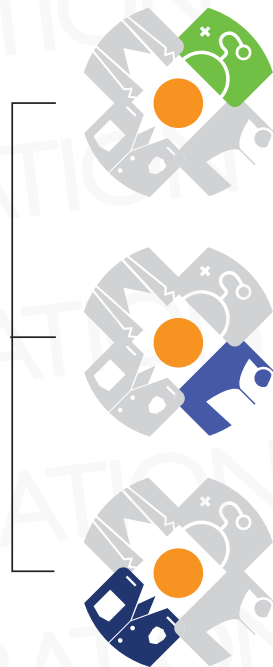




OPENNESS AND INCLUSIVENESS OF POLICY MAKING IN SERBIA

Examples of Three Ministries



Authors:

Katarina Tadić and Milena Lazarević





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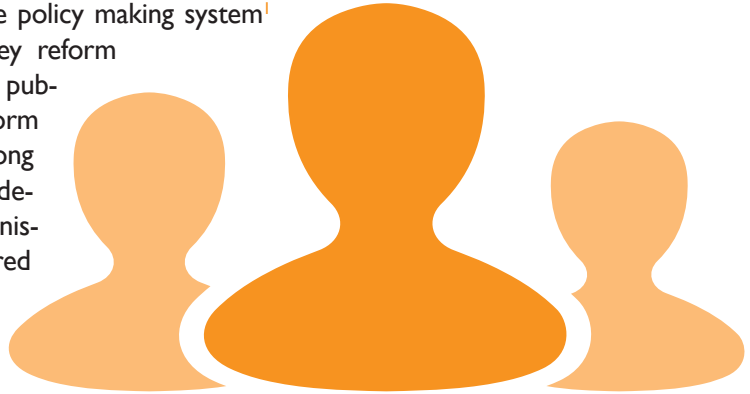
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INTRODUCTION AND CONTEXT

Management of the policy making system¹ is one of the key reform areas within the public administration reform framework in Serbia, along with the public service delivery system. Public administration is today considered as a citizens' service, with the aim of providing efficient services, while complying with the principle of equal



accessibility to all the citizens.² On the other hand, the participatory and evidence-based process of policy making not only enhances transparency and accountability of the process, but also positively influences policy outcomes, that is, improves the quality of public services.

This study is a result of a wider research conducted within the project “Partnership for Public Administration Reform and Public Services in Serbia – PARTnerships”. The project is focused on the most widespread public services, the services most frequently used by citizens, within three areas: the issuance of personal documents by the police administrative service, services in primary health care centres, and the services in the education sector, enrolment of children in pre-schools and primary schools. The aim of this study is to analyse the quality of the process of policy making in three selected areas from the perspective of the key good governance requirements, and in line with the Principles of Public Administration (SIGMA/OECD). By analysing to what extent the process of policy making is analytically transparent and to what extent it ensures public participation, the study aims to provide methodologically-based evidence on the quality of policy making that regulates the service delivery in the three selected areas. The research results provide a basis for further research on the relationship between the policy making process and citizens' satisfaction with the services provided, issues insufficiently researched in Serbia. The concrete recommendations for improving the policy making process in the given ministries, formulated on the basis of the research results and findings, will be published in the Grey Book of Public Services in Serbia.

¹ By the term public policy, we mean a sequence of activities, regulatory measures, laws and priorities in financing that are in connection with a certain area of work, passed by the government, government bodies or their representatives. See: Dean G. Kilpatrick, *Definitions of Public Policy and Law*, <https://mainweb-v.musc.edu/vawprevention/policy/definition.shtml>. More broadly viewed, we can use the term public policy to refer to all government activities, irrespective of whether it acts directly or through certain intermediaries, which influence the life of citizens. B. Guy Peters, *American Public Policy: Promise and Performance*. 8th ed. Washington, DC: CQ Press, 2010.

² The terms used in the masculine grammatical gender in this study shall be understood to refer to the natural masculine and feminine gender of the persons that they refer to.

I.a European integration and the public administration reform process in Serbia

The public administration reform (PAR) and the European Integration process are mutually dependent and connected. On its path to the European Union membership, Serbia needs to implement a very ambitious and comprehensive PAR, to introduce processes and procedures in the operation of public administration bodies which should enable transparent, accountable and efficient functioning of the administration. Therefore, the PAR aims, above all, to create a user-oriented public administration which places citizens at the centre of a decision-making process.

Taking into account that since 2014 the PAR has been defined as one of the pillars of the EU accession process in the core strategic documents of the European Commission, the focus on the horizontal reform – which essentially represents a prerequisite for achieving success in all the other sector policies – is significantly stronger. Country reports represent a good illustration of this, because, as regards Serbia, they now dedicate more attention and space to the PAR than was the case before.³

However, since there is no official *acquis* in most policies included in the PAR, the candidate country progress assessment review is conducted in accordance with the Principles of Public Administration formulated within the SIGMA programme framework, a joint initiative of the Organisation for Economic Cooperation and Development (OECD) and the EU. These principles now represent a basis for good governance, and by extension, the requirements that candidate countries need to fulfil in the EU accession process.⁴ The SIGMA methodology for assessing candidate countries' progress includes quantitative and qualitative indicators and is aimed at implementing reforms and the effects of these reforms on the system, that is to say, on the practical outcome of the public administration functioning. To what degree a certain candidate country or a potential candidate applies these principles in practice represents an indicator of the public administration capacity to implement the *acquis* effectively.

Simultaneously, in recent years there has been an increased SIGMA focus on planning and developing public policies to ensure the sustainability of the reforms after the accession. The importance of evidence-based policy making has been recognized by the European Com-

³ For example, in the European Commission 2014 Serbia Report, the Public Administration Reform was covered on 3 pages, whereas the 2015 Report dedicated 5 pages to this topic; in the latest Report so far, dating from 2016, it is dealt with on 4 pages.

⁴ The six key areas that represent the principles of public administration: strategic framework for public administration reform; policy development and co-ordination; public service and human resource management; accountability; service delivery; and public financial management, were published in 2014. In the meantime, in 2017 SIGMA published the new version of the Principles, which is available at: http://www.sigmaweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf

mission as an aspect of horizontal administration reforms in candidate countries,⁵ and it is one of the criteria in the assessment of the EU candidate countries' administrative capacity.⁶

The underlying SIGMA requirements regarding policy making include the capacity to implement a consistent system which enables enforcing policies that have been mutually harmonised at the Government level in accordance with the priorities defined in advance and aligned with the financial circumstances. In addition, the process has to ensure transparent policy making which is the result of a consultation process with stakeholders, with a special emphasis on civil society organisations (CSOs). The relevant requirements are further formulated through twelve defined principles in the chapter "Public Development and Co-ordination", four of which are the most important principles for our research (see table below).

Principle 8 The organisational structure, procedures and staff allocation of the ministries ensure that developed policies and legislation are implementable and meet Government objectives;

Principle 9 The European integration procedures and institutional set-up form an integral part of the policy development process and ensure systematic and timely transposition of the *acquis*;

Principle 10 The policy making and legal drafting process is evidence-based and impact assessment is regularly used across ministries;

Principle 11 Policies and legislation are designed in an inclusive manner that enables the active participation of society and allows for co-ordinating perspectives within the Government;

Principles regulating the policy making area (source: Principles of Public Administration (SIGMA/OECD)

The importance of civil society participation in the policy making process is especially recognised as a means of achieving a more inclusive and transparent decision-making process

⁵ Lazarević, Milena et al. Policy Making and EU Accession Negotiations: How to Get Results for Serbia. Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, Centar za evropske politike, Belgrade, 2013, p. 23.

⁶ OECD. Principles of Public Administration. OECD Publishing, Paris, 2015.

with citizen participation,⁷ but also as a means of establishing a more open and accountable public administration.⁸ OECD research and recommendations have in the past few years been focusing on civil society participation in defining policies, not only in candidate countries, but further across.⁹

Also, civil society participation and a transparent policy making process are important within the context of public service delivery, given their contribution to the increased accountability and enhanced quality of public services, which has recently been confirmed by a research conducted in OECD countries¹⁰ Similarly, in a recently published Guide for the Implementation of the Open Government Partnership Initiative, a special emphasis has been placed on the participation of citizens as end-users in the process of creating the policies regulating public services to improve their accessibility.¹¹

Therefore, as part of a broader project focusing on three broad groups of public services (the issuance of personal documents, enrollment of children into pre-school institutions and primary schools and services provided by community health centres), this research explores the processes and practices of policy making in three ministries responsible for providing these services. Namely, this study shows to what extent the policy making in the selected areas is analytical and evidence-based, to what extent inter-ministerial consultations are conducted and to what extent this process is open and enables the participation of citizens and CSOs. Bearing in mind the features of the policy cycle in Serbia, which is strongly focused on the legislation stage,¹² the research will primarily focus on a set of selected laws and strategies, which will be used as case studies for assessing the policy making process in the selected areas.

During the EU accession and the PAR process Serbia needs to create an efficient, transparent and citizen-oriented public administration with capacities and developed mechanisms for evidence-based policy making, which take into consideration the needs of different parts of the population.

⁷ OECD. Evaluating Public Participation in Decision Making. OECD Publishing. Paris, 2005.

⁸ Orza, Amanda. Civil Society and Government: Participatory Policy Formulation in Serbia. Centar za evropske politike, Belgrade, 2013

⁹ Naidoo, K. "The Future of Open and Inclusive Policy Making", in: Focus on Citizens: Public Engagement for Better Policy and Services, OECD Publishing, Paris, 2009

¹⁰ OECD. Focus on Citizens: Public Engagement for Better Policy and Services, OECD Publishing, Paris, 2009

¹¹ Tim Hughes, Kaela Scott and Paul Maassen. Improving Public Services: Guidance for developing OGP commitments. OGP, May 2017. p. 29. .

¹² Milena Lazarević and Marko Obradović, "Map of Policy Cycle at Central Government Level in Serbia", report produced under the project "Reforming Policy Coordination and the Centre of Government – Third Phase, EuropeAid I ISER01/03/21", implemented by a consortium led by Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH and its partner Imorgon Tanacsado Kft. Available at: http://www.rsip.gov.rs/malodrvvo/Mapping_Report_FINAL.pdf, p. 38.

I.b Methodological framework and structure

The research is based on a neo-institutional approach which enables a broader focus than mere formal rules and procedures, and includes informal rules and procedures of political life. Furthermore, due to the fact that the functioning of the public administration in Serbia is largely influenced by external factors, it was necessary to take into consideration the conduct of all the actors involved in this process beyond their formal obligations in order to accomplish the research goal, i.e. to identify and analyse the shortcomings of the policy making system in Serbia. In accordance with this, the research is of a qualitative nature, which entails qualitative data collection through field and desk research, and qualitative data processing.

The collection of primary data (field research) was primarily conducted through semi-structured interviews.¹³ Through the research, twelve interviews were conducted with representatives of three relevant ministries: the Ministry of Education, Science and Technological Development, the Ministry of Health and the Ministry of Interior. The interviews were conducted mainly at the managerial level: with assistant ministers, head of departments and head of groups in the respective ministries. However, it should be noted that access to some of the managerial staff was not possible despite several repeated attempts, so the initial plan to conduct at least five interviews in each of the ministries was only realized in the Ministry of Education, Science and Technological Development. Also, six additional interviews with CSOs and experts in the given fields were conducted.

Field research was accompanied by desk research, which entailed the relevant literature review, but first and foremost access to official documentation on the process of creating relevant policy documents in selected areas. There were intense requests for access to information of public importance as a mechanism for document and data collection. This combined approach to data collection ensured triangulation, i.e. intersecting and comparing information and data from different source types (interviews, secondary sources and archival material), which ensured a better reliability of the research findings.

However, there are several methodological limitations in the research. Firstly, a certain number of documents that were subject to research were adopted about ten years ago, which, bearing in mind the weak institutional memory of the public administration in Serbia, impacts the scope of both the field and desk research, as well as the reliability of the findings. Furthermore, as stated before, access to interviewees during the field research was hampered, which resulted in a smaller number of conducted interviews than initially planned, which has an impact on the scope of accessible information. The credibility of the findings was partly compensated for through additional interviews with civil society and other non-governmental actors.

¹³ Semi-structured interviews presuppose preparation of a basic questionnaire containing around ten broadly formulated questions, which are of the open type (as opposed to the closed-type questions, which require the yes/no or some other type of answers on offer), and which allow the respondent a great degree of freedom when he/she talks about those aspects of the given question that are the most important ones to him/her.

The study is divided into five chapters. The introductory chapter includes an overview of the legislation framework of policy making in Serbia, along with an overview of the shortcomings of the current system that have been identified so far. The following three chapters are dedicated to the policy making in three respective ministries: Ministry of Education, Science and Technological Development, Ministry of Interior and Ministry of Health. The last chapter offers wider implications from the findings on the defining policies in the three ministries.

I.c Legal and institutional framework for policy making in Serbia

The legal framework for policy making in Serbia is laid down by the Constitution, that is to say, the Law on Government, and more specifically regulated by the Law on State Administration and the Rules of Procedure of the Government of the Republic of Serbia,¹⁴ which determine all the elements defining the policy making process. The Constitution broadly envisages that the Government shall establish and pursue the policy, propose to the National Assembly laws and other general acts, direct and adjust the work of public administration bodies, and perform supervision of their work.¹⁵ Subsequently, the Law on Government prescribes that the Government shall establish and pursue the policy within the framework of the Constitution and the laws passed by the National Assembly.¹⁶

The Law on State Administration, in several of its articles, regulates state administration tasks in formulating public policies.¹⁷ Firstly, Article 12 prescribes that “the state administration bodies shall prepare draft laws, other legislation and general acts for the Government, and propose development strategies and other measures to the Government by which the governmental policy is shaped through a ministry”. In addition, Article 13 stipulates that state administration bodies shall monitor and determine the situation in fields from their scope of work, examine the consequences of a certain situation and, depending on their competences, either undertake measures themselves or propose to the Government the adoption of legislation and the undertaking of measures the Government is authorised to undertake. Additionally, two other articles which regulate the state administration work prescribe that the state administration authorities “shall encourage and direct development in fields from their scope of work, in accordance with the policy of the Government” (Article 20), and that they “shall collect and examine data from their scope of work, prepare analyses, reports, information and other materials and perform other expert work which contributes to the development of fields from their scope of work” (Article 21).

