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REPORT

Recommendations for improvement of functions related to communication with interested public and the organizational set-up of the Public Procurement Office regarding the implementation of the new Public Procurement Law

April 2019, Belgrade

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PUBLIC PROCUREMENT OFFICE
MINISTRY OF FINANCE
Department for Contracting and Financing
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About the Project

This document was prepared within the Project of “Support to Further Strengthening of the Public Procurement System in Serbia” funded by the European Union and implemented by a consortium led by Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH.

The main purpose of the project is to provide support to developing a stable, transparent and competitive public procurement system in the Republic of Serbia, in accordance with the European Union standards, including enhanced implementation of the strategic and political framework for creating an efficient and accountable procurement system.

The following outcomes are expected from the project:

- strengthened and additionally developed strategic, legislative and institutional framework for public procurement, aligned to the EU *acquis*,
- improved implementation of regulations in the area of public procurement practice,
- established and developed e-procurement platform and
- strengthened capacities and professional competences of the Public Procurement Office of the Republic of Serbia and other relevant target groups.





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INTRODUCTION

This report includes the analysis of the current state of play in performing tasks according to the existing competences of the Public Procurement Office, particularly taking stock of the communication and relations with the interested public in the Republic of Serbia. As presented below, there are several communication channels through which the Public Procurement Office establishes and maintains its relations with the interested public, including all legal consultations held, preparation of models and acts under the Office competences and their availability to public, consultations regarding public procurement, their planning and reporting and other relevant issues. Analysis has been conducted by each of the above items, in accordance with the information provided directly from the Office and those that are publicly available, as well as after determining of all relevant facts compared to the current legal arrangements, by-laws etc, so conclusions have been inferred and proposals made to improve the quality of the Office's functions regarding the communication with external public.

Also, bearing in mind that the implementation of the new Public Procurement Law is envisaged from January 2020, this report comprises an analysis of Office's functions with conferred tasks vis-à-vis the new legal arrangement, which implies the change in certain parts of conferred competences, in terms of consolidated, i.e. broadened competence of the Office, which directly reflects on certain organisational units.

The analysis provides a snapshot of the current organizational set-up, organizational units, systemized job positions and number of staff per job positions, which is currently one of the most serious problems that the Office is facing, regarding the full capacities for performing conferred tasks at the highest possible level of work quality. With this regard, conclusions and recommendations for improvement are provided, along with charts describing working processes expected outcomes, identifying the changes to be undertaken in order to achieve the ultimate goal, which was set as streamlining the functions and enhancing efficiency and effectiveness of work under the new Public Procurement Law.

It should be highlighted that the whole report was developed in accordance with information and documents obtained directly from the Office as well as from the publicly available information and that it is necessary to pay a special attention to the new legal arrangement in the area of public procurement when considering it and when potentially implementing the proposed solution and to include the necessary corrections and harmonization with practice after the new Public Procurement Law comes into effect.





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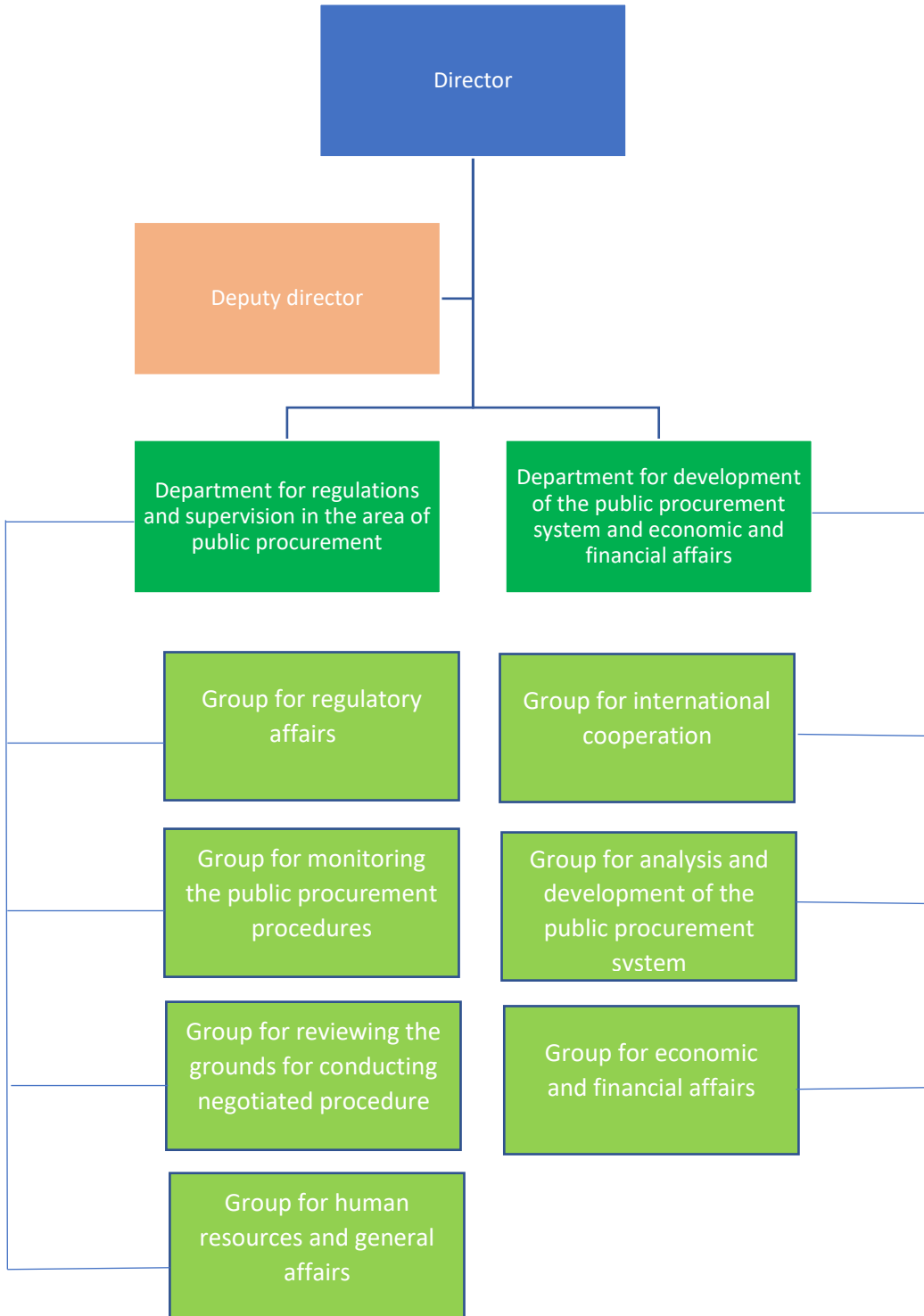
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THE EXISTING ORGANISATIONAL SET-UP OF THE PUBLIC PROCUREMENT OFFICE





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JOB SYSTEMISATION AT THE OFFICE

An overview of the current managerial positions and executorial positions of civil servants.

Managerial positions	Number of staff
I group of positions	1
II group of positions	1
IV group of positions	2

Executorial positions (number and title)	Number of staff
6 job positions – senior advisor	6
6 job positions – independent advisor	11
5 job positions – advisor	7
4 job positions – junior advisor	4
2 job positions – advisor	2
3 job positions - officer	4

By the current systemization, the total number of systemized job positions at the Office is 31, with a total of 38 civil servants.





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THE SCOPE OF COMPETENCES OF THE PUBLIC PROCUREMENT OFFICE UNDER THE CURRENT PUBLIC PROCUREMENT LAW

Under Article 135 of the current Public Procurement Law¹ (PPL), the Public Procurement Office is a special organization which monitors the application of this Law, adopts bylaws and performs professional activities in the area of public procurement, monitors the conducting of public procurement procedures, controls the use of certain procedures, runs the Public Procurement Portal, prepares reports on public procurements, proposes measures for improvement of public procurement system, provides professional assistance to contracting authorities and bidders, contributes to the creation of conditions for cost-effective, efficient and transparent use of public funds in public procurement procedures.

Functioning and organization of the Public Procurement Office are governed by legislation on civil service, unless the PPL provides otherwise.

The Public Procurement Office performs the following activities:

- 1) monitoring of the PPL implementation;
- 2) adopting the bylaws in the area of public procurement;
- 3) participation in drafting the regulations in the area of public procurement;
- 4) issuing opinions on interpretation and application of provisions under the PPL;
- 5) examining the fulfillment of requirements for conducting negotiated procedure under Article 36 of the PPL and for competitive dialogue;
- 6) proposing a list of contracting authorities to the Government, according to data from reports and records on public procurements it possesses;
- 7) appointing a civil supervisor;
- 8) preparing framework agreement models;
- 9) defining standard forms of public procurement notices;
- 10) defining the manner of keeping records and drafting public procurement reports;
- 11) compiling quarterly and annual reports on public procurement;
- 12) defining the manner and program of professional training and the manner of expert examination for public procurement officers, and keeping the register of public procurement officers;
- 13) managing the Public Procurement Portal;

¹ The Official Gazette of RS, no. 124/2012, 14/2015 and 68/2015.





