede_kabinet_uredba.docx)

12 [http://www.srbija.gov.rs/extfile/sr/270180/uredba\\_direktori\\_javnih\\_preduzeca233\\_lat.zip](http://www.srbija.gov.rs/extfile/sr/270180/uredba_direktori_javnih_preduzeca233_lat.zip)



# The Implementation of the Law on Public Enterprises in the Area of Professionalization and Management Depoliticization

## The Selection of Directors

In addition to the stipulations of the general laws, the Article 25 of the new Law prescribes the following provisions for directors: to have acquired **higher education degree** at undergraduate level in the duration of at least four years, i.e. at least 240 ECTS credits, academic master studies, vocational master studies, specialist academic studies, or specialist vocational studies; **to have at least five years of work experience** in jobs which require higher education degree; **to have at least three years of work experience in jobs related to public enterprise affairs**; **to possess the knowledge in the area of corporate governance**; to have work experience in **organization and business management**; **that they are not members of any political body**, i.e. that they have stopped exercising the function in that body. In its research, TS tried to obtain the documents indicating how the candidates demonstrated that they met these conditions.

Of the observed 13 state PEs, in four cases the directors were appointed in accordance with the provisions of the Law on Public Enterprises from 2012. In five cases, the competitions were announced between 2013 and 2015, but were neither completed until the adoption of the new Law, nor in accordance with the old Law (which was made possible by transitional provisions), but new competitions were announced at the beginning of 2017. At the same time, the competitions were also announced for the directors of four public enterprises which haven't had any competitions since the adoption of the Law in 2012 (TS has written about this law violation in its 2014 report).

In two provincial PE directors were elected in 2013, in accordance with the 2012 Law on Public Enterprises. One of them, who was a member of the Democratic Party, resigned in 2016, following a change in power in the Autonomous Province of Vojvodina. In all observed local PEs, the competitions were announced under the old Law on Public Enterprises and the directors were elected for a four-year term, which was supposed to last until September, October, or November 2017. In the meantime, however, a series of resignations or dismissals followed, and the competitions were announced both under the old and new law.

### *The Example of “Professionalization”*

The manner in which these competitions were conducted, i.e. “professionalization” after the “first wave” of the election of directors, is illustrated in the news report from Leskovac from September 2015 on the competition and election of the director of a local PE<sup>13</sup>:

*“For the new director of ‘Vodovod’ Leskovac, for a period of four years, MPs in the City Assembly appointed Kosara Ilić, who until a few days ago performed the function of the chairmain deputy. Ten days ago, the mayor of Leskovac, Goran Cvetanović, announced the dismissal of Staniša Ristić, the director of ‘Vodovod’, and it is interesting how he introduced Kosara Ilić to the Assembly, as well as the manner in which she was employed in this enterprise.*

*I suspected that there were all kinds of misconduct in ‘Vodovod’ even before Staniša was appointed director. I asked Kosara, a long-time friend of mine and a loyal follower of the party (SNS) to serve as my eyes and ears in that company. After a while she told me, “Boss, I don’t have the guts to handle all the problems right now, because there are terrible abuses of power taking place.” Then we decided to appoint Staniša because we thought he would be better able to solve the problems since he was an economist - said Cvetanović. He praised the work of the former director, saying that he managed to stabilize the company, but added that it was time for someone else to take over”.*

*The dismissal of Ristić was announced after the newspapers “Južne Vesti” announced that Leskovac ‘Vodovod’ used the private security agency ‘Tiger’ to collect debt and disconnect debtors from the water supply network. The mayor then said that he did not justify this type of action, but that the workers must be protected in any case.*

*The parliamentary explanation stated that Ristić applied for the director position, but did not respond to the call for interview with the commission for the assessment of professional capability, while Ilic, an engineer of food technology, scored 55 points on the test.”*

### *The Announcement of New Competitions*

It turned out that even one year **was insufficient time**, since new competitions were announced only shortly before the expiration of that deadline, and they were not finalized by the time this report was finished. Unfortunately, it turned out that the fears about the duration of “acting appointments” were also justified. The first competitions were announced on March 16, 2016 (*Elektroprivreda Srbije*) and March 25 (*PE Resavica*). The Chairman and two members of the Government Commission for the election of directors were appointed only on December 7, 2016, less than three months before the expiration of the deadline completing the competition. The Government appointed Novak Nedić, the Secretary General of the Government, as the Chairman, and Nenad Djordjević from the General Secretariat of the Government and Bruno Djuran, the head of the Cabinet of the Minister of Finance as the two members.

On December 21, 2016, the Parliamentary Committee on economy, regional development, trade, tourism, and energy appointed the fourth member, Ivana Janačković, a lawyer. In order for the competitions to be completed, it was necessary to appoint a fifth member for each PE in which the procedure was being conducted. The fifth member was at the same time a member of the supervisory board of the company. Even though 11 months passed since the announcement of the competition, the fifth member was not appointed for *Elektroprivreda Srbije* and *Resavica*. Instead, new competitions were announced for these two companies, together with the competitions for another 20 directors

of PE and state-owned enterprises, in February and March 2017, prior to the expiration or after the expiration of the given deadline. The fifth members of the boards for the selection of directors of these PEs were appointed between March 17 and May 11, 2017.

### *The Disputed Elements of Annulling the Competitions for EPS and Resavica*

In March 2017, TS warned about the delays and disputable issues related to the annulment of the competition for the directors of EPS and Resavica. According to the Law on Public Enterprises, competitions can be suspended in only two ways - by the Government appointing the first candidate from the list established by the Commission (Articles 41 and 42) or by the Commission determining that no candidate met the requirements (Article 45). The "Official Gazette", as well as the websites of the Government, the Ministry of Economy, and these PEs, contained no information that the competitions were suspended. Although there is no prescribed duty to publish such a decision, it would be important to do so because it is questionable whether the legal requirements have been met. In May 2016, the media reported undisputed claims that the competition for EPS Director would be annulled, as well as the comment on the qualifications of the applicants for that position. However, there was no one who could evaluate the competence of the candidates in the legally prescribed manner, since the formation of the Government Commission for the implementation of competitions of PEs began only in December 2016.

The selection of the Commission members for EPS and Resavica has not been completed until the announcement of new competitions for the directors of these two PEs, so it remained unclear who could have determined that no candidate met the requirements. This could possibly have been used as the legal basis for the annulment of the March 2016 competition. The Law stipulates for the Decision on the implementation of the competition to be followed by the preparation and announcement of the competition. Then, the Government Commission for the implementation of the competition should review the received applications, compile the list of candidates, conduct the electoral

procedure, determine the list of candidates, and submit it to the ministry in order to determine the proposal to appoint the first candidate from the list as director. The Commission may also determine that no candidate who participated in the competition met the requirements for the appointment, after which a new public competition is conducted.

TS requested the Government to provide information on whether the Commission had met, when the applications were considered, as well as the information on the annulment of the competition. We did not get these answers. TS then indicated that it was necessary to clarify whether the previous competition had been properly implemented, and if not, who will bear the responsibility for that. It is certain that the annulment of publicly announced competitions could encourage speculations on awaiting a new political agreement and the application of a director who would have political support, that is, on discouraging those good candidates who do not have such support.

In addition to EPS and Resavica, it remains unclear how and when the competition for director of *Serbijašume*, announced in January 2015, was completed according to the old Law, and then “restored” in March 2017, although the previous one had not been completed.

### *The Expiration of Terms from 2013 Competitions*

Special attention should be paid to the fact that in a large number of local PEs included in the sample, but also in many other local PEs, the terms of the directors elected at public competitions after the adoption of the 2012 Law on Public Procurement expire at the end of 2017 and at the beginning of 2018. The current monitoring and TS project will be completed in September 2017. TS will monitor the events regarding these competitions and the selection of directors within its capabilities, following the activities of local partner organizations or local and regional media with whom it has long-term cooperation, or issuing news and comments on these competitions on the TS website and FB page, under the heading Under the magnifying glass (Pod lupom). TS, however, recommends to local NGOs and the media, as well as to all other interested parties (citizens, parliamentary groups, unions, potential candidates without “political background”), to insist

on publishing all the documents from the election procedure and the highest possible transparency, as well as to point out to all possible irregularities. TS, and specifically our Anti-Corruption Legal Advice Center, will be open for cooperation in this regard.

### *The Review of Established Irregularities and Present Facts*

Of the 30 PEs included in the sample, one was shut down and one was transformed into a joint stock company but the provisions of the Law regarding the selection of the director still apply to it. When the data collection for this analysis was concluded (at end of August 2017), the following facts were noted regarding the selection of directors:

- **In 28 cases** irregularities were found **in relation to directors and the selection of directors**. In 15 cases, **the deadline for the competition** for the selection of directors expired<sup>14</sup>; **in seven cases the acting director was appointed for the period longer than the legal maximum 12 months**; in two cases “the acting director” was appointed for the period longer than the legal maximum by “rotating” acting directors; in two cases it was disputable whether the director or the acting director **fulfills (or fulfilled) the legal requirements** for that function, while two cases were disputable because the directors were appointed in 2012<sup>15</sup>.
- Of the **30 observed enterprises**, only **two directors were selected** in accordance with the provisions of the new Law on Public Enterprises, and **in 11 enterprises they were appointed before the new Law** entered into force. **Two enterprises** are still managed by **the directors appointed in 2012**, before the previous Law entered into force (these PE held no competitions until 2017, despite the fact that the previous Law stipulated this to be done in June 2013). **The total of 14 public enterprises are managed by acting directors**. One public enterprise was shut down during the study.

<sup>14</sup> The data collection was completed in August 2017, so it is possible that the director was appointed in the meantime.

<sup>15</sup> In these cases, it was also illegal or, at the very least, controversial that the appointed directors even remained in that position without a new competition after the previous Law from December 2012 entered into force.

## The Selection of Directors in PEs and the Review of Sampled<sup>16</sup> PEs

### *Elektroprivreda Srbije*

EPS Director Aleksandar Obradović, elected in the public competition in 2014, was dismissed on March 3, 2016, the day before the new Law on PEs entered into force and stipulated a more complex procedure for dismissal. As early as March 15, 2016 (published in Official Gazette 30/2016 of March 23, 2016), the Government announced a public competition for the appointment of a new director (with application deadline of 30 days) and appointed the acting director Milorad Grčić.

The resume of the acting director, published on the EPS website, cannot lead to a clear conclusion whether Grčić meets the requirements. "He obtained an undergraduate degree in economics at the Educons University in Sremska Kamenica. In 1992, he began to engage in private entrepreneurship, as owner and founder of private companies, and he continued the career of a successful entrepreneur for 19 years. He was appointed director of the mining basin *Kolubara* in October 2012. He successfully implemented a series of reforms in the production and management of *Kolubara*, which resulted in the largest savings in the history of company's business operations. Successful restoration of damages to mines and technology from the 2014 floods enabled quick recovery of *Kolubara* production and thus directly influenced the stability of Serbia in the field of energy. He has been serving as the director of the Office for Corporate Social Responsibility and Relations with Local Communities in EPS since October 2015. He was appointed acting director of EPS on March 15, 2016. His political engagement began in 2004 and in the local elections in September of the same year he was elected MP in the Municipal Assembly of Obrenovac. He served as a deputy president of the municipality of Obrenovac in charge of economy and investments for two terms from mid-2005 to early 2010".

The resume is unclear, without specific information on the years when certain qualifications were obtained or the information on the “career of a successful entrepreneur”.

No one from the government officially commented on the competition, and in May 2016, the media reported undisputed claims that the competition would be annulled, indicating that the acting director had not applied and also reporting a comment of an unnamed source about the poor qualifications of applicants for that position. Without clarifying what happened to the previous competition from March 24, 2017, the Government announced a new one. At that point, Grčić had performed the function of acting director for more than 12 months. Nobody was held responsible for this law violation. Only in May 2017, two months after the expiration of the deadline for the competition, the Government appointed the fifth member of the Commission for the election of EPS director, Aleksandar Trifunović, a member of the supervisory board of this PE.

In July 2017, TS requested the Government Commission and the General Secretariat to provide information on the procedure for the election of directors in the 11 PEs included in the monitoring, including EPS: the minutes of the Commission sessions held until that moment, the documents related to testing the knowledge of a foreign language, the verification of computer and communication skills, the tests used to evaluate candidates’ professional competence, knowledge, and skills (these refer to the standards and criteria prescribed by the Government by-law), as well as the evidence that the candidate meets the requirements of the Law on Public Enterprises, Article 25 paragraph 1, points 2-7. We also requested business plans, recommendations, and similar documents submitted by candidates, as well as their resumes. Our request was not fulfilled.

### *Srbijagas*

The member of the Serbian Socialist Party Dusan Bajatović was (re) appointed the Director of this PE on November 28, 2012, before the entry into force of the Law that stipulated the selection of all



directors in public competitions. As elaborated in the TS study from 2014, the Government violated this law by deciding not to announce competitions for several PEs whose directors were appointed before the Law entered into force. These are the companies that were (or still are) run by the party officials and individuals close to the highest state officials. The founding act of *Srbijagas*, which was legally binding at the time, stipulated the director to be appointed for a period of five years. In 2013, this act was aligned with the Law on PEs and prescribed the four-year term of directors. The founding act was also aligned with the latest Law, but only on January 31, 2017, with five months of delay in relation to the deadline prescribed by transitional provisions. The competition for the director was announced on March 10, 2017, and the fifth member of the Commission for the implementation of competition was appointed on May 4, 2017.

### *Elektromreža Srbije*

No competition was announced for *Elektromreža Srbije* after the adoption of the 2012 Law. Since September 2012, this PE has been run by Nikola Petrović, a close associate of Aleksandar Vučić. It has never been published whether Petrović, at the time, fulfilled the requirements of the Law on PEs in regards to the appointment of directors. His resume, which can be found on the EMS website, cannot answer this question<sup>17</sup>: “Nikola Petrović is the director of the Public Enterprise *Elektromreža Srbije*, Belgrade. Petrović holds a bachelor’s degree in economics and, prior to becoming engaged in the public sector, he gained extensive experience working in leading positions in domestic and foreign companies. In the mid-1990s he lived in Switzerland, where he worked on the import, export, and sale of raw materials from Africa. After that, he gained work experience on the London Stock Exchange. Upon returning to Serbia, he established a fruit and vegetable trade business. In the field of energy, he first emerged as the director of the *Eco Energo Group* company, where he worked on the implementation of the latest technologies in the exploitation of renewable energy and the construction of a hydropower plants. He was appointed the head of EMS in September 2012 and has achieved notable results in this

<sup>17</sup> Similar was the resume submitted by the Serbian Government to the Association “It’s Enough – Restart”: <http://dostajebilo.rs/vladar-srbije-ili-direktor-drzavne-firme/>

position, which reflected in the accelerated completion of capital electric power investments, better financial results of operations, and obtaining the certificate for integrated management systems. Since January 1, 2015, he has been an acting Vice President of the Serbian Chamber of Commerce. Nikola Petrović was born in 1974 in Belgrade, he is married, and father of two children. He is fluent in French and English.”

Petrović, like Dušan Bajatović, was appointed director for a five-year term. The founding act was amended in 2013 and it prescribed, in accordance with the then applicable Law, that the term lasted four years. In November 2016, EMS was transformed into a joint stock company and one month later, on December 29, 2016, the Government concluded that Petrović’s term as the director of joint stock company *Elektromreža Srbije* Belgrade was terminated due to the expiration of the period for which he was appointed and Jelena Matejić was appointed the acting director.

At the time, TS publicly asked the question why the Government had not announced the new competition instead of appointing the acting director, if it had already been known that the director’s term would expire. The Law, as well as the founding act of the transformed company, stipulates that the provisions of the Law on PEs on the election of directors apply to the company.

It also remained unclear when the director’s term actually expired. If we neglect the fact that in case of both companies, *Srbijagas* and *EMS*, the 2012 Law on Public Procurements was violated by not announcing the competition (the Law explicitly prescribed the obligation to announce a competition for all public enterprises, regardless of whether they had previously appointed directors or not), there is an evident difference in the interpretation of the term duration - both directors were appointed for five years, while the amended founding act and the new Law stipulated that the term lasts four years. In addition, in the case of EMS Director, the expiration of the term was established after four years and three months, while *Srbijagas* director remained in office for the entire fifth year.

The competition for the EMS Director was finally announced on March 10, 2017, and the fifth member of the Government Commission was appointed on April 20, 2017.

### *PE Putevi Srbije*

PE Putevi Srbije holds the record for the duration of acting appointments. The Law on PEs from 2012 allowed the acting appointments in the duration of six months and, in exceptional cases, for additional six months. The new Law stipulates that “the period of performing the duties of the acting director may not exceed one year” and that “the same person cannot be appointed acting director twice”. Regardless of the dilemma whether this formulation means that another person can be appointed after 12 months, the fact is that Zoran Drobnjak has been performing the function of acting director for almost six years. Prior to that, he was director for four years. The first competition was announced on July 5, 2013, according to the Law from 2012. The competition was not completed, when on February 10, 2017 a new one was announced. On March 17, 2017, the fifth member of the Government Commission for the selection of a director was appointed.

### *PE NP Fruška Gora*

The competition for the Director of the PE NP *Fruška Gora* was announced according to the old Law, on July 10, 2013, and was not completed. The director of the company, Dobrivoj Antonić, was dismissed on February 20, 2014, and Radovan Durutović was appointed acting director. Interestingly, Durutović was promoted from a supervisory position - only three months before he became acting director, he was appointed chairman (and at the same time an independent member) of the Supervisory Board of the NP *Fruška Gora*. He was then appointed the fifth member of the former Commission for the appointment of directors and remained in that position during the entire time of TS monitoring in our previous research (until October 2014). This was another indicator of the unwillingness to complete the competitions and choose directors.