¹⁴ It is important to note that the process of formulating a new Law on the Planning System and two attendant decrees, which are supposed to regulate the planning system and the system of policy management in the Republic of Serbia, is under way. A proposal for the Law on the Planning System entered the national Assembly procedure in September 2017.

¹⁵ Article 123 of the Constitution of the Republic of Serbia.

¹⁶ The Law on Government, “The Official Gazette of the Republic of Serbia” nos. 55/05, 71/05 – correction and 101/07.

¹⁷ The Law on State Administration, “The Official Gazette of the RS”, nos. 79/2005, 101/2007, 95/2010 and 99/2014.

However, the Law does not stipulate in more detail the role of the ministries in the policy making process, nor does it clearly articulate the role of data collection and analyses by state bodies in this process.¹⁸ Furthermore, it remains rather vague in relation to “other measures” for shaping the Government’s policies.¹⁹

The coordination between the state administration bodies in the preparation of laws and other general acts (inter-ministerial consultations) is regulated by Article 65, which stipulates that “the ministries and special organisations shall cooperate to obtain opinions of those ministries and special organisations with whose scope of work the issue being regulated is connected”. Consequently, a public debate is prescribed as obligatory in the procedure of preparing a law which essentially changes the legal regime in one field or which regulates issues of particular relevance for the public” (Article 77).²⁰ Both issues, inter-ministerial consultations and public debates – are regulated in detail by the Rules of Procedure of the Government.²¹

The Rules of Procedure of the Government of the Republic of Serbia (hereinafter referred to as the Rules of Procedure) is a document which regulates the policy making formulation process, and has been several times subject to amendments in order to improve the process, in accordance with the requirements arising from the EU integration process. Consequently, the Rules of Procedure, in the part which regulates the Government sessions (Chapter III), stipulate the requirements for the material submitted to the Government, thus regulating to a certain extent the policy making formulation process itself.

Namely, the Rules of Procedure stipulate that a proposed law and a draft decree/decision shall be delivered to the Government with a rationale (Article 38), which shall include reasons for the adoption of the act, and more specifically, “the problems to be solved by the act, the objectives to be met by the act, the possibilities that have already been considered to solve the problem without the adoption of the act and the answer to the question why the adoption of the act is the best way to solve the problem”. (Article 39). In addition, the rationale should contain the assessment of financial resources necessary for the implementation of the act. The same article prescribes that “proposals for the Fiscal Strategy, development strategy and declarations must contain explanations of all the necessary questions”.

On the other hand, Article 40 stipulates that as an annex to the proposed law, the proposer shall also provide the regulatory impact assessment (RIA), including the following explanations: “Who will the law affect most and how? Will the costs of its implementation affect

¹⁸ Lazarević et al., Policy Making and EU Accession Negotiations, p. 33.

¹⁹ *Ibid.*

²⁰ The process of preparing the Draft Law on Amendments to the Law on State Administration, the aim of which is amending Article 77 with a view to introducing the obligation of conducting public debates on draft strategies, laws and by-laws, is under way.

²¹ The Rules of Procedure of the Government, “The Official Gazette of the RS”, nos. 61/2006 – revised text, 69/2008, 88/2009, 33/2010, 69/2010, 20/2011, 37/2011, 30/2013 and 76/2014.

the citizens of Serbia and its economy (small and medium-sized enterprises in particular)? Are the positive effects of the law such as to justify the costs it will create? Will the law support the creation of new economic subjects on the market and boost competition? Were the interested parties given an opportunity to state their opinion on the law? What measures will be taken during the implementation of the law to materialise its intents and purposes?" The very wording of this provision indicates that the said requirement refers only to proposed laws, and not the other documents delivered to the Government for passing decisions.

As regards the harmonisation of regulations with the Government strategic documents, but also with the EU *acquis*, Article 39a of the Rules of Procedure prescribes enclosures which the proposer submits along with a draft law, but also with the proposal of a decree or decision. Along with a draft law and the proposal of a decree or decision, the proposer is obliged "to submit a statement on Compliance with the EU Rules and Table of Concordance of Regulations with EU Rules". Along with a draft law and the proposal of a decree or decision, the proposer submits, in the form of enclosures, "a declaration stating which strategic document of the Government the proposed act has been harmonized with, as well as a declaration stating whether the draft law, or the proposal of decree or decision has been envisaged by the Annual Work Plan of the Government". Lastly, "along with the draft law and the proposal of a decree or decision, as well as the proposal of a development strategy and a Fiscal Strategy proposal, the proposer submits, in the form of enclosures, a statement of cooperation, i.e. the opinion of the authorities, organisations and bodies which, according to special regulations, deliver opinions on draft laws, i.e. act proposals", which highlights the need for conducting inter-ministerial consultations.

Public consultations, or the issue of conducting a public debate, are regulated by Article 41 of the Rules of Procedure, which stipulates that "the proposer is obliged to conduct a public debate on the drafting of a law that can change significantly the way in which a matter has been addressed legally or governs a matter of particular public interest". However, the same article provides that conducting a public debate is not a mandatory requirement but "may be fulfilled" in the strategy development, where mandatory provisions only apply to draft laws, excluding other documents the Government adopts.

It is noticeable that there is a strong emphasis on drafting of regulations, in view of the fact that the provisions of the Rules of Procedure of the Government regulating the obligation of submitting rationales and RIA mostly refer to draft laws.

Finally, we may conclude that the legal framework for policy making in Serbia prescribes certain elements which entail conducting respective analyses. However, the system in place shows numerous weaknesses and shortcomings. Firstly, a very strong emphasis is placed on draft regulations, so the provisions of the Rules of Procedure that prescribe the requirement of submitting a rationale and a RIA primarily refer to draft laws. In addition, time frames have not been set, that is to say, at what time the drafting of a rationale should commence, i.e. the

RIA, which, as a consequence, means they are most frequently performed at the end and not at the beginning of the process of drafting regulations.²²

With regard to drafting regulations, it is carried out by working groups, but the criteria for the establishment and appointment of the members and operating procedures are not regulated.²³ As a rule, usually only members of the relevant state administration bodies are invited to be the members of working groups, while civil society and expert community are involved through public debates which are conducted at the very end of the legal drafting process, when very limited intervention into the policy direction is possible.²⁴ In addition, neither the Law on State Administration nor the Rules of Procedure prescribe in detail the process of inter-ministerial consultations. Consultations are conducted rather late in the course of the policy making formulation process, that is to say, when a draft has already been created and when deeper interventions into the policy direction are almost impossible without incurring additional costs and causing delay. Besides, this procedure comes down to a written procedure of delivering opinions which do not have to be taken into consideration in the creation of the final draft.

In the subsequent chapter, a selected set of strategies and laws relevant for the three types of public services which are in the focus of our research will be used as case studies for exploring the quality of policy making, bearing in mind the described legal framework. Through an in-depth analysis of the law-making process and strategies which regulate the areas of primary and pre-school education, issuing personal documents and the services provided by primary health care centres, the policy making process will be examined in the respective ministries.

I.d Key conclusions of the three case studies

This part provides a brief overview of the conclusions on the policy making process analysis in the three ministries selected for this research as case studies. While the key arguments and evidence-based conclusions are incorporated in the subsequent chapters, this brief

overview of the key conclusions aims to highlight the underlying strengths and weaknesses of the process and thus enable easier reading and understanding of the in-depth analysis further on.

Analysis of policy making in the Ministry of Interior may serve as a good illustration of the claim that the process is improved over time, even though at a slower pace than desired.

As regards **the Ministry of Education, Science and Technological Development (MESTD)**, the basic conclusion corresponds to a grade 3, which SIGMA gave Serbia in its evaluation of the public administration capacity for evidence-based policy making,²⁵ emphasising a low quality of the RIA and ab-

²² Lazarević, Map of Policy Cycle at Central Government Level in Serbia, pp. 47, 53.

²³ *Ibid*, p. 6.

²⁴ *Ibid*, p. 57.

²⁵ OECD. Monitoring report: The Principles of Public Administration. OECD Publishing, Paris, 2017, p. 45.

<http://www.sigmaweb.org/publications/Monitoring-Report-2017-Serbia.pdf>

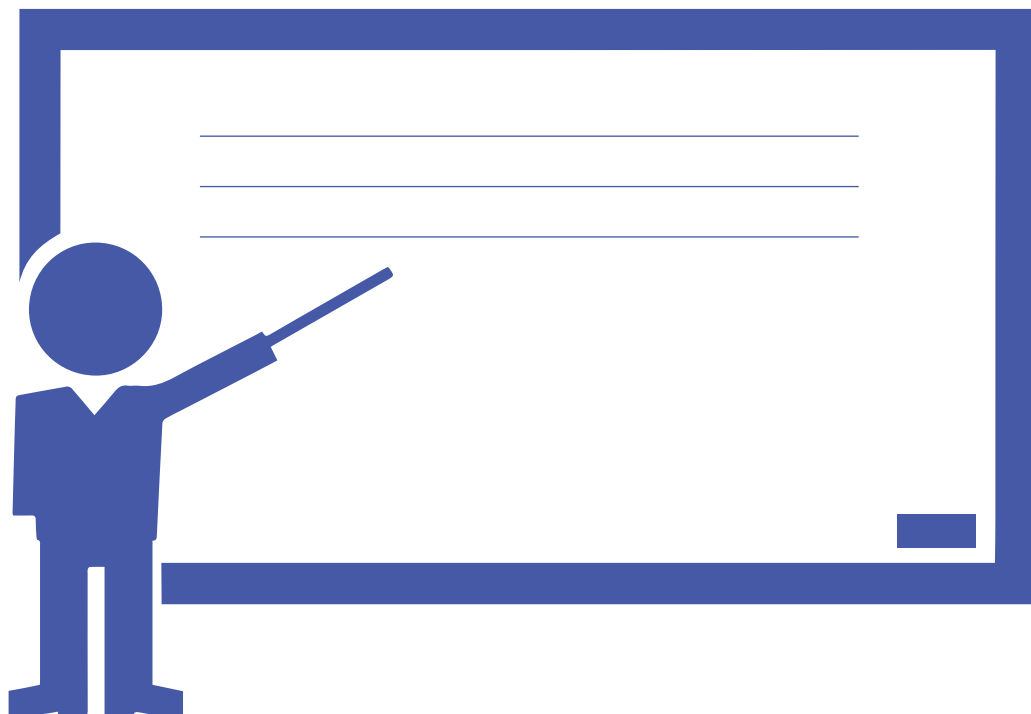
sence of an in-depth overview of various options and possible solutions. Namely, the elements which should ensure an analytical basis for policy making do not fulfil their function. Therefore, rationales usually dedicate most of their content to the clarification of legal institutes and individual solutions, while the financial impact assessment is reduced to a declaration that the law enforcement will not generate additional budgetary costs. Furthermore, the RIA is a result of the fulfilment of a formal obligation rather than a genuine effort to engage in an evidence-based and analytical process of creating draft regulations. In addition, there is a challenge when it comes to not using accessible relevant quantitative and qualitative data which are of vital importance for understanding the current situation. Despite being recognised as significant in principle, civil society's contribution to draft strategies and laws comes late when a draft has been practically made, which limits the extent of the intervention. As a consequence, during the course of policy making, only problems facing the MESTD are addressed, without taking into consideration users' problems and needs. All the above indicates there is a lot of room for improvement regarding the policy making process in this ministry.

The analysis of policy making in **the Ministry of Interior (Mol)** may serve as a good illustration to support the assertion that the process is improved over time, even though at a slower pace than desired. Namely, if the creation of the laws that are subject to our research is viewed from a comparative perspective, there is noticeable progress in comparison to the year 2005. Then, there is a positive effect of the EU integration process and increased focus of the European Commission, but also of civil society, on the issues of transparency and inclusiveness, which leads to improved policies, which the drafting process of the Law on Police confirms. However, numerous negative examples continue to exist, which indicates there is a lot of room for improvement. It is particularly important to enhance the analytical capacity of the Mol, so that the documents such as the RIA and rationales would serve their purpose and inform decision-makers during the process of adopting the proposed solutions. It is also important that the requirements to be met in the process of PAR are not viewed only in light of compliance with EU legislation, but also as an opportunity for substantial progress and creating space for the involvement of all the stakeholders in the policy making process.

In **the Ministry of Health (MoH)** a large number of strategic documents, but also their mutual incompatibility, along with irregular updating of the expiry period, indicate there is no clear strategic planning or defined priorities during the policy making process. Additionally, in terms of their content, the conducted analyses are unsatisfactory and primarily serve the purpose of meeting the requirements prescribed by the Rules of Procedure of the Government, instead of influencing the decision-making process regarding the measures for solving the perceived problem. Simultaneously, the involvement of civil society and all the stakeholders is more incidental than common practice, which suggests that the process is non-transparent. On the other hand, as the research findings in the two other ministries have shown, human capacity for the implementation of analytical work is at a low level, and there are problems in cooperation between the sectors.

II. POLICY MAKING IN THE MINISTRY OF EDUCATION, SCIENCE AND TECHNOLOGICAL DEVELOPMENT – INDIVIDUAL INITIATIVES, ABSENCE OF A SYSTEM





The key policy document on which the education policy in Serbia is based is the Strategy for Education Development in Serbia until 2020, adopted in October 2012, which sets out the purpose, objectives, directions, instruments and mechanisms of the education system development.

In the area of public service delivery, which is in the focus of our research in the education field, three laws are of particular importance: the Law on the Foundations of Education System, the Law on Primary Education, as well as the Law on Pre-School Education. The Law on the Foundations of Education System²⁶ regulates the basics of the pre-school, primary and secondary education systems, and is considered to be the umbrella law in this field. The law currently in force was adopted in 2017. However, during the course of our research, the Law from 2009²⁷, which saw several amendments in 2011, 2013 and 2015), and which was also the subject of our research, was still in effect. The Law on Primary Education²⁸, adopted in 2013, and the Law on Pre-School Education²⁹, from 2010 are special (so-called systemic) laws which regulate the field of primary and pre-school education. Both laws were subject to amendments in 2017 in order to harmonise with a new umbrella law.