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- 14) taking measures aimed at development and upgrading of the public procurement system;
- 15) filing requests for the protection of rights;
- 16) notifying the State Audit Institution and Budgetary Inspection on identified irregularities in conducting public procurement procedures and delivering public procurement reports;
- 17) initiating misdemeanor procedure when learns in any way of a violation of the law which can be the grounds for minor offence liability;
- 18) initiating the procedure for annulment of a public procurement contract;
- 19) preparing templates for decisions and other acts that contracting authorities make in public procurement procedures;
- 20) collecting statistical and other data on conducted procedures, concluded public procurement contracts and the overall efficiency of the public procurement system;
- 21) publishing and disseminating relevant expert literature;
- 22) collecting information on public procurement in other states;
- 23) preparing plans and normative acts and, with consent of the Government, performing other activities related with negotiations on accession to the EU in the domain of public procurement;
- 24) cooperation with foreign institutions and experts in the field of public procurement;
- 25) cooperation with other governmental bodies and organizations, as well as bodies of a territorial autonomy and local government;
- 26) performing other tasks in accordance with the PPL.

In conducting the Office's monitoring role in the application of the PPL, all governmental bodies and organizations, offices and bodies of territorial autonomy and local government, contracting authorities and bidders or applicants, are obliged to provide necessary information and documents in their possession or under their control to the Public Procurement Office, within the given deadline.

The Public Procurement Office submits special annual report on the monitoring of the application of this Law to the Government and the committee of the National Assembly in charge of the finance, by April 30 of the current year, for the previous year.

Under Article 137 of the PPL the Public Procurement Office is managed by its Director, appointed a from among the ranks of public procurement experts, after having conducted public competition. The Director of the Public Procurement Office adopts an act which governs the job systematization.





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Regarding the competences, i.e. functions of the Office pertinent to support to contracting authorities and economic operators, particularly regarding assistance in form of legal consultations, consultations on procurement planning and reporting, tasks related to of the PPL, managing of the Public Procurement Portal etc, the following has been identified:

1. The Office communicates with interested public through the Call Centre services, providing the following:
 1. Information regarding the expert examination for public procurement officers, working hours 7.30 – 15.30
 2. Consultations regarding the Public Procurement Portal, public procurement plans and quarterly reporting, working hours 9.00 – 14.00
 3. Consultations regarding the implementation of the Public Procurement Law, working hours 9.00 – 11.00
2. The Office communicates with interested public by publishing relevant information on the Office official web page www.ujn.gov.rs, in that:
 1. The official opinions and interpretation of regulations on public procurement
 2. Information placed in the “Frequently Asked Questions” (FAQ) section
 3. Document models under the PPL, guidelines and instructions, analyses, etc.
 4. Video tutorials for work on the Public Procurement Portal.





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CALL CENTRE

On the basis of the information provided by the Public Procurement Office, the state of play of communication with interested public through the Call Centre is as follows:

- Three telephone lines have been activated for services provided by the Call Centre, the most important one being the line for consultations on interpretation and opinions related to the implementation of the PPL. The current daily average number of calls to this line is 15, with several elements that need to be taken into account when analyzing the number of calls to the Call Centre:
 - o The PPL with its latest amendments has been implemented since 2015, so the interested public is already familiar with the implementation and interpretation of regulations in this field, so the number of calls is quite expectedly lower. Also, depending on the period of the year, a lower number of calls are identified at the beginning of the year, during holiday seasons, etc. and a higher number is registered, for example, in the last quarter of the year, which coincides with the approved budget execution of contracting authorities, etc.
 - o With any amendment to the provisions of the PPL, the number of calls is initially higher, and *vice versa* – the longer the implementation of the amended PPL, the lower the number of calls to the Office gradually becomes.
 - o Calls can be taken solely by the professionally trained persons, given the professional and informal opinions and interpretations provided in relation to the implementation of the PPL. The number of staff currently performing this task on line 2888713 is 7.
- Regarding the telephone lines of the Call Centre for consultations on the work on the Public Procurement Portal and quarterly reporting, as well as the information on taking expert exams for public procurement officers, bearing in mind the information published on the Office's official website, the complexity of the tasks performed by the staff, the level of responsibility and the working hours, according to the data provided by the Office (the number of staff appointed to these tasks is 3, with 1 working on line 2888712 and 2 on line 3036318), they are deemed to fully meet the users' needs as well as the Office's human resource capacities.
- Regarding telephone lines of the Call Centre, the Office provided data on the average call duration and daily number of received calls, presented in the table below:





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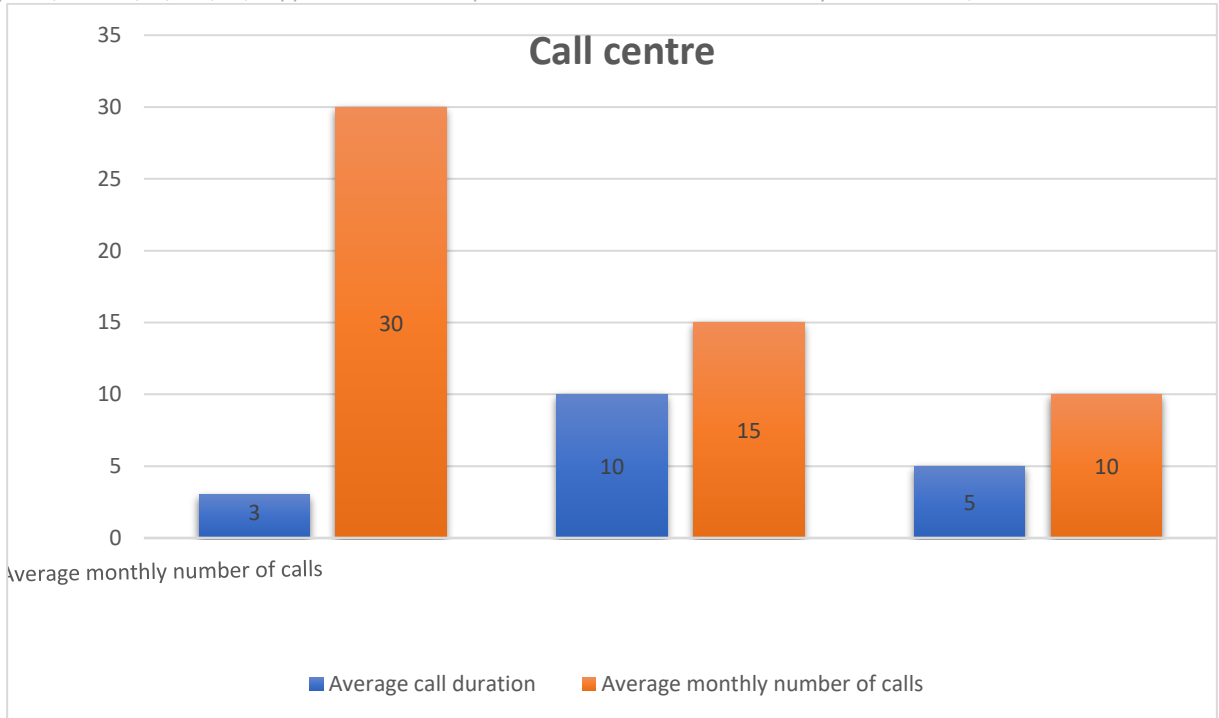


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- 1 – Expert exam taking line
- 2 – Consultations regarding PPL implementation line
- 3 – Line for Public Procurement Portal, plan, reports





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PPO'S OFFICIAL WEB PAGE

On the official web page of the Public Procurement Office, official opinions and interpretations have been published since 2015, so there are currently 52 documents published for the interested public information.

The insight into the Rulebook on Job Systemisation provided the information on job descriptions related to uploading, management and administration of the Office official page contents, and, according to the information provided by the PPO, these tasks are performed along with others by an officer, who has been trained for work in the *Content Management System (CMS)* of the official website.