Durutović remained the acting director for the period of two years. On June 15, 2016, the Government concluded that his duty was terminated. Those interested in the development path of Radovan Durutović could find the information that two weeks later, after the change of power in AP Vojvodina, he became the director of the Directorate for Commodity Reserves of the Province. As far as PE NP *Fruška Gora* is concerned, on June 15, the Government appointed Radoslav Krunić the acting director. The decision on aligning the operations of the PE NP *Fruška Gora* with the Law on PEs was adopted on January 31, 2017, and the competition was announced in the Official Gazette on February 10. The fifth member of the Commission for the implementation of the competition was appointed on March 17, 2017.

### *PUC Informatika Novi Sad*

Under the previous Law, the competition was announced on June 5, 2013, and two months later, Dejan Čelar, a BS in Engineering Management, was appointed acting director for the term of four years. He was presented in the media as a candidate of Third Serbia, the party that participated in the Novi Sad governance.

Two years later, the opposition requested a discussion on the Čelar's dismissal after the State Audit Institution found that *Informatika*, without public procurement and violating the law, concluded contracts worth 46,508,000 RSD, that it charged default interest to debtors at a rate that was not in accordance with the law, and that it hired 71 persons through the company *Optimum MB-NS Ltd*. Čelar's party colleague and the president of the party, Miroslav Parović, blamed the SAI for such report, claiming the existence of "unaligned methodology in interpreting Serbian laws". Čelar, however, remained at the head of *Informatika* until the election of 2016. After the election, the directors of eight PAs resigned, including Čelar, and on July 11, 2016 the Assembly of the City of Novi Sad dismissed Čelar and appointed Nenad Barac as acting director. Such a decision was already announced by the media, reminding that Barac was the member of SNS (where he moved from New Serbia), an MP, and the director of the Free Customs Zone. The resume of the acting director contains only the information about his previous positions and no information about his education.

The competition for the appointment of a director under the new Law was announced on May 5, 2017 and had three candidates. At its session on July 7, 2017, the City Assembly of Novi Sad appointed Barac the director of *Informatika* for a period of four years. TS requested the City Assembly and the Commission to provide the documents that would prove the competition was conducted (minutes from the sessions, language tests, evidence of computer and communication skills, tests, evidence of fulfilling the requirements, business plans, resumes...), but we received no response to our request until the end of the work on this report.

### *PUC Toplana, Niš*

The appointment of acting directors in this company is specific because it practically demonstrated **a creative interpretation of the standards** that we have warned about - the possibility to maintain “acting appointments” indefinitely, by appointing a new acting director after the expiration of 12 month period.

At its session on October 2, 2013, the City Assembly decided to appoint Slobodan Maksimović, a BS in Civil Engineering, a director of PUC *Gradska Toplana Niš* for a period of four years. Maksimović did not complete the entire term. In June 2014, he and the former Director of the company were arrested. However, after being released from custody, Maksimović remained the head of the PUC until he was indicted in May 2016, when he was suspended, and Zoran Stojanović was appointed acting director.

At the time, Stojanović was the president of the City Municipality of Medijana. The media indicated that Stojanović did not assume the function in *Toplana* on time, which violated the Law<sup>18</sup>. Stojanović remained the acting director until June 9, 2017. On the same day, the City Assembly passed a decision on the appointment of Predrag Milačić, a BS in Electrical Engineering of Telecommunications, the new acting director.

One week later, on June 16, 2017 in the Official Gazette of the City, the daily newspapers *Srpski Telegraf* and the official website of the City

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<http://www.juznevesti.com/Ekonomija/Niska-Toplana-i-dalje-bez-direktora.sr.html>

of Niš published a competition for the director. The list of documents to be submitted as evidence of fulfilling the requirements does not mention anything regarding the knowledge of corporate governance. Candidates have to submit an official statement, given under criminal and material liability, that they are not members of any political party. Professional competence, knowledge, and skills of the candidates are assessed by “reviewing the information from the application and the supporting documents, by written and oral examination, or in another appropriate manner according to the needs of the company”.

### *PUC Paraćin*

*PUC Paraćin* is the only PE for which we have obtained complete documentation on the procedure for appointing a director under the new Law. Unfortunately, only one candidate applied for the competition, and that was the former acting director, so there was no opportunity to compare the candidates' responses or business plans and establish how the Commission evaluated and scored them.

The competition in the PEU *Paraćin* was announced (on July 6, 2013) and the director was elected (on November 6, 2013) in accordance with the 2012 Law on PEs. Tomislav Šaletić, a BS in Mechanical Engineering, was appointed director for the term of four years. However, shortly afterwards, Šaletić resigned, a new competition was announced in January 2015, and on April 21, 2015, Nebojša Simić, a BS in Economics, was appointed director for the term of four years. Simić did not remain until the end of the term either - he resigned in the following year, in May 2016, and Danijel Živković became acting director. The media explained what happened:

### **„Večernje novosti”: Personnel Carousel Keeps Spinning as per the Party Agreements**

*Given that the Association ‘All for Paraćin’ (Sve za Paraćin) took over the management of PE ‘Vodovod’, in accordance with the agreement of the new-old coalition in power, Nebojša Simić, a BS in Economics and a former director of the PEU Paraćin was appointed acting director of ‘Vodovod’ at the session of the Municipal Assembly. He*

*was replaced at the PUC 'Paraćin' by Danijel Živković, a BS in Law and also a member of the Association. However, these appointments led to specific changes in two more companies, so the former director of 'Vodovod' Milorad Vidović was appointed director of sports and recreation center '7. Jul', while the previous acting director Slobodan Tanić was appointed acting director of the 'Poslovni Centar' at the same session, the position that used to be vacant.*

In the local elections in 2016, Živković was a candidate for MP on the list of Association *All for Paraćin*.

Under the new Law, the competition was announced on September 30, 2016. The only candidate for the position of the director of PEU *Paraćin* was Zivković. The competition for the director of *Vodovod* was announced at the same time<sup>19</sup>. The Commission convened until December 23, 2016.

Zivković submitted his degree (University of Belgrade Law School), resume (dating back to 2009), as well as the evidence of previous work experience. His skills were evaluated by a professional (a BS in Political Science), who was proposed by the Commission. The evaluation was conducted in writing, as well as by responding to test questions composed by an expert (in the premises of the Municipal Administration). The following skills were tested: analytical reasoning and logical conclusion, management and organizational skills, strategic planning and leadership skills, resource management skills, and communication skills. It was determined that the candidate "fully meets all the requirements". A professor of informational technology, proposed by the Commission, served as an expert in the field of computer skills and tested the knowledge of practical skills - knowledge of Word and Excel, internet browsing, and circular e-mails, as well as theoretical knowledge in the field of e-business and protection of computers from malicious software. The candidate "fully met all the requirements".

TS was given the copy of the candidate's English test, while a professional (English language professor) determined that he fully meets all the

<sup>19</sup> In addition to the acting director Simić, another candidate applied for the position of the director in PE Vodovod, but her application got rejected because she failed to submit the evidence of her knowledge in the field of corporate governance and the statement that she was not a member of any political party.

requirements. The commission conducted an oral verification of professional competence - the candidate answered seven questions related to the work of PEs, regulations, and vision, and his answers were recorded in the minutes, which were also sent to us.

Zivković made a statement that he was not a member of any political party and submitted a certificate from the “Institute for Business Research - MBA Belgrade” that he attended a specialist seminar “Corporate Governance in Public Enterprises, State Capital Companies, and Business Enterprises” in October 2016. He also submitted a two-page “Proposal for measures to improve and increase efficiency in the company’s functioning, with a vision of improving its efficiency”. As the sole candidate who fulfilled all the requirements of the competition, he was appointed on December 28, 2016.

### *Ingas Indjija*

Under the old Law, on the competition from October 10, 2013, Dobrivoje Sudžum, a BS in Economics, was elected director. In 2015, Sudžum was arrested and was “dismissed from his duties”, while Dubravka Filipović was appointed acting president. In January 2016, after being released from detention, Filipović was dismissed, and Sudžum’s suspension ended. After the local elections and the change of power in Indjija, Sudžum resigned, and in June 2016 Dušan Lemaić, also a BS in Economics, was appointed acting director.

Lemaić’s resume does not provide the information about where he obtained the required three years of experience in the field of the PE’s operations. His resume shows that he gradually built his academic career, but does not include the years of obtaining his degrees, so it is impossible to determine the number of years he spent working in positions which require higher education. In 1995, Lemaić graduated from the School of Electrical Engineering in Indjija, after which (it is not stated which year), he obtained a a professional degree in the same school (Energy Engineering), associate degree (Traffic Management) at the College of Vocational Studies in Traffic Management in Niš, and a BS degree (Economics) at “FORKUP - Novi Sad”.



TS did not find any information on announcing the competition for the selection of a director. We did not receive any answer to the request for information that we submitted to the Municipal Assembly of Indjija. The statutory deadline for the acting appointment expired in June 2017.

### *PUC Gradska Toplana Novi Pazar*

PUC *Gradska Toplana Novi Pazar* is specific on least on two bases - numerous unsuccessful competitions and frequent rotations of directors, as well as extreme non-transparency, reflected in its refusal to submit the data upon the requests for free access to information and the fact that the PUC does not have its own website despite the explicit legal obligations in this regard.

Unsuccessful competitions were announced on July 5, 2013, September 6, 2013, November 15, 2013, and finally, after the competition on February 21, 2014, Raco Vučković was appointed director on April 1, 2014. He holds a MS degree in Technical Sciences and Engineering, Thermal Energetics track. Several months earlier, Vučković was appointed acting director, after a new parliamentary majority was formed in the Union Group of Novi Pazar. According to the available information, Vučković was a staff member of the SNS and in 2016 he was the chief of staff of the electoral list “Aleksandar Vučić - Serbia Wins” in Novi Pazar.

The April 1 appointment took only four months and in August 2014. Vučković resigned “because of joining another company”, while Dejan Nićiforović, a BS in Mechanical Engineering, was appointed acting director. The local media reported these appointments as the selection “from the SNS ranks”<sup>20</sup>. In November 2014, Vučković appeared in the media as an assistant mayor.

Nićiforović was an acting director (with one extension of his status in December 2015) when the new Law on PEs was adopted. As the deadline for the implementation of new competition and the one-year deadline for performing an acting appointment were approaching,

20 <http://sandzakpress.net/novi-pazar-imenovani-zamenik-gradonacelnika-direktori-toplane-i-pozorista-iz-redova-sns-a> (source: Radio Sto Plus)

Nićiforović was dismissed on December 8, 2016, and Vučković was appointed director for the second time. This time Vučković's function lasted even shorter than the first time - only 11 days. As early as December 19, 2016 Vučković was dismissed and Nićiforović was appointed acting director. This rotation seemed like an attempt to circumvent the legal limitation in the duration of the acting appointment to one year "for one person", by appointing Nićiforović only once for acting director under the new Law, while he performed the same role for the previous 28 months "under the old Law".

In the Official Gazette of Novi Pazar from December 19, 2016, TS found the decision by which Nikiforović was dismissed from the position of chairman of the Supervisory Board of *Toplana*, but there was no information about when he was appointed to that position. Given that in the previous period, until December 8, 2016, he performed the function of acting director, the only legal option could have been if he served as the SB chairman during the 11 days while Vučković was the director.

The Commission for the implementation of the competition was composed on April 10, 2017. In the response to TS request from July 27, 2017, we found out that the City Administration Department drafted a decision on the implementation of competition for the selection of a director of PUC *Gradska Toplana* as early as May 16, 2017. Before that, the Assembly reached the decision on harmonization of business solutions and company statute in accordance with the Law. The decision on the competition is planned to be considered "at one of the next sessions". The deadline for the harmonization of founding acts expired in September 2016, and the deadline for the harmonization of the statute was 90 days after the harmonization of founding acts. Until the end of our monitoring, TS did not find any announcements of the competition for the director of PUC *Gradska Toplana Novi Pazar*.

# The Selection of Supervisory Boards

## The Comparison of Legal Solutions from 2012 and 2016

In its research on the implementation of the Law on Public Enterprises from 2012, published in 2014<sup>21</sup>, TS found several cases when it was questionable whether the members of the Supervisory Boards fulfilled the conditions stipulated by the Law (expertise and/or autonomy). Serbian Government did not respond to the request to submit documents that would prove it.

The Law that was applicable at the time stipulated that each SB member held a professional or undergraduate degree (at last four years of studies), that they were an expert in one or more areas related to the general activities for which the PE was founded, had at least three years of experience in a management position, and were an expert in finance, law, or corporate governance. Independent member of the Supervisory Board had to meet additional requirements - that they were not employed in the PE, a for-profit subsidiary company of PE, or any other for-profit company related to the PE two years prior to taking office members of the Supervisory Board, that they were not engaged in the PE on any other grounds, engaged in auditing the company's financial statements, and being members of a political party.

The new Law on PE stipulates<sup>22</sup> that a SB member must hold a higher education degree at undergraduate level in the duration of at least four years, i.e. at least 240 ECTS credits, academic master studies, vocational master studies, specialist academic studies, or specialist vocational studies, and have at least five years of work experience in jobs which require higher education degree. The new

<sup>21</sup> Effects of the new Law on Public Enterprises – politicization or professionalization

<sup>22</sup> As in the previous Law, the new Law also contains “general” requirements - that the candidate is of legal age and able to perform their professional function, that they have not been sentenced to the minimum of or more than six months of jail, and that the specific security measures have not been imposed in accordance with the Law that regulates criminal offenses.

law specified general requirements of professionalism and linked post-graduation work experience directly to the profession. Specific work experience is also required, at least three years in the activities related to the operations of the PE (instead of the earlier provision of being “an expert in one or more areas of PE activities”), as well as the knowledge in the field of corporate governance or finance (the field of law is now excluded from the list of options). The three years of management experience is no longer a requirement. An independent member is no longer allowed to be employed in a company founded by the PE or to perform any public function (“as an appointed, nominated or elected person”).

### *The Issue of Interpreting Previous Experience*

One of the Law’s ambiguities is reflected the provision that a SB member must “have a minimum of three years of work experience in the activities related to the operations of the PE”. But what exactly are the operations of a PE? Is it just a major activity or any other operation as well? Transparency Serbia attempted to resolve this dilemma. In a letter to the Ministry of Economy, sent in November 2016, we asked for an interpretation in this regard and pointed out that it would be good to specify these provisions or to prescribe the obligation to do so, as in the case of the election of directors, i.e. the criteria for determining the competence of SB members.

In the letter, TS also pointed out: that the deadline for the dismissal of SB members who did not meet the requirements of the Law expired on September 4, 2016; the problem of determining what constitutes appropriate expertise; and the problem of determining whether SB members have the knowledge in the area of corporate governance or finance. Given that no other act stipulates the manner in which the “are knowledge” is determined, we asked for an interpretation of what this requirement implied when the Law was drafted and how it was implemented in the case of state PEs during the six months that were prescribed by the transitional provision as a deadline for the dismissal of members who do not fulfill this requirement. The Ministry did not reply to this letter.

### *The Interpretation of Qualifications in Practice - Transitional Period*

What happened in practice regarding the dismissal of the SB members who did not meet the requirements prescribed by the Law and regarding the situation in the SBs in the observed PEs? We asked Serbian Government, the provincial assembly, and the assembly of cities and municipalities to submit the information on how they determined whether the SB members met the requirements and if those who did not meet them were dismissed. We did not receive the response from Serbian Government. However, after several appeals, a lawsuit, and the decision of the Administrative Court, we received the response to the request submitted **four years earlier** in the research conducted upon the adoption of the former Law on PEs. The answer to this question was useless. Allegedly, “the expertise is determined by the Ministry of Economy”. According to the existing timeline, we expect to receive the response to our latest request in 2021 and after several appeals and a lawsuit.

Some local governments claim that the expertise was established on the basis of documents and qualifications (titles, degrees, etc.), and there were also some responses on the basis of which it was possible to conclude that a verification procedure was indeed initiated. Some SB members have been dismissed. In most cases, they were dismissed on a personal request and it was not possible to determine (there were no documents showing that someone was found not to have the appropriate expertise) whether they resigned on their own initiative, after realizing that they did not meet the new requirements; when they were presented with these facts to by the founder; or for some other reason that had nothing to do with expertise. In the case of a PE from Belgrade, TS was given the answer that the evidence was available on the company’s website. However, the website contained only resumes that cannot be used to determine whether the SB members meet the requirements.

### *The Resumes from the Websites*

When it comes to the information published on the websites of public enterprises (where such information were published), in most cases the

resumes could not be used to determine with certainty if SB members meet the requirements. Some resumes are too broad and look more like public profile page than a professional resume (“extensive experience” without specific years of employment; the list of companies in which SB members worked without the information on functions they performed or the years of experience, etc.). There are also cases of resume “polishing” or adding the information that would prove the relation to the PE’s operations. Finally, for some SB members, the years of experience in PEs served as only grounds for their reappointment, i.e. the evidence that they have years-long experience.

### *The Review of the Established Irregularities and the Present Facts*

Out of the **30 observed PEs, irregularities were found in case of 29** in relation to the composition of the supervisory boards, i.e. in regards to meeting the legal requirements for SB members. In some cases, the appointment of only one member was disputable, and in others, it was four or five. In most cases, TS was able to determine, based on available resumes or submitted information, that SB members did not meet the requirements (most often in regards to “at least three years of work experience in jobs related to the operations of a PE” or “five years of work experience in jobs which require higher education”), while in some cases it was not possible to establish with certainty if the requirements were met.