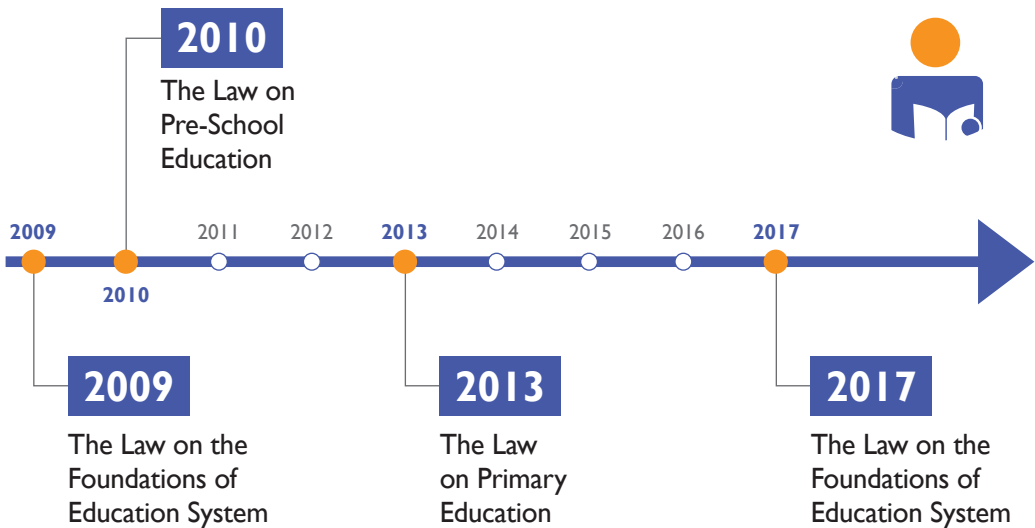
²⁶ The Law on the Foundations of Education System, "The Official Gazette of the RS", no. 88/2017.

²⁷ The Law on the Foundations of Education System, "The Official Gazette of the RS", nos. 72/2009, 52/2011, 55/2013, 35/2015 - authentic interpretation, and 68/2015.

²⁸ The Law on Primary Education, "The Official Gazette of the RS", no. 55/2013.

²⁹ The Law on Pre-school Education, "The Official Gazette of the RS", no. 18/2010.

Since the objective of the research is the policy making process in MESTD, the focus of the research in this field is aimed at adopting and amending these laws, with a brief overview of the adoption process of the Strategy for Education Development. The reason for a greater focus on the laws, and not the Strategy, lies in the fact that the policy making process in Serbia is subordinate to the creation of draft regulations, which has already been highlighted in the previous chapter. An additional reason also lies in the fact that the process of the formulation of the Strategy was essentially *ad-hoc*, that is to say a result of the implemented project, which cannot serve as an indicator of the real situation in the MESTD as regards the policy making process.



At the same time, it is important to note that, given that the laws were initially adopted in 2009, 2010 and 2013, it is hard to detect completely to what extent the process was evidence-based, i.e. inclusive at that time, just on the basis of the accessible documents. This is why we will, in this analysis, take into consideration both the amendments to these laws and the recent process of the adoption of the Law on the Foundations of Education System. The process of law adoption and the amendments has been analysed on the basis of the available documents and the information which we could obtain, first of all, during the interviews conducted with managers and civil servants in the MESTD, but also based on the interviews conducted with CSO representatives and experts from this field. In this manner, we will be able to create a more complete picture regarding the policy making and coordination in the given areas.

II.a Strategy for Education Development

The Strategy for Education Development in Serbia was adopted in 2012 and comprises two key sections: the Joint Framework for Pre-University Education and the Joint Framework for Higher Education. Also, the financing of education represents a separate section. The Strategy itself was developed as a result of the work of the Project Council for the preparation of the Strategy, organised within the MESTD, with experts outside the MESTD organised in expert groups within the Council, while “civil servants were invited to give their opinion about the text of the Strategy”³⁰. Therefore, the process of formulating the Strategy cannot be viewed as an illustrative example of policy making in this ministry, but rather as an individual process organised with the aim of passing a strategic document.

In the introductory part, the dual role of the Strategy is stated: to be a basis for shaping the key legal and other regulatory instruments, but also to be a central strategic instrument to transform efficiently the existing education system into the desired state by 2020.³¹ The most important strategic objectives the Strategy sets out are improving the quality of education, increasing the coverage of Serbian population at all levels of education, achieving and maintaining relevance of education and enhancing the efficiency of utilization of education resources.³² Given the subject of our research, it is important that in the area of pre-school education the inadequate criteria for the enrolment of children into pre-school institutions were acknowledged. However, the Strategy itself was deemed to be “a wish list” by some representatives of the MESTD”³³.

A public debate on this document was held at the end of its creation process in five cities in Serbia: Užice, Belgrade, Subotica, Zaječar and Vranje, which could be regarded satisfactory in terms of the scope of the debate, given that the current legal framework does not require conducting mandatory public debates. Reports on public debates contain detailed objections and suggestions in reference to the Draft Proposal of the Strategy; however, they do not include a rationale for acceptance or rejection of the comments. The key problem lies in the fact that the creation process of the Strategy is open to the public only at the very end of the process, which, to a considerable extent, limits the influence of public opinion on the solutions contained in the document.

Despite the prescribed requirements, rationales are documents that usually dedicate the greatest part of their content to explaining legal institutes and individual solutions, while the assessment of financial resources necessary for implementing the act is limited to stating that the amendments will not have any additional financial effects.

³⁰ Interview with a representative of the MESTD, conducted on 14 February 2017.

³¹ *Strategy for Education Development in Serbia*, the Ministry of Education, Science and Technological Development, the Government of the Republic of Serbia, “The Official Gazette of the RS”, no. 107/12; p. 7.

³² *Strategy for Education Development in Serbia*, p. 19.

³³ Interview with a representative of the MESTD, conducted on 14 February 2017.

Furthermore, three years elapsed between the adoption of the Strategy and the adoption of the Action Plan for the Implementation of the Strategy (that document was adopted in 2015), which means that during that period the Strategy was not actually implemented. At the moment of compiling this study, the Action Plan was undergoing revision.³⁴ The reason for that is the absence of the baseline for evaluating progress, or to be more precise, according to one of the interlocutors, “numbers to start from”³⁵, which impedes the monitoring and evaluation of the Strategy implementation.

II.b (Non-)evidence-based laws

The Law on the Foundations of Education System was adopted in 2009 and its rationale, based on the analyses conducted regarding the implementation of the law then in force, pointed to a need for passing a new law³⁶. Similarly, the RIA showed there was a need for the harmonisation of certain provisions of the Law with the constitutional changes that were introduced in 2006, with EU standards and new legislation, but also with the new empirical indicators obtained through the latest research, as well as with the situation analysis.³⁷ Therefore, the Draft Law aimed “to improve all three dimensions of education: equality, efficiency and the quality of education”. A detailed financial cost-benefit analysis was carried out regarding every new solution proposed by the Draft Law. It is important to point out that the Rationale of the Law from 2009 is the most detailed one in comparison to those which were adopted along with the amendments in subsequent years (especially if compared to the necessary financial costs analysis in the implementation of the Law) and that it refers to the previously conducted detailed analysis of the current state.

It is estimated that, when identifying a problem, the Ministry should not focus only on the difficulties the administration faces in its everyday work, but that it should also contain problems beneficiaries face, as well as those recognised by experts.

On the other hand, viewed chronologically, the Rationale of The Draft Law on the Amendments to the Law on the Foundations of Education System from 2011 does not provide detailed reasons for the amendments to the Law. In the Rationale, it is only stated that “during the two-year law implementation period, it was established that the amendments were required to solve the perceived problems”. However, it is not clear which problems were identified, nor how the new law will solve them. The same applies to the subsequent Rationale of the Draft Law on amendments to the Law on the Foundations of Education Sys-

³⁴ Interview with a representative of the MESTD, conducted on 8 February 2017.

³⁵ *Ibid*

³⁶ The rationales and analyses of the effects of the laws that we refer to in the text that follows on the occasion of the adoption of and amendments to the Law on the Foundations of Education System, the Law on Pre-School Education and the Law on Primary Education have been obtained on the basis of a request for access to information of public importance.

³⁷ The RIA relating to this Draft Law is available on the website of the Republic Secretariat for Public Policies (RSPP) as an example of good practice: <http://www.rsjp.gov.rs/primeri-dobre-prakse-analize-efekata-propisa>

tem from 2013,³⁸ which states that the reasons for amending the Law are the harmonisation with the new Strategy for Education Development in Serbia until 2020 and the perceived problems with the implementation. Although it is stated that the perceived problems could be resolved by new legislation, this document does not contain objectives that are attained by this act. Despite the prescribed requirements, the stated examples illustrate a tendency that, in the policy making practice in Serbia in recent times, the bulk of the content in rationales has usually been dedicated to explaining legal institutes and individual solutions, while a cost analysis of the financial means required to implement acts most frequently comes down to a statement that amendments to regulations will not incur additional financial costs. Finally, the Rationale of the Draft Law on Amendments to the Law on the Foundations of Educational System from 2015, less than two pages in length, does not fulfil its main purpose and objective, which is a detailed and adequate problem analysis, as well as a proposed policy, which should provide decision-makers with information.

By comparing the RIAs which were conducted during the course of adopting the Amendments to the Law on the Foundations of Educational System, it can be inferred that the quality of the conducted analyses is unsatisfactory. For example, the text of the Rationale and the RIA regarding the Amendments of 2011 coincide in many segments, and the reasons for the adoption of the Law in urgent procedure stated in the Rationale coincide with the explanation why it is necessary to pass a new law in the RIA. The proposed RIA from 2013, according to the opinion of the Office for Regulatory Reform at the time, did not contain the proper assessment.³⁹ Similarly, regarding the amendments in 2015, the Public Policy Secretariat (PPS) delivered the Opinion that the submitted RIA contained only a partial impact analysis. By analysing these documents, it is noticeable that the relevant quantitative and qualitative data of importance for the proper assessment of the current situation are lacking, as well as data relevant for the real impact the proposed solutions may have.

On the other hand, bearing in mind that during the research process a new Law on the Foundations of Education System was adopted, this process is also worth a review. The general conclusion obtained through interviews organized with MESTD representatives is that the draft law preparation process was characterised by very short deadlines.

RIA lack the relevant quantitative and qualitative data of importance for reviewing the current situation and giving an essential assessment of the proposed solutions.

³⁸ Available at: <http://www.rsjp.gov.rs/m/misljenje-na-analizu-efekata-nacrta-zakona-o-izmenama-i-dopunama-zakona-o-osnovama-sistema-obrazovanja-i-vaspitanja/719>

³⁹ The Office for Regulatory Reform was established in 2010, and in 2014 it was abolished and replaced by the Republic Secretariat for Public Policies. The opinion on the RIA of the Draft Law on Amendments to the Law on the Foundation of Educational System is available at: <http://www.rsjp.gov.rs/misljenja/719/mis/Misljenje%20na%20Analizu%20efekata%20Nacrta%20zakona%20o%20izmenama%20i%20dopunama%20Zakona%20o%20osnovama%20sistema%20obrazovanja%20i%20vaspitanja.pdf>

On the website of the MESTD, a Call for Public DEbate is available, which also contains the Rationale of the Draft Law, as well as the report from the conducted public debates. A detailed analysis of the Rationale of the Draft Law text shows that even though the document contained all the formally prescribed elements, the Rationale is mostly dedicated to explaining legal institutes and individual solutions. Despite stating the reasons for passing a new law, it is not clear from the text itself which specific problems the Law should solve, nor how the proposed solutions will contribute to the said objective.

In addition, while identifying problems, MESTD should not focus exclusively on the difficulties faced by the administration in their day-to-day work, but they must also focus on the problems users encounter, as well as on those recognized by experts, which the approach disregarded on this occasion.⁴⁰ According to the interviewed expert representative, “the umbrella law outlines the contours of the system, and it is much more important than systemic laws, but even there we note a lack of analytical process”⁴¹. Moreover, during the Draft Law development, MESTD did not consult the existing analyses carried out by the World Bank, which very well recognise the challenges of the education system in Serbia.⁴²

The financial impact assessment, in line with the common practice, is reduced to the statement that the implementation of this law has already been foreseen in the budget of the Republic of Serbia, which confirms once again that “it always makes a point of saying it will not incur additional costs, so this is not a proper analysis”⁴³.

Hence, when it comes to the Law on the Foundations of Education System, the main conclusion is that there are frequent changes of an umbrella law, when the first problem arises, without any adequate discussions and evaluation of the previously applied solutions. It appears that the law is modified when changes in ministerial positions take place and on an *ad hoc* basis, i.e. “laws are modified because of a problem perceived, without taking into consideration what kind of problems this may create, and on the other hand, not a single legal solution is given sufficient time to gain momentum.”⁴⁴

On the other hand, **the Law on Pre-School Education** was adopted in 2010 and was not subject to amendments until 2017. The Draft Law from 2010 contained the Rationale, but, upon a request to access information of public importance, we did not get RIA. Based on the available Opinion of the Office for Regulatory Reform the RIA was not conducted, and then the subsequently submitted RIA of the same Draft Law did not include the impact assessment in accordance with the Rules of Procedure. Even the interlocutor from the

⁴⁰ Interview with a representative of the profession conducted on 4 December 2017.

⁴¹ Interview with a representative of the profession conducted on 4 December 2017. By the term umbrella law, we mean the Law on the Foundations of Educational System, whereas system laws are the Law on Pre-School Education and the Law on Primary Education (author’s note).

⁴² Interview with a representative of the profession conducted on 4 December 2017.

⁴³ Interview with a representative of the MESTD conducted on 20 April 2017.

⁴⁴ *Ibid.*

MESTD pointed out that he had never taken part in producing RIA.⁴⁵ At the same time, the impact analysis of the problems and objectives covered by the respective law is practically non-existent in the Rationale. The part which deals with the reasons for passing the Law is reduced to a literal enumeration of all the changes the umbrella law brought (the Law on the Foundations of Education System), which consequently, according to the text of the Rationale, practically automatically requires the adoption of a new Law on Pre-School Education. However, the document lacks a more in-depth analysis of the reasons.