THE PUBLIC PROCUREMENT PORTAL (PPP)

The highest number of documents are published on the Public Procurement Portal and are related to the opinions on negotiated procedures without publication of a contract notice, and the uploading of the contents is done by two officers trained for work in the Office official website's CMS. According to the information provided by the Office, there are 150 such opinions published monthly on average, so these are the largest part of the PPP content-wise. The preparation of opinions, including review of grounds, development of opinions, submission for approval of the competent managers, are performed by officers professionally trained to work on these issues, from the Group for Reviewing the Grounds for Conducting Negotiated Procedures without Publication of a Contract Notice (staff number: 3). There are no deployed staff members of the Group in positions for preparing opinions, so all the tasks related to the grounds for conducting negotiated procedure without publication of a contract notice are performed by 2 officers and the Head of the Group, although this is a very large workload with legally binding deadlines for submission of opinions/interpretation, where the PPO's efficiency must not be challenged, so the conclusion is that, with the engaged capacities, the PPO efficiently performs the conferred tasks in this field.

e-MAIL ADDRESS

The PPO's official email address is also in use: office@ujn.gov.rs although this address is not displayed anywhere on the Office's web page. Through this address, the interested public can contact the Office, but queries regarding the submission of official opinion or interpretation of the implementation of the PPL may be submitted solely in line with the procedure in accordance with the PPL, so it may be inferred that the procedure is the same as when the request is submitted in paper copy. The Office does not submit replies in electronic form, unless the applicant expressly demands that, which only expedites the opinion provision in terms of





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hand delivery. Concerning the human resources deployed in these positions, opinions are drafted by professionally trained officers in the regular work flow.

The official address for electronic communication with the PPO can be found in the Information Booklet uploaded on the PPO's official web page.

CONCLUSIONS AND RECOMMENDATIONS

- A. From all the above, the following can be concluded on the Call Centre's operations:
1. Regarding the measuring of the Call Centre function and its efficiency, basically it can be concluded that the working hours should be enhanced in expected peak times, especially after the new PPL adoption, because the expected number of calls for opinions shall rise so it is necessary to provide adequate human resources to respond to the demands. Given that the PPO has got three telephone numbers working at certain intervals, that there are no multiple lines at the same number, which would imply having a conversation with one user without keeping other users waiting, the number of phone calls answered is not indicative data as element for efficiency measuring.
 2. Also, in order to alleviate the pressure on the Call Centre, it is proposed to introduce also e-mail communication and/or query form uploaded on the official web page of the Office, with pre-defined cells and instructions for filling them out (scroll-down menu, offered answers, etc.), with automatic submission received by authorized administrator with a pre-defined set of basic or generic answers if possible, in order to enhance the efficiency and to relieve the Call Centre. Given the current legal provisions, this form of communication could be used for queries not related to the implementation of the PPL, with the current regulations and procedures in this segment taken into account.
 3. In accordance with the previous items, it is necessary to identify the working procedures for the proposed tasks, defining, *inter alia*, the manner of delivering answers, recipients/senders of specific requests, etc.
- B. Regarding the official web page of the Public Procurement Office, according to the world service for ranking websites (Alexa.com) the official website of the PPO is on 278th place in Serbia in terms of a number of visits. According to the "Google Trends", the following trend has been identified in Serbia in the past 12 months regarding the interest in 3 relevant categories, in the following order:
1. Public Procurement Office
 2. Public Procurement Law
 3. Public Procurement Portal





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In accordance with the above stated, it may be concluded that the public interest in the Office's affairs is still significant, so, according to the Alexa.com analysis, it could be assumed that the prevailing source of information related to the public procurement area is the Office's website. Also, the assumption is that the Public Procurement Portal is intended for a narrower target group among the interested public, so it is inferred that the logical sequence is related to the search trend.

Table: Google trends, web search interest, Serbia, for 2018, by weeks

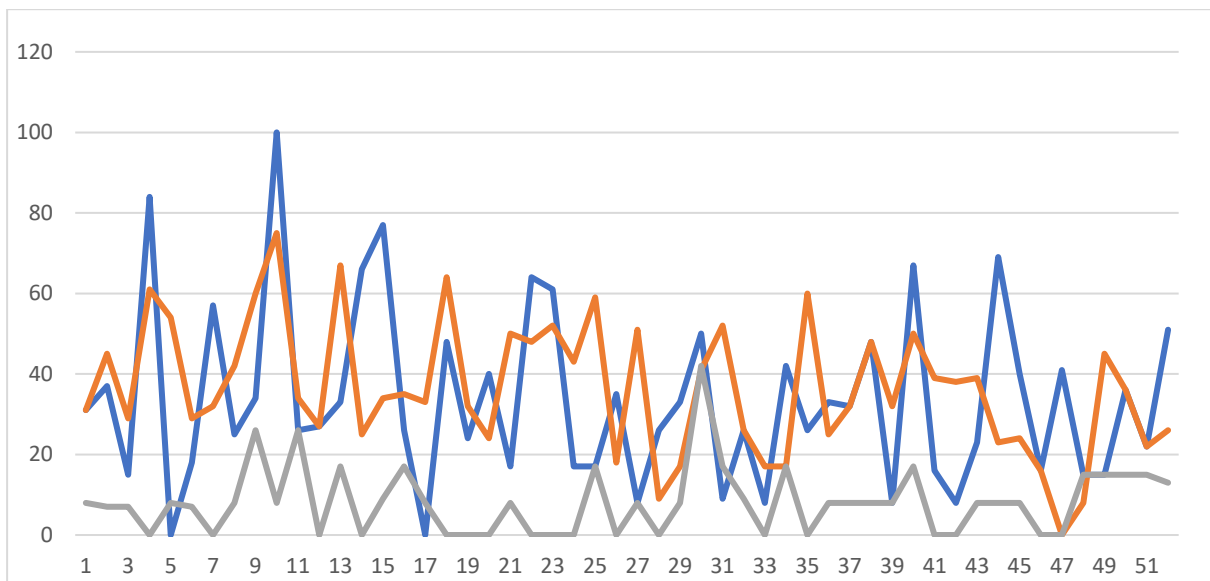


Table: Google trends, average interest, web search, Serbia, for 2018





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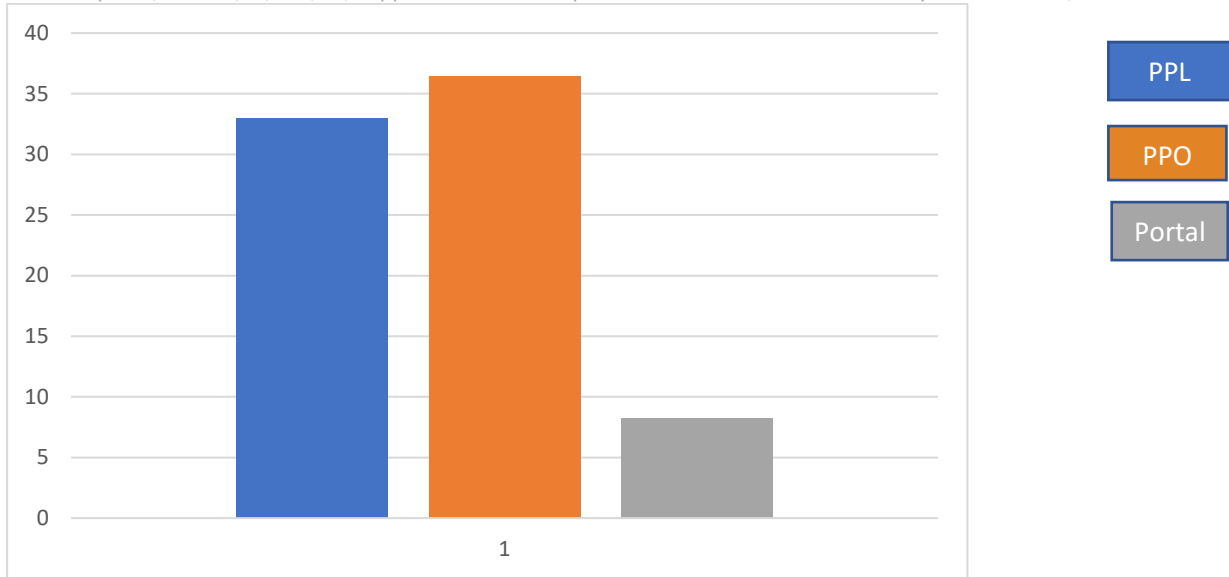


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The PPO's official website structure:

Category	Home page/Current affairs	About us	Regulations	Documents	Notifications	Activities	Reports	News	Links	Contact
Subcategory		Competences	The Law	Models	Competitions	Public procurement development strategy	Planning and reporting software			
Subcategory		Organisation	By-laws	Guidelines and instructions		Public procurement	PPO reports			
Subcategory		Work information booklet	Prior regulations	Opinions and explanations		Video tutorials	International reports			
Subcategory			Other regulations	Analytical documents			Reports of civil supervisor			
Subcategory				Internal acts						



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The analysis of the PPO's official website shows the following:

- There is a Cyrillic, Latin and English version of the website, and they are not the same by structure or by contents either. The Cyrillic version of the website is most complete and has most contents, which are noticeably updated on a regular basis for certain pages.
- There is no search option by key words.
- There is no uniform presentation of documents (pdf, Word, text).
- Certain contents, like "Previous Regulation", "Document Models under Previous Regulations", "Public Procurement Contract Notices from Previous Years", are redundant, given that they are of no consequence for the public, in terms of period, whereas there are no relevant documents for certain items in terms of period, e.g., International Reports for the period 2006 to 2009.
- "Frequently Asked Questions" refer to the page "Opinions and Explanations".
- In "Contacts", there is no official email address of the Office, which is at the disposal for communication between the interested public and the Office.
- The "Home page" category is identical with the category "News".