TS requested the founders of all **30** observed public enterprises to submit the evidence confirming that the SB members met the requirements and that the founders carried out the procedure for establishing so. **The Government of Serbia, as the founder of 13 observed PEs, did not respond** to the letter and neither did the founders of **two local PEs**. Out of the **15 submitted responses**, only six indicated that the actions have been taken or that the situation has been assessed in regards the dismissal of the SB members who did not meet the requirements, or that such actions will be taken.

## The Findings for the Sampled PEs<sup>23</sup>

### *Srbijagas*

The resumes of three out of five SB members were published on the website. It is unclear how the members obtained the experience in jobs that are related to the operations of the PE. All three members have experience in management, and the experience of one of them was with the company *Dobit Komerc („Income Commerce“)* which could be beneficial to *Srbijagas*, at least judging from the company's name or the director's experience in compensating debt collections. However, there is no connection with the main operations of the PE. Of the remaining two members, whose resumes were not published, one is an employee representative, which means that four out of five SB members can be considered disputable regarding the fulfillment of requirements. We did not get the answer to the question about meeting legal requirements from JP *Srbijagas*.

### *PE Srbijasume*

The chairman and the members were appointed on December 30, 2013. The chairman was Miloš Srećković, a BS in Law, and all members had BS in Forest Engineering. On January 8, 2015, the Government dismissed Boban Djurović, a BS in Forest Engineering, on personal request and appointed Meho Omerović, a BS in Political Science and an MP, on March 12, 2015. A week earlier, Omerović was dismissed from the position of the SB member in the PE *Zavod za Udžbenike*, where he spent two years after being dismissed from the function of a SB member in the PE *Pošta Srbije*. The government replaced two more members on March 26, 2015 - an independent member Saša Stamatović and member Saša Radulović. On the same day, Milan Medarević, the dean of the College of Forestry, was appointed an independent member and Nebojsa Simić, a BS in Forest Engineering from Kragujevac, was appointed a member. The resumes of Srećković and Omerović available on the website

cannot be used to determine whether they have the experience in jobs related to the activities of this PE.

### *Public Water Company Srbijavode*

On December 9, 2013, the Government of Serbia appointed Slobodan Stanojević, a BS in Law and the chairman of SB of the PWC *Srbijavode*. Stanojevic was also an Assistant General Director of PUC *Zelenilo - Beograd*. The appointed members were: Miodrag Tolimir, a BS in Agricultural Engineering and the deputy director of the Maize Institute *Zemun Polje* and Radovan Arežina, the president of Kladovo Municipality. Miodrag Ćurčić, the director of the Society for Ecological and Sanitary Protection *Visan ltd* Zemun was appointed an independent member, and Miloš Batal, a BS in Civil Engineering, was appointed an employee representative.

In the 2014 report on the implementation of the former Law on PE, Transparency Serbia pointed out to the case of Arežina, the municipality president with a BS in Special Education, as being disputable in regards to meeting the requirements of expertise for membership in the SB of this PE. Shortly afterwards, on December 11, 2014, Serbian Government dismissed Arežina. The illusion of intention to align the composition of the SB with the legal requirements was dismissed by the fact that someone with a BS in Special Education was replaced by Petar Petrović a BS in Law, an MP, and the deputy president of the Jagodina City Assembly, whose resume shows no experience in the jobs related to the operations of the PE.

### *PE for Underground Coal Mining Resavica*

In July 2017, the SB was composed of the following members: Radenko Luković, a retiree from Čačak (chairman), Marko Maljković, a BS in Industrial Management from Jagodina, Dobrivoje Budimirović, a BS in Agricultural Engineering from Belgrade, and Branko Petrović, a MS in Mining Engineering from Lazarevac (members), and Nebojša Milenković, the chairman of the main board of the union of workers in PE for UCM *Resavica*, a BS in Management (employee representative).



According to the information available from the resumes, at least two cases of SB members are disputable in regards to the fulfillment of legal requirements. Marko Maljković, a BS in Industrial Engineering, graduated from the College of Technical Sciences in Bor. His resume states that he was the director of the state-owned company *Srbija-Promet* in Jagodina from 1994 to 2000. From 2000-2009 he was an independent inspector for economic crimes at the Ministry of Internal Affairs of the Republic of Serbia and Jagodina Police Directorate and Criminal Police Department. Since 2009 he has been the director of middle school dorm *Jagodina* in Jagodina. Given the fact that two managers of PE *Resavica* have been arrested since 2014, the experience in the field of economic crimes might be beneficial for a SB member. In any case, it remains unclear what exactly is the connection between the previous work experience of the SB member and the operations of the PE.

Similar is the case of Dobrivoje Budimirović, known by the nickname Bidža. He graduated from the College of Agriculture in Belgrade, in the field of Agricultural Mechanisation, and he performed the following tasks and duties: interim director of Joint Cooperative Union *Svilajnac*; the head of the representative office of *Agroeksport Belgrade* in Svilajnac; interim director of *Juhor, Vrbas* Banja Luka, 22. *Juli* Mladenovac, 7. *Juli* Kruševac, *Karneks Vrbas*, and *Neoplanta* Novi Sad; the principal of Agricultural School in Svilajnac; the president of the Svilajnac Municipal Assembly from 1989 to 2001; the member of the Serbian National Assembly from 1991-2000; and the Member of the Federal Assembly in 1997.

### *PE Putevi Srbije*

The Supervisory Board was appointed on July 5, 2013 and consisted of Milan Vujanić a PhD and a full professor at the College of Traffic Engineering, University of Belgrade (SB chairman); Radiša Dragojević, a BS in Political Science and the president of Petrovac na Mlavi Municipality and Bajram Omeragić, and BS in Political Science, a BS in Law, and a special advisor to the minister without portfolio (members), Branislav Jovanović, a BS in Law and executive director of

the Directorate for the construction of the city of Nis (an independent member), and Velimir Kopanja, a BS in Civil Engineering and the head of the supervision department in the investment sector of the PE *Putevi Srbije* (an employee representative).

In its 2014 research, Transparency Serbia pointed out to a number of irregularities in relation to the composition of the SB, especially to the fact that an independent member was a party official. Jovanović was dismissed and Veselin Osmajlić, a BS in Economics from Belgrade, was appointed a member in November 2013, while Vujanović became an independent member. There were no other changes in the composition of the SB until July 2017, when Vujanović was dismissed and Dr. Milan Martić, a full professor at the College of Organizational Sciences at Belgrade University, was appointed chairman and an independent member.

His resume<sup>24</sup> does not clearly illustrate if his work experience (operational research) is related to the activities of the PE. However, the appointment of all other members is disputable, with the exception of employee representative. The detailed resumes do not illustrate how the members fulfilled the requirement of the work experience related to the operations of the PE. The only possible interpretation would be that the Government considered that the work in the Regional Development and Capital Investment Council was related to the activities of the PE *Putevi Srbije* (Omeragić) or that performing the function of Municipality President during the reconstruction of local roads constituted the work experience related to the activities of this PE (Dragojević). It is interesting to note that this information appeared in the resume of Radiša Dragojević after TS pointed out that he did not fulfill the requirements and after the new Law entered into force and prescribed determining whether SB members meet the legal requirements. The second possibility is that the previous long-term membership in the SB, without fulfilling the requirements of the former Law, constituted “experience in the field of PE’s operations”.

Bajram Omeragić graduated from the College of Political Sciences in Belgrade in 1983 and from the Law School in Pristina in 1989. He

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[http://www.putevi-srbije.rs/images/pdf/organi\\_upravljanja/cv\\_milan\\_martic\\_cir.pdf](http://www.putevi-srbije.rs/images/pdf/organi_upravljanja/cv_milan_martic_cir.pdf)

obtained a Master's degree in Strategic Management at the European Center for Peace and Development in Belgrade. Since 1985, he has been an owner and director of the **trading company Camel**. From 1991 to 2000, he was engaged in **private business** in Switzerland, and was **an owner and director** of *Baks GMBX* and *Behar Travel* in the field of **air traffic**. In 1998, he became an owner and director of the company *Mabex* Sarajevo for **furniture production and trade**. He was a **Vice President of the Executive Board** of the city of Novi Pazar. From 2004 to 2012, he was an **MP** in the Serbian Parliament. From 2006 to 2012 he served as the President of the Council for Regional Development and Capital Investments of Serbian Government. Since 2011, he has been the development manager for the US company *ENERKTEK* (**production of compressed natural gas CNG**). Since 2008, he has been a consultant of the company *Santel Mobil a.d.* (**telecommunications**), Novi Pazar. In 2012, he became the director of the company *A-Energy* for Serbia, a non-executive director of *TPT ZVEZDA*, and a non-executive director of *KOMPRESOR* Belgrade. From 2012 to 2014, he served as a special advisor to the minister without portfolio in charge of the underdeveloped areas. **For six years he served as the president of the SB of the PE Putevi Srbije (under the previous Law on PE). Since July 5, 2013, he has been a member of the SB of the PE Putevi Srbije.** Since 2014, he served as an advisor to the general manager of the company *KRYOGAS* in Belgrade (**production and trade of compressed gas**). Since 2016, he has been the development manager of the American company *DROP - IN Bio Energy* (**production of electrical power from renewable sources**). On October 1, 2016, he became a special advisor to the Deputy Prime Minister of the Republic of Serbia and Minister of Trade, Tourism, and Telecommunications.

Veselin Osmajlić – Education: College of Business Studies *Megatrend*, BS in Economics. Certificates/awards: basic computers course completed at the College of Organizational Sciences and Golden Badge for the affirmation of sports issued by the Belgrade Sports Association in 2012. Work experience: manager of the PUC *Gradske Pijace (city Green Markets)* Belgrade (1997–present); coordinator in the PUC *Gradske Pijace* Belgrade (2010–2012); and manager of

Šamot Arandjelovac (1984–1997). Other experience: president of the Management Board of *Zvonko Osmajlić* martial arts center (2000–present), SB member in the PE *Putevi Srbije* (2013–present), a member of JAT Board of Directors (2012–2013), and a member of JAT Management Board (2009–2012).

Radiša Dragojević – Education: a BS in Political Science, Journalism Track, College of Political Science, Belgrade (1974–1979). Work experience: secretary of the Social-Political Council of Petrovac Municipal Assembly (1979–1980), Editor-in-Chief of *Mlavske novine* (1980–1982), president of Petrovac Municipality Youth (1982–1983), president of Danube Region Youth in Smederevo (1983–1985), director of Petrovac Cultural and Educational Center (1985–1989), president of the Municipal Government Executive Council (1989–1993), director of the Petrovac Cultural and Educational Center (1993–2000), president of the Municipal Government Executive Council (2000–2001), director of Petrovac Cultural and Educational Center (2001–2004), and president of *Petrovac na Mlavi* Municipality (2004–2016). Since 2010, he has been the president of the National Council of Serbian Vlachs. Since 2012, he has served as the chairman of the Regional Development Agency *Branicevo - Podunavlje* and since July, 5, 2013, as the member of the SB of PE *Putevi Srbije*. Since July 1, 2016, he has been the editor of the programs at Cultural and Educational Center *Petrovac na Mlavi*. During the performance of his political functions in *Petrovac na Mlavi* Municipality, he modernized and reconstructed around 250 km of roads of regional, municipal, and local importance. He has an extensive experience in sport operations, was a delegate of the Serbian Assembly in several terms, and received awards and recognitions on municipal, regional, and state level.

## *Skijališta Srbija*

On November 26, 2013, the Government nominated a SB in the following composition: Vlada Krstivojević, a professor of sports and physical education from Belgrade (chairman), Ognjen Cvjetičanin, a professor of physical education from Novi Sad (independent member), and Darko

Jovanović, a MS in Environmental Engineering from Raška (employee representative). Subsequently, on December 4, 2013, another member was appointed - Slobodan Unković, a BS in Hotel Management. The fifth member, Vida Uzelac, a BS in Economics, was appointed on December 20, 2013. Vida Uzelac was dismissed on September 22, 2014, and Dejan Kijanović, a BS in Economist, was appointed.

Ognjen Cvjetičanin was the assistant director of Vojvodina sports and business center *SPENS* from 2012 to 2014, he campaigned for SNS, was accused by political opponents of using *SPENS* resources in the party campaign<sup>25</sup>, and was also a member of the city council as “SNS representative”, so it is disputable whether he fulfilled the requirement for being an independent member of the SB. He was dismissed on May 11, 2017, on personal request, and Vuk Raonić, a BS in Law from Novi Sad, was appointed deputy director of *SPENS*.

In the meantime, there were several changes in the SB. On February 8, 2016, the Government dismissed Slobodan Unković from the position of SB member and appointed Katarina Šušić, a BS in economics from Belgrade on March 2, 2016.

At that moment, Katarina Šušić had **an impressive list of functions**. At the same time, she was the executive director of *Skijališta Srbije* and a member of its supervisory board (and not even as an employee representative, although that would also constitute a violation of the Law that does not allow for the SB, director, and executive director to propose employee representatives). In addition, she was the executive director of the PE *Poslovni Prostor Zemun*, and a SB member in this PE. As she could not perform all of these duties, she was dismissed from the function in the SB of the PE *Poslovni Prostor Zemun* on March 14, 2016, on a personal request.

Her resume includes: executive director of the PE *Poslovni Prostor Zemun* (since 2014), manager of a business unit in charge of commercial space (2009-2014), manager of a business unit in charge of markets (2005-1008), assistant manager of the work unit in charge of market management, dedicated use, and maintenance

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[http://www.b92.net/info/vesti/index.php?yyyy=2013&mm=12&dd=12&nav\\_id=788418](http://www.b92.net/info/vesti/index.php?yyyy=2013&mm=12&dd=12&nav_id=788418).

(2008-2009), a member of the supervisory board (2009-2012 and 2013-2016), the director and owner of an entrepreneurial business (1993-1995 and 2000-2004). Education: MS in Economics, College of Business Studies *Megatrend*.

On November 10, 2016, Katarina Šušić was dismissed from the function of SB member on personal request and she remained executive director for strategy and development. Milan Stevanović, a BS in Mathematics, was appointed to her position. Stevanović was previously dismissed from his position of SB member in the PE *Pošta Srbije*.

In July 2017, the SB had the following composition: Vlada Krstivojević (chairman), Vuk Raonić (independent member), Darko Jovanović (employee representative), Dejan Kijanović and Milan Stevanović. The available resume of the chairman Krstivojević includes the information on his professional experience and sports career (even the fact that he was a representative of the company *GAS Blue Jeans* - the sponsor of Yugoslavian basketball national team and that he has been permanently employed in the company *Železnice Srbije a.d. (Serbian Railroads)* as a leading coordinator for sport, recreation, and cultural activities). In addition, the resume also contains the information on his political career (an MP in the Municipal Assembly *Vračar* from 2004-2009 and a city councillor from 2006-2008).

The member Dejan Kijanović obtained an Associate Degree in Economics and Entrepreneurship (it is not stated when), and his work career includes: *Son trade ltd* 1995-1997 (storekeeper, commercial sales representative); *Active ltd* 1997-2000 (commercial sales representative); *Gebr. Drašković ltd* 2000-2009 (commercial sales representative, brand manager, sales director); *Kristalex ltd* 2009-2012 (owner and director); *New Eurotrading ltd* 2012-2013 (owner and director); joint-stock company *Novosadski Sajam* 2013 (business consulting manager); and *Belgrade Arena ltd* 2013-present (deputy director general). These information cannot be used to establish if the degree Kijanović obtained meets the “higher education” requirements prescribed by the Law. Given that his resume does not include the graduation year, it is also not clear whether he meets

the requirement of “having at least five years of work experience in the jobs that require higher education” or if he has “at least three years of work experience in the activities related to the operations of the PE”.

Milan Stevanović, a BS in Mathematics, was employed as a research associate in the Scientific Research Institute *Mihajlo Pupin* from 1987 to 1990 and was the founder and general manager of the company *Pixel Manufacturing, Traffic, and Electronic Technology Services, Belgrade* from 1990 to 2009. In 2009, he founded a company of similar name - *Pixel L.C.C, Delaware USA*, but registered it in Delaware, a US state where offshore companies are registered. This company deals with the implementation of managerial know-how in Serbia. In addition to the listed skills, the resume includes the publication called “How to win the elections, Pixel, Belgrade 2007”. This resume cannot be used to determine if Stevanović meets the requirements prescribed by the Law.

### *Zavod za udžbenike*

In the case of SB of the PE *Zavod za Udžbenike*, on December 9, 2013, Serbian Government appointed Milan Jovanović, PhD, a professor at the College of Political Sciences, University of Belgrade a chairman; Vladimir Cvijović, a BS in Economics and a deputy director of the Belgrade Student Center a member; Bojana Djurdjevic, a BS in Law and a lawyer in the Business Registers Agency an independent member; and Goran Pavlović, a BS in Mechanical Engineering and a director of the Marketing and Sales Department of the PE *Zavod za Udžbenike* an employee representative.

The fifth member was appointed ten days later - it was Meho Omerović, a BS in Political Science and a MP, who was previously dismissed from the duty of a SB member in the PE *Pošte Srbije*. Omerović was a member of the National Institute of Science until March 5, 2015, when he was “transferred” to the SB of the PE *Srbijašume* and replaced by a party colleague Tamara Mohači, a MS in Management from Belgrade.

In September 2015, an employee representative was replaced - Dr. Milorad Marjanović was appointed instead of Goran Pavlović. In July 2016, Bojana Djurdjević was dismissed on personal request, while Snežana Ilić, a BS and a professor of Spanish and English language and literature from Belgrade was appointed an “acting member” and an independent member at the same time.

Since March 2015, Snežana Ilić has been the head of the cabinet of the Serbian Tax Administration director and, since September 2013, she has been the main contact person for the Republic of Serbia within IOTA (Intra-European Organization of Tax Administrations). She has been working in the Tax Administration since 2001. Prior to that, she was a business secretary at *GAMA TRADE GMK Ltd*, Belgrade for two years.