This law was also subject to amendments in 2017 to harmonize with the new umbrella law, but on the MESTD website there are no associated documents. Based on the interviews with representatives from this ministry, the conclusion is that very short deadlines were given for the harmonisation of the umbrella law and special laws, which affected the quality of the drafting process, previously more inclusive and transparent.⁴⁶ However, on the PPS website, it is possible to access the Draft Law on Amendments to the Law on Pre-school Education, the RIA, and the Opinion of the PPS, which shows that the Draft does not include the impact analysis, because it failed to give more detailed explanations when answering the given questions.⁴⁷ Furthermore, during the course of law drafting and developing solutions, the existing analyses and reports of the expert community were not taken into consideration, which had a negative impact on the quality of the proposal.⁴⁸

In the Sector for Pre-school and Primary Education there are no preconditions for evidence-based policy making, and there is a misunderstanding on the part of a number of managerial staff members of what that process entails.

The example of **the Law on Primary Education**, which was adopted in 2013, supports the claim that there are inconsistent practices within the MESTD showing that efforts were made to carry out the RIA in accordance with the Rules of Procedure and to take into consideration the opinion of the competent authority. Namely, it is stated in the opinion of the Office of Regulatory Reform and Regulatory Impact Assessment that all the objections the Office had were accepted by the MESTD, which suggests there was communication and cooperation between the two institutions.

⁴⁵ Interview with a representative of the MESTD conducted on 14 February 2017.

⁴⁶ *Ibid.*

⁴⁷ Available at: <http://www.rsjp.gov.rs/m/Misljenje---Nac-zak-o-izm-i-dop-zak-o-predskolskom-vaspitanju-i-obrazovanju/1368>

⁴⁸ During the interview with a representative of the professional public conducted on 4 December 2017, it was observed that “there exists the World Bank report, the analysis of the strategic perspective and the key problems of the functioning of pre-school education, which confirmed what was written in the Strategy for Development, but which expanded what was written in the Strategy in some aspects. The analysis was carried out last year (in 2016, author’s note) and was available to the Ministry, but no meeting was organised for the purpose of reviewing what the ideas and proposals were”.

The main reasons for passing a new Law on Primary Education in 2013 presented in the Rationale were, on the one hand, harmonisation with the Strategy for Education Development in Serbia and with the Law on the Foundations of Education System (adopted in 2009), and on the other hand, “new changes in society, on the economic, as well as social and political level”.⁴⁹ This law is also currently subject to amendments, but during the field research, we did not manage to find adequate interlocutors to discuss the process of amending this law, while on the MESTD website there was no information on the amendments process.

So, the analysis of these very elements, of key importance for a better quality of proposals, as well as a timely and thorough consideration of options for regulating certain areas in education, reveals the shortcomings of the policy making process. Documents and opinions of competent authorities on the conducted analyses during the adoption of these laws and amendments, over the years, have shown the absence of improvement in relation to the evidence-based drafting of policies. What appears to be an obvious conclusion is that in MESTD, i.e. the Department for Pre-School and Primary School Education, adequate conditions for evidence-based policy making do not exist, and that there is a lack of understanding of a number of managers about what this process should imply.⁵⁰ As a result, the research findings suggest that the RIA is implemented as a formal request and does not fulfil its role of adequately defining the problem and analysing alternative regulatory solutions. On the other hand, during the field research, an example of analytical approach to policy making was stated, with consideration of different options and the use of quantitative data.⁵¹ However, it is highlighted as a result of the efforts put in by individuals, and not the outcome of the system culture.

II.c Civil society involvement

Laws are amended haphazardly, that is, without established processes and procedures for passing new regulations, even though amendments often bring essential changes to the way in which a certain area is regulated.

As regards civil society involvement and holding public debates, the Law on the Foundations of Education System is an umbrella law, whose adoption according to the Government’s Rules of Procedure requires conducting a public debate.⁵² It is similar when it comes to systemic laws in this area, i.e. the laws on primary and pre-school education. The reports on public debates show that the Ministry conducted public debates, complying with the given legal deadlines during the adoption of these laws, but not during their amendments. However, the available reports show that there is no established practice in the MESTD with regard to the consideration of comments received during

⁴⁹ Rationale of the Law on Primary Education, p. 2.

⁵⁰ Interview with a representative of the MESTD conducted on 24 February 2017.

⁵¹ The example given in the interview with a representative of the MESTD is the Law on Textbooks, but as stated, the detailed impact assessment is the result of then Assistant Minister’s oversight of the entire process.

⁵² The Government’s Rules of Procedure, Article 41.

public debates.⁵³ As an example of good practice, the report on the public debate on the Law of Pre-School Education from 2009 is illustrative. This report contains individual and general objections with the accompanying explanations for accepting or rejecting them. On the other hand, the report on the public debate on the Law on the Foundations of Education System from 2013 contains only general objections, with a short conclusion that the essential objections were accepted, but without going into too much detail. Such a practice is non-transparent, because it is impossible to see from the report who raised which objections, nor which objections were accepted and for what reasons. Also, during the development of a new Draft Law on the Foundations of Educational System, a public debate was conducted within a twenty-day period, more precisely, three public discussions were organised: in Belgrade, Niš and Novi Sad. However, apart from stating individual objections, the report does not provide explanations for not accepting received comments.

The trend of not holding public debates when amending laws is a cause for concern. Law modifications are most frequently done haphazardly, i.e. outside the established processes and procedures for passing new legislation, although they frequently essentially change a way of regulating certain areas. As one of the representatives of the MESTD pointed out, “there is a tendency to avoid public debates”,⁵⁴ which the process of current amendments to the two laws on pre-school and primary education also suggests, while the MESTD website does not provide information on holding public debates on amendments to the laws. Even though the modifications of these laws were not visible to the public, those informed about the process argue that the new solutions in the area of pre-school and primary education are incorporated in the public debates held during the passing of a new umbrella Law on the Foundations of Education System.⁵⁵

Securing substantive improvements to law proposals through public debates is hampered by the fact that they are frequently viewed as a mere legal obligation, which is also related to the assertion that “there is usually a vision what should be attained when law drafting commences, and then it becomes very difficult to accept comments made by civil society organizations”.⁵⁶ Such a vision usually includes not only perceiving and understanding problems, but also concrete decisions on how to solve those problems, which means, as a consequence, avoiding contributions from the public and perceiving the public as an impediment, rather than assistance in the law development process. This is also confirmed by the fact that while setting the deadlines for holding public debates, it is invariably ensured that the minimum legal requirement of a twenty-day period is fulfilled, and that public debates are held as individual events (round tables, public discussions, etc.), and not as continuous processes.⁵⁷

⁵³ The reports on public debates were obtained on the basis of za request for access to information of public importance.

⁵⁴ Interview with a representative of the MESTD conducted on 20 April 2017.

⁵⁵ Interview with a representative of the expert community conducted on 4 December 2017.

⁵⁶ Interview with a representative of the MESTD conducted on 20 April 2017.

⁵⁷ The programme of the public debate on the Draft Law on the Foundations of Educational System is available at: <http://www.mpn.gov.rs/wp-content/uploads/2016/06/Program-javne-rasprave-1-1.jpg>

Taking into consideration that, in the current system, public debates are exclusively conducted at the very end of the law drafting process, the possibility of involving representatives of civil society and the expert community in working groups, currently represents the only way of making the process “open” at an earlier stage. However, as regards the analysed laws from the area of education, members of CSOs were not involved in working groups in the development of law drafting and amendments, as the conducted interviews suggest. There is a widespread opinion that “it is essential that a working group is as small as possible and operational, and that is why it comprises representatives of state bodies, both internally and externally (from the other ministries)”.⁵⁸ Unfortunately, upon submitting a request to access information of public importance, we were not able to access the decisions on forming working groups for the development of law drafting, nor any material regarding the functioning of working groups.

II.d Organisational structure

With regard to the separation of competences between the sectors, at first glance there seems to be no overlapping, which was also confirmed by all the interlocutors. In the Sector for Primary and Pre-school Education, the activities performed are related to the monitoring of the situation in the area of pre-school and primary education, as well as participation in drafting laws and by-laws within the scope of the Sector,⁵⁹ while the Legal Department is in charge of drafting and proposing laws at all education levels. In practice, it means that the Legal Department shapes the proposals coming from the other sectors, giving them a normative form, ensuring harmonisation with the other laws and EU legislation.

However, when it comes to analytical work, there is no clear division of competences, which is reflected in an unresolved issue of who holds the authority over RIA between the other sectors and the Legal Department. Namely, an interlocutor from the Legal Department provided the information that every sector conducts its RIA, which is contrary to the assertion of representatives from the Department for Pre-School and Primary Education, who have not participated in RIA so far. Similarly, regardless of who holds the formal position of head of the working group for law drafting, it is usually the Legal Department that is in charge of it,⁶⁰ which is surprising, if we are to understand the definition of the sectors responsible for concrete policy areas as the “leading”, and the Legal Department as an “accompanying” actor in law-making. Consequently, the research findings indicate that the MESTD lacks sufficiently developed internal rules regulating detailed procedures and processes during policy making, and that it also lacks a sufficient number of employees to deal with analytical work.⁶¹ All this amounts to making the overall drafting of a regulation, as well as its quality, dependent upon the personal will and go-it-alone efforts, while systematic approaches and practices are lacking.

⁵⁸ Interview with a representative of the MESTD conducted on 22 February 2017.

⁵⁹ Work Information Booklet, pp. 7–8.

⁶⁰ Interviews with representatives of the MESTD conducted on 14 and 22 February 2017.

⁶¹ Interview with a representative of the MESTD conducted on 24 February 2017.

II.e Harmonisation of legislation with the EU acquis and cooperation with SEIO

With regard to cooperation with the Serbian European Integration Office (SEIO)⁶² and the harmonisation of the legislation with the EU acquis, the Sector for International Cooperation and European Integration within the MESTD is the primary point of communication and cooperation with the SEIO. Given that, according to the Serbian Government's Rules of Procedure, every draft law must include a table of concordance of national legislation with the EU acquis, it requires coordination within MESTD and coordination of all sectors with the said Sector for International Cooperation. However, in the area of education, there are no common EU standards, and this area falls within the competence of respective Member States. Therefore, during the negotiations process, there are no standards for closing chapters. Yet, the cooperation with SEIO was deemed as very good by MESTD.⁶³ Also, it is very important to stress that it is exactly the existence of such a central unit/sector in the ministries responsible for transposition of the acquis, one of the key SIGMA requirements during the PAR process.

⁶² During the course of our survey, the European Integration Office (SEIO) was abolished and the Ministry of European Integration (MEI) was founded. However, due to the fact that in the period under observation SEIO was entrusted with aligning the national legislation with that of the European Union, in the further text the issue of harmonisation of the legislation will be analysed in the context of cooperation between the Serbian ministries and SEIO, although it should be borne in mind that now it is now conducted under the auspices of MEI.

⁶³ Interview with a representative of MESTD conducted on 8 February 2017.



III.

POLICY MAKING IN THE MINISTRY OF INTERIOR – SIGNIFICANCE OF THE NEGOTIATING CHAPTER 24

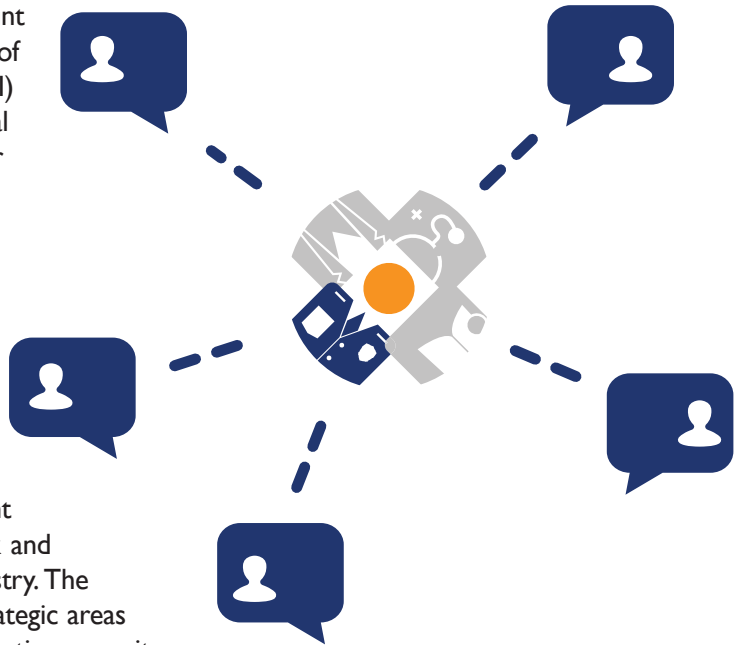
Taking into account that the Ministry of the Interior (MoI)

does not have a special strategic document or another policy document which deals with enhancing and developing administrative service delivery provided by MoI, the MoI Development Strategy 2011–2016.⁶⁴

has been identified as the most relevant strategic policy document which regulates the work and the activities of the Ministry. The Strategy regulates the strategic areas of work regarding organisation, security, cooperation development with other state

authorities and civil society organizations, as well as increasing transparency in operations. Even though this Strategy was in effect until 2016, a new strategy has not been adopted in the meantime, so this strategy is still regarded relevant for the purpose of the research.

Furthermore, in the area of public service delivery, which is in the main focus of the research, a set of laws regulating the issuance of personal documents and the police administrative services work is of particular importance. These laws are: the Law on Police, the Identity Card Law, the Law on Travel Documents and The Law on Road Traffic Safety. The Law on Police⁶⁵ was adopted in 2016, and is regarded important within the context of the EU negotiations. The Identity Card Law⁶⁶ was adopted in 2005, and was subject to amendments in 2011 to extend the validity of the old ID cards. The Law on Travel Documents,⁶⁷ which regulates the issuance of passports, was adopted in 2007, and was subject to amendments twice: in 2008 and 2014. The Law on Road Traffic Safety⁶⁸ was adopted in 2009, and then was subject to amendments several times, more precisely in 2010, 2011, 2013, 2014 and 2015.