On 02/04/2019, a new official web page of the PPO was launched. The analysis of that part follows below.

The structure of the new PPO website:

Category	Home page/News	About us	Regulations	Documents	News	Reports	Activities	Contact
Subcategory		Competences	Law	Models		Planning and reporting software	Public procurement development strategy	
Subcategory		Organisation	By-laws	Guidelines and instructions		PPO reports	Public procurement	
Subcategory		Information booklet	Previous regulations	Opinions and explanations		International reports	Video tutorials	
Subcategory			Other regulations	Analytical documents		Reports of the civil supervisor		
Subcategory				Internal acts				





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The analysis of the PPO's official website shows the following:

- Visually, the website has been improved, both by user-friendliness and users' experience in general.
- The general conclusion is that this new version of website has kept the same categories and subcategories, except for the "Notifications" and "Links". "Links" are on the home page, in the lower part of the presentation, which streamlined the structure.
- There are both Cyrillic and Latin version of the website, identical by structure and contents, which is an improvement compared to the previous PPO website.
- The "Frequently Asked Questions" section has been eliminated and the new version has got the "Opinions and Explanations" instead, having thus removed the flaw of the previous website and streamlined the structure and contents.
- There is no search option by key words, just as the old PPO website version did not have it either.
- Certain contents, e.g. "Previous Regulations", "Document Models under Previous Regulations", "Public Procurement Contract Notices from Previous Years" are still present at the new website version, so the necessity thereof should be reviewed as not all of them are relevant for the public, whereas there are no relevant documents for certain items in relation to periods, e.g. "International reports" for the period from 2006 to 2009 (same conclusion as for the previous version).
- In "Contacts", improvements have been made by introducing the contact form, but there is still no official email address of the Office available for the interested public to communicate with the Office (not necessarily a shortcoming in lack of information on the official email address given the additional user-friendliness of the website with the contact form).
- The home page has been improved by all means, so the user experience is now better than with the previous version, because it has been visually bettered and the key items are now highlighted with better navigation and website structure on the whole. In addition, the Home Page in the latest version leaves an impression that it can provide information of key importance, e.g. amendments to the regulations / adoption and entry into force the new regulations, beginning/end of public consultations, new document models, new instructions etc, which was not available with the old version.



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- The website structure has been reorganized, search is easier and it is more user-friendly (symmetry has been achieved, certain categories and subcategories of the website have been eliminated or reorganized, the presentations are uniform, etc.).
- On the pages of “activities” and “news”, the criterion of categories’ setting is not clear for all contents (e.g. conferences belong to “Activities” and holding workshops belongs to “News”, although they could belong to the same category content-wise).
- The website navigation has been improved, so there is a clear flow leading the user to the wanted contents. It is possible to additionally improve the navigation with possible introduction of search functionality. In case of introducing search field, it is necessary to establish whether search could be done by key words without changing the script (Cyrillic/Latin), “Unicode” functionality.

Regarding the entry and administration of contents on the PPO official website, bearing in mind the number of published information and documents on a monthly basis, for the tasks of working within CMS, training is proposed for the existing Office staff with lower qualifications, in accordance with the assessed complexity of task performance staff increase should also be considered (up to two officers), with this task being part of their job description. In that sense, it is necessary to add this to the job descriptions in the Rulebook on Job Systemisation.

C. Public Procurement Portal (PPP)

Having in mind the current PPP functionalities under the current law, i.e. that the PPP currently does not perform the function of e-procurement entirely, the assessment is that it mainly meets all the criteria regarding search, definition of categories and subcategories, user-friendliness, navigation and user experience. What could serve for improvement of user experience in the first place, is a Latin script version, as well as the English version fully translated into English, which is currently not the case.

Regarding the number of PPP hits, the Office possesses official data from Google Analytics source, and the number of daily hits by years is as follows:

2016: 7,039 daily hits

2017: 8,148 daily hits

2018: 8,082 daily hits

It can be inferred that the number of visits has remained at almost the same level in the past two years, and the proposal is to certainly embark on a more in-depth analysis by several criteria, one of them being the so-called “unique visits” by categories and the trend in the past 3 years. The reasons for somewhat lower number of visits in 2018, compared to 2017, could be various, not necessarily the lack in contents and functions of





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the PPP itself, given that the insight suggests that PPP is very user-friendly and functional
in terms of users' experience.

The PPP key data for 2018 are:

- a. Total number of published PPs: 61,136
- b. Total number of published decisions of the Republic Commission for Protection of Rights: 1,170
- c. The average number of tenders published per day: 167
- d. Total number of newly registered users: 320

The Office currently keeps the Portal in cooperation with a private company, under a contract on business and technical cooperation:

- *Bearing in mind that no insight has been made into the contract, it is necessary to establish whether there is an adequate procedure in place between the Office and service provider, defining all the processes and the course of execution (scope of support, problem description, problem report, reply to the request, etc. (Service Level Agreement). If the above has not been defined, the suggestion is to define the procedure by all relevant parameters.*
- *In the Office's job systemization, 1 officer is responsible for the communication with the service provider.*

According to the information obtained from the Office, direct cooperation has been established between the Office and the service provider, regarding the technical and technological support to the Portal's work, through 1 PPO officer who at the same time performs the tasks of contents uploading and the official web page administration, and the activity flow and division of duties related to communication with the interested public goes in the following way:

1. *Problem reporting through the Offices Call Centre for the users*
2. *In case the Office's Call Centre is unable to independently provide a reply to the user, it shall refer the request for problem solving to the service provider via email*
3. *Upon reception and possible execution of the requested, the service provider does not submit any feedback to the Office's Call Centre.*
4. *The Office's Call Centre does not submit any feedback to the user.*





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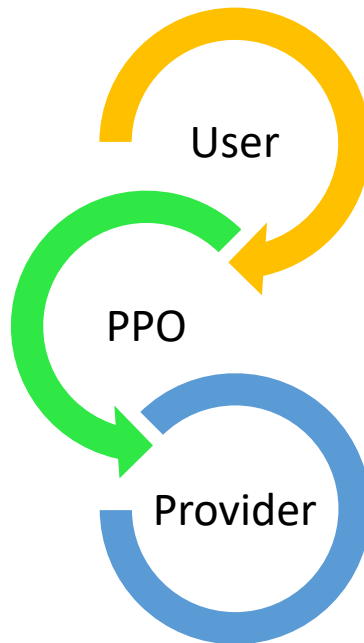
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The actual process flow chart



In accordance with the above description of the procedure for problem reporting and request execution, the conclusion is that in this segment there must be notification to the PPO as well as that from the PPO to the user. The service provider's reply must contain a confirmation of the request receipt, expected time of execution, confirmation that the request has been executed in due time, i.e. in case of performing more complex tasks on the system, the new expected time for execution and the confirmation thereof. By the same token, the PPO could adequately deliver its reply to the user, which also meets the criteria for communication with the interested public.





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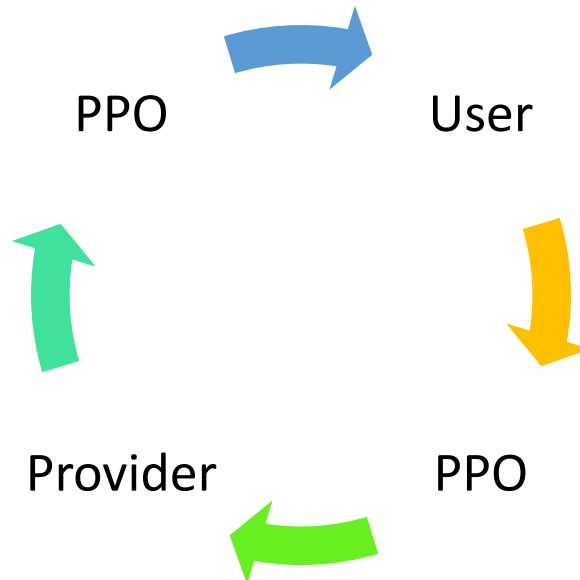
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The needed process flow chart



Under the new PPL, the Office shall establish a new Public Procurement Portal, in cooperation with the Office for e-government and IT (hereinafter: the Portal). According to the new PPL, the Office remains responsible for the Portal management (such as tasks in content administration, content organization and definition, filing requests for the Portal improvement and organization, etc.), while the e-Government Office shall be responsible for technical and technological support to the Portal's functioning. In this segment, having in mind the importance of the so-called e-procurement, with the basic principles of transparency, enabling fast access to relevant information and enabling easy and fast communication without additional costs, developing sound competition among economic operators, etc, the Office shall constantly improve the procurement system via the Portal, by introducing new Portal functionalities, such as data search by all criteria, subscription to notifications on newly launched tendering procedures by various criteria, e.g. by procurement subjects or core activities of contractors/suppliers, etc. These are already foreseen as the Portal improvements following the implementation of the new Public Procurement Law.