The resume of Tamara Mohači states that she graduated from the College of Organizational Sciences, University of Belgrade, that she is a third-year PhD student, and that she has completed an undergraduate course in Social Democracy at the Friedrich Ebert Stiftung University. The information about her work experience includes: main consultant for foreign trade, operational marketing, and customer relations in the company *Dream Team Pancevo* (2010 -2015) and “a year” of experience as a senior expert in payment operations in *Srbijagas*. Since 2014, she has been an assistant professor at Singidunum University. The resume further states: “In March 2015, she became a SB member in the PE *Zavod za Udžbenike* on behalf of Serbian Government. The same year, in November 2015, she formed a municipal committee of Serbian Social Democratic Party in Kovačica, where she also serves as the chairman. Since 2016, she has been on the list of candidates for MPs in the Municipal Assembly of Kovačica”.

Vladimir Cvijović obtained a BS degree in Economics at the Belgrade College of Economics. His work experience includes: a member of the managing board and a deputy director in the Belgrade Student Center from 2007-2016 (participation in management and control of one of the largest public institutions in Serbia) and financial director in the agency *Profit* from 2009-2012 (tax consulting, bookkeeping services, sales and maintenance of patented software).



## *PUC Parking servis*

The decisions on the dismissal and appointment of SB members of the PEs founded by the City of Belgrade cannot be found in the City's Official Gazette. The website of the *PUC Parking Servis* contains the information that its SB consists of the following members: chairman Milivoje Ilić and members Dušan Kovačević and Nebojša Perić (employee representative).

According to the information available on the website, Milivoje Ilić, a BS in Economics, has the following work experience: secretary of economy and finance in Kučevo (1981-1988) and the chief and senior advisor of federal and then republic directorate for commodity reserves (1998-present). He has been a member of the SB since 2013.

Dušan Kovačević is among the sampled SB members whose work career recorded a sudden progress in the National Bank of Serbia after 2012. The resume states that he is a MS in Investment Banking (but does not include any information about the college or the year when such degree was obtained). He was born in 1981 and has the following work experience:

- 2004-2006 commercial sales representative in the company *Siadesso ltd*
- 2006-2007 commercial sales manager and **merchandiser** in the company *Son Trade ltd*
- 2007-2008 junior advisor in the NIP department for the project implementation and control
- 2008-2009 civil military service in the Serbian National Library in the digitalization sector
- 2009-2012 retail director in the company *Son trade ltd*
- since 2012 - trader in the department for the management of foreign exchange reserves in the National Bank of Serbia

The Law prescribes that the director and the executive director cannot propose SB employee representatives in order to prevent those who are monitored from having their "representatives" in the monitoring body. Despite this provision, in the *PUC Parking Servis*,

the executive director Nebojsa Perić was appointed an employee representative in the supervisory board.

The information that used to be available on the company's website stated that Perić, a BS in Law and executive director for legal, financial, and commercial affairs, "is resigning". Several months later, it was announced on the PUC's website that a new employee representative in the SB is Nikola Krajnović (the decisions on the appointment cannot be found neither on the website of the City of Belgrade, nor in the Official Gazette). In addition, he not only replaced Perić in the supervisory board, but also as the executive director for legal, financial, and commercial affairs. Thus, in case of this PUC, a member of the SB is again in charge of monitoring the director (Article 22, paragraph 1, item 6) who appointed him (Article 26, paragraph 1, point 9).

The information published on the PUC's website cannot be used to determine whether the SB chairman Milivoje Ilić and member Dušan Kovačević meet the legal requirements, so TS requested the PUC and its founders, the City Assembly of Belgrade, the documents showing how this was determined in accordance with the transitional provisions of the Law on PE<sup>26</sup> (Article 80, paragraph 2). We also requested the evidence that the other members met the requirements. The PUC did not respond. In February 2017, we received the response from the City of Belgrade that the required information (resumes and evidence that the members met the requirements) are located on the PUC's website. They referred us to the same incomplete resumes that made us request additional information in the first place.

The annual business program of this company for 2017 also states the following: "The management of public enterprises is regulated by the Law on Public Enterprises ("Official Gazette of RS" No. 15/16), which, among other things, states that the members of a SB are expected to **have knowledge in the area of corporate governance or finance**. There is no particular difference between the two, because one cannot be an expert in the field of finance

<sup>26</sup> The members of the SBs and the representatives of the company's founders ... who do not fulfill the requirements ... will be dismissed and the new ones will be appointed, no later than six months from the date of entry into force of this Law.

without knowing corporate governance. The chairman and the members of supervisory boards are expected to further develop and advance their expertise in the field of corporate governance during their appointment. Bearing this in mind, the chairman and the members of the SB in this PUC started their professional training in this field in 2016. Intensive training will continue in 2017, given the importance and increasing influence that corporate governance will have in public enterprises. The implementation of corporate governance is crucial for the successful management of any enterprise with well-defined strategies. All these requirements also apply to the director of the PUC“.

Although there are no specific information on the training and its results, this step is also commendable. Of course, the question of meeting the requirements of knowledge in this area before the appointment still remains.

### *PUC Toplana, Niš*

In a response to the request of TS, the City Assembly of Niš stated that “In accordance with Article 80 of the Law on PE, the Committee for the appointment of the City Assembly of Niš reached the decision at its session held on September 28, 2016 to initiate the procedure for verifying the fulfillment of requirements for chairmen and members of supervisory boards in PE and PUC founded by the City of Niš”. It is also stated that members of the SB submitted the requested documentation which will be reviewed by the Commission at the next session. TS was given a decision from September 28, 2016 and the documentation submitted by the members of the supervisory boards, i.e. public enterprises.

TS received the response from PUC *Toplana* that the resumes of SB members were published on the website (in fact, the website contained only names and professional titles, while resumes were published only after TS addressed the PE) and that “*Toplana* does not implement the appointment procedure and does not have the documentation on fulfilling the prescribed requirements”. However, the veracity of this answer is questionable since the documentation submitted to TS by

the City Assembly shows that the Nomination Committee received the information on the SB members directly from *Toplana*.

For the chairman Zoran Pavlović, we received a resume, a printout of his biometric ID card, a birth certificate, a certificate from the Center for Social Work, a employment booklet, an Associate Technical degree and a Vocational degree from the College of Traffic Management in Niš, a degree from the International College of Management in Brčko, and the decision from the Business Academy Novi Sad from December 19, 2013 on the accreditation of his BS degree in Economics obtained in Brčko. We also received a certificate of the Youth Council of the City of Niš, as well as **the certificate of the PUC Gradska Toplana Niš, that he was appointed a chairman of the Supervisory Board on October 2, 2013 and that on October 14, 2016, he reached three years and 12 days of work experience in the activities related to the operations of the PE.** We also received a certificate of the College of Traffic Studies that he actively participated in the expert counseling “The Place and the Role of PEs According to the Provisions of the New Law on PE”.

These documents lead to the conclusion that previous membership in the SB of the PE was treated as obtaining work experience in the activities related to the operations of the PE (despite the fact that the function did not fulfill the requirements prescribed by the Law)

The chairman of the SB enrolled in the College of Technical Studies in 2008/2009 and obtained his Associate Degree (180 ECTS credits) on April 3, 2009. He began his vocational studies in 2012/2013, graduated on July 5, 2013, and obtained a higher education degree. At the same time, on October 11, 2013, he completed his undergraduate studies in Brčko (there is no information on we he enrolled in these studies) and two months later, by the decision of the the Business Academy Novi Sad, he accredited his degree from Brčko and, in addition to his BS degree in Management, he obtained a BS degree in Economics. This documents that Pavlović **does not fulfill the legal requirement** “of having at least five years of work experience in jobs which require higher education”.

The resume published on the website shows that Pavlović also served as chairman of the Board of Directors at the Sports Center *Čair*, that he was a member of the school board in several schools in Niš, a secretary general of the football federation of Nis for two terms, the director of football club *Sinđelić* and football club *Palilulac*, and the chairman of the sports association of Niš. He also held the functions of president, vice president, and secretary of the City of Niš Youth for several terms, he has “work experience in management positions which require organizational skills, efficiency, and responsibility”, he possesses “knowledge of economic and social business and social laws regulations”. He is also “interested in further vocational and professional engagement”.

### *PE Ingas, Indija*

The website of this PE contains no resumes of SB members. Municipal Assembly Indija partially responded to our request and submitted the resumes of SB members and the documents they enclosed to prove that they meet the requirements of the Law. In 1998, chairman Bogdan Činak obtained an Associate Degree from the College of Technical Studies. During 2013 and 2014 he completed two years at the College of Technical and Vocational Studies (244 ECTS credits) and became a specialist in Electrical Engineering and Computer Science. This illustrates that Činak **does not meet the requirement of the Law on PE** in regards to having “at least five years of work experience in jobs which require higher education”.

On June 3, 2016, SB member Dejan Kurtović gave a statement that, as a BS in Electrical Engineering, he obtained three years of work experience “in jobs related to the operations of the engineers in PE municipal administration”. He worked as a software developer in the Agency for Information Technology GIS and Communications Department of Indjija Municipality from 2011-2015. In 2015 he was the head of Software Development Department at *OMA Adriatic*. He also gave a statement **under full material and criminal liability to “possess basic knowledge in the field of corporate governance and finance”**.

## *PUC Vodovod, Surdulica*

This PE does not have a website, and the composition of the SB and the resumes cannot be found on the website of the Municipal Assembly either. In response to our request, the Municipality of Surdulica provided information on the date of appointing its SB and the information on the date when one member was dismissed and another appointed instead. The response consisted of listing the professions of the appointed members and the decisions on the appointment. This suggests that someone who may have fulfilled the conditions in 2015 was dismissed, and that another person, who definitely did not meet the requirements, was appointed.

On July 12, 2013 the Municipal Assembly appointed the SB of the PUC *Vodovod* in the following composition: Miroljub Banković, a BS in Economics, a long-time private entrepreneur, and an owner of a construction company; Radmilo Nikolić, a BS in Mechanical Engineering and the director of the Vlasina hydropower plant in Surdulica at the time, and Čedomir Trajković, a BS in Law and the head of legal affairs (employee representative). On July 12, 2015, the Municipal Assembly dismissed Nikolić and appointed Saša Popović, a doctor of gynecology and obstetrics and a director of the Health Center in Surdulica.

In addition to the fact that it is almost **certain that one member does not fulfill the legal requirement (the gynecologist probably does not have a three-year experience in the activities related to the operations of the PUC *Vodovod*)**, TS has noticed another interesting fact. It turned out that an employee representative in the SB is also the person in charge of handling requests for free access to information in the PUC *Vodovod*. He signed the answer that the PUC *Vodovod* does not have resumes of its SB members. On one hand, it is possible that the PUC does not have the evidence that its SB members fulfill legal requirements. On the other hand, it is strange that they don't have resumes, since they have to publish them on the website. But, if the company does not even have a website (they said it would be created), perhaps they did not want to engage in additional work of collecting the resumes that should be published. However, the

fact of the matter is that this correspondence shows that Trajkovic, as a person in charge of handling requests, **does not have his own resume** as a SB member.

### *PE Zoološki Vrt, Jagodina*

The website of this PE does not contain any resumes of the SB members. There is no Official Gazette on the website of the City of Jagodina, nor any reports from the City Assembly sessions, so it is impossible to determine when the members of the SB were dismissed or appointed. We submitted the request for the resumes and documents that prove that the requirements have been met and that the founder of the PE conducted a procedure to determine which members need to be dismissed. The Mayor of Jagodina replied to our request that the resumes were submitted and that it has been announced that a member of the SB who does not meet the legal requirements will be replaced at one of the following sessions of the City Assembly. However, according to the available information, only an employee representative meets the legal requirements.

According to the scarce information provided, one of the members does not have the experience in the field of PE operations, and it is also unclear whether he has the knowledge in the field of corporate governance or finance. Srboľjub Đurđević graduated from the College of Education and worked in the Ministry of Interior Affairs from 1981 until retirement in 2012. He has been the president of the SB since September 19, 2013.

Zoran Gligorijević obtained his Associate Degree from the College of Mechanical Engineering and worked in the company  *Holding Kablovi*  from 1982 to 2004. Since 2004, he has been a sports director at the Sports Association  *Jasa* . He was the chairman of the Management Board in this PE from 2006 to 2013 and, since 2013, he has been a member of the SB. These information cannot be used to determine if he meets any of the requirements of Article 18, paragraph 1, items 2, 3, 4 and 5 of the Law.





# Transparency in the Work of Public Enterprises

## The Obligation of Publishing Information under the Old and the New Law

According to the Law on Public Enterprises from 2012, PEs were obliged to publish the following information on their websites: **adopted annual business plans and quarterly reports on the implementation of the annual business plans**, audited **annual financial reports**, **the opinion of the certified auditor** on those reports, **the composition and contacts of the supervisory board members and the director**, as well as other issues of relevance to the public.

The new law from 2016 stipulated additional elements. When the Law was drafted, TS indicated that the obligations regarding transparency could be further expanded. This primarily referred to the documents related to the procedure of selecting directors (the minutes from the sessions of the committee for the selection of directors, the programs submitted by candidates, etc.). Article 71 of the Law (“Work Transparency”) stipulates that a public enterprise is obliged to publish the following information on its website: **resumes** of the SB members, the director, and the executive directors; **organizational structure**; annual or three-year **business plan**, as well as all subsequent amendments to it, i.e. an excerpt of the plan if a public company has competition on the market; **quarterly reports on the implementation** of annual or three-year business plan; **annual financial report with the opinion of a certified auditor**; and other information of relevance to the public. The government may also determine additional elements of the PE’s operations that need to be published, if they are of particular

relevance to the public. Failure to fulfill this obligation can result in imposing a fine to the responsible person in a PE in the amount from 50,000 to 150,000 RSD.

One change in relation to the 2012 Law is that the resumes and organizational structure of the company must be published as well. On the other hand, the obligations related to the publication of the annual business plans have been alleviated by **leaving the possibility** to those PEs who have competition on the market to publish only an “excerpt from the plan”. **Due to the lack of clear specifications on what needs to be included in the excerpt**, TS could not find any information about sponsorships and donations in the excerpts of some of the sampled PEs. Even though the Law left the possibility of moving in the other direction and increasing the transparency by having the Government determine other elements of the business operations that need to be published, this has not happened so far.

### *The Practice of (non)Transparency*

The unfavorable situation in regards to the implementation of the transparency provisions from the 2012 Law, which was noted in the TS report from 2014, was also observed at the beginning of the monitoring for this report. The first monitoring from the year 2016 showed that almost none of the PEs fulfilled all the obligations. Two local PEs did not have websites. One PE, as well as its founder, ignored the warnings of Transparency Serbia. Another PE submitted a letter saying they had allocated the funds for developing a website in 2017. In the meantime, the website of another PE stop functioning and has not been fully restored for the duration of the research. This means that 20% of the observed local PEs did not fulfill their legal obligations at all.

During the work on our research, Transparency Serbia requested the PEs and their founders to submit all the information and the documents which could not be found on their websites and which are required to be published by the Law. At the same time, we pointed out to the legal obligation in this regard and to the prescribed

fines. In most cases this had an effect - the documents were either submitted and published on the websites simultaneously, or they were only published on the websites and TS was informed on where the requested information can be found. However, there were also cases when the documents were submitted to us, but they were not published on the websites.

We informed the former Minister of State Administration and Local Self-Government Ana Brnabić about the problem of transparency in the PEs founded by the local self-government units. We informed her that we discussed the issue with the representatives of the Ministry of Economy and suggested that both ministries should work together to encourage local self-governments and local public enterprises to develop websites and fulfill their obligations. We believe that the initiative to solve the problem is more useful than initiating legal actions. The law prescribes fines in the amount of 50,000 to 150,000 RSD for responsible persons in PEs who fail to fulfill the obligation under the Article 71. This amount is higher than the cost of developing a website that can meet the basic needs and requirements in regards to work transparency.

“The first step in fulfilling this obligation would be to remind all PEs and its founders on the necessity to provide funds for the development of websites in their next year’s budgets. In this regard, we invite you to remind all local self-government units on the prevalence of this problem and to invite those whose public enterprises do not have websites to allocate the necessary funds when adopting their budgets for 2017” - stated the letter to the Minister. A similar letter was also sent to the Deputy Minister of Economy for the Sector of Control and Supervision in the field of PEs and business registers Dubravka Drakulić.

### *The Review of the Established Irregularities and the Present Facts*

Transparency was increased not only by adding further legal obligations (the resumes of directors, executive directors, and SB members), but also in practice. At the beginning of our research, we

informed the PEs on the omissions and they rectified them, after which most of them started to regularly fulfill their obligations. There were several exceptions to this generally positive trend. On the other hand, this progress revealed a number of other violations of regulations and inappropriate actions, as noted in the chapters about the selection of directors and supervisory boards, and about “special purposes” expenditures.

Of the 30 observed PEs, in **June 2016**, the website of **only one PE** contained all the documents prescribed by the Law. In **July 2017**, eight PEs published all the documents. One PE was shut down and one was transformed. Of the remaining 20, four had all documents at one point in the monitoring. In a few cases, during the last monitoring (in July 2017), only one document was missing (the last quarterly report or financial report for the previous year). On the other hand, two PEs did not have websites for the entire duration of the project and the website of one PE stopped functioning and was not restored for almost 12 months and until the end of monitoring. Also, one PE that has a website (*ZOO Vrt*, Jagodina), did not publish any documents or the information prescribed by the Law from the beginning to the end of the monitoring.