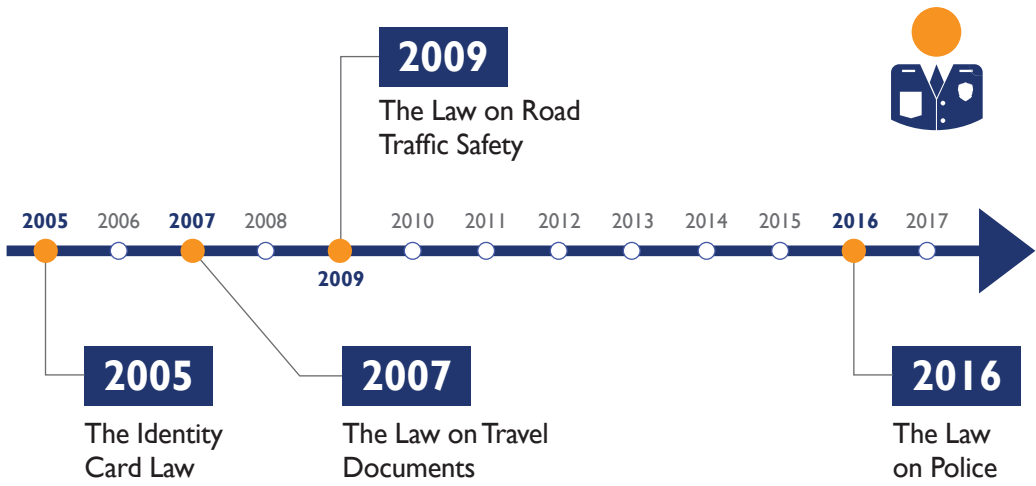
⁶⁴ Strategy for Development of the MoI 2011–2016, available at: <http://bit.ly/29DRDEy>

⁶⁵ The Law on Police, “The Official Gazette of the RS”, no. 6/2016.

⁶⁶ The Identity Card Law, “The Official Gazette of the RS”, nos. 62/2006 and 36/2011.

⁶⁷ The Law on Travel Documents, “The Official Gazette of the RS”, nos. 90/2007, 116/2008, 104/2009, 76/2010 and 62/2014.

⁶⁸ The Law on Road Traffic Safety, “The Official Gazette of the RS”, nos. 41/2009, 53/2010, 101/2011, 32/2013 – Constitutional Court decision, 55/2014, 96/2015 – another law, and 9/2016 – Constitutional Court decision.



The need and pressure to enhance the policy making process in this Ministry do not only arise from the requirements to be met through PAR, but they also come most directly through the negotiations process with the EU.

Nevertheless, for the policy making analysis in this ministry, the context of the EU negotiations is very important. Namely, during the process of the EU accession negotiations, Negotiating Chapters 23 and 24, which are related to the reform of the judiciary and basic rights, i.e. justice, freedom and security, are the key chapters for making a decision on accepting a membership of a candidate country. Mol is involved in the negotiations process as the leading ministry in the Negotiating Group for Chapter 24, while the reform of the police is at the same time in the focus of this process.⁶⁹ This irrefutably

brings the overall decision-making process and the policy making within Mol under greater scrutiny of the public, as well as of CSOs and international organizations. In other words, the need and pressure to enhance the policy making do not arise only from the requirements to be met through PAR, but they also come most directly through the negotiating process with the EU.

On the other hand, when compared to the MESTD, in the Mol occurred a problem regarding access to a large number of documents on the adoption of the previously mentioned policy documents. In other words, Mol does not possess the required documents, which is why the research findings, to a large extent, rely on the interviews and desk research conducted on the basis of the publicly available documents.

⁶⁹ Action Plan for Chapter 24, available at: <http://bit.ly/2gWYeCp>

III.a Mol Development Strategy

If we focus on the Mol Development Strategy, we can see that it addresses the issues of internal organisational improvement of Mol and the improvement of a large number of “sectoral” policies administered by Mol, as well as the advancement of partnership relations at the national and international level, and with civil society. This document is significant because, on the one hand, in the current situation analysis it recognizes the inefficiency of the process of issuing personal documents, pointing out that “it is needed to further increase material and human resources necessary for this process, as well as to continually improve the procedures in a manner which would facilitate, to the greatest extent possible, obtaining personal documents to all citizens”,⁷⁰ and on the other, to define Mol’s vision to be, among other things, the citizen service.⁷¹ Nevertheless, despite this, when defining the strategic areas regarding the future development of Mol, the Strategy does not address the area of citizen service delivery, but only broadly outlines that “all the procedures targeted at external entities should be rendered more rational so that they could enable the most efficient realization of citizen and other entities’ needs addressing the Ministry”⁷². This issue is relevant, particularly taking into account that the highest percentage of citizens is in contact with the police in the sphere of issuing personal and travel documents.⁷³

When defining the strategic areas regarding the future development of Mol, the Strategy does not address the area of citizen service delivery.

During the preparation of the Strategy, its draft was accessible on the Mol website for a month, and public consultations were held through organising public debates – round tables, “with the aim of promoting and finalizing the text of the Strategy”,⁷⁴ during the period from 20 to 23 December 2010. Public debates were held in Subotica and Niš, and public and expert debates were organized. What causes concern is the fact that the debates in Niš and Subotica were held in their regional police directorates, without civil society and broader public representatives.⁷⁵ On the other hand, in Belgrade, a public and expert debate was held, where representatives of different state and education institutions, international and domestic CSOs had an opportunity to give comments. From the report, it is not possible to find the rationale for rejecting certain suggestions or objections, but it is stated which ones were accepted.

⁷⁰ Strategy for Development of Mol 2011–2016, p. 10.

⁷¹ *Ibid*, p. 12

⁷² *Ibid*, p. 14.

⁷³ Opinion survey of citizens’ views of the work of the police, available on the Mol website: <http://bit.ly/29KzKc0>.

⁷⁴ Report on a public debate held on the subject.

⁷⁵ In a report submitted by the then Bureau for Strategic Planning (obtained on the basis of a request for information of public importance), it is stated that among those present were representatives of the city administration, local self-government, local judiciary, lawyers.

Apart from the report on public debates and the text of the Strategy itself, the other documents regarding the creation process of this document are not available. The Strategy itself indicates that serious analyses were conducted by applying different techniques, but also by consulting the reports of international bodies, such as the EU, the Organization for Security and Co-Operation in Europe (OSCE), along with reports from the government and non-governmental organizations. Still, even though the Strategy only marginally makes a reference to citizen service delivery, the absence of this issue did not appear as an objection during these public debates. Similarly, the summary report from all the public debates conducted only briefly notes four suggestions that were accepted, as well as the comments which certain representatives of domestic and international organizations and institutions made.

III.b (Non-)Evidence-based laws

The Law on Police was adopted in January 2016, after several delays in adopting a new law and several amendments taking place in the meantime. The adoption of this law represented an obligation within the process of the implementation of the Action Plan for Negotiating Chapter 24 for the EU accession.⁷⁶ From the whole set of laws which are the subject of our research in the Mol, this law is characterised by the most thoroughly conducted analysis of the state of play and the rationale for the need to adopt a new law. Furthermore, a broad consultation process was created, along with a close cooperation with civil society organisations. Taking into consideration the importance of this law for the accession of Serbia into the EU, this may serve as a positive example of the impact of EU integration on policy making in Serbia.

Of the set of laws that are the subject of our research in Mol, the Law on Police is characterised by the most thoroughly conducted analysis of the state of play and the rationale for the need to adopt a new law.

The Rationale of the Law in its section “Reasons for adopting the law” offers a very detailed overview of all the innovations being introduced, stating in what manner they will enhance the current system within the Mol.⁷⁷ Nevertheless, the Rationale does not contain an explanation of why the Law is the best way of solving the perceived problems, nor whether the other options for solving the perceived problems were considered. On the other hand, the financial assets assessment contains very terse and technical references from the Draft Law on Budget for 2016, without providing a detailed financial analysis of the proposed solutions.

The Overview of the RIA of the Law on Police indicates the formal fulfilment of the required elements. However, what is particularly worrying is the fact that the Law on Police was adopted at the Government session without obtaining the Opinion of the Republic Secretariat for Public Policies (RSPP), which is in direct contravention of The Government’s

⁷⁶ Action Plan for Chapter 24, available at: <http://bit.ly/2gWYeCp>

⁷⁷ The rationale and RIA of the Law on Police were obtained on the basis of a request for information of public importance.

Rules of Procedure,⁷⁸ which could be interpreted as an indicator that RIA is understood as a requirement which should be met during the process of law drafting, but not having a relevant role in draft development and formulation of the proposed solution.

As regards the Identity Card Law, it was adopted in 2005, but was subject to amendments in 2011, in order to extend the validity of old identity cards. The process of making this law may serve as a good illustration of the policy making process before the reform process took place, as well as a starting point for assessing whether, and to what extent, policy making has improved in the MoI. Namely, upon a request to access information of public importance, we received a reply from the MoI that they did not possess the required documents, because the creation of the RIA, as well as the creation of the rationale, was not compulsory by the then Government's Rules of Procedure. Therefore, it appears that the process at that time was characterized by a complete absence of analytical work. The same applies to the other laws that are subject of our research, such as the Law on Travel Documents.

Namely, for the Law on Travel Documents, which was adopted in 2007, and amended in 2008, 2009, 2010 and 2014, there was no rationale, except for the latest amendments in 2014, which states that the amendments were due to the need to align with EU regulations, and it contains a rationale for individual legal solutions. Furthermore, the legal impact analysis was conducted only for the latest amendments to the Law, and a very brief one, and it is impossible to find the Opinion of the RSPP on their official website.

The Law on Road Traffic Safety, which regulates the issuing of driver's licences, was adopted in 2009 and was subsequently subject to amendments several times: in 2010, 2011, 2013, 2014 and 2015. The RIA was conducted during the amendments in 2015, for which the RSPP provided the Opinion that it contained a partial impact assessment, pointing out that "the proposer of the regulations formally answered all the questions", but that "the answers to some questions (...) could have been more substantial"⁷⁹. Furthermore, the amendments to this law in 2015 sparked the protest of driving schools, which proves that "the impact analysis did not take into account a potential resistance to a regulated, new system"⁸⁰, which the RIA confirmed⁸¹.

Even though the Rationale of the law and the RIA are an integral part of every draft law, they do not fulfil their intended role of informing the decision-makers and assessing various possibilities for solving the problem.

⁷⁸ As no opinion of the RIA is available at the website of the RSPP, we sent a mail requesting access to such an opinion. By way of reply, we received information that RSPP has not issued an opinion, for the proponent (MoI) requested that the opinion be forwarded on the same day when the request was submitted. Consequently, RSPP was unable to issue the opinion requested.

⁷⁹ Opinion on the Draft Law on Amendments to the Law on Road Traffic Safety, p. I <http://www.rsjp.gov.rs/misljenja/993/mis/Mi%C5%A1ljenje%20-%20Nac%20zak%20o%20izm%20i%20dop%20Zakona%20o%20bezbednosti%20saobra%C4%87aja%20na%20putevima.PDF>

⁸⁰ Interview with a representative of the MoI conducted on 6 March 2017.

⁸¹ Opinion on the RIA of the Draft Law on Amendments to the Law on Road Traffic Safety, available at: <http://www.rsjp.gov.rs/misljenja/993/ana/AEP.pdf>

Therefore, by reviewing the process of developing a set of laws relevant for our research, the progress in policy making in the MoI has been identified. In other words, if we compare the process of adopting the Identity Card Law from 2005 with the process of adopting amendments to the Law on Road Traffic Safety or the Law on Police, it is noticeable that, over time, the process has become more analytical, that is, evidence-based, and has incorporated certain elements previously missing. This refers primarily to creating rationales and carrying out RIA, which are now mandatory by the Rules of Procedure of the Government.

Nevertheless, the research findings indicate numerous shortcomings and leave room for significant improvements. Even though the Rationale of the Law and the RIA are an integral part of every draft law, they do not fulfil their intended role of informing the decision-makers and assessing various possibilities for solving the problem. By reviewing these documents, it is evident that the quality of the available analyses is still very low. Also, even after the conducted interviews, it remains unclear at what point in the law drafting process the MoI engages in preparing the rationale of the law or conducting RIA. The example of the Law on Police and the request for obtaining the Opinion of the RIA on the same day when the request is submitted to the RSPP⁸², leads to the conclusion that the RIA is carried out at the end of the law drafting process as a justification for the solutions already adopted and fulfilling an administrative requirement, which is in accordance with the former research findings on the policy making cycle in Serbia.⁸³

III.c Civil society involvement

Since the Law on Police, despite certain shortcomings, represents an example of the enhanced policy making process with regard to the analytical approach to law drafting, it also serves as a positive example of the consultation process in preparing the Law. The Draft Law was posted on the MoI website and the e-Government web portal, providing a possibility of sending suggestions electronically. Subsequently, public debates were conducted between 26 March and 20 April 2015 in Belgrade, Niš, Kragujevac and Novi Sad.⁸⁴ It is certainly commendable that the public debates were conducted outside Belgrade, which was also supported by the OSCE mission in Belgrade. Three public debates were held in Belgrade for three different groups of public interest: the general public, the academic community, as well as representatives of international organizations and civil society, which could be regarded as an example of good practice.

Unfortunately, apart from the account of the course of the debate, the reports from public debates do not contain individual comments made by the interested public, nor the ration-

⁸² On the basis of e-mail correspondence with RSPP.

⁸³ Lazarević, Obradović, p. 51.

⁸⁴ The programme of the public debate adopted during the session of the Government Committee and a report on the public debates held were obtained on the basis of a request for access to information of public importance.

ales for accepting or not accepting suggestions.⁸⁵ The rationale given in one of the conducted interviews is that “there is no obligation to provide an explanation of why something was not adopted”⁸⁶ Then, it was estimated that little room was left for intervention on the part of CSOs during the public debates, and that the discussion mainly came down to the justification of the proposed solutions by the Mol representatives,⁸⁷ which is a logical consequence of the fact that public debates are conducted too late in the process of the adoption of documents. Besides, the process was not completely transparent, which is supported by the fact that it was frequently uncertain which version of the Draft Law was the latest one, which caused further misunderstandings between the state institutions, while CSOs’ contribution was hampered.⁸⁸

When the Identity Card Law was adopted, in Mol’s reply to a request for access to reports on public debates, we were informed that, according to the Rules of Procedure of the Government then in effect, there was no obligation to conduct a public debate.

On the other hand, in the case of the Law on Travel Documents, there was no information available on whether any public debates were held, except on the amendments in 2014, when no public debates were held, which was suggested by the Ministry itself, with the justification that “it does not change to any essential degree the legal regime” in this area.