Since e-procurement is a key novelty in public procurement under the new Public Procurement Law, the Office is faced with the challenge of successful and quality implementation of this reform by introducing all the functionalities to this Portal. This implies the Office providing also human resources to provide users support related to the Portal use, namely staff with the necessary knowledge and experience with this work and through direct communication with users – the Call Centre, e-mail communication, i.e. contact forms/problem reports/chat, and the like, and also via all other communication channels like video instructions and tutorials for use. The estimate is that communication





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EuropeAid/137117/IH/SER/RS, Support for further improvement of Public Procurement system in Serbia, IPA 2013 related to user support will be increased owing to the introduction of new Portal, with introduction of new functionalities, increased scope of contents and potentially higher number of Portal users in general.

Also, since the Office's responsibilities are set forth by the new PPL through "the management of the Portal", the conclusion is that the Office will be responsible for:

- establishing the internal working procedures
- establishing procedures for work in the light of differentiation of responsibilities and definition of precise activities with e-government, in terms of setting clear rules and working instructions, competent units and managers, scope of powers and responsibilities, etc.
- providing adequate business processes related to problem reports, i.e. Users' requests for their solving, and notification of users in the manner presented in the Flowchart of the Necessary Processes.

All the above indicates the necessity of new staffing, i.e. job positions related to the Portal management, which will be discussed in the chapter on Proposed Changes, on page 34 of this report.

D. OTHER COMMUNICATION CHANNELS

Regarding the communication with the Office on other elements, such as:

1. Publishing official opinions and interpretation of regulations in public procurement
2. Publishing information through the section of "Frequently Asked Questions" (FAQ)
3. Model documents according to the PPL, guidelines and instructions, analytical acts, etc.
4. Video tutorials for the work within the Public Procurement Portal,

the conclusion is that the Office has uploaded all the necessary documents, including, but not limited to model documents according to the PPL, guidelines and instructions, analytical acts, handbooks, so the Office may be deemed to be performing the conferred tasks successfully. In the video tutorial segment, the existing section could be improved by uploading additional material, especially due to the incumbent changes and introduction of e-procurement during 2020, which would additionally improve the communication with the interested public and relieve the other communication channels from pressure.





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Also, the Office participates in holding workshops, trainings and seminars related to the implementation of the PPL, but currently it does not have the capacities to independently organize them, but such programmes are conducted with technical assistance projects, consultants in this field, by invitation by the organizers. According to the information from the Office, the plan is for the PPO to pay more attention to this segment of communication in the future and launch the process to enable independent organizations of such events which are recognized by the interested public as necessary. In that sense, it will be necessary for the PPO to assign professionally competent human resources able to deliver trainings, workshops, etc. not jeopardizing regular performance of activity by the PPO and that of conferred tasks, given the current imbalance between the existing capacities and needs for certain job positions. According to the obtained information, training will be delivered by all employees in public procurement positions, except for staff with high school degree, which would potentially include 21 staff members.



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THE CURRENT OVERVIEW OF THE JOB POSITIONS AND NUMBER OF STAFF WITH THE PPO

Ordinal number	Name of organizational unit	Job position	Number of staff members per position
1.		Director	1 member
2.		Deputy Director	1 member
3.	Group for regulatory affairs – 3 members total of 6 envisaged* (*2 positions have staffing, but their length of service is in standstill, so this analysis took it for no members in these positions)	Head of Group	1 member
4.		Regulatory and professional affairs in public procurement	2 members – in both cases the employment status is inactive (because of job protected leave)
5.		Providing opinions	1 member
6.		Drafting opinions	2 members 1 vacancy
7.	Group for reviewing the grounds for conducting negotiated procedure – 3 members total of 5 envisaged	Head of Group	1 member
		Drafting opinions on compliance with requirements for negotiated procedure	2 members
8.		Drafting opinions on compliance with requirements for negotiated procedure	2 members – both positions vacant
9.	Group for Monitoring Public Procurement Procedures - 3 staff members of 6 envisaged	Head of Group	1 member
10.		Preparation of acts in monitoring, control and oversight of procurement procedures	4 members – 2 vacancies
11.		Preparation of acts in monitoring, control and oversight of	1 member – vacancy





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		procurement procedures	
12.	Group for HR and general affairs - 3 members total, of 4 envisaged	Head of Group	1 member
13.		Support to HR and general affairs	1 member – vacancy
14.		Record keeping and administrative affairs	1 member
15.		Office and administrative affairs	1 member
16.	Group for international cooperation – 3 members 4 envisaged	Head of Group	1 member
17.		International cooperation position	1 member
18.		Support to project planning and preparation	1 member – vacancy
19.		Record keeping and administrative affairs	1 member
20.	Group for analysis and development of Public Procurement System – 4 members of 5 envisaged	Head of Group	1 member – vacancy
21.		Analysis and development of the Public Procurement System	1 member
22.		Studies and analyses	1 member
23.		IT position	1 member
24.		Statistics, record keeping and administrative affairs	1 member
25.	Group for economic and financial affairs - 3 members of 4 envisaged	Head of Group	1 member
26.		Economic and financial affairs	1 member – vacancy
27.		Support to financial affairs	1 member
28.		Accounting position	1 member





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The above tabular overview indicates that, by type and size of work in positions, as well as by the importance of these positions under the current Law, the largest deficiency in human resources is identified in the Group for regulatory affairs, Group for reviewing the grounds for conducting negotiated procedure as well as in the Group for monitoring public procurement procedures (deficiency rate 40-50%).

Thus, through insight into the given data, the conclusion is that currently there are no staff members engaged in positions for drafting opinions on compliance with the requirements for conducting negotiated procedures without publication of a contract notice and the assumption is that these tasks are performed by staff in other job positions within the Group – Head of Group, staff in positions for reviewing the grounds for conducting negotiated procedure without publication of a contract notice. *Ipsa facto*, the conclusion is that the PPO does not have enough capacities, which can directly affect the functioning of the Office as a whole, in terms of efficiency and the entire performance of conferred tasks.

It should also be emphasized that certain organizational units, such as the Group for regulatory affairs and Group for monitoring public procurement procedures, by the above criteria, are of vital importance for the PPO functions, which gets particularly evident against the backdrop of the implementation of the new PPL and PPO's defined competences.

THE PROPOSED NEW PUBLIC PROCUREMENT LAW, EXPECTED CHANGES

According to the new proposal of the Public Procurement Law, the implementation of which will commence on 01/01/2020², the Public Procurement Office is established with the following professional tasks to undertake:

- 1) preparing a strategy for development and improvement of public procurement in the Republic of Serbia;
- 2) performing monitoring over the application of public procurement legislation and submission of annual reports on the conducted monitoring;
- 3) filing a request to initiate a misdemeanour procedure for the offences stipulated by the Law, filing a request for the protection of rights and initiating enforcement of other relevant procedures before the competent authorities when, on the basis of the

² The Draft Public Procurement Law after public consultations <http://www.ujn.gov.rs/vesti/nacrt-zakona-o-javnim-nabavkama-nakon-sprovedene-javne-rasprave/>





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EuropeAid/137117/IH/SER/RS, Support for further improvement of Public Procurement system in Serbia, IPA 2013 monitoring, the Office notices irregularities in the implementation of public procurement regulations;

- 4) participating in the drafting laws and other regulations in the field of public procurement and adopting bylaws in the field of public procurement;
- 5) providing opinions regarding the application of the provisions of the Law and other regulations in the field of public procurement;
- 6) providing expert assistance, preparing guidelines, manuals as well as other publications in the field of public procurement and taking care that they are equally available to contracting authorities/entities and economic operators free of charge;
- 7) collecting statistical and other data on the conducted procedures, concluded public procurement contracts and preparing a special annual report on public procurement;
- 8) prescribing the procedure and conditions for obtaining the certificate for public procurement officer and maintaining the register of public procurement officer;
- 9) managing the Public Procurement Portal;
- 10) undertaking necessary activities in relation to the EU accession negotiations, in the field of public procurement;
- 11) cooperation with domestic and foreign institutions and experts in the field of public procurement in order to improve the public procurement system;
- 12) cooperation with state authorities and organisations, bodies of territorial autonomies and of local self-governments;
- 13) performing other activities in accordance with the law.