# The Publication of Mandatory Information – Sampled PEs<sup>27</sup>

## *PE Službeni Glasnik*

**July 2016:** There was no annual business plan for the previous, 2015 year. The published information included only the list of the director and SB members and the information on their current work appointment, but no resumes. There was no financial report for 2015. **November 2016:** The same situation as in July 2016. The PE responded to TS that they had published the annual business plan for 2015, prepared the resumes of directors and SB members, and published them on the website. “The resumes of executive directors will be published after the adoption of the normative acts of PE, which constitute the grounds for the appointment”. **March and July 2017: Everything was published in accordance with the Law.** In addition, other documents of importance for the transparency of the functioning and expenditures of this PE were published as well.

## *PE Putevi Srbije*

**July 2016:** One webpage contains the decisions of the SB, there is a report on the work of the SB, there are no resumes, and the composition of the SB can be found in the Government’s decision on the appointment of members. The webpage “Director of the PE” does not specify who the director is, there is no resume, and it contains only the information on the director’s competencies. The name of the director can be found in the Information Booklet. Everything else prescribed by the Law is published on the website. **November 2016:** Resumes of SB members and directors were published. Everything was published in accordance with the Law. **Jul 2017:** A brief resume of the new SB chairman was published with a slight delay. The Information Booklet was updated in July 2017. The annual business plan for 2017, the financial report, the

auditor's report for 2016, and all quarterly reports, including the first quarter of 2017, were published. Everything was published in accordance with the Law.

### *PUC Gradska Čistoća, Belgrade*

**July 2016:** There website contained no resumes or organizational structure, and two quarterly reports were missing. **November 2016:** After the request submitted by TS, the resumes of two SB members and the director were published, as well as the organizational structure. The website contains the annual business plan for 2016, as well as all quarterly reports. **March and July 2017:** Everything was published in accordance with the Law. Data is transparent.

### *PUC Informatika, Novi Sad*

**July 2016:** The website contained almost nothing that was prescribed by Law. It had only the financial report for 2015 and the organizational structure. **November 2016:** Everything except the resumes of SB members was published. More precisely, the website did not include any information on the SB or even the names of the members. There was no Information Booklet. After the request submitted by TS to the PE and the founder, the resumes of the SB members were published on the website. **July 2017:** Everything was published in accordance with the Law. Data is transparent and tremendous progress has been made compared to the situation from July 2016.

### *PUC Toplana, Niš*

**July 2016:** The website contained no annual business plan for 2016, quarterly reports on the degree of compliance of planned and implemented activities for all four quarters of 2015 and first two quarters of 2016, financial report for 2015, and the resumes of the director and SB members. **November 2016:** Upon receiving the request, the PUC published quarterly reports, but there was still no financial report for 2015, nor the resumes. At the end of 2016,

we received the response from *Toplana* that the resumes were published on the website. **March and July 2017: Everything was published in accordance with the Law.**

### *PUC Paraćin*

During the previous monitoring in 2013/2014, this PUC year did not have a website. **July 2016:** The website contained almost nothing that was stipulated by the Article 71 of the Law. **November 2016:** There was still nothing. In the meantime, TS requested the PUC to submit quarterly reports and annual plans. We received the response in December and the PUC published the required documents, as well as the resumes of the director and SB members. The following sections were added to the website menu: "Resumes of SB members", "Financial report for 2015", and "Documents". Creating the section "Financial report for 2015" instead of "Financial reports" resulted in the fact that the financial report for 2016 was not published. **Jul 2017:** The resume of the director was not published on the website, nor a financial report for 2016. Annual business plan and all quarterly reports were published.

### *PE Direkcija za Urbanizam, Kragujevac*

**July 2016:** The website contained no resumes, no names of SB members, no organizational structure, and no quarterly reports for the last quarter of 2015 and the first quarter of 2016. **November 2016:** Everything was published in accordance with the Law, except for the organizational structure. **March 2017:** There was no quarterly report for 2016 and no annual business plan for 2017. There was only a decision of the City Council on adopting the proposal for annual business plan from January 2017. The third quarterly report for 2016 was not published. There was only the decision on its adoption, without any excerpts from the reports or forms. **Jul 2017:** The website contains all resumes, organizational structure, and quarterly reports, including the report for the first quarter of 2017. There is no annual business plan for 2017, but only a decision on its adoption. There is no financial report for 2016.

The Assembly of the city of Kragujevac is the only unit that responded to our request. In the request, we invited all local self-governments to verify the legal compliance of those PEs that were not included in the research. The response stated that four companies have fully met their obligations (*Zelenilo, Gradske Tržnice, Čistoća, Gradska Groblja*), while the remaining ones explained what had been done to meet the requirements. Thus, *Vodovod* was implementing the activities on the development and publication of the resumes for the director and SB members, while *Parking Servis* was gathering “supplementary documentation”. PE *Preduzeće za Izgradnju Grada* stated that it respects its legal obligation, but was not able to fund the website development and required updates due to the freeze of corporate accounts. They also stated that, until the end of 2016, as an indirect budget user, they regularly published everything on the City’s website. PE *Javno Stambeno Preduzeće* stated that it “has undertaken the activities regarding the adoption of new acts related to the organizational structure and the appointment of executive directors, while other obligations stipulated by the Law will be implemented as soon as possible”. PE *Gradska Stambena Agencija* informed us that they have developed a website [jgsakg.com](http://jgsakg.com) which contains all relevant business information.

### *PUC Vodovod, Surdulica*

This PE has no website. This was also noted in the previous monitoring from 2013/2014. By the end of this monitoring, the only progress made was that the PE responded that the website development was planned for 2017 and that the funds have been allocated by the business plan for 2017”.

### *PE Direkcija za Građevinsko Zemljište i Puteve, Bosilegrad*

**July 2016:** The PE had only one organizational structure. **November 2016:** The website was out of function. The PE replied that the website was blocked, that they hired a person to resolve the issue,



and that the information will be publicly available as soon as possible.  
**Jul 2017:** The website was still out of function.

### *PUC Gradska Toplana, Novi Pazar*

This PE does not have a website. TS reminded the PE and the founder to the legal obligation, but we received no response to our letter. **July 2016:** TS pointed out to the obligation of developing a website and publishing the documents prescribed by the Law. We also requested the PE to publish the annual business plan for 2015 and 2016, and the three-month reports on the degree of compliance of planned and implemented activities for all four quarters of 2015 and the first two quarters of 2016. The PE stated that they do not have a website (which we had already noticed), that “the business plan for 2015 and 2016 was published on the website of the city of Novi Pazar, and that the work report for 2015 was not adopted because the assembly was dismissed.” However, the website of the city of Novi Pazar contained no work reports for this PE for the previous two years. Their response also stated that all the information related to finance can be found on the website of the Agency for Business Registers, that “we can receive all requested documents for further review”, and that we can “make copies of the documents at our own expense.” TS filed an appeal to the Commissioner. **July 2017:** The PE still does not have a website.

### *PE Zoološki Vrt, Jagodina*

This PE has a website dedicated only to the visitors of the ZOO. Prior to that, the only published information was on public procurement. The PE has not published any of the information stipulated by the Law on PE, even after TS submitted the request to the PE and the City Assembly pointing out to the obligations and prescribed sanctions.



# **The Expenditures of PEs for Advertising, Marketing, Sponsorship, and Donations**

## **Public Enterprises and the Media**

The “Report on the potential impact of public sector institutions on media through the payment of advertising and marketing services” published by the Anti-Corruption Council in 2015 concluded that the advertising and marketing of public sector institutions create a very strong relationship between the media and the representatives from all levels of government. This relationship can be direct or indirect, through marketing agencies that are close to political parties. The Council found that sponsorship or donations to the media, for sports or other activities, constitute a forms of covert agreements to promote politicians. Enormous costs of sponsorship and donations are present in public enterprises and state-owned companies. Among the users of sponsorship funds and donations are legal entities whose owners and representatives are brought in relation to political parties. The Council’s research focused on the 2011-2014 contracts.

The issue of advertising of the state and its bodies has not been regulated by the Law on Advertising, adopted in January 2016, and there were no changes in other relevant laws (e.g. The Law on Public Procurement). In the meantime, the situation in the media has not changed. The media still have enormous financial problems and easily fall under the pressure of advertisers, which causes additional damage to their already undermined independence. The problem of pressure placed by commercial advertisers could

have been partly solved by adopting some of the proposals made by Transparency Serbia at the time when the Law on Information and Media was adopted. The pressure of political advertisers can undermine the independence of the media and public trust in even more serious and direct manner.

In this research, TS wanted to determine the relationship between public enterprises and the media, (state-owned companies were not sampled), i.e. the content of their advertising and marketing contracts and the costs of donations and sponsorships. We observed the year 2015. This was the year that was not included in the Council's report and the year during which the Law on Public Enterprises from 2012 was applied. We also included 2016, the year in which the new Law on Public Enterprises was adopted, new forms for reporting expenditures were prescribed, and the process of the election of new management began. The research included expenditure plans of this kind for 2017.

The obtained results can hardly be generalized or used to draw a definite conclusion. Some PEs concluded contracts with the media in relatively high amounts. We also established that significant funds have been transferred from PEs to media through sponsorship agreements. Certain contracts contained clauses which should be unacceptable from the stance of independent editorial policy and media freedoms. The PEs that could have generated additional income through media promotion or advertising their activities, have not done so or have done that to a very small extent. Some PEs whose activities are of interest to the public and whose (service) information would be published by all media free of charge, concluded contracts to distribute those information. Some of the sampled PEs did not conclude any contracts with the media, nor did they have sponsorship and donation expenditures.

It should also be noted that Transparency Serbia was not able to obtain insight into the contracts that certain PEs concluded with the media. Our requests were not met by *Pošte Srbije* (contracts

from 2015 and 2016), *Srbijagas* (contracts from 2015), *Parking Servis* (2015), *Gradska Čistoća* (2015), and *Direkcija za Građevinsko Zemljište, Bosilegrad* (2016).

In its Guidelines for the development of annual business plans for 2105, Government of Serbia requested all PEs to prepare their annual business plans in accordance with the guidelines that stipulate the “rationalization of operating expenses”. This implied a linear reduction of the representation expenses by 60% and the reduction of the costs of sponsorships, donations, and similar special purposes by 40% in relation to the funds realized in 2014. TS believes that this linear reduction was not a good solution. In this way, those who wasted and misused their financial resources, for example, spending five or ten times more than what was actually needed, were obliged to reduce their expenditures by 60% and 40%. However, this would still entitle them to enormous unjustified expenditures which would only be slightly reduced (aside from the fact that the legitimacy of most sponsorship and donation expenditures is very disputable). On the other hand, the companies that have been saving financial resources and acting responsibly are forced to be even more “economical”.

Another important change took place in the expenditures for 2017. In November 2016, the Government of Serbia adopted the Guidelines for the development of annual business plans for 2017, according to which all public enterprises are obliged *to prepare annual business plans in accordance with the guidelines and objectives of the Government’s economic and fiscal policy in terms of rationalizing the operational expenditures. As per this stipulation, the costs of sponsorship and donations cannot be planned for the PE that are financed from the budget or were operating with a loss according to the latest published financial statement.*

On one hand, this has prevented completely absurd (and unreasonable) situations when the actors with perennial operating losses simultaneously allocate sponsorships and donations money, but it also allowed the possibility for the largest public enterprises

(which do not receive direct budget funds) to continue spending money for these purposes. In addition, there are no restrictions in regards to marketing and advertising costs.

In this research, Transparency Serbia analyzed the expenditures for sponsorship, donations, marketing, and advertising. We not only included the sponsorships and donations related to the media, but also other expenditures, such as the sponsorships of sports clubs and associations, donations to churches, and associations. TS assumes the following standpoint: no matter how humane, socially acceptable, or “socially responsible” it may appear when PEs fund specific activities or provide monetary contributions, it should be borne in mind that PEs were not established or given the opportunity to generate revenues in order to provide humanitarian aid or support sports activities. The implementation of humanitarian, sports, and any other policy is the job of the founders of PEs - local assemblies and Serbian Government. In this respect, it is irrelevant if a PE generated its own revenues (from citizens or the economy), is financed from a budget (funded by citizens and or the economy), or if it's losing money or not. In several sections of this research, we documented enormous expenditures from other categories besides the four types addressed in this section.

## Expenditures for 2015 and 2016 and Expenditure Plans for 2017 for Sampled PEs<sup>28</sup>

### *PE Elektroprivreda Srbije*

Data from the quarterly report for 2016, for the PE EPS:

Type of expenditure	Plan for 2015	Realization for 2015
Sponsorships	14,553,418	27,021,000
Donations	85,865,992	59,853,000
Charity	5,564,824	119,000
Sports activities	18,133,110	0
Representation	25,751,245	19,021,000
Advertising and propaganda	160,022,901	<b>56,311,000</b>

The submitted sponsorship and donation contracts amounted to the total value of 85,025,533 RSD which is close to the presented expenditures for the PE EPS (86,874,000). In addition, after the public procurement, one contract was concluded with the company *Dan Graf* (publisher of the daily newspaper *Danas*) for advertising at a unit price, based on the needs, and up to a maximum amount of 2.5 million RSD (excluding VAT).

The contracts in the field of marketing concluded in 2015 were worth 19,530,000 RSD and 104,000 EUR (approximately 12,000,000 RSD), which amounts to the total value of 31 million RSD. The report shows that 56 million RSD were spent only at the level of PE EPS. No contracts were submitted for the remaining amount (25 million for the PE EPS and 43 million for the entire EPS group). Instead, a notice was sent stating that “marketing and public advertising contracts were concluded after closing a public procurement procedure announced in accordance with the obligation prescribed by Article 55 of the Law on Public Procurement and are currently available on the EPS website and on the PP portal”. These websites, however, contain no contracts (the Law does not stipulate the obligation of publishing concluded contracts). The websites include only basic information about individual public procurements. Only two public procurements of this kind were found for the year 2015.

One of them provides **training for journalists to monitor the work of EPS, although some points of the project task give the impression of an attempt to form a group of “friendly journalists” who would “disseminate the information”. Particularly interesting is the project task of drafting “questions and answers for journalists”.** The estimated value was five million RSD. One offer was received from the bidder *BCA Mozaik* and the contract was concluded in the value of 4,930,000 RSD.

TS was not able to determine from the available data how the remaining 50 million RSD were spent on EPS advertising and propaganda, or approximately 68 million RSD at the level of EPS group. Equally interesting are the donations and sponsorship contracts, given that this is how EPS concluded contracts with media in the value of more than 10 million RSD.

EPS has prescribed criteria for allocating funds for sponsorships and donations. According to these criteria, for individual amounts up to one million RSD, and within the framework of the funds provided by the annual business plan, the decisions are made by the director. For any amount greater than one million RSD, the decision is made by the SB of the PE EPS. The cost statement states **“the PE is committed to granting funds for sponsorships and donations that would provide financial support to individuals and organizations for the activities and projects which enable social, economic, and technological progress, and implementation of innovative projects”.** Although it might be expected that a only a limited number of activities would be funded, i.e. the projects that could contribute to better functioning of EPS, this definition leaves the possibility of a broad interpretation of the terms “social” and “economic” progress. And such a broad interpretation leads to the question **how social, economic, and technological progress can be achieved by making donations to Serbian Football Association, Serbian Basketball Association, Serbian Volleyball Association, Serbian Handball Association, or the Olympic Committee?** Should this be the task of the EPS founders and the line ministry, or the PE which did not make sufficient investment in their own development to cover at least the depreciation costs?



In 2015, EPS made the following donations (the highest amounts in RSD were selected):

1. Serbian Basketball Association – 3 million
2. Serbian Volleyball Association - 3.6 million
3. Serbian Handball Association – 3 million
4. *Red Star* Rowing Club (for the race of graduating students) – 500,000
5. The Association for Sport and Recreation *Youth Sports Games* – 4.5 million
6. European Water Polo Championship 2016 – 16,166,128
7. Paralympic Committee RIO 2016 – 2 million
8. Serbian Football Association – infrastructure improvement – 3.3 million

During the year 2015, EPS made donations to associations, societies, schools, colleges, the Serbian Orthodox Church and individual churches, monasteries and dioceses, as well as the media. Thus, **RTS** received **1.2 million RSD** for a “program scheme”, **RTV GEM** received **1.2 million**, for “a program”, the College of Electrical Engineering received one million RSD, while the church in Petka near Lazarevac received a total of 2.3 million (two donations of 1.1 and 1.2 million). EPS donated **1.5 million RSD** for the establishment of the church **television Hram**, and 650,000 RSD for the reconstruction of the monastery complex Žiča. A donation of 600,000 RSD was made for the heating system of the monastery complex Studenica.

On the request for access to information, EPS submitted the information on the total of 87 sponsorships and donations realized in 2015. For the purposes of this analysis, only media sponsorships were selected:

- **Business info group** sponsorship activities - magazine *Nova Ekonomija*, edition *Economy and Finance Board*, edition *Leaders of Social Responsibility*, edition *The Greatest 100*, *The Best 100* and other activities of the importance for EPS - **990,000 RSD**. Under the contract, the user is obliged, among other things, to publish seven articles (interviews) in the magazine *Nova Ekonomija* on 2-4 pages on the topics specified in coordination with the PE EPS; to present the sponsor in the edition *Liders of Social Responsibility*, and is committed to “participation in the

edition of *The Economy and Finance Board 2015*" and "Economy 3" show on TV Vojvodina.