In the case of the Law on Road Traffic Safety, public debates were organised only in connection with the amendments of 2015, over a period of 30 days, in Novi Sad, Kragujevac, Niš and Belgrade. As was the case with reports on other public debates, this one listed the areas that were the object of observations and suggestions, but without any further justification of the reasons for acceptance or rejection of the comments received, serving as an indicator of the established practice in the Mol.⁸⁹

Decisions on appointing members of the work group for drafting all the laws that are the subject of this research are not available, and the reason given for this is that the Ministry does not possess that information.

Also, the decisions on appointing members of the working groups for preparing all the laws that are the subject of this research have not been submitted, with an explanation that the Ministry is not in possession of that information.⁹⁰ Such a reply on the part of the Ministry may

⁸⁵ A similar observation was addressed by the Belgrade Centre for Security Policy, which monitored the process of passing the Law.

⁸⁶ Interview with a representative of the Mol conducted on 6 March 2017.

⁸⁷ Moreover, on the basis of an interview with a representative of civil society conducted on 22 November 2017, one can conclude that the Draft Law proposal was primarily realised through contacts with members of parliament rather than through specific suggestions offered during the public debates.

⁸⁸ Interview with a representative of civil society conducted on 22 November 2017.

⁸⁹ The report on public debates was obtained on the basis of a request for access to information of public importance.

⁹⁰ On the basis of a request for access to information of public importance submitted to the Mol.

be understood as a claim that working groups, in formal terms, were not actually formed for the purpose of doing preparatory work on these laws. Still, the findings obtained through the interviews point to the established practice of forming working groups, and also to a recent tendency to involve civil society in working groups, at least in the case of some draft laws.⁹¹

Thus, on the one hand, the findings of our research point to a change in the dominant practice and to a tendency towards a greater involvement of civil society in policy making. To put it more precisely, according to an interlocutor from the Mol: “Before the process of harmonisation with the EU, the participation of civil society was sporadic, but now it is almost obligatory.”⁹² On the other hand, public consultations and civil society involvement in the policy making process are still viewed as an event, not as a process. Even when outside actors are involved, similarly to the practice in MESTD, this usually occurs at the end of the process of preparing a draft regulation, when there is not much room for major interventions and when it is natural that the proposers of the regulation in question defend the solutions on which they worked. All of the above points to the conclusion that the decision-makers in Mol still have not recognised the importance of a full involvement of all the stakeholders in the policy making process in its early stage, which would provide a real assistance and contribute to the preparation of the document in question.

III.d Organisational structure

The units responsible for policy making that are of importance for our research in Mol are the recently established Sector for Strategic Planning, International Cooperation and European Affairs, and the Secretariat of Mol.

The Sector for Strategic Planning, International Cooperation and European Affairs⁹³ organises, analyses, plans, proposes and realises Mol work in the domain of international cooperation, European integrations, strategic planning and project management.⁹⁴ When it comes to policy making, the role of this sector is important for the preparation of strategies, action plans and other planning documents of Mol, and also for researching trends in the development of the state administration and the police service in the world, initiating development projects and analysing the development needs of Mol, and for all strategic analyses within the scope of Mol work. This sector is relatively new, having been founded through amendments to the Law adopted in 2015, and “is still not functioning the way it was conceived.”⁹⁵

On the other hand, the Secretariat also plays an important role in policy making in Mol, especially the Department of Legal Affairs and the Department for Normative Affairs. The

⁹¹ A case in point is the Law on Private Security.

⁹² Interview with a representative of the Mol conducted on 6 March 2017.

⁹³ After several requests addressed to him, the head of this sector did not agree to an interview with the research team.

⁹⁴ Mol Work Information Booklet, p. 39.

⁹⁵ Interview with a representative of the Mol conducted on 1 March 2017.

significant role of the Secretariat, as well as the findings obtained through interviews, indicate how strong the emphasis on normative affairs in this ministry is, where the process of policy making is understood first of all as a process of creating new regulations. In other words, when a certain problem is observed, the next step is the question “What should be normed or what has not yet been normed and should be prescribed?”⁹⁶ The division of powers among various sectors has been assessed as good, and it has been stressed that the Secretariat provides support to other sectors.⁹⁷ Both units, the Sector and the Secretariat, are satisfied with the structure of the employees in terms of their professional qualifications. However, what is pointed out is the shortage of people in relation to the scope of work.⁹⁸

III.e Harmonisation of legislation with the EU *acquis* and cooperation with SEIO

Cooperation with SEIO is carried out primarily through the Sector for International Cooperation, European Affairs and Strategic management, which is the focal point for cooperation with SEIO, that is, currently with MoEI. The Department for European Affairs⁹⁹ is the key point in the Mol in charge of analyses, planning, monitoring, coordinating and initiating the harmonisation of the legal system with the EU in the sphere of internal affairs and in the context of Chapter 24, as well as other chapters that the Mol participates in.¹⁰⁰ Still, an interview with a Mol representative indicates that the actual practice differs from the prescribed procedure: he explains that “at the technical level, each organisational unit communicates with SEIO”¹⁰¹.

Still, the requests that arise in the context of the process of Serbia’s accession to the European union undoubtedly contribute to improving the quality of formulations of public policies, thus making the process more inclusive and transparent. A potentially negative side of this process is the excessive emphasis that Mol now tends to place on harmonisation with the EU *acquis*, which may be at the expense of the quality of the texts of laws themselves. In other words, what is given priority in the course of adopting regulations is not the quality of the proposed text, “but whether it is harmonised with an EU Directive or Regulation”¹⁰², which consequently may influence their applicability, especially if a proper RIA is not carried out. Bearing in mind that EU Directives leave members states the freedom of defining the appropriate ways of achieving the results described in them, when Directives are transferred into national legislation, it is especially important to conduct a thorough analysis of the effects of various potential solutions (options) for achieving those results.

⁹⁶ Interview with a representative of the Mol conducted on 6 March 2017.

⁹⁷ *Ibid.*

⁹⁸ Interviews with the Mol representatives conducted on 1 and 6 March 2017.

⁹⁹ At the time of conducting the interview, the post of the Head of Department was vacant, whereas there was no reply to the questionnaire submitted to the Mol by the time of completing the work on this study.

¹⁰⁰ Work Information Booklet, p. 39.

¹⁰¹ Interview with a representative of the Mol conducted on 6 March 2017.

¹⁰² *Ibid.*



IV. POLICY MAKING IN THE
MINISTRY OF HEALTH
– *EXPERT-GUIDED*
PROCESSES, INSUFFICIENT
INVOLVEMENT OF
CITIZENS

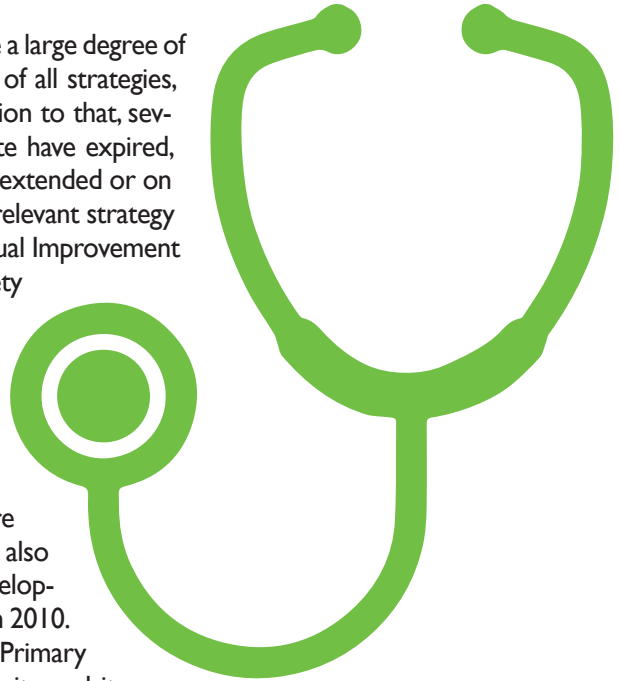
ПРИЈЕМ И ТРИЈАЖА
ПАЦИЈЕНАТА

ИНФОРМАЦИЈЕ

KONT
OBAVLJAJU
KOD VAŠEG
PEDI

NAKON OBA
PREGLEDA, JA
ŠALTER
POPUNJAVANJ
DOBLENH

In the area of health care, one can perceive a large degree of fragmentation of policy documents, first of all strategies, action plans and programmes.¹⁰³ In addition to that, several strategies posted on the MoH website have expired, and there is no information on their being extended or on the passing of new action plans. The most relevant strategy for this research is the Strategy for Continual Improvement of the Quality of Health Care and the Safety of Patients, passed in 2009, to be in effect until 2015. However, as this strategy to a great degree relies on the strategic plan Better Health for All, which was adopted in 2003, in our research we shall rely on that document as well, in order to establish to what extent strategic documents are mutually aligned. Apart from that, we shall also take into consideration the Plan for Development of Health Care, which was adopted in 2010. On the other hand, the Draft Strategy of Primary Health Care is available on the MoH website and it would be of great importance for the subject of this research, but it has never been adopted, for reasons that could not be established during the research, which is why this document will not be taken into consideration.¹⁰⁴



As regards, the set of laws that are the subject of research, we singled out the Law on Health Care and the Law on Health Care Insurance. The former was adopted in 2005, but after 2009, every year it was subject to being amended.¹⁰⁵ The latter was adopted in 2005¹⁰⁶ and was subsequently amended in 2011, 2012 (twice) and 2014, and also in 2015 and 2016.¹⁰⁷

¹⁰³ The strategies in effect on the MoH website number no less than nine. For three of them, corresponding action plans have been posted, and the timeframe of some of them has already expired. Also, eight national programmes have been posted at the same webpage, and they mainly refer to certain illnesses.

¹⁰⁴ The Ministry of Health of the Republic of Serbia. Guidelines for Health Care Policy for Strengthening the System of Primary Health Care from 2010 to 2015. Work Document. Available at: <http://bit.ly/29KY6wT>

¹⁰⁵ The Law on Health Care, "The Official Gazette of the RS", nos. 107/2005, 72/2009 – another law, 88/2010, 99/2010, 57/2011, 119/2012, 45/2013 – another law, 93/2014, 96/2015 and 106/2015.

¹⁰⁶ The Law on Health Care Insurance, "The Official Gazette of the RS" nos. 107/2005, 109/2005 – corrected version, 57/2011, 110/2012 – Constitutional Court decision, 119/2012, 99/2014, 123/2014, 126/2014 – Constitutional Court decision, 106/2015 and 10/2016 - another law.

¹⁰⁷ Bearing in mind that this study is part of a broader research into the citizens' satisfaction with public services in primary health care, for the purpose of complementarity of both parts of the research, the qualitative and the quantitative ones, and the process of creating and amending the Law on Health Care Insurance was taken as an illustration of policy making in the MoH, for the process of replacing old health insurance cards for new electronic cards was ongoing during our research, and turned out to be an important factor of the citizens' and health care workers' (dis)satisfaction.

At the outset, it is necessary to emphasise what was also stated in the introductory, methodological part of the study, namely, that MoH turned out to be the most closed ministry in the process of field research. Specifically, most invitations for an interview were not accepted by the authorised staff members, which is why the research findings rely primarily on desk, that is, documentary research (documents obtained on the basis of access to information of public importance) and publicly available documents, and are thus limited in scope compared to the findings related to the other two ministries.

IV.a Fragmentation of the strategic framework

The Strategy emphasises the beneficiary, that is, the patient, in health care, which, among other things presupposes equal availability and accessibility of health care to all the citizens of Serbia, as well as improving the efficiency and quality of the health care system.

Better Health for All is a strategic document prepared in February 2003, and was to remain in effect until 2015; it comprises three documents: The Health Care Policy of Serbia, Visions of the Health Care System in Serbia, and The Strategy of the Reform of the System of Health Care in the Republic of Serbia until 2015, along with the Action Plan.¹⁰⁸ Apart from the information that the preparation of Better Health for All was a part of “an expert-guided consultation process”, there is no other information regarding the actual process of formulating and passing this document.

The Health Care Policy of Serbia defines the goals of the health care policy until 2015. In this document, the placing of the beneficiary, that is, the patient, at the centre of the health care system is defined as one of its seven aims, along with improving the accessibility of health care and improving the efficiency and quality of the health care system. The vision of the health care system in Serbia defined the principles of the reform of the health care sector of Serbia by singling out primary health care as a priority, as well as the importance of the quality of services and the need for their regular monitoring and control.

The Strategy of the Reform of the System of Health Care until 2015 follows the strategic aims defined in the Health Care Policy of Serbia. Therefore, the Strategy lays emphasis on the beneficiary, that is, the patient, in the area of health care, which, among other things, presupposes equal availability and accessibility of health care to all the citizens of Serbia, as well as improving the efficiency and the quality of the health care system. Efficiency and quality meant introducing the elected doctor in the system of primary health care. However, although improvements in the area of primary health care are one of the objectives of the Strategy, the Action Plan does not mention any specific measures for achieving this, apart from carrying out a Pilot Project in Kraljevo and passing The Development Programme for Family Medicine in the Balkans, along with an analysis of the current situation.

¹⁰⁸ Insight into these documents was obtained on the basis of a request for access to information of public importance, and they are not publicly available on the MoH website.

The Strategy for Continual Improvement of the Quality of Health Care and the Safety of Patients was adopted for the period between 2009 and 2015. The basis for the preparation of this Strategy was the document entitled Better Health for All. Through a detailed examination of the Strategy, we find out that during 2004 a survey of the satisfaction of the beneficiaries of health care was conducted, the results of which were presented at a conference organised in 2005. Following this, MoH, within the project The Development of Health Care in Serbia framework, established the Unit for Quality in 2005; as stated, “it worked on creating and implementing a national policy of improving the quality of health care”¹⁰⁹ along with laying the foundation for preparing the National Strategy for Improving Health Care and the Safety of Patients. However, it is unclear what the role of this unit is/was, for it is nowhere to be found in the Rule Book on the Internal Structure and Systematisation of Work Posts, it is not a part of the organisational structure at the MoH website, and no results of its work are visible either.

The Strategy contains five strategic goals, and the first one is of importance for the topic of the research, as it emphasises the importance of placing the beneficiaries/patients at the centre of the system of health care by promoting the right to the active participation of the beneficiaries in policy-making. Also, the Strategy emphasises the importance of analysing the results of the survey of the citizens’ satisfaction with the services delivered, inclusion of representatives of associations of patients-beneficiaries and representatives of health care institutions in the work of health care committees of municipal assemblies.