Of the above professional tasks, the substantial change compared to the current Law text is in monitoring tasks, improved in the new text. Under Article 180 of the new Law, monitoring over application of the PPL is conducted by the Office for the purpose of preventing, detecting and removing irregularities that may arise or that have arisen in the application of the Law. The Office is responsible for approve an annual monitoring plan by the end of the current year for the following year, pursuant to which it will conduct monitoring and submit the annual report on conducted monitoring to the Government by 31 March at the latest.

The Public Procurement Office is authorized to more specifically regulate the manner in which monitoring is performed.

According to the existing Rulebook on Job Systemisation, monitoring is conducted by the Group for Monitoring Public Procurement Procedures, Department for Regulations and Monitoring.





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The Group for Monitoring Public Procurement Procedures currently performs the following tasks:

1. Monitoring public procurement procedures;
2. Filing requests to contracting authorities for submission of documents regarding the procedures monitored;
3. Monitoring the implementation of the Public Procurement Law;
4. Participation in developing the anti-corruption plan in public procurement;
5. Filing request for review (protection of rights);
6. Informing the State Audit Institution and Budget Inspectorate on irregularities in conducting procurement procedures and in submission of reports on public procurement;
7. Initiation of misdemeanours procedure in case of violation of the law that may constitute misdemeanours liability;
8. Initiation of procedure for establishing the nullity of public procurement contracts;
9. Appointment of civil supervisor;
10. Tasks relative to action upon requests for free access to information of public importance;
11. Cooperation with foreign institutions and experts on public procurement from the Group's domain;
12. Cooperation with other national authorities and organizations, bodies of territorial autonomy and local self-government from the Group's scope;
13. Other tasks in accordance with the law.

Proposal: According to the new PPL provisions related to the PPO's competences, the Group for Monitoring Public Procurement Procedures should undergo certain changes regarding the tasks performed, so the following set of tasks is proposed:

1. Monitoring public procurement procedures;
2. Filing requests to contracting authorities for submission of documents regarding the procedures monitored;
3. Development and adoption of the annual monitoring plan;
4. Monitoring the implementation of the Public Procurement Law;
5. Drafting report on conducted and analysed monitoring of the PPL implementation;





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6. Participation in developing the anti-corruption plan in public procurement;
7. Filing request for review (protection of rights);
8. Informing the State Audit Institution and Budget Inspectorate on irregularities in conducting procurement procedures and in submission of reports on public procurement;
9. Initiation of misdemeanours procedure in case of violation of the law that may constitute misdemeanours liability;
10. Initiation of procedure for establishing the nullity of public procurement contracts;
11. Tasks relative to action upon requests for free access to information of public importance;
12. Cooperation with foreign institutions and experts on public procurement from the Group's domain;
13. Cooperation with other national authorities and organizations, bodies of territorial autonomy and local self-government from the Group's scope;
14. Other tasks in accordance with the law.

Three positions are systemized: Head of Group (number of staff envisaged: 1), job position for monitoring, control and oversight of public procurement procedures (envisaged number of staff: 4) and the position for drafting acts on monitoring, control and oversight of public procurement procedures (envisaged number of staff: 1).

The job descriptions are as follows:

Head of Group

Job description:

1. Manages and plans the Group's work, provides professional instructions, guides and monitors the work of civil servants within the Group;
2. Participates in defining annual monitoring plans
3. Organises and coordinates the monitoring of public procurement procedures
4. Monitors the implementation of the Public Procurement Procedures;
5. Organises and controls the work on appeals (requests for protection of rights);
6. Develops reports on monitoring, with conclusions related to most frequent causes of irregular law implementation, structural problems and problems in applying regulations with proposed measures in the area of public procurement;



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7. Informs the State Audit Institution and Budget Inspectorate of irregularities in conducting public procurement procedures and cooperates with competent authorities and foreign institutions in order to improve the public procurement system in the domain of the Group;
8. Coordinates the work on drafting acts for initiation of misdemeanours procedure and procedure for declaring the nullity of contracts;
9. Participates in development of anti-corruption plan for public procurement;
10. Performs tasks related to availability of information of public importance;
11. Cooperates with foreign institutions and experts, national authorities and organizations, bodies of territorial autonomy and local self-government;
12. Performs other tasks as ordered by assistant Director.

Title: senior advisor

Requirements: Acquired higher education degree in the area of jurisprudence at bachelor university studies with minimum 240 ESPB credits, master academic studies, specialist academic studies, vocational specialist studies, or undergraduate studies of minimum 4 years duration or specialist studies at the university and minimum 7 years of relevant working experience and passed state exam, as well as the necessary competencies for the job position.

The job position for monitoring, control and oversight of public procurement procedures - proposal of new job title for monitoring of public procurement procedures

Job description:

1. Monitors and controls the work of public procurement procedures by collecting documents from contracting authorities;
2. Develops instructions for removal of identified irregularities;
3. Drafts acts for initiation of procedures to establish the nullity of contracts, as well as requests for review (protection of rights);
4. Drafts proposals of annual monitoring plans
5. Analyses conducted monitoring by adopted plan and participates in preparation of reports on conducted monitoring, with conclusions related to the most frequent causes of irregular law implementation, structural problems and problems in applying the regulations, with proposals of measures in public procurement;



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6. Cooperates with foreign institutions and national authorities and organizations, bodies of territorial autonomy and local self-government;
7. Performs other tasks as ordered by Head of Group.

Title: independent advisor

Requirements: Higher education degree in jurisprudence at bachelor studies of minimum 240 ESPB credits, master academic studies, specialist academic studies, specialist vocational studies, or undergraduate studies of minimum 4 years or specialist studies at the university, with no less than 5 years of relevant working experience, passed state exam and necessary competencies for work in this position.

The job position of drafting acts in the area of monitoring, control and oversight of public procurement – proposal of new job title for drafting acts related to monitoring of public procurement procedures

Job description:

1. Participates in monitoring and control of conducting public procurement procedures by collecting documents from contracting authorities;
2. Collects data and participates in drafting the requests for review (protection of rights);
3. Prepares and participates in drafting acts for initiation of misdemeanours procedure and procedure for establishment of contract nullity;
4. Prepares and participates in drafting of report on conducted monitoring, with conclusions related to the most frequent causes of irregular law implementation, structural problems and problems in applying the regulations, with proposed measures in public procurement
5. Collects data and information in order to develop anti-corruption plan in public procurement;
6. Performs tasks related to the availability of information of public importance;
7. Performs other tasks as ordered by Head of Group.

Title: junior advisor

Requirements: Higher education degree in jurisprudence acquired at bachelor studies with minimum 240 ESPB credits, master academic studies, specialist academic studies, specialist vocational studies, or undergraduate studies of minimum 4 years or specialist studies at the university and at least one year of relevant working experience or minimum



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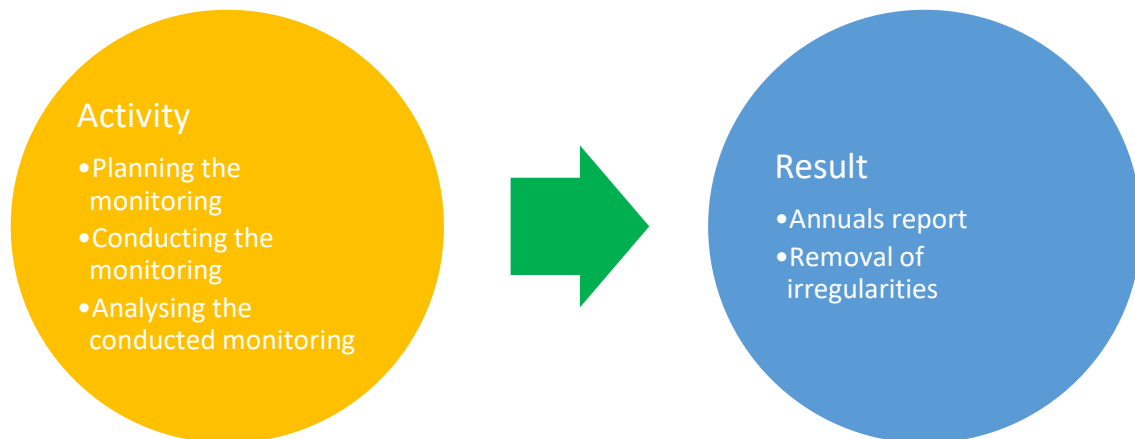
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5 years of service in national authorities, as well as the necessary competencies for work
in this position.

Under Article 180 of the new Public Procurement Law, the monitoring tasks envisage
certain novelties, in that:

1. Planning and adoption of the annual monitoring plan for the following year
2. Monitoring

Under Article 182 of the Law, the Public Procurement Office is obliged to include in the
annual report in particular “information on the most frequent causes of incorrect
application of this law, including possible structural or recurring problems in the
application of this Law and bylaws adopted pursuant to this Law”.