- Sponsoring the Energy section in the online magazine **Balkanmagazin**, round tables, and conferences - **1 million RSD**. As a sponsor, EPS receives: a banner with a link, publication of EPS news and reports once a week in the Energy section, preparation and publication of analytical articles related to the energetics in the Energy section, invitation to sponsors to deliver introductory speeches at conferences organized by *Vesna Info*, three registration fees free of charge.
- Sponsoring the webpage Euractiv of the press agency **Beta - 675,000 RSD**. The sponsor (EPS) receives the logo and name on the website; the publication of EPS articles in the following sections: Agenda, Press Releases, Projects and Competitions (when needed); the coverage of issues of interest for EPS within the Energy section, media support for EPS activities (media monitoring and **placement through all user channels in an unlimited number of texts, images, and videos**), media coverage for up to three events per month, the reception of Beta services, the right to download newsletters from the magazine and EPS website according to the needs of the Beta editors.
- Sponsoring Internet TV **Fonetweb - 607,500 RSD**. The sponsor receives a banner on internet TV, broadcast of a promotional EPS video on the Internet news in the duration of 60 seconds, the possibility of online broadcast of TV reports on the EPS activities emitted on Fonetweb.tv in real time, continuous reporting on regular and extraordinary activities of EPS.
- Sponsoring the activities of **energyobserver.tv** website - **700.000 RSD**. EPS receives a banner on the website, publication of analytical articles on the sponsor's activities, publication of sponsorship articles on current topics on Serbian and regional energetics, publication of the news on the sponsor's activities, publication of the news on EPS Group's activities.
- Website **telegraf.rs**, sponsoring the Energy Saving section - **880,000 RSD** for five and a half months. The sponsor receives EPS logo in the section, the possibility of **submitting and**

**publishing the promotional material available to the PE EPS** which is of importance for achieving the goal for which the energy saving section was introduced on the website. The sponsor will also have **the influence on** the creative solution of the section design and **section contents in terms of publication priorities**.

- **Tanjug** – sponsoring the service Tanjug Biz for four and a half months - **538.200 RSD**. The sponsor receives media coverage of EPS's business activities through **regular reporting** in Tanjug's service [www.tanjugbiz.rs](http://www.tanjugbiz.rs); the **publication of news in Tanjug's information services**, on official agency's websites, applications, and social network profiles; a banner and access to customer services.
- **Večernje Novosti** – sponsoring the section *Energetika* within the **Biznis** publication for five and a half months - **742.500 RSD**. The sponsor receives 18 printed announcements of 250x50 mm, **within the following topics** - "Future changes in energetics", "Liberalization of the electricity market", "Corporatization, restructuring, reorganization", "Challenges faced by the electricity sector in Serbia and the region".
- **Media advertising ltd** – sponsoring the production of the analytical talk show *Nas je 10%* [We are 10%] - **750,000 RSD**. The sponsor receives EPS logo displayed in the opening and closing section of the show with the message that EPS is the sponsor of the show.
- **Adria media group** - Newsweek panel on the new EPS – conference on energetics - sponsoring a panel - **1 million RSD**. The sponsor receives: full representation in all advertisements and articles within the promotional campaign announcing the conference - this includes **affirmative media announcements** in editorial pages in magazines, weekly newspapers, monthly and daily editions, as well as on the websites of Adria Media Group ltd Belgrade; **the selection of theme and speakers on the sponsored episode** of *Panel* dedicated to the new EPS and making agreements with the organizers on selecting the participants for other panels; the media presence of sponsors in all printed and online editions of Adria Media Group, news

and reports before and during the conference, and especially in the publications of *Kurir*, *Kurir* magazine, and *Newsweek*; the publication of an interview of sponsor's choice in *Kurir* or *Newsweek* magazine in English.

- **Color press** – sponsoring the panel Energy Future of the Region - **350,000 RSD**. EPS receives: representation in advertisements and articles within a promotional campaign announcing the conference, highlighting the sponsor's logo on the media wall, promotional video before the panel, mentioning the sponsor in reports, magazines, and on the Color Press Group's websites, a space for placing the agreed PR content on the full page of "The Economist: The World in 2016".

One common and also problematic issue among all these contracts is the failure to distinguish advertising from news "distribution", or the lack of a provision that would protect editorial independence. When companies' PR teams are equipped with contracts in which they commit to support the activities of the sponsor, publish the news on the sponsor, their materials, and affirmative media content, the argument that editorial policy is independent from advertising becomes highly unconvincing.

### *Sponsorships, donations, and marketing in 2016 – PE EPS*

Type of expenditures	Plan for 2015	Realization for 2015	Plan for 2016	Realization for 2016
Sponsorships	14,553,4518	27,021,000	54,845,000	<b>57,430,000</b>
Donations	85,865,992	59,853,000	65,533,000	<b>88,535,000</b>
Advertising and propaganda	160,022,901	56,311,000	111,183,000	<b>37,578,000</b>

**TS received lease contracts for the media coverage, concluded through public procurement.** With the opinion of the Directorate of Public Procurement, the negotiation procedures were conducted without announcing public invitation for the procurement of printed media space:

- **Blic** – the lease of advertising space, commercial, and editorial pages in daily newspapers *Blic* and *Alo*. According

to the unit prices for **the lease of advertising pages**, within the prescribed maximum of **1.5 million RSD** (excluding VAT) (“The media outlet is obligated to publish advertisements and articles of service users”).

- ***Kurir*** – the lease of editorial pages in daily newspapers *Kurir*, **for the publication of articles and reports on the improvement of production and management process that led to significant savings and increased efficiency of the entire energy system - 1,695,653.10 RSD.**
- ***Večernje Novosti*** – the leasing of advertising space, commercial, and editorial pages in the daily newspapers *Večernje Novosti* and in the periodical *Život Plus* **for the publication of articles and reports on the improvement of production and management process that led to significant savings and increased efficiency of the entire energy system - 1.800.000,00 RSD**
- ***Informer*** – the lease of editorial pages in the daily newspapers *Informer* list **for the publication of energy efficiency tips and articles on the prevention of electricity theft - 1.800.000,00 RSD.**
- ***Danas*** – the lease of editorial pages in the daily newspaper *Danas* **for the publication of articles on the measures for increasing efficiency of the entire energy system through the improvement of production and management process and the advice on energy efficiency - 289.267,20 RSD.**

The collective expenditures amount to slightly more than seven million RSD. On the other hand, the annual financial report stated that the total expenditures for advertising and propaganda were 37.5 million, so the question remains as to what the rest of the money was spent on.

The PE EPS submitted us **a list of sponsorships and donations in the total amount of 83,177,859.95 RSD** (according to the table from the annual financial report, approximately 146 million RSD was realized).

The highest amounts of donations were made to the Health Center Kladovo for improving the work conditions by donating a hyperbaric chamber in the amount of 5,000,000 RSD; as well as making donations to research station *Petnica* for continuing the regular work in the amount 5,000,000 RSD; Serbian Basketball Federation for the preparation for the upcoming Olympic Games in Rio 5,000,000 RSD; and the membership in the Association for the construction of *Sveti Sava* temple 4,000,000 RSD. In one case, the donations included the media. TV *Hram* received 700,000 RSD “for the activities undertaken at the request of the Patriarchate of the Serbian Orthodox Church” after **the patriarch asked EPS to support the program development and the work of TV Hram.**

- Sponsoring the regular monthly reporting of *Kolubara* mining basin in the amount of 300,000 RSD for one year in local newspapers *Prave Novine* - publisher *SGFX Media*.
- Sponsoring 12 programs dedicated to environmental protection projects, construction of capital facilities and corporate social responsibility - **400,000 RSD** for TV *Viminacium*.
- Sponsoring the show *With you at 8 o'clock* [S Vama u 8] and *See you in the afternoon* [Vidimo se popodne] - **900,000 RSD** includes the monitoring of mining and other topics in the field of sponsor’s operations for *GMC-TRADE ltd* Lazarevac.
- Sponsoring the edition of the National Geography *The Energy of Tomorrow* in June 2016 - **2.000.000 RSD** - Adria media group.
- Sponsoring the panel *Energy Future of the Region* in 2017 in the amount of **410,000 RSD** - *Color Media Communications*.
- Sponsoring news, photographs, and video materials in the field of energy in Serbia and broadcasting through the services of Press Agency *TANJUG* in the amount **2.000.000 RSD**. EPS sponsors the publication of news, photographs, and video materials in the field of energy in Serbia, broadcasting through *Tanjug* services, and website coverage. EPS also receives the use of *TANJUG* service. Interestingly, the signatory of the contract with EPS is a legal entity under the name PE news agency *TANJUG* with full liability.

- Sponsoring the subcategory *Energy*, within the category *News*, on the portal <http://www.srbijadanas.com/> for six months in the amount of **900,000 RSD**. In addition to banners and branding, this involves regular reporting on the topics related to the liberalization of electricity market, the relationship of the sponsor to the end consumers, the promotion of sponsor's investment projects, the achievement of sponsor's goals according to the EU agenda, introducing the importance of energy efficiency, and the activities of the sponsor in that area. Reporting on all topics that can more clearly illustrate sponsor's operations and business success plans is also included.
- Sponsoring the section *Energy* in the online magazine *Balkanmagazin* in the amount of **950,000 RSD**. This includes banners, news, and weekly reports from EPS, writing and publication of analytical articles related to the country's and global energy sector, and organizing a conference on energy efficiency.
- ZA media - sponsoring TV series *Look Around* [Pogledaj oko sebe] in the amount of **990,000 RSD**. This includes seven episodes of the TV documentary program (3-5 minutes each), dedicated to the examples of good practice on energy efficiency and production of green kilowatts within the PE EPS broadcasted on TV *Pink*. This also includes media monitoring and reporting of TV *Pink* on all important business activities of the PE EPS with emphasis on the activities in Eastern Serbia.
- Daily newspaper *Danas* - sponsoring the section in the publication *Braničevo Danas* in the amount of **400,000 RSD**, realized in cooperation with Kostolac thermal power plant.
- Regional portal *eBraničevo* in the amount of **400,000 RSD**, realized in cooperation with the PR service of Kostolac thermal power plant.
- Weekly publication *Vesti Užice* - sponsoring the topics from the energy sector in the amount of 15,000 RSD per month or the total value of **120,000 RSD**. Publication of the highlights of sponsor's operations on the covers and cover page. Publication of important information related to the work of sponsors in agreement with authorized persons.

- Sponsoring the portal <http://www.energyobserver.com> in the amount of **700,000 RSD**, which includes a banner, announcement of sponsor's news, business results, the opening of new facilities, beginning or completion of major works, concluding important contracts, and other topics in the field of sponsor's operations.
- Sponsoring the section *Energy Savings* on the portal <http://www.telegraf.rs> for one year and in the amount of **960,000 RSD**. This includes logo placement and sponsor's **submission and control of the section content**, as well the report on the number of views.
- *BETA PRESS* - sponsoring the information portal <http://www.euractiv.rs> in the amount of **1 million RSD**. In addition to the logo, this includes the publication of sponsor's articles in the *Agenda, Publications, and Projects and Competitions* sections, and covering the topics of interest to the sponsor in the *Energy* section. Media support to sponsor activities includes the placement of information through all user channels and media coverage of up to three events on a monthly basis, as well as the reception of *Beta* agency services.
- Sponsorship of the weekly publication *Novi Magazin* for seven months and in the amount of **700,000 RSD** - reporting the current issues in the PE EPS related to energy, environmental protection, reorganization, liberalization of electricity market, publication of articles and images on portal [novimagazin.rs](http://novimagazin.rs), and the publication of regional information and news related to the PE EPS on the portal *Biznisplus*.
- Sponsoring the portal <http://www.novaekonomija.rs> in the amount of **1 million RSD** from June 1 to December 31, 2016 for daily monitoring of news and other activities of interest to the sponsor, annual edition of the leaders of social responsibility, seven articles/interviews about sponsor's business or other activities, including the interview with the sponsor's director on four pages. Presentation of the socially responsible activities of the sponsor in the annual edition of the leaders of social responsibility on four pages. The edition will be promoted in



student trainings which involve the cooperation of Serbian student organizations and *Business info group* Belgrade ltd. Publication of all news and announcements of the sponsor in the duration of the contract on the portal <http://www.novaekonomija.rs>

- TV broadcasting on N1 Kopaonik business forum and monitoring the activities of EPS for six months, “where N1 television would support significant events in the PE EPS, as well as publishing important news in the field of energy **in accordance with its editorial policy**”.

Only one contract (concluded with *CAS media ltd* for media coverage and reporting on TV N1) **includes a clause that separates editorial policy from paid advertising and publication of sponsor’s information and/or information provided by the sponsor.**

### *Sponsorships, donations, and marketing in 2017*

On its website, EPS published an excerpt from a three-year business plan for the period 2017-2019. It announced the improvement of public relations (in the area of liberalized electricity market). Among other things, it planned a lease of national and local media (taking into account the needs of branches), and production of video and audio content. The amount of 51.2 million RSD is planned for media coverage in 2017, 52.9 million in 2018, and 54.5 million in 2019. This is significantly more than the funds spent for advertising and propaganda in 2015 and 2016 according to the published reports, especially in relation to the funds shown in the contracts submitted to TS.

The excerpt does not contain information on planned sponsorship and donations, which was an important source of media funding in 2016 and 2015. One possibility is that EPS lost the right to sponsorship and donations because it operated with losses, so these funds got “compensated” through “advertising and commercials”. The next analysis should also pay attention to the fact that particular PEs from the sample allocated money to sports clubs or associations and then reported these expenditures as sports activities.

## *PE Službeni Glasnik*

### *Sponsorships, donations, and marketing in 2015:*

The public procurement plan for 2015 included the “production of promotional video materials and TV, radio and web advertising” in the amount of 1,000,000 RSD; purchase of RTV time for broadcasting commercial program within regular editions, kiosk and similar publications in the value of 2 million RSD; and media advertising in the value of 3.7 million RSD.

According to quarterly reports on the implementation of annual plan for 2015, 9,000,000 RSD was planned for advertising and propaganda; 907,511 RSD for donations; and 122,112 RSD for sponsorships. Donations exceeded the planned amount, mainly due to printing services or books.

The PE submitted the contracts on donations, marketing services, and advertising, as well as copies of the invoices for marketing and advertising services paid without concluding contracts and in accordance with the Law on Public Procurements. What was unusual in the case of this PE was the implementation of partitioned public procurements (lots), which differed not only in terms of the conditions that determined target audience (e.g. whether a daily newspapers have a regular section dedicated to culture or literature), but also in terms of the circulation. The impression is that the partitions were “tailored” so that all “targeted” daily newspapers would receive their share of advertising funds from this PE. This is particularly evident in the case of advertising services purchased in **August and November 2016**, when the requirements on the cultural sections and the publication of book reviews and news on this PE were perfectly “aligned” with the requirements on the circulation.

The contract in 2015 was signed with *Dan Graf* (the publisher of daily newspaper *Danas*), after a public procurement for advertising in daily newspapers with the circulation of 20,000 to 50,000 copies. The bid was made in the amount of 965,570.40 RSD and the contract was concluded in the maximum amount of 700,000 or 840,000 RSD with VAT.

In the second section (daily newspapers with a circulation of over 100,000 copies) bids were submitted by *Novosti ad* in the amount of 2,379,461.95 RSD (the offer was incomplete) and *Ringier* (the publisher of daily newspaper *Blic*). The contract of 1 million RSD, or 1.2 million RSD with VAT, was concluded for advertising in *Blic*, on the condition that the editorial concept of the newspaper is, among other things, directed towards the professional public, researchers, professors, students and the like, and includes a section dedicated to books, especially in the field of scientific and professional literature. The “orientation” towards professional public was verified by the list of subscribers, i.e., the bidder must have at least 30 subscribers among scientific institutions, legal entities, etc.

In 2015, several other advertising contracts were concluded:

- Broadcasting the music video of *Glasnik's* New Year promotion and subscription to RTS in the amount of 954,000 RSD + VAT
- Broadcasting of advertisements on *Glasnik's* selected issues on RTS in the amount of 686,250 RSD + VAT (during the book fair in October 2015)
- Broadcasting of advertisements on *Glasnik's* selected issues on RTS in the amount of 135,000 RSD + VAT (during the book fair in October 2015)

According to the contracts, the PE received a 70% discount on official broadcasting prices, but only during the available terms. The specification of broadcasted videos was also submitted.

In November 2015, a contract was concluded for advertising on *Laguna Radio* in the value of 60,000 RSD + VAT. Total of 16 more contracts were concluded for advertising on several local radio stations in the amounts between 5.625 and 12,000 RSD, as well as a contract for advertising on *Niš Television* in the amount of 48,000 RSD.

## *Sponsorships, donations, and marketing in 2016*

According to the annual business report for 2017 and the quarterly report at the end of 2016, there were no sponsorship costs in 2016, while 993.288,49 RSD was spent for donations and 11.749.433,25 RSD for advertising and propaganda. In a letter submitted to TS, this PE stated that the expenditures of advertising and propaganda included the costs of submitting an “obligatory copy” and an “academic copy” of a publication issued by the PE. These copies are not planned for distribution and are submitted to the Serbian National Library, the relevant public city library, and the University Library “Svetozar Marković”, at the expense of the PE and in accordance with the Law on obligatory copy of publications.

The following advertising contracts were concluded with the media after conducting public procurements:

**In February 2016**, a procurement was announced for advertising services in three sections - a weekly publication with a circulation of over 15,000 copies (estimated value of 1,500,000 RSD), a daily newspaper with a circulation of 50,000-100,000 copies (estimated value of 1,000,000 RSD), and a daily newspaper with a circulation of over 100,000 copies (estimated value of 500,000 RSD). The condition was that the editorial concept of the newspaper is, among other things, directed to professional public, researchers, professors, and students, and that it includes a section dedicated to books, especially in the field of scientific and professional literature.