Strategic documents are fragmentary and not always harmonised; therefore, their purpose is not clear, while action plans, as a rule, are not publicly accessible on the MoH Internet page.

However, on the basis of information obtained from MoH in response to our request for access to information of public importance, we see that public debates were not held during the preparation of this strategy, which testifies to the insufficient willingness to ensure the participation of the public and civil society. Also, the Action Plan is not available on the MoH website; access to it was also secured on the basis of a request for access to information of public importance, which indicates that public policies in MoH are insufficiently transparent. However, apart from these two documents, the Strategy and the attendant Action Plan, no other analyses, which would provide a more detailed and thorough insight into the process of developing this strategy, are available.

Then, the next strategic document of importance for the research is the Plan for Developing Health Care for the 2010–2015 period, adopted by the National Assembly as “an expert and political document on the basis of which the development of the health care system is guided” and “is the result of an expert-conducted consultation process”.¹¹⁰ However, the claim about

¹⁰⁹ Strategy for Continual Improvement of the Quality of Health Care and the Safety of Patients, “The Official Gazette of the RS” no. 15/09, p. 8.

¹¹⁰ Insight into the Plan for Development of Health Care for the 2010-2015 period was obtained on the basis of a request for access to information of public importance.

the fragmentation of strategic documents is also supported by the fact that, in the section entitled The Basis for Adopting the Plan, numerous strategic and legal documents are referred to, but without mentioning the Strategy for Continually Improving the Quality of Health Care and the Safety of Patients, which was adopted for an almost identical period of time.

Also, the purpose of the Plan as a strategic document is unclear. It defines the priorities in the development of health care, along with defining various objectives; however, apart from recommendations for preparing various programmes and strategies, and monitoring the implementation of the existing ones, this document does not contain any deadlines or specific measures and activities, nor does it mention the responsible actors when it comes to specific activities. It repeats, or in other words, “recycles” what is already contained in the existing policy documents.

On the other hand, what is also of importance is that no public debates were held in the course of adopting the Plan; however, on the MoH website it is possible to find information about the thematic round tables held in connection with the Draft Plan on the premises of the Institute for Public Health of Serbia in 2009.¹¹¹ Examining the records of the round tables conducted, it is evident that the discussion mainly came down to justifying and defending the already adopted solutions on the part of representatives of MoH, rather than providing an opportunity for reviewing various options for resolving the perceived problems. Therefore, for example, when a representative of CSOs pointed out that the Law on Protecting the Rights of Patients had not been adopted, on account of which patients could not exercise their right to lodge a complaint, the reply of the MoH emphasised the importance of the health care inspection and its position within the MoH framework.¹¹²

Therefore, what can be concluded on the basis of the research findings concerning strategic documents is that their preparation is mainly the consequence of expert-led processes. Consequently, the participation of the public is mainly limited to expert conferences that do not involve the broader civil society and representatives of the interested public. Strategic documents are fragmented and are not always harmonised; therefore their purpose is not always quite clear, while action plans are not always publicly accessible on the MoH website. Bearing in mind the enormous social importance of the health care policy and the potentially very broad public interest in the directions of the development of this policy, such findings are indicative of a high degree of misunderstanding the necessity of and the reasons for involving the public in the policy making process. Finally, all the strategic documents that are the subject of analysis in this research are no longer in effect, and new ones have not been adopted, which can be taken as an indicator of policy mismanagement in this area generally.

¹¹¹ Available at: <http://www.zdravlje.gov.rs/showpage.php?id=230>

¹¹² Record of the round table “Response of the Health Care System to Changes”, available at: <http://www.zdravlje.gov.rs/downloads/2009/Avgust/Avgust%202009%20Okrugli%20Sto%20Odgovor%20ZS%20Na%20Promene%20Zapisnik.pdf>

IV.b (Non-)Evidence-based laws

The Law on Health care was adopted in 2005 although, according to the Action Plan dating from 2003, its adoption was planned for 2004. The preparation and implementation of the Law on Health Care fall under the jurisdiction of the Sector for Organisation of the Health Service. On the basis of the available opinions of the Office of Regulatory reform and RSPP, it may be concluded that on the the RIA was performed every time when the Law was amended. However, what points to a lack of institutional memory is the fact that, acting on the basis of a request for access to information of public importance regarding the amendments dating from 2010 and 2011, MoH forwarded only the text of the Draft Law, without any RIA, which were performed, as we concluded, at least on the basis of the opinion given by the then Office of Regulatory Reform, accessible on the RSPP website. Furthermore, the Ministry only forwarded the rationale of the 2013 Draft Law, without the RIA, whereas the both rationales and RIA were only obtained for amendments to the Law adopted in 2014 and 2015 (on two occasions).

On the basis of the documents received, it is evident that the rationale relating to the preparation of the Draft Law mainly fulfils the formal requirements regarding the elements it should contain, as stipulated by the Rules of Procedure of the Government. However, what remains noticeable is the absence of thorough analyses. Therefore, for example, among the reasons for passing this Law, it is not stated whether other possibilities for resolving the perceived problems have been reviewed, but on the other hand, the assessment of the necessary funds mainly comes down to the statement that no additional funds are necessary for the implementation of the Law, which is a practice that has been observed in other ministries as well.

The available RIA indicate that, while working on laws, or more precisely amendments, MoH mainly relies on the data at the disposal of the Institute for Public Health Batut, but the quality of their analyses is low.

The available RIA points to the fact that, in the course of preparing the Law, or more precisely amendments to it, the MoH mainly relies on the data in the possession of the Institute for Public Health “Dr. Milan Jovanović Batut”, but the quality of the analyses is low, that is, it mainly comes down to presenting data, without pointing out any clear way of achieving the set goal.¹¹³ Still, the interviews conducted point to a different practice that exists in the MoH. While, on the one hand, there are heads of sector who point out that the effect analysis is not performed in the beginning, but “the final version is assessed”,¹¹⁴ others emphasise that the effects analysis is performed “parallel with the preparation of draft regulations”¹¹⁵. Also, what RSPP emphasised in its opinion of the amendments dating from 2015 is the omission to perform an *ex-post* analysis of the implementation of the Law so far, which would clearly

¹¹³ This phenomenon was observed in the opinion on the RIA regarding the Law dating from 2014.

¹¹⁴ Interview with a representative of MoH conducted on 24 March 2017.

¹¹⁵ Interview with a representative of MoH conducted on 1 March 2017.

indicate what the problems that the new law should resolve are.¹¹⁶

The Law on Health Care Insurance is relevant, in view of the fact that it regulates the matter of introducing new health care insurance electronic cards instead of the old health care insurance cards. The Law was adopted in 2005, and was subsequently amended several times, specifically in 2011, 2012, 2014 and 2015. Namely, the basis for the 2011 amendments was constitutional in character, while the Law was amended on two separate occasions in 2014. Of all the laws that are the subject of our research, this is the only one that was passed in 2005 or immediately afterwards for which we were forwarded the rationale of the Draft Law.

However, similarly to the case of the Law on Health Care, this and the following rationales contain elements prescribed by the Government's Rules of Procedure, but the quality of those analyses is still unsatisfactory. In other words, the rationales usually contain the reasons stated to support the passing of the given law, but they offer no answer to the question of how the passing of that law contributes to resolving the perceived problems, nor do they offer an adequate analysis of the problems themselves. Therefore, for example, the rationale of the amendments dating from 2012 only states that the reasons, among others, include "the need to establish a system of health care insurance that is financially sustainable", without any detailed elaboration of the specific problem that is to be solved.

A particular shortcoming manifested in the process of policy making turned out to be the issue of the manner of gathering and processing data by the Institute for Public Health of Serbia.

In a similar manner, on the occasion of passing the amendments to the Law in 2015, both documents, the rationale and the RIA, were only a little more than three pages long. Some parts of the RIA were virtually copied from the rationale, which points to the conclusion that they were prepared solely for the purpose of fulfilling a formal obligation, without playing a part in the process of making a decision on the proposed solutions.

What is interesting about the rationale dating from 2011 is the fact that the amendments envisaged the introduction of health care insurance cards within three years. However, through the amendments of 2014, that deadline was extended until 31st December 2016, for "the replacement [of old health insurance cards] did not constitute a priority in exercising rights based on obligatory health care insurance"¹¹⁷. The assessment of the financial resources required invariably comes down to the statement that the implementation of this Law does not require additional funds from the budget, even though anyone could easily conclude that replacing health care insurance cards with electronic cards must require some, even considerable, financial resources.

¹¹⁶ Opinion on the Draft Law on Amendments to the Law on Health Care, p. 2

¹¹⁷ Rationale of the Draft Law on Amendments to the Law on Health Care Insurance.

As a particular shortcoming in the process of policy making, what stands out is the question of the manner of gathering and processing data on the part of the Institute for Public Health of Serbia. Namely, it is estimated that data do exist at the Institute, which is “the centre for policy making related to health care, and also for the entire assessment of needs”, but they are not processed or used for the purpose they are supposed to serve, namely, and evidence-based process of policy making.¹¹⁸ In addition to this, doubts were expressed regarding the actual method of assessing the patients’ satisfaction and the manner in which information arrives from health care centres.¹¹⁹

The process of passing new laws is under way, both the Law on Health Care and the Law on Health Care Insurance, whose draft versions, along with rationales, are to be found at the MoH. Compared to the rationales provided for the previous amendments, these are more meaningful in terms of content and more detailed, which certainly constitutes progress. However, the rationale still comes down to explaining the solutions being offered, while it remains unclear how they will contribute to resolving the perceived problems, and specific figures and data are lacking. Most of the rationale consists of explanations of particular legal institutes, which is in keeping with the predominant and established practice in state administration bodies, observed in previous research.¹²⁰

IV.c Civil society involvement

As regards the Law on Health Care, the MoH failed to submit reports from the public debates held on the draft versions of these laws, that is, amendments, whereas it can be seen from the text of the RIA, which was submitted, or to put it more precisely, through the elaboration of the question of whether the interested parties had the opportunity of presenting their views, that no public debates were held.¹²¹ Moreover, in connection with the amendments of 2014, the public debates were not held based on the proposal submitted by MoH, which was accepted in the course of a Government session. Instead, on the basis of the available documents, it is evident that the drafts were mostly the result of cooperation between MoH, health care chambers, health care institutions and trade unions.¹²²

However, as the process of adopting the new Law on Health Care is under way, the Draft Law and a report on the related is available at the MoH website. We can see that public debates were held, over a period of one month, in December 2016 and January 2017, in four cities: Belgrade, Niš, Novi Sad and Kragujevac.¹²³ The report gives detailed figures on how many observations and suggestions were received in all, and how many of those were

¹¹⁸ Interview with a representative of civil society conducted on 7 December 2017.

¹¹⁹ *Ibid.*

¹²⁰ Lazarević and Obradović, Map of Policy Cycle at Central Government Level in Serbia, p. 59.

¹²¹ Additionally, the opinion of RSPP on the RIA of the 2014 Law emphasises that the failure to state how all the stakeholders were given the opportunity to state their view of the Law constitutes one of its shortcomings.

¹²² RIA of the Draft Law on Amendments to the Law on Health Care.

¹²³ Available at: http://www.zdravlje.gov.rs/downloads/2017/Februar/lzvestaj_ZZZ.pdf

accepted and rejected. In addition to quoting the major objections to the Draft Law, the report refrains from justifying the reasons for accepting or rejecting the suggestions received, except for providing explanations in principle.

As regards the public debates held in the course of adopting or amending the Law on Health Care Insurance that is still in effect, having submitted a request for access to information of public importance, we did not manage to access any reports on the public debates that were held. On the other hand, as previously emphasised, the new Draft Law on Health Care Insurance is available on the MoH website, along with a public debate programme adopted during a Government session, and an invitation to the debate. Interestingly enough, the public debates about this law were held on the same date and at the same time as those about the Law on Health Care, which may indicate that the debates were held jointly, which is quite justified if the process was carried out in a quality manner and if the discussion about both acts was meaningful. However, no report on these public debates is available on the said website.¹²⁴

On the other hand, if we examine the broader practice in the MoH regarding the make-up of working groups, on the basis of the interviews conducted with representatives of the MoH, it is evident that representatives of CSOs do not get involved in work groups entrusted with the task of preparing draft laws. This fact, along with the research findings with regard to the failure to hold public debates, is indicative of a continual practice of failing to involve citizens and civil society in the process of policy making that most directly concerns them as beneficiaries of health care services.

IV.d Organisational structure

There is no overlapping between sectors, which are rather well positioned, but “the structure is not observed”, and the main shortcoming is the number of people, as well as their level of expertise.

As regards the organisational structure in the MoH, the authorisation for drafting laws is not entrusted to one sector only but is divided between sectors depending on their jurisdiction. The Secretariat of the MoH also plays a part in drafting laws, and also works in coordination with other ministries when it comes to giving opinions on a particular draft law. On the basis of our field research, all our interlocutors were of the opinion that there was no overlapping between sectors, which were positioned rather well, but “the structure is not observed”, while

the main shortcoming is the number of people, as well as their expertise.¹²⁵ Also, the insufficient number of employees doing analytical work was assessed as a personnel problem,

¹²⁴ Following the submission of a request for access to information of public importance, the MoH replied that the public debates had been held and that multisectoral cooperation, that is, consultations, were still ongoing, but we never received a report on any of the public debates held.

¹²⁵ Interview with a representative of the MoH conducted on 14 February 2017.

significant in the context of the process of policy making.¹²⁶ On the other hand, insight into the Work Information Booklet on the MoH reveals that which SIGMA has also observed regarding the situation in the state administration of Serbia, namely, the existence of large inspection units entrusted with the tasks of sanitary and health inspection (over 200 employees).¹²⁷

IV.e Harmonisation of legislation with the EU acquis and cooperation with SEIO

Within the Government, coordination is carried out through giving opinions, which is the legally prescribed procedure. The procedure of giving an opinion is carried out after public debates have been held, that is, at the very end of the process of preparing regulations. Cooperation with other state administration bodies in the process of developing public policies was assessed as good, even better compared to the cooperation between various sectors in the MoH.¹²⁸

Namely, the cooperation between sectors was assessed as insufficient, with insufficiently developed mechanisms for cooperation and resolving conflicts. Therefore, according to the procedure, “an opinion on a draft law cannot leave the Ministry unless all the sectors within the Ministry have had their say – technical obstacles arise due to the excessive importance that is attached to the sectors where it (the given law, author’s note) does not belong”¹²⁹. In view of the fact that the internal procedures do not include mechanisms for intersectoral coordination and resolving conflicts in the process of policy development, such a requirement becomes part of the problem, instead of being part of good cooperation and coordination between all parts of the MoH.