Functional review chart for future job positions in monitoring



Bearing in mind the job description under the current PPL, those envisaged to be
performed at the Office and the total number of staff in individual positions as presented
within this item, in accordance with data obtained, the general conclusion to be inferred
is that certain tasks are not performed in desired scope precisely due to the lack of
adequate staff number in more complex positions, *i.e.* certain positions have been
prioritized over others by scope and importance within regular duties, and also due to
the lack of capacities in human resources with certain qualifications and specific profiles
of the existing staff.





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Based on the above, it is possible to undertake the following:

Group for monitoring public procurement – of 13 systemised tasks performed by the Group, most time is spent on the activities related to *conducting monitoring and control*, with the current number of staff being 3 of total 6 envisaged. This indicates that the existing staff perform all the activities, from preparation, conducting monitoring and control, analysis, proposing measures, initiating procedures and notification, all the way to drafting the final acts and reporting on the conducted monitoring, which indubitably suggests that the existing capacities are excessively encumbered. According to the available information from the Office, the degree of performing tasks of monitoring the implementation of the Public Procurement Law is adequate at the moment, despite the obvious lack of human resources.

It is important to say that even under the current PPL the tasks of monitoring the procurement procedures, control, initiating procedures, participation in development of anti-corruption plan as the general principles of the Public Procurement Law are considered to be essential, however the existing HR structure and number of staff do not allow for performance of all conferred tasks to the extent desirable, which may directly cause the Office’s future inability to perform in all conferred tasks in full capacities, just as it is unable under the current PPL. Similar if not identical conclusions can be drawn on other organizational units with evident lack of human resources by expertise and competencies, but due to the importance of certain competences magnified by the provisions of the new PPL, the focus of this analysis is primarily on the tasks of monitoring.

PROPOSED CHANGES

Proposed changes are related to the following items:

1. Change related to HR capacities – number of staff in the existing job positions;
2. Change related to redistribution of activities among individual job positions within the existing organizational units.

The proposed changes would bring increased efficiency and performance of all Office competences in full capacities, especially given the provisions of the new Public Procurement Law.

The above would be implemented in the following manner:

Proposal 1

Increase the number of staff engaged in the following job positions in particular:

Organisational unit	Job title	Proposed number of staff/current number of staff
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Group for monitoring public procurement	Drafting acts in monitoring, control and oversight of public procurement procedures	1/1* *vacancy
	Monitoring, control and oversight of public procurement	1+1/4* *2 vacancies Titles: senior advisor and independent advisor
Group for regulatory affairs	Regulatory and professional affairs in public procurement	1/2* *both staff with standstill in contract of service
Group for reviewing the grounds for conducting negotiated procedure	Reviewing the grounds for negotiated procedure	½
	Drafting the opinions on compliance with requirements for conducting negotiated procedure	1/2* * 2 vacancies
Group for analysis and development of public procurement system**	IT position	1/1

Nota bene: the proposal put forward refers to the increase of officers compared to the current Rulebook on Job Systemisation. The vacancies, be them caused by employment status being inactive and/or absence of staff, imply that the already envisaged job positions are to be staffed adequately, in accordance with the Rulebook.

***Regarding the proposal to increase the number of staff performing IT tasks in the Group for Analysis and Development of the Public Procurement System, the above was proposed given the introduction of e-Procurement with the new PPL, which entails more workload in the position responsible for the Public Procurement Portal. This should be accompanied by the amendments to the Rulebook on Job Systemisation in the way that enables additional activities in that position as proposed below:*

- *Participates in defining the requests to the Office regarding the technical realization of the Portal and amendments related to the Portal functionalities/contents*





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- *Coordinates projects of technical realization on the Public Procurement Portal, in cooperation with the e-Government Office*
- *Provides support to project for development and implementation of the Portal's new functionalities and improvement of the existing ones*
- *Provides customer support related to the work on Portal*
- *Controls the Portal's existing performances, monitors and analyses the statistical data on Portal access and use, defines goals in improving user experience*
- *Manages the content overview on the screen*
- *Participates in developing the operating procedures for work within the Group, as well as procedures for work with the e-Government Office in relation with the Group's responsibilities and competences.*

The above proposal could be implemented by introducing new job positions within the Group, should the PPO estimate that due to the specificities of described tasks it is necessary to systemize a new job position in order to maintain the efficiency and quality of work in the existing IT position. In that case, it is proposed that one staff member in the position of IT tasks of Public Procurement Portal administration be appointed.

According to the above proposal, the number of systemization would be 31, i.e. 32 with a total of 45 civil servants.

Proposal 2

Redistribution of activities among certain positions within the existing organizational units (partly or fully), in order to enhance efficiency and work quality in accordance with the Office's competences, as presented in the example below:

The existing job title	Name of task/activity to be conferred	Title of job receiving certain task/activity (partly-activity description / fully)	Number of staff members in the existing job positions /number of staff in the positions receiving the new tasks/activities
IT positions	Enters data and creates visual identity	Position for statistical and record-keeping	1/1





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	of the Office's web and other presentations	tasks (partly – shared activity solely in data entering)	
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Bearing in mind that the lack of staff has been identified primarily by number of officers, the conclusion is that the priority is to deliver on Proposal 1, and the secondary action should be to deliver on Proposal 2.

In accordance with the given information and established facts of job systemization and changes under the new PPL, the change by introduction of new job positions into certain organizational units automatically implies a higher number of staff members in the given unit, i.e. in the Office at large, which is not recommended on the whole, since the justifiability thereof cannot be confirmed. According to the available information from the PPO, there are no difficulties identified in the PPO organization and job systemization, whereas they are palpable in the existing HR capacities in the already established positions and existing organizational units.

It is necessary to emphasise that the deficiency in staff reflects mainly in positions that require higher education degrees in *jurisprudence*, with *relevant working experience and state exam passed*, which are the pre-requisites for recruitment for the Office. Regarding the requirement of "state exam passed", it is possible to recruit lawyers with relevant experience without this requirement fulfilled, but taking the state exam in due time upon recruitment, as envisaged by law, is mandatory. There is also an option of recruiting interns (without experience and without state exam), but this person can be recruited as intern under the applicable regulations and with the legally envisaged reduction of salary. Bearing in mind the current development of the Serbian labour market, requirements for recruitment of civil servants in national authorities and other relevant circumstances, the general conclusion is that the Office meets the same challenges as other national authorities in seeking and recruiting adequate labour force, primarily for highly qualified positions in the area of jurisprudence.

In addition, it has been established that horizontal connections among the organizational units mainly do not exist, i.e. all groups operate quite independently, so there is no need for cooperation in certain tasks/activities, except for the so-called general affairs groups performing the defined tasks for the entire Office, as visible in the following chart.





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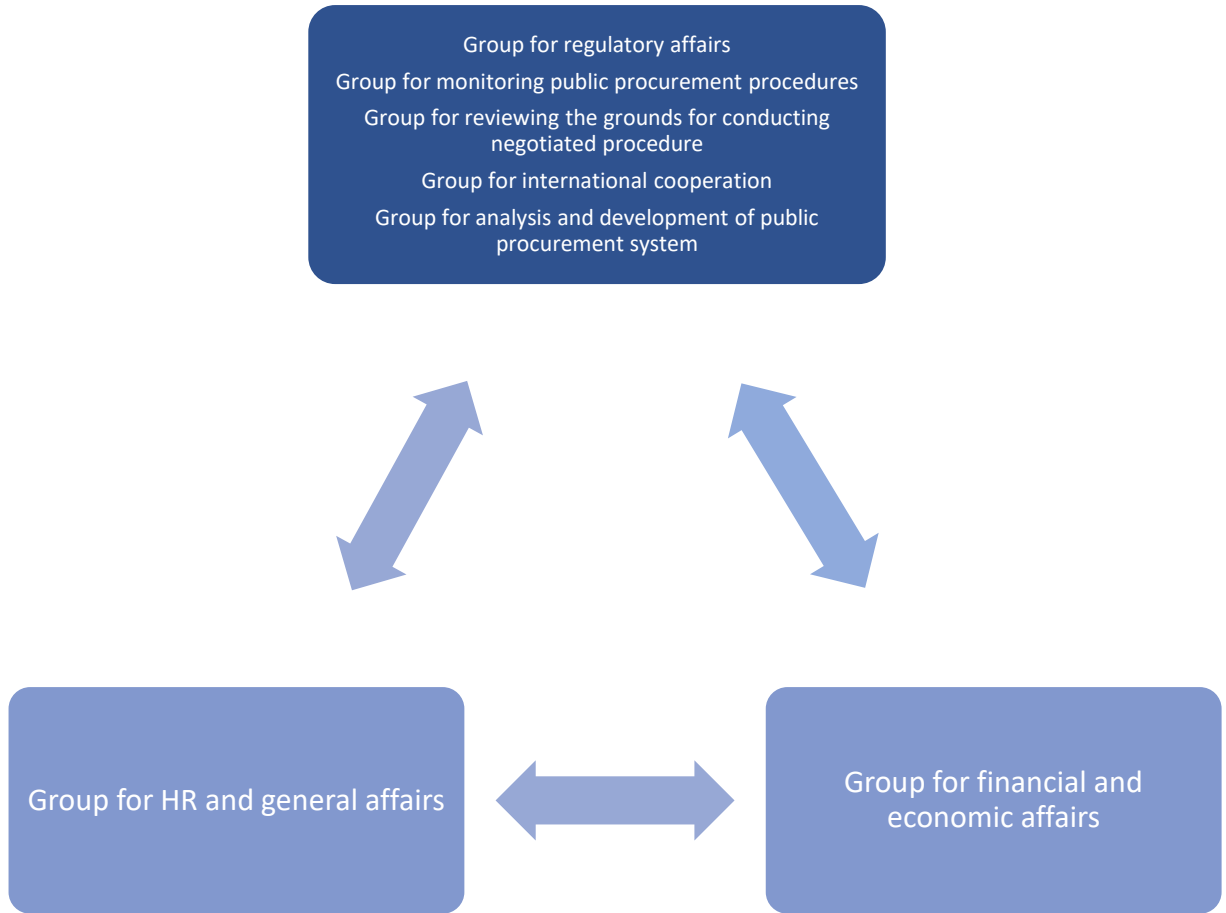
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The chart of horizontal links among the organizational units