The following criteria were set:

- In case of weekly publications - the price (70 points) and the representation of the bidder in the newspaper/publication (from January 1, 2015 until the day of bid submission, 1-5 announcements of 10 points, 6-10 announcements of 20 points, and over 10 announcements of 30 points)
- In case of daily newspapers - the price (50 points), news coverage (20 points), and display representation (30 points)

The bid for section one was submitted by *Naš Pečat ad*, the publisher of weekly publication *Pečat*, in the amount of 309,600 RSD. A maximum of 500,000 (600,000 RSD with VAT) was negotiated, at the offered unit prices. No bids were submitted for section two. The bid for section three was submitted by *Ringier* in the amount of 1.741.598,92 RSD and the contract was concluded in the maximum amount of 500,000 RSD (600,000 RSD with VAT). All bids included a specific volume of advertising at unit prices and the actual volume of advertising.

**In August 2016**, four contracts were concluded after announcing a public procurement for advertising services in five sections.

- A contract was concluded with *PD Medijska Mreža*, in a “circulation of up to 40,000 copies” for advertising in the newspaper *Srpski Telegraf* in the maximum amount of 480,000 RSD with VAT. In addition to the circulation, the requirement was that the media “had a section dedicated to culture, a weekend edition with articles dedicated to culture, and to cover the activities of *Službeni Glasnik*”.
- A contract was concluded with *Večernje Novosti* In a “circulation of 60,000 to 80,000 copies” in the amount of 840,000 RSD with VAT. In addition to the circulation, the requirement was that the media have had publications on the editions of PE *Službeni Glasnik*, **a section on culture, literary section, book reviews**, and to cover the activities of *Službeni Glasnik*.
- In the fourth section, circulation of 80,000 to 100,000 copies, the contract was concluded with *Adria Media Advertising Group* in the newspapers *Kurir* in the maximum amount of 840,000 RSD with VAT. The requirement for the media was to organize **promotional campaigns for the sale of certain products**, have continued promotions with certain manufacturers for joint sale, special promotions for youth, **joint campaign for book sales** with PE *Službeni Glasnik*, and to cover the activities of *Službeni Glasnik*.
- In the fifth section, circulation above 100,000 copies, a contract worth 1.080.000 RSD (including VAT) was concluded with the company *Insajder* for advertising in the newspaper *Informer*.

The requirement was that the media has **the largest circulation** on the market, which was verified by a valid documents on the tax paid for the circulation (available to the bidder upon a request), and to cover the activities of *Službeni Glasnik*.

**In November 2016**, public procurement was announced for for two sections.

- The first procurement was announced for advertising in daily newspapers with a circulation of **20,000 to 50,000** copies. The newspapers were required to have previous publications on the editions of PE *Službeni Glasnik*, a section on culture, **a weekend edition with a section on culture**, and to cover the activities of *Službeni Glasnik*. The contract was concluded with the company *Dan Graph* for advertising in the newspaper ***Danas*** in the amount of 360,000 RSD with VAT.
- The second procurement was announced for advertising in daily newspapers with a circulation of more than **90,000** copies. The newspapers were required to have previous publications on the editions of PE *Službeni Glasnik*, **a section on culture, book reviews**, and to cover the activities of *Službeni Glasnik*. The contract was concluded with *Ringier* for advertising in the newspaper ***Blic*** in the amount of up to 1,200,000 RSD (including VAT).

In 2016, contracts with media were concluded without the public procurement procedure.

- In July 2016, a contract was concluded with ***Tanjug*** (listed as a PE *Tanjug News Agency*). The contract was concluded for the “media coverage of PE’s activities. *Tanjug* committed to regular coverage of user’s activities and the activities that are of interest to the user and the public. *Tanjug* also committed **to regular publication of press releases** and other informative materials through its information services, websites, and profiles on social networks. **The user was entitled to 10 publications per month** which could be transferred to the following month. The contract also allowed *Tanjug* to engage a journalist team (journalist, photographer, and cameraman)

at the request of the user and for live reporting of the events that are of interest to the user (if the user is an organizer or participant). This involves written news reports on the event, statements from the participant or event organizer, and the production of accompanying video and photo reports. The PE has the right to this engagement four times a month, which can be transferred to the following month. The total cost was 83,000 RSD per month (excluding VAT) and the contract was made for six months. The contract also stipulated that the PE would cover the cost for the engagement of media reporter abroad, as well as the cost of transportation and accommodation for all members of the journalist team.

- In 2016, the PE concluded two contracts with **RTS**. One contract was concluded on advertising in the 95th edition of *TV Slagalica* in exchange for 49 books in the total value of 269,720 RSD. The other contract was concluded in October 2016 (during the book fair) for advertising in the amount up to 1 million RSD.
- A contract was concluded with **Media Shop ltd** (a company whose director is Dragan Karadžić) for TV promotion and sale of products and services with *TV Shopping Centar* in the amount of 1,800 EUR per month (the date when the contract was concluded cannot be found in the submitted copy). Promotional programs were planned to be broadcasted on *TV Pink 2*.
- In October 2016, a contract was concluded with **Fox Networks Group Bulgaria** (which broadcasts channels via cable and satellites in Serbia and other countries in the Balkans). The contract stipulated for the details of the cooperation to be defined by annexes and media plans that were not submitted, so it cannot be determined whether the advertising was realized and in what value.

### *Sponsorships, donations, and marketing in 2017*

According to the annual business plan for 2017, no sponsorships, donations, or humanitarian aid expenditures were planned. The PE *Službeni Glasnik* will use budget funds for financing one part of their current operations and for that reason, according to the

Guidelines for the development of the business plan for 2017, no funds for sponsorships and donations were planned.

Advertising and propaganda costs were planned in the amount of 23.800.000 RSD (without free and obligatory copies) and are partly related to the funds allocated for the promotion of the Legal Information System of the Republic of Serbia (the amount of 15.000.000 RSD).

### *PE Pošte Srbije*

This public enterprise is one of the least transparent in terms of expenditures, because it did not submit contracts for 2015 and 2016, but had significant expenses for advertising and propaganda. Due to the obligation to publish individual information on sponsorships and donations in quarterly reports, we had an insight into individual media expenditures for three quarters of 2015 and in 2016. In the first quarter of 2015, however, this obligation did not exist and there is no data on how almost four million RSD were spent.

### *Sponsorships, donations, and marketing in 2015*

For 2015, the annual plan allocated 10.8 million RSD for sponsorships, 13.2 million RSD for donations, and 49,862,000 RSD for advertising and propaganda (of which 27,950,000 RSD were allocated for the first quarter).

In the first quarter, 3.792.000 RSD were spent on sponsorships, but there is no information who received this money. By the end of 2015, the following sponsorship expenditures were recorded:

- **RTS - 1.200.000 RSD** for sponsoring a number of tv shows Žikina Šarenica in a summer caravan in Serbian cities from July 7 to August 31, 2015;
- **Danas Conference Center - 396.000 RSD** for sponsoring the conference of the PE and Serbian unions
- Athletic Club **Niški Maraton - 300,000 RSD** for the participation in financing the costs of maintenance and organization of the sports event 19th International Polumaraton in Niš



- **Photo Agency *Kaktus*, Milutin Rajković PR - 250,000 RSD** for the participation in financing the cost of organizing the exhibition “Svetlana Zaharova - the greatest diva of the ballet world”
- **The Association of Dramatic Artists of Serbia - 2.160.000 RSD** for the participation in financing the costs of the life award “Dobričin Prsten”
- **Beoton R ltd - 1.200.000 RSD** for the participation in partial financing of the realization costs for the 10th anniversary of the children music festival Čarolija, i.e. 35 episodes of the TV show Čarolija
- **The College of Traffic Engineering, University of Belgrade - 360,000 RSD** for the participation in financing the maintenance costs for XXXIII Symposium on new technologies in postal and telecommunications traffic *PosTel 2015*
- The Association for newspaper and publishing activity ***NIN ltd* - 600.000 RSD** for the participation in financing *NIN Focus* round table titled “Business, restructuring, and investments in the public sector”

In 2015, 49,862,000 RSD was planned for advertising and propaganda, but 9,012,354.17 RSD was spent. This figure is inconsistent with the figure from the annual plan for 2016, which stated that 19.120.000 RSD was spent on the lease of advertising space in electronic media, 3.046.000 RSD for the lease in print media, 1.488.000 RSD for a TV commercial, and 569,000 RSD for monitoring the activities “via news agency” (press clipping).

Since the PE did not submit the contracts, TS does not know how that money was spent.

The Public Procurement portal contains a contract with a company ***Media Point*** for newspaper advertising for two sections (2,285,400 RSD without VAT and 253,000 RSD without VAT), as well as a contract with the same company in the amount of 15,926,360 RSD (excluding VAT) for advertising on TV, radio, and internet.

## *Sponsorships, donations, and marketing in 2016*

In 2016, 14,000,000 RSD was planned for **sponsorships** and 13,191,198.40 RSD was spent.

The PE did not submit the contracts concluded with media. According to the quarterly reports, the following sponsorships were concluded with the media:

- Newspaper and publishing company **Novosti a.d.** Belgrade - sponsoring the sections published by the daily newspaper *Večernje Novosti* in the amount of **800,000 RSD**
- *Insider Tim ltd* - financial **support** for the realization of **4 (four) reports** on the distant areas of the Republic of Serbia, to be published by the daily newspaper **Informer** in its regular publication *Love and Health* in the amount of **1.831.200 RSD**
- Publishing company *Ringier Axel Springer ltd* Belgrade - sponsoring the section *Culture and History* in the daily newspaper **Alo** in the amount of **3.999.998,40 RSD**
- *Adria Media Group ltd* Belgrade - sponsoring the **sections Society and Culture** in the daily newspapers **Kurir** in the amount of **1.440.000 RSD**
- *Media Network ltd* Belgrade, municipality Stari Grad - sponsoring the section *Society* in the daily newspaper **Srpski Telegraf** in the amount of **1,200,000 RSD**
- Public media institution **Radio Television of Serbia** - sponsoring a number of TV shows *Žikina Šarenica* in the amount of **1,200,000 RSD**
- The publishing company **Agenda 2020 ltd** - sponsoring three special additions to be published by the weekly newspaper **Novi Magazin** in the period from March 31, 2016 to December 31, 2016 in the amount of **1,260,000 RSD**

**Donations** were planned in the amount of 10,000,000 RSD, and 9,730,000 RSD was spent. For the most part, these included the donations to the unions. However, there was also an example

of a donation of 600,000 RSD (two grants of 300,000 RSD) for **Jelek Association** which is in charge of organizing conferences on family entrepreneurship, which is the field of interest and political engagement of the former director of the PE.

The amount of 49,862,000 RSD was planned for **advertising and propaganda** and 36,700,600 RSD was spent. There is no information on how this money was spent, because the PE did not submit their contracts. The Public Procurement portal contains a contract with the company **Media Point** in the amount of 2.531.600 RSD (excluding VAT) concluded in January 2016 for advertising in newspapers, a contract from March 2016 in the amount of 5.073.640 RSD for advertising in electronic media, and a contract from June 2016 in the amount of 3.371.963 RSD for advertising in newspapers. These amounts approximate the figures from the annual plan for 2017, which stated that, in 2016, 6.088.000 RSD was paid for the lease of advertising space in electronic media (TV, radio stations, and internet), and 7,084,000 RSD for the lease of advertising space in print media.

### *Sponsorships, donations, and marketing in 2017*

In 2017, large expenditures were planned for sponsorships - 36 million RSD, as well as for donations - 12 million RSD. In case of sponsorships, this is almost three times more than the expenditures from 2016, while donations recorded an increase of 20% compared to the plan from the previous year.

Approximately the same amount is planned for advertising and propaganda as in 2016 (49,837,000 RSD), but this is 30% more than the amount spent in the previous year (36,700,000).

The explanation of the planned procurement funds includes:

- The lease of advertising space in electronic media (TV, radio stations, and internet) - 6,000,000 RSD
- The lease of advertising space in print media - 17,000,000 RSD

According to the explanation, the lease of advertising space is intended for the promotion of services of PE *Pošta Srbije* (the services of post express, logistics, post-export, electronic certificates, time stamps, hybrid mail, internet, and others) and for better market positioning of the PE (which has 49 competitors in the area of its main activities). The goal of advertising in electronic and print media is to retain existing users and to acquire new ones, which would directly influence the increase in the company's profit.

The Public Procurement portal contains the following advertising contracts:

- **In case of daily newspapers**, public procurement was announced in eight sections (lots).
- The first section had a requirement for the newspapers to have an additional section on “home or real estate, and culture or television, as well as a (Sunday) section of a chronicle on health issues or travel and other reports. Another requirement was that the newspapers have a publication history of at least 100 years and to have an average circulation of 69,000 copies in the last two months”. However, the contract was not signed with the daily newspaper *Politika*, which was obviously reflected in the description, but with the company **Media Point** in the amount of up to 2.420.000 RSD. The bid submitted by *Politika* was incomplete.
- The second section referred to advertising in newspapers which, in addition to the usual columns, have “reports and chronicles on important topics, events, and individuals from the more recent and distant Serbian past”. Newspapers are also required to have a Sunday edition and a TV guide, to have a publication history of at least 60 years, and to have a circulation of 120,000 copies. Similarly, the contract was not signed with *Večernje Novosti*, which were reflected in the description, because their bid was higher, so the ads in *Večernje Novosti* will be published through the company **Media Point** and in the amount up to 2,419,000 RSD.
- The third section referred to daily newspapers with a by-weekly

edition for pensioners, a weekly edition on health issues, a circulation of 155,000 copies, and continuous publication history of at least 13 years. The bid of the publisher *Kurir (Adria Media Group)* was rejected as incomplete, so the agreement was concluded with the company **Media Point** in the amount up to 2.488.000 RSD.

- The fourth section was intended for advertising in newspapers which have at least two editions on consumer protection and two editions on health issues in February and March 2017. The newspapers need to have a publication history of at least four years and average circulation of 105,000 copies. This description portrayed the daily newspapers *Informer*, but their bid was rejected as incomplete and the contract was concluded with the company **Media Point** which will publish the ads of this PE in the amount up to 2.430.000 RSD.
- The description of fifth section portrayed *Blic* - a daily newspapers with 20 years of publication history, a circulation of more than 60,000 copies, a section on culture, a (Sunday) edition on health, parenting, and fashion, as well as a TV guide. In this case, the bid of **Ringier** was more favorable than the bid of **Media Point** and a contract was concluded in the amount up to 2.371.000 RSD.
- The sixth section referred to daily newspapers with an edition on business issues, weekend editions with longer analytical articles, special editions on *Bitef* and *Fest*, specialized editions dedicated to important dates such as the International Women's Day and the International Day of the Elderly, a long tradition of educational editions within the last 10 years, the publication history of at least 19 years, and a circulation of at least 400,000 copies in the past four months. *Dan Graf* (the publisher of the newspaper *Danas*) and **Media Point** submitted identical bids for this section, but **Media Point** offered a longer payment period. Thus, the PE will publish its adds in the newspapers *Danas* via the company **Media Point** in the amount of up to 2,416,000 RSD.
- The seventh section was reserved for *Alo* - a daily newspaper that has a weekly edition on health and nutrition, has been

published for the minimum of eight years, and had a circulation of more than 50,000 copies in the previous four months. In this case, *Ringier* had a better offer than *Media Plus*, so intermediary party was left out. The PE will be advertised in the newspapers *Alo* in the amount up to 2.441.000 RSD.

- The only remaining publication was the daily newspapers *Srpski Telegraf*, which was described in the technical specification for the eighth section as a daily newspaper that has been published for at least one year, has an average daily circulation of 33,000 copies, at least 40 pages, an edition on health and pension, and a section on tourism, travel, or vacation. The bid of the publisher of this daily newspaper, the company *Medijska Mreža*, was more favorable than the bid of *Media Point* and a contract was concluded in the amount of up to 2.175.000 RSD.

All contracts were concluded at the offered unit prices, in value up to the estimated amount of the procurement.

In July, a contract was concluded with *Media Point* for advertising in electronic media (two sections for TV, one for internet, and one for radio) in the total value of up to five million RSD. The company *Block and Roll* also submitted a bid, but exceeded the estimated amount in two sections, as well as the bid of *Media Point* in two more sections.

Section one refers to advertising on a TV station that has been broadcasting its program for at least 20 years, contributes to national reputation, the “affirmation of national and global cultures”, and has two political talk shows per week in the duration of a minimum of 50 minutes. The other section refers to a TV station that has been broadcasting the program for at least 20 years and, in addition to news and political duels, broadcasts “popular TV shows, movies, telenovelas, music and talk show programs”. Radio broadcasting referred to a station that has **a show in which famous singers perform the hits of their colleagues.**

According to quarterly reports for the first six months of 2017, the sponsorships in the first quarter included:

- Sponsoring the European Athletics Championship - 10.000.000 RSD
- Publishing house ***Politika Newspapers and Magazines ltd*** - sponsoring the publication of the doctoral dissertation of Ivo Andrić - **900,000 RSD**
- *Adria Media Group ltd* - sponsoring the section *Society and Culture* in daily newspapers ***Kurir*** - **360,000 RSD**;
- News agency ***Beta Press*** ltd - sponsoring the production of exhibition and catalog within the international competition *Beta photograph of the summer 2017* - **330.000 RSD**
- **Association *Jelek*** - partial financing of the sponsorship costs for the realization of the First Fair of Serbian Cooperatives called *Cooperatives - the future of business and economic development* - **930,000 RSD**. When it comes to this sponsorship, it should be noted that in 2016 this association received the donations from the PE *Pošte Srbije* in the total amount of 600,000 RSD for conferences on family entrepreneurship. At the time, this was the field of interest and political engagement of the former director Milan Krkobabić. In the meantime, Krkobabić became a member of Serbian Government and started promoting the concept of renewing cooperatives. **In 2017, the PE *Pošte Srbije* awarded a donation to *Jelek* Association in the amount of 930,000 RSD, which again organized a manifestation that coincides with the interests of Milan Krkobabić.** The acting director of PE *Pošte Srbije* is a MP and a member of the party run by Krkobabić.