The tasks in connection with the process of Serbia’s accession to the European Union, including the process of harmonising the legislation, fall under the jurisdiction of the Sector for European Integration and International Cooperation. However, as the findings of the field research indicate, although cooperation with SEIO should unfold through this sector, very often other sectors in the MoH “directly cooperate with SEIO on account of speed and it being easier to obtain information this way”, and generally because of greater work efficiency. Still, when documents are to be sent to the European Commission for its opinion on them, it is done through the Sector for European Integration and International Cooperation.¹³⁰

¹²⁶ Interview with a representative of the MoH conducted on 1 March 2017.

¹²⁷ OECD. Sigma Baseline Measurement, OECD Publishing, Paris, 2015, p. 31.

¹²⁸ Interview with a representative of the MoH conducted on 14 February 2017.

¹²⁹ *Ibid.*

¹³⁰ During our research, attempts to find an interlocutor in this sector, unfortunately, proved fruitless.



V •

CONCLUSION:
EVIDENCE-BASED
POLICY MAKING

The analysis of policy making in three ministries serves as a good illustration of this process in the state administration of Serbia and makes it possible to perceive certain trends, to which SIGMA's reports also point. Namely, the last report shows that in most of the areas covered by the Principles of Public Administration there are still serious shortcomings to be observed, and a particularly prominent problem in the area of coordination and policy making is the insufficient transparency and inclusiveness of the administration.¹³¹

Development strategies: Expert-guided processes without a consistent approach

The analysis of policy making in the three ministries referred to above shows that the adoption of strategic documents is mainly an *ad hoc* expert-guided process that cannot serve as an illustrative example of policy making. As evidenced by the example of the Strategy for Education in MESTD, experts from outside the Ministry are engaged to prepare the text of the Strategy, while the employees only gave their opinions. In addition to this, the Plan for Developing Health Care in the 2010–2015 Period in the MoH was also the result of an expert-guided consultation process. This indicated that analytical work in the course of preparing strategic documents is, in a way, “outsourced” outside the ministries, and that the ministries’ internal capacities for such work are insufficiently developed, for what is lacking is a transfer of knowledge from outside experts onto civil servants.

It is also noticeable that strategies, as a rule, are not updated regularly, and that the existence of a consistent strategic framework is not an obligation or established practice in ministries. The research showed that MESTD was the only one to have a strategy currently in effect, which is indicative of the existence of a coherent framework that guides the process of primary and per-school education, as opposed to the other two ministries, which leave their key policy areas – at least periodically – without an up-to-date strategic framework currently in effect. Bearing in mind that strategies essentially represent the only form of a policy document that can provide the analytical basis for the development of laws and other regulations (on account of a lack of policy concepts or other analytical bases for laws),¹³² failure to be up-to-date in revising and establishing strategies can be considered a serious shortcoming of the existing system.

Poor analytical basis, along with poor utilisation of the existing instruments

As has already been mentioned, strategies are viewed as the key basis on the occasion of adopting regulations. Apart from strategic documents, there are no indications that other thorough analytical work is carried out before preparations for drafting regulations are initi-

¹³¹ OECD. Monitoring Report: The Principles of Public Administration. OECD Publishing, Paris, 2017. <http://www.sigmaweb.org/publications/Monitoring-Report-2017-Serbia.pdf>

¹³² See: Milena Lazarević, Sena Marić, Amanda Orza, “Policy Making and EU Accession Negotiations: How to Get Results for Serbia”, Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH and Centar za evropske politike, Belgrade, 2013. Available at: http://cep.org.rs/wp-content/uploads/2014/01/studija_kreiranje_politike_sr_elektronska_verzija.pdf, p. 118.

ated. Also, when ministries have studies and data produced by other actors at their disposal, the example of MESTD and the study prepared by the World Bank indicates that those studies and data are not necessarily used in the development of policies. Furthermore, although the preparation of rationales and RIA have become established as obligatory elements, the level of quality of analyses that are carried out is still low, as evidenced by examples from all the three ministries. In addition to that, these documents are not prepared beforehand or from the beginning of work on a draft law but serve to justify and clarify already developed legal solutions – accepted and preferred by the proposer of the regulation in question. This points to the conclusion that these documents, despite their essentially analytical character, are viewed as a formal requirement, and do not play a part in the assessment of various possibilities for resolving the perceived problems. In connection with this, there is a practice of frequently amending legal solutions – upon the very first manifestation of a particular problem, without thoroughly reviewing all the effects of the amendments in question.

Also, despite the reform processes, this process is not necessarily improved over time, as evidenced by the example of MESTD, where, in the course of preparing the latest regulations, not all the problems that are present in the field of pre-school and primary education were identified in a comprehensive manner. On the other hand, the MoI is an example of an institution where progress in the process of policy making is the most evident compared to the previous periods, which is explained by the conditions imposed in the process of Serbia's accession to the European Union. Namely, MoI was very thoroughly monitored by both domestic and international organisations on account of its importance for Serbia's accession to the EU, in the context of Chapter 24. Still, there is a lot of space for progress. The key challenge that imposes itself is the sustainability of positive practices in ministries, which currently depend primarily on the willingness and enthusiasm of individuals, and which need to be deeply institutionalised in the period before Serbia joins the Union. At the same time, a comparable smaller focus on the policies covered by the MoH in the process of EU accession, and partly the decreased interdependence between the health care policy and other policies are probably among the main factors contributing to the quality of analytical work and transparency being at the lowest level in this particular ministry.

Recognised but limited role of civil society and the public in the process

Civil society is involved first of all through public debates that are conducted at the end of the process of preparing draft regulations, when the room for interventions is very limited. Moreover, during the preparation of strategies for development, public debates are not obligatory, which results in a sporadic and uneven practice of conducting them precisely in connection with those documents that have the greatest analytical capacity and potential to essentially use the contributions of the professional and other public, and especially of civil society. As the preceding analysis has shown, in practice, public debates usually serve to defend the proposed solutions, which is done by representatives of ministries, not as an opportunity for discussion and reviewing various solutions. Still, it is noticeable that there exists an awareness of the importance and necessity of cooperation with civil society, al-

though this is much less in evidence in the MoH than in the other two ministries. Then, public debates are usually held in three or four biggest cities in Serbia, and citizens themselves are insufficiently informed about the intended changes. All of the above reduces them to the status of events that are more expert in character than events aiming to be a place for consultations with citizens. Instead of unfolding as a structured process of consulting the public, such public debates are first of all individual events through which a limited interaction with certain stakeholders is realised in a controlled environment.

Insufficient organisational capacities for policy making

Furthermore, none of the three analysed ministries has a separate analytical unit, and what is generally missing is a clear division of powers for analytical work. This is especially reflected in a lack of clearly defined competences for preparing RIA, which is usually divided among several sectors, and also in the lack of understanding of this tool on the part of the managerial staff. Also, there do not exist developed channels of communication in ministries between different sectors, so that exchange of information is carried out through informal channels. This significantly influences the quality of policy proposals, the scope of the analyses that are carried out, and also the degree of their applicability. These findings are entirely in keeping with the analysis offered by SIGMA in its latest report, on the basis of examples from three other ministries:

The process of developing a policy proposal is not structured enough. Of the three ministries analysed, none has developed procedures and processes for developing public policies and preparation of regulations. Working groups are the main and regular mechanism through which ministries directly coordinate the preparation of policy proposals. The participation of the relevant sectors within a ministry in the process of policy making and preparation of regulations is, thus, not entirely ensured.¹³³

Towards improving the system and practices

In view of the presented results of the research into the process of policy making, which point to a lack of transparency and inclusiveness in the three ministries, recommendations for their improvement are presented in the Grey Paper of Public Services, which relies on all the aspects of the research carried out within the framework of the project “Partnership for Public Administration Reform and Public Services in Serbia – PARTnerships”. Namely, taking into consideration the results of qualitative research (“the input side”) and the results of research into citizens’ satisfaction with three groups of public services (“the output side”), the Grey

¹³³ OECD. Monitoring report: The Principles of Public Administration. OECD Publishing, Paris, 2017, pp. 45–46
<http://www.sigmaweb.org/publications/Monitoring-Report-2017-Serbia.pdf>

Book of Public Services offers a number of recommendations for improving public service delivery. These recommendations refer to very specific proposals for improving the organisational aspects of institutions that provide services to beneficiaries (primary health care centres, the administrative service of the police, pre-school institutions and primary schools), and also to measures addressed to ministries with a view to improving policy making. Also, the recommendations conform to deadlines, in other words, they are classified into short-term and medium-term ones, in order to enable a simple way of monitoring their implementation. Here we provide just a summary of recommendations in the area of policy making:

In the short term:

- Amend the Law on State Administration and introduce the obligation of developing evidence-based initial grounds before developing a draft law which is to significantly change the given area.
- Regularly analyse and use the results of surveys on citizens' satisfaction with public services and citizens' feedback, as a basis for developing and implementing the policy of service delivery.
- Passage of the Law on Planning System and of the Regulation on Public Policy Management Methodology, Regulatory Impact Assessment and Contents of Individual Documents, regulating the obligations of all stakeholders in policy making.
- Amend the Law on State Administration to introduce an obligation of consultations with all relevant stakeholders during the working stage of legislation development, including relevant associations, professional audience and other stakeholders.
- Amend the Law on State Administration to introduce an obligation for national authorities to inform the public when commencing development of legislation, via their respective web pages or the e-government portal.
- More specifically regulate the work of working groups preparing laws and strategies, in order to have representatives of civil society, besides the representatives of relevant authorities, involved with the work of the working groups. (The recommendation implies amendments to the Regulation on Principles for Internal Organisation and Job Systemisation in Ministries, Special Organisations and Government Services).

In the medium term:

- Deliver professional development and coaching for public servants working on policy making in order to perform analytical tasks.
- Define and apply the tools for analysing policy impact on gender equality in order for gender mainstreaming in policy making.

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VII. Annexes

Annex I: Questionnaire for civil servants on the process of policy making

- I. U To what extent, in your opinion, is the process of policy making in the Ministry of the Interior/Ministry of Education, Science and Technological Development/Ministry of Health evidence-based?
- . To what extent does the legal framework clearly define the obligations of the Ministry regarding the analytical work in the process of policy making, and how is that manifested in practice, specifically, in your sector? What, in your opinion, are the main problems when it comes to performing analytical tasks, and how are they manifested (give an example from the practice of your sector/unit)?
 - . To what extent is there a clearly developed methodology for defining and analysing problems, assessing the benefits and costs of different options, defining the desired outcomes, and how is that manifested (give an example from the practice of your sector)?
 - . To what extent, in your opinion, have the lines of responsibility for performing analytical tasks been established in your sector/department? How is quality control performed in the Ministry?
 - . To what extent are analyses conducted on the basis of relevant data? Additionally: how are the data gathered and processed? Is there, in your opinion, when it comes to gathering and processing data? (Give an example from your practice to support your claims.)
 - . To what extent, in your opinion, is every policy proposal subjected to a detailed analyses of the expected financial costs of the proposed options?
 - . To what extent, in your opinion, are mechanisms for monitoring and evaluation identified simultaneously with policy making? That is, can you give facts that support your claim that monitoring and evaluation are carried out in practice? In the course of policy making or changing the existing policies, how are the results of previously conducted evaluations used in your sector?

2. To what extent and in what way, in your opinion, has the assessment of influence (regulatory impact assessment) been applied in the process of policy making in the Ministry of the Interior/Ministry of Education, Science and Technological Development/Ministry of Health?

- . In what phase of policy making is the regulatory impact assessment applied?
- . How do analyses influence the content of policy documents (provide an example of how this is manifested)?
- . To what extent and in what way is the opinion of the Republican Secretariat for Public Policies taken into consideration while carrying out the regulatory impact assessment?

3. In your opinion, to what extent are policy documents and regulations prepared in an inclusive manner that enables an active participation of civil society and the public?

- . What are the mechanisms of ensuring the participation of civil society and how are they manifested?
- . How is the public informed?
- . To what extent is civil society involved solely through public debates, or are representatives of civil society invited to be a part of working groups?
- . How much time, on average, are civil society organisations given to submit their comments of proposals?
- . Are those comments taken into consideration when the final draft is adopted? If so, how is feedback provided/the interested public informed of the results of the consultations carried out and of the accepted or rejected comments, and how is that manifested in practice?

4. To what extent, in your opinion, are policy documents and regulations prepared in a way that enables a purposeful coordination of views within the Government?

- . In what way and to what extent is coordination of views carried out within the Government?
- . In what way do the procedures that enable consultations between ministries in connection with policy making function in practice? To what extent do consultations between ministries contribute to improving the quality and the content of policy documents/regulations?

5. In what way, in your opinion, is the accessibility of relevant policy documents and regulations to the public ensured?

- . To what extent are regulations and other policy documents published on the Ministry of the Interior website in a timely manner?

6. In your opinion, to what extent does the organisational structure and the structure of the employees in the Ministry of the Interior/Ministry of Education, Science and Technological Development/Ministry of Health create conditions for evidence-based and inclusive policy-making?

- . To what extent have clearly defined internal procedures and rules have been established in the process of preparing policy documents and draft laws, and how are they manifested?
- . To what extent are the jurisdictions of different sectors in the Ministry clearly defined, or do they overlap?
- . In what way does the structure of employees in your sector reflect the needs and the jurisdictions of the Ministry regarding the analytical capacities?

7. In what way is cooperation with the European Integration Office realised with a view to transferring the EU acquis?

- . In what way is cooperation with SEIO realised?
- . Is there a sector or department solely responsible for cooperation with SEIO?
- . If so, in what way is cooperation with other sectors realised concerning the transfer of the EU acquis?

Annex 2: Institutions where the interviews were conducted:

Name of institution:	Date:
Ministry of Education, Science and Technological Development	8 February 2017
	14 February 2017
	22 February 2017
	24 February 2017
	20 April 2017
Ministry of Health	14 February 2017
	1 March 2017
	24 March 2017
Ministry of Interior	1 March 2017
	6 March 2017 (three interviews)

Notes



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