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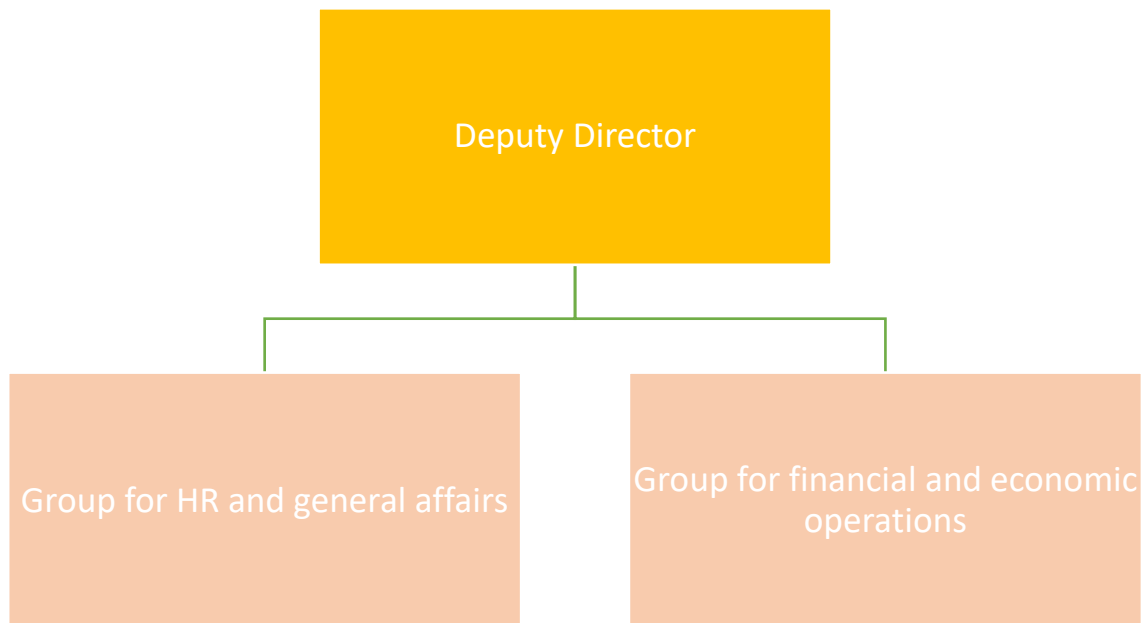
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The Group for HR and general affairs and the Group for economic and financial operations do not belong under the competences of the same Department (Department for Regulations and monitoring in public procurement and Department for development of public procurement system and financial and economic operations), although by the nature of tasks they should merge together. Therefore, the following change is proposed in the Office’s organizational chart, regarding the above Groups, in terms of vertical unification of competences:

The new organizational set-up of general affairs



In case the above proposal is accepted, the Office’s organizational chart would be as in the graph following below, which would be adequately accompanied by amendments to the Rulebook on Job Systemisation and Positions of the PPO.

The new organizational chart



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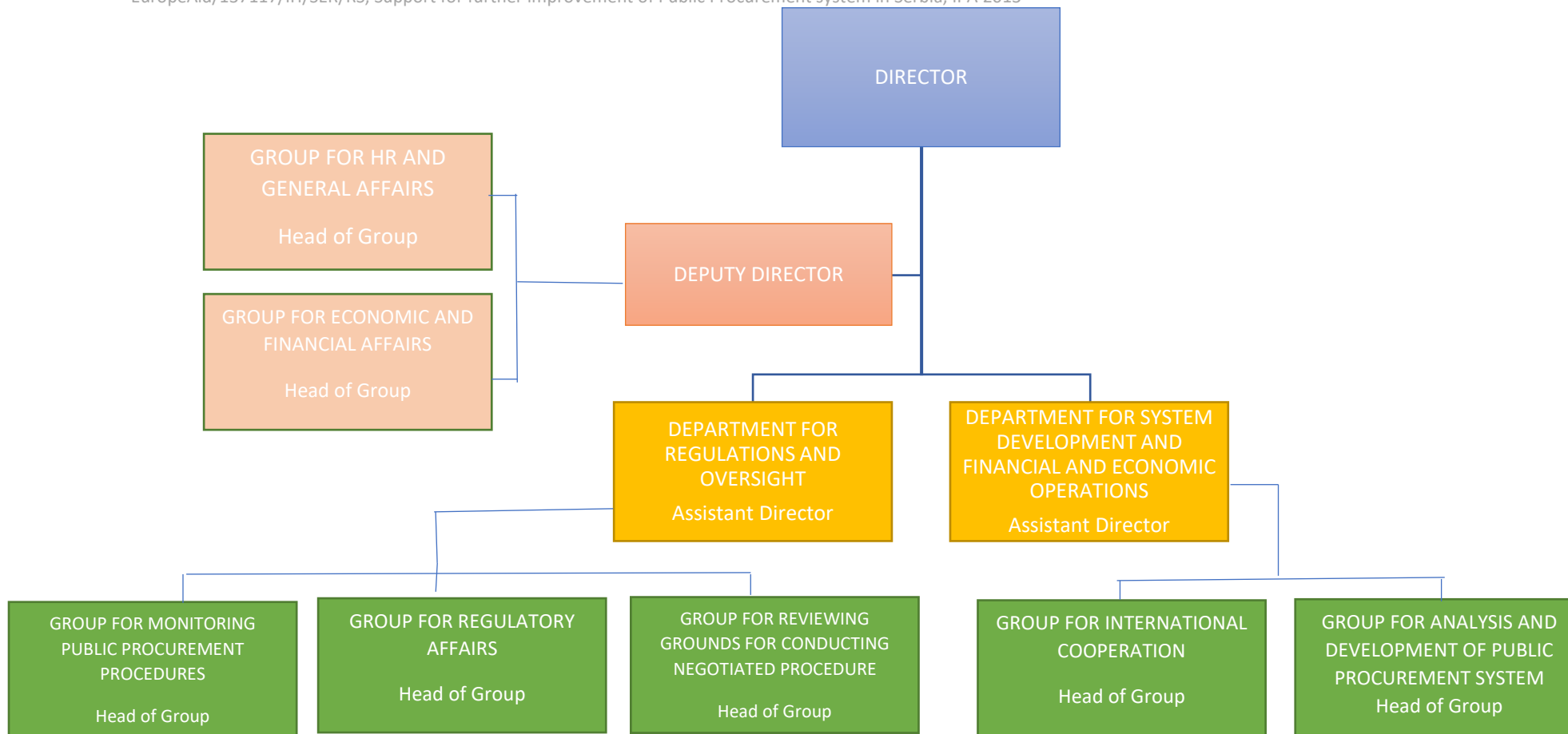


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THE GENERAL CONCLUSIONS OF THE REPORT

From all the above, it is clearly suggested that the major difficulty the Public Procurement Office is facing is related to the number of staff, as indicated, in positions requiring higher education of legal background and relevant working experience. The Office's communication with the interested public, as well as all other tasks performed by the Office as conferred, be it under the old PPL or the new Draft which is expected to become effective as of January 2020, is performed at the highest level possible, both in terms of quality and efficiency, given the restraints described and analysed in this report.

By the time of the implementation of the new PPL, the Office should invest its utmost endeavours in recruiting staff with adequate knowledge and experience, in all its organizational units, but with the priority in the identified groups performing the assignments of essential importance for conferred tasks and the PPO's competences under the applicable legal provisions.