### *PUC Parking Servis*

*PUC Parking Servis* ignored the requests to submit their contracts. TS could only analyze their plans, quarterly reports, and public procurement.

The 2015 plan included some interesting items, such as:

- The service of public polling on the expansion of zones and construction of parking lots (1 million RSD)
- Procurement of vests for the action “Students are asking you to slow down in school areas” (2.5 million RSD)
- Design of the action “Students are asking you to slow down in school areas” (2.5 million RSD)
- The service of allocating human resources from PEs for performing administrative, field, auxiliary, and other tasks (200 million RSD)
- The procurement of printing services for bidder’s material (14.6 million RSD)
- The production of info boards, billboards, and more complex promotional materials (20 million RSD)
- The construction and maintenance of green areas (11 million RSD)
- The procurement of broadcasting time (3.7 million RSD)

Two categories of expenditures that occurred during the each of the three observed years need to be pointed out, even though they are not the subject of this analysis. These are the expenditures for educational action “Students are asking you to slow down in school areas” and the expenditures for allocating human resources from PEs for administrative, field, and other tasks.

The question arises whether the action of educating first graders on traffic safety and the allocation of safety vests should be implemented by a PE whose main activity is “managing, utilization, and maintenance of public parking and garages in the territory of 10 municipalities of the city of Belgrade” or should this be the responsibility of other bodies, such as city secretariats of traffic and education, police directorate, etc. In the observed period, the PE *Parking Servis* spent 6.3 million RSD for the education of students (a contract in the amount of 3.42 million RSD for the first nine months of 2016 was concluded with the company *Block and Roll* and the same company was awarded a contract in the amount of 2,871,000 RSD



in 2017). The total amount of 8,7 million RSD was allocated for vests (2,303,500 RSD in 2015, 3,600,000 RSD in 2016, and 2,850,000 in 2017). A public procurement was planned for a “traffic polygon” in the amount of 2 million RSD “for the education of elementary school students on traffic safety”, while 500,000 RSD was planned for “a new performance show designed for the education of students called *What do you know about the traffic in the city of Belgrade*”. There is no information if these two procurements were realized.

When it comes to the allocation of human resources, the PE did not employ any controllers of other personnel directly, neither for permanent nor for temporary placements. Instead, it announced a competition and hired companies that “rent” workers. In the observed period, five such contracts were concluded, all with the company *SAT Outsourcing* (i.e. a consortium of two companies registered at the same address - *SAT Personnel Services* and *SAT Outsourcing*) in the total value of 770 million RSD.

The public procurement plan for 2016 also contained an interesting item - 4 million RSD was planned for “brokerage services for the purchase of air and other tickets and for booking hotel accommodations for business trips”. The explanation stated that the procurement was implemented for “ticket reservations and hotel bookings for the employees who attended seminars and fairs for professional training and development”.

Judging from the annual plan, the service of ticket reservations and accommodation booking costed as much as official trips, since 1.7 million RSD was planned for daily allowances during the trips and 3.3 million RSD for the costs during the trip. The Public Procurement portal does not contain any information on the realization of this public procurement.

### *Sponsorships, donations, and marketing in 2015*

The business plan for 2015 included the following: 0 RSD for sponsorships 5,988,000 RSD for donations, 500,000 RSD for

humanitarian aid, 400,000 RSD for sports activities, and 9,400,000 RSD for advertising and propaganda.

The latest amendments to the annual business plan, made in October 2015, significantly increased the allocated amounts for certain items (donations and advertisements): 30,000,000 RSD for donations and 35,900,000 RSD for advertising and propaganda.

### *Sponsorships, donations, and marketing in 2016*

In 2016, the amount of 20 million RSD was planned for donations and 8,667,241.03 RSD was spent. The donations of PE to ministries were recorded.

The amount of 35,581,385.43 RSD was spent for **advertising and propaganda** (the planned amount was 35,900,000.00 RSD). The procurement plan included the following: the production of animated and digital materials on the company's activity - 500.000 RSD and the purchase of **broadcasting time - 23.600.000 RSD** (the procurement was carried out to inform citizens about projects, works, and socially responsible campaigns of the PE). The PE did not submit their broadcasting contracts.

### *Sponsorships, donations, and marketing in 2017*

Five million RSD was planned for donations and 35,900,000 RSD for advertising and propaganda. The annual business plan for 2017 contains no explanation for these planned expenditures.

### *PUC Informatika, Novi Sad*

#### *Sponsorships, donations, and marketing in 2015*

In 2015, 1.8 million RSD was planned for advertising and propaganda. The amendments to the annual business plan increased this amount to 2,975,000 RSD, but according to the information from the annual business plan for 2016, 1,794,260 RSD was spent.

There were two distinctive expenditures in 2015: 2,582,072 RSD spent for media coverage that was initially planned to cost 520,000 RSD and 2,494,800 RSD spent for press clipping which is ten times more than the costs of other companies included in this monitoring (there are no precise information on what press clipping services included in the case of this PE and and in the cases of other companies).

### *The review of media contracts in 2016*

- **Radio Dunav, Stefan Street ltd**, Apatin, without the application of the Law on Public Procurement and for the purchase of media time once a month in the duration of 30 minutes and once a month in the duration of one minute in the informational program - 275.000 RSD excluding VAT for 11 months - the new acting director **terminated this contract** in July 2016
- **Kanal 9 ltd**, Novi Sad, once a month in the duration of 30 minutes and once a month in the duration of one minute in the informational program - 1,1 million RSD (11 monthly payments of 100,000 RSD) without VAT
- **TV Most**, Novi Sad, once a month in the duration of 30 minutes and once a month in the duration of one minute in the informational program 1.1 million (11 monthly payments of 100,000 RSD) without VAT - the contract was **terminated** on August 30, 2016.
- **NSAS ltd** once a month in the duration of 30 minutes and once a month in the duration of one minute in the informational program - 550,000 RSD (11 monthly payments of 50,000 RSD) without VAT
- **Melos ltd**, Kraljevo, once a month in the duration of 30 minutes and once a month in the duration of one minute in the informational program - 1.1 million (11 monthly payments of 100,000 RSD) without VAT – the contract was **terminated** in July 2016
- **Novosadska TV** once a month in the duration of 45 minutes and once a month in the duration of 2 minutes in the informational program - 1.1 million (11 monthly payments of 100,000 RSD) without VAT

- **RTV Panonija** once a month in the duration of 30 minutes and once a month in the duration of one minute in the informational program - 550.000 RSD (11 monthly payments of 50,000 RSD) without VAT
- **Lokal Media ltd** for newspaper advertising - 1.8 million RSD without VAT

### *Sponsorships, donations, and marketing in 2017:*

The amount of 1.8 million RSD was planned for advertising and propaganda, 1 million RSD for press clipping, and 2.4 million RSD for donations.

### *PUC Toplana, Niš*

This PUC is characteristic because it **concluded contracts on “monitoring activities”** in 2015 and 2016, by which **the media committed to publish affirmative information on the main activities of PUC Toplana and to seek its opinion before publishing any “negative information”**.

### *Sponsorships, donations, and marketing in 2015:*

In 2015, no funds were planned for sponsorships, 480,000 RSD was planned for donations, 800,000 RSD for sports activities, and 3 million RSD for advertising and propaganda (a 50% increase compared to the previous year).

The PUC submitted the following **media contracts**:

- **Zona Plus** - 50,000 RSD per month. In 2015, 560,000 RSD was spent on increased media coverage of all significant activities of this PUC. Among other things, this included hosting guest speakers, the publication of reports and announcements requested by the PUC, **the affirmation of the PUC’s main activities**, and no publication of negative information before asking for the PUC’s opinion

- ***Kopernikus Cable Network*** - a contract concluded in 2014 and valid until February 2015 in the amount of 48,000 per month. In 2015, 480,000 RSD was spent, among other things, on hosting guest speakers, the publication of reports and announcements requested by the PUC, **the affirmation of the PUC's main activities**, and no publication of negative information before asking for the PE's opinion
- ***RTV Belle Amie***, Niš - 36.000 per month. In 2015, 698.400 RSD was spent, of which 324.000 RSD was an obligation from 2014. Among other things, the contract included hosting guest speakers, the publication of reports and announcements requested by the PUC, **the affirmation of the PUC's main activities**, and no publication of negative information before asking for the PUC's opinion
- ***Narodne Novine*** – 60,000 per month. In 2015, 1,169,220 RSD was spent, of which 326,670 was an obligation from 2014. Among other things, the contract included the delivery of 10 copies of the newspapers, the publication of the announcements, **the affirmation of the PUC's main activities**, and no publication of negative information before asking for the PUC's opinion
- ***RTV Bum 018*** - 30,000 RSD per month. In 2015, 60,000 RSD was spent on the coverage of the PUC's operations through the portal <http://www.gradskiportal018.rs> and the radio, for setting up a banner for PUC's web site.

According to these contracts, the total amount of 2,967,620 was paid.

### *Sponsorships, donations, and marketing in 2016*

The report stated that, in accordance with financial capacities and the rationalization of costs, the PUC tried to support the activities of importance to associations, clubs, and publishers whose goals are directed towards the achievements in areas significant to individuals and the city of Niš. However, the question arises as to why the PUC *Toplana* supported the activities of “importance” to the city Niš, instead of leaving the care of the City to its founder and possibly dedicating its support to the activities that are of importance to its

own operations. It should also be noted that the donations were again relatively small (in the total amount of 266,800 RSD) and that the largest individual donation was 50,000 RSD (*KUD Abrašević* for the participation in the folklore festival, *FK Kopernikus Železničar* for the participation in the international tournament, and *KK Čegar Niš* for the costs of therapy for children with disabilities).

According to the quarterly report, 3.059.800,04 RSD was spent on **advertising and propaganda**, while the annual business plan for 2017 stated that 2.861.760 RSD was spent in the previous year.

**The PUC submitted the following media contracts: *RTV Belle Amie***, Niš - 50,000 RSD per month (plus the cost of VAT borne by *Toplana*) for 11 months; ***Kopernikus Cable Network*** from December 9, 2015 at the television's request for an extension contract - 40,000 RSD per month (plus VAT - 48,000 RSD) for 12 months; ***Zona Plus*** - 50,000 RSD per month including VAT for 12 months; ***Niška Televizija*** NTV - 35.000 RSD per month (plus VAT - 42.000 RSD) for 11 months.

Under the contract, the media obliged to “provide an informative representation” of the PUC by hosting guest speakers and covering company's activities. They are also obliged, among other things, to conscientiously and timely inform the public on all significant activities of the PUC; **to broadcast the reports in agreed terms, in accordance with the program scheme and at the request of the PUC**; to host the representatives of PUC *Toplana* in appropriate programs and in agreement with the PUC; to publish written announcements of the PUC; **to ensure the affirmation of the PUC's main activities** during the entire contract, and not to publish any negative information before asking for the PUC's opinion

- ***Narodne Novine*** - 66.000 RSD per month (including VAT) for 11 months. Among other things, *Narodne Novine* obliged to conscientiously and timely inform the readers of all significant activities of the PUC; to publish written announcement of the PUC; **to ensure the affirmation of the PUC's main activities** during the entire contract, to avoid publishing any negative

information before asking for the PUC's opinion, and to deliver 10 copies of the newspapers to the PUC

- **RTV Bum 018** – 30,000 RSD per month for 11 months. RTV Bum 018 obliged to cover the operations of the PUC through the portal [www.gradskiportal018.rs](http://www.gradskiportal018.rs) and radio, so that the public would be notified on the activities of PUC Toplana via both radio and the company's banner placed on the *RTV Bum 018* portal.

All contracts (except with *RTV Bum 018*), included the obligation for the media during the heating season to distribute service information of relevance to users in the first informational program upon receiving the information, to cover the press conferences of PUC *Toplana*, and to distribute the information from PUC Toplana authentically, without expressing personal opinions and opinions of journalists.

### *Sponsorships, donations, and marketing in 2017*

The amount of 200,000 RSD was planned for donations and 500,000 RSD **for advertising and propaganda, which is significantly lower than in the previous years.** This plan was not achieved in the first quarter "due to high energy consumption and endangered liquidity". Until June 20, 2017, the company has not concluded any contracts with outlets.





## Recommendations for Improving the Law on Public Procurement and the Practice

### Directors

- The Government should **eliminate the inconsistencies from the regulation stipulating the selection of directors**. This should be done in accordance with the proposals that TS previously submitted (assessing the knowledge in all areas of PE's operations; treating lack of the knowledge in these areas as legitimate reason for the elimination of candidates; specifying what is considered as relevant experience; aligning knowledge assessments with business plans of public enterprises; evaluating additional education and years of experience in accordance with their applicability; and establishing the requirement of written assessments as a rule);
- The government should adopt a **by-law which would determine the incentives for professional and successful performance of the duties** of PE directors. The criteria for awarding incentives should include not only the accomplishment of planned financial results, but also the realization of the role for which a public enterprise was founded (meeting the needs of citizens);
- The amendments to the Law on Public Enterprises should **limit the duration "acting appointments"** by stipulating the maximum time period between dismissing a director and completing a competition for a new one;
- The amendments to the Law on Public Enterprises should stipulate the obligation of **publishing all the information**

**which are relevant** for assessing the legality of the competitions and the validity of decisions. These information should be published on the websites of public enterprises and on the websites of the founders. This practice should be established regardless of Law amendments;

- **The competitions announced in previous years** (since 2013) should be completed in a legal manner and their outcome should be made public. In the event that a competition was suspended, the reasons for such action should be made public as well;
- Each new competition should be organized in an efficient manner and should include a **campaign that would encourage quality candidates to apply**. The public and all candidates should timely be informed about all relevant issues;
- The government and other founders of public enterprises, politicians, and the media should **cease the practice of promoting acting directors of public enterprises**. Especially disputable are the situations when one acting director is replaced by another one without explanation, which is presented as the functioning of accountability system;

## Supervisory Boards

- The amendments to the Law on Public Enterprises, authentic interpretation of the Parliament, or the opinion of the Ministry of Economy, should **stipulate what would be considered as “experience in the field of public company’s operations”**, which is one of the conditions for the selection of Supervisory Board members. This condition should apply to the primary activities of PEs;
- The possibility of **increasing the compensation of SB members upon accomplishing good results should be considered, especially in cases of successful supervision of the work** of directors (e.g. when significant omissions and damages were detected or prevented), given that the current level of compensation (average salary) is not in accordance with required responsibilities and expertise;

- The **role of whistleblowers and other control mechanisms** within public enterprises should be affirmed, as well as their relationship with the supervisory board;
- The results of SB work should be analyzed and **their role should be reconsidered** in the next amendment to the Law on Public Enterprises. It is particularly important to emphasize that the role of supervisory boards **is not only to monitor financial results**, but also to ensure the fulfillment of the primary role of PEs in meeting the needs of citizens;
- **The eligibility criteria for selection of supervisory board members should be reconsidered and set in a way that would include a wider range of expertise** (e.g. at least one member should have the knowledge in the field of each of PE's operations, at least one in the field of corporate governance, everyone should have experience in management or supervision, and everyone should complete mandatory trainings) and then make a selection of new supervisory boards in all companies;
- The founders of PEs should **review the fulfillment of the requirements** for SB members, publish the information that prove their eligibility, and dismiss members who do not meet the requirements;

## Transparency

- The Government and other founders of public enterprises, line ministries, and the newly established Government Office for Informational Technology and Electronic Administration **should influence all public enterprises to make internet webpages that would contain all the information** stipulated by the Law on Public Enterprises, as well as all other information essential for the users of their services;
- The amendments to the Law on Free Access to Information of Public Importance should ensure that **all public enterprises and state-owned enterprises have information booklets.**

The compliance with these rules should be ensured by implementing the supervision of the administrative inspection (under the current law) or the Commissioner for Information (under the amended law);

- The **punitive norms** of the Law on Public Enterprises should be applied, **especially in relation to violating the provisions on transparency**, by submitting a request for the initiation of legal proceedings by the line ministry, as well as by using other types of sanctions (initiating the procedure for dismissal due to continuous violation of the rules);
- Local non-governmental organizations and the media, as well as other interested parties (citizens, parliamentary groups, trade unions, and potential candidates without a “party background”) are recommended to **insist on publishing all documents** from the selection procedure and on highest transparency possible, and to point out to any irregularities in the upcoming competitions for the selection of new directors in local public enterprises.

## Advertising, donations, and sponsorships

- The impacts should be reviewed and **the policies and rules in the field of donations and sponsorships should be redefined** for all public enterprises, and not only for those funded from the budget. In both cases, these are the companies that use significant public resources;
- The **marketing needs of public enterprises** should be defined and supported by evidence, both at the legal level and in approving financial plans;
- **The relations between public companies and media advertising should be regulated in a more detailed and more consistent manner** and within the framework of amendments to the Law on Public Procurement, the Law on Public Enterprises, media regulations, or the Law on Advertising;

- **Closer attention should be paid** to the issue of advertising public enterprises and state-owned companies **in the upcoming Media Strategy** (Ministry of Culture), taking into account the findings of this and other relevant research, as well as the reports of the Anti-Corruption Council from 2011 and 2015);

## Other Issues

- The amendments to the Law on Public Enterprises should first **stipulate** and then ensure the application of **the penalties for violating the provisions of the Law** on Public Enterprises in the areas where such penalties are not prescribed;
- The amendments to the Law on Public Enterprises should **clearly regulate the issue of legal consequences for rejecting the business plans** of public enterprises, as well as the decisions adopted by the directors and SB members who do not fulfill the selection requirements for those functions;

Within its means, Transparency Serbia hereby expresses its readiness to provide assistance in the implementation of these recommendations.