Republic of Serbia

#ЕУ ЗА ТЕБЕ

CORRUPTION RISK ASSESSMENT IN PRIVATIZATION REPORT

INSTITUTE OF COMPARATIVE LAW

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Mission to Serbia

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Executive summary

The present report has been developed with the aim of supporting the Ministry of Justice in preparing a Corruption Risk Assessment. The 2022 Methodology for Corruption Risk Assessment in Areas Subject to the Strategy for the Fight against Corruption and Action Plan, developed by the Serbian Anticorruption Agency, was applied as the principal methodology. Where necessary, the consultant also relied on the methodology designed by Transparency International, on the methodology jointly developed by the Regional Corruption Council and the EU, and on the methodology incorporated in the Arachne Risk Scoring Tool, as these provide useful instruments for measuring, evaluating, and ranking the identified risks. The CRA report identifies and addresses risks stemming from deficiencies in the Serbian regulatory framework governing privatization. The analysis focuses on the 2020–2025 regulatory framework and excludes legal amendments enacted after July 30, 2025. The first section of the CRA Report presents a list of competencies that are particularly exposed to corruption risks in the privatization process. The second section outlines the competencies of relevant national institutions, followed by a description and analysis of the identified risks and the risk factors linked to sensitive competencies. These elements are summarized in tables developed for each competency, illustrating the interrelation between sensitive areas, specific risks, their descriptions, and associated risk factors. In addition, the tables integrate risk evaluations and guidelines for mitigating factors, serving as supplementary components of the analysis. The CRA concludes with findings and recommendations, followed by a list of sources. The key recommendations call for amendments to the following laws and bylaws: the Law on Privatization and accompanying analyzed bylaws, the Law on Corruption Prevention, Rulebook on Internal Organisation and Staffing of the Anticorruption Agency, Government Rules of Procedure, and the Law on Managing Companies in Public Ownership of the Republic of Serbia. The proposed legal interventions are intended to adequately address corruption risks in privatization. These include wide discretionary powers that are often accompanied by poorly formulated legal provisions, vague wording, and legislative gaps, which may manifest in the absence of specific deadlines and a consequent lack of clarity in administrative procedures. In addition, the interventions aim to strengthen institutional capacities, clarify and enhance the powers of the Ministry of Economy, the Anticorruption Agency, and the Anticorruption Council, and improve their mutual coordination and cooperation.

1. Introduction

The present report has been developed with the aim of supporting the Ministry of Justice in preparing a Corruption Risk Assessment (hereinafter: CRA). The report was developed by the Institute of Comparative Law, as a consultant, within the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) Project "Strengthening Rule of Law in Serbia". The work was carried out during the period from June 30 to September 30, 2025. As there is no one-size-fits-all methodology for Corruption Risk Assessment (CRA), given the existence of various approaches and elements at both the international and European levels, the consultant has developed a Methodology for the Corruption Risk Assessment Report in Privatization and submitted it to the contractors. The methodology set out the following:

- Clear statement of scope and objectives;
- Description of techniques and methodological steps for drafting the CRA report; and
- Planned structure of the CRA report.

In terms of **scope**, the CRA report predominantly identifies and addresses risks that are attributable to an inadequate regulatory framework governing privatization, which is not limited to the Law on Privatization only, but also covers issues regulated by other legal acts, such as the Law on Corruption Prevention.[1] Out of the various risk factors addressed in the 2022 Methodology for Corruption Risk Assessment in Areas that are Subject to the Strategy for the Fight against Corruption and Action Plan (hereinafter: 2022 Methodology), the CRA will focus solely on risks arising from the following factor: *The legal framework governing the exercise of competences that are particularly sensitive to the emergence of corruption contains risks for the occurrence of the identified irregularities.* As envisaged in the 2022 Methodology, competencies that are particularly exposed to corruption risks in privatization are, as a rule, characterized by strong external pressure from individuals and legal entities, wishing to effect their rights and interests when interacting with the state.[2]

The consultant did not set out to analyse the practical implementation of the adopted laws/bylaws in the privatization sector, but some of the risks and risk factors identified in the regulatory framework have taken place, as indicated in the reports of the Serbian Anticorruption Council, or have been identified in the National Anticorruption-Strategy and the Action Plan for its implementation, GRECO V round of evaluation, reports developed by the European Union (hereinafter: EU) under the framework of the EU accession process, national non-governmental organizations or other national stakeholders.

[1] Please note that the list of sources forms the concluding part of this assessment and encompasses all the legal acts that have been analyzed.
[2] 2022 Methodology, p. 7.

The analysis focuses on the last five years, or, more precisely, on the 2020-2025 regulatory framework. This approach is underpinned by two sets of reasons. Firstly, the 2022 Methodology relies on sources of information and data that relate to events that occurred within a five-year span (2020-2025). Furthermore, this time frame is deemed adequate and reasonable, as it is impossible and unnecessary to assess the entire privatization process, which has lasted for more than the last 30 years, during which four laws and numerous institutional changes were adopted and implemented. The CRA report covers all the recent legal amendments, which pushed the deadline for the completion of the privatization process of companies with majority socially-owned capital towards the end of 2027, along with planned changes to certain bylaws, provided they were adopted by July 30th, 2025.

As indicated in the Terms of Reference, the **objective** of the CRA in privatization is to contribute to countering corruption by informing the decision makers about identified corruption risks, and proposing broad mitigating measures which should be interpreted and applied in conjunction with the provided recommendations. Although the 2022 Methodology, which was used as a starting point for the CRA in privatization, determines that the CRA should be primarily aimed at informing decision-makers involved in public policy development about identified corruption risks, the objective of the CRA is set somewhat more broadly. The identified risks and mitigation measures are set to contribute to further legislative and institutional improvements and, more generally to the protection of values such as the rule of law, human rights protection, protection of public interest, as well as lawful and efficient management of public resources as all of them are to be endangered if the identified corruption risks in privatization are not properly addressed.

For the purposes of determining the **techniques and developing the methodology** and approach to be applied, the consultant relied on two methodologies prepared by the Serbian Anti-Corruption Agency:

1. Methodology for Corruption Risk Assessment in Areas that are Subject to the Strategy for the Fight against Corruption and Action Plan developed in 2022 (2022 Methodology) and
2. Methodology for the Corruption Proofing in Regulations developed in 2021 (2021 Methodology).

The inherent limitations of the 2022 Methodology were mitigated by including the methodological tools for measurement, evaluation, and ranking of identified risks, by utilizing the methodology developed jointly by the Regional Corruption Council and the EU (titled: ”Corruption Risk Assessment in Public Institutions in South East Europe Comparative Research and Methodology”).[3] The 2022 Methodology was applied as the principal methodology, since it alone provides definitions of “corruption risk” and “risk factors” that are fully consistent with the definitions contained in the ToR. To the extent necessary, the consultant has also resorted to the methodology designed by

[3] See pp. 93-95 of the RAI Methodology.

Transparency International[4] and to the methodology addressed by the Arachne Risk Scoring Tool as supplementary frameworks.

When it comes to data collection methods and limitations, the consultant primarily relied on detailed desk research and document review of over 200 documents. The document review included: National Anticorruption Strategy for the period 2024-2028, applicable Revised Action Plan for Chapter 23, current Action Plan for the Implementation of the National Anticorruption Strategy, Law on Privatisation and relevant bylaws, Law on Corruption Prevention and relevant bylaws, Law on Ministries, Government Rules of Procedure, Law on the Police and relevant bylaws, Law on the Prosecution Service and relevant bylaws, Criminal Code and a number of other laws and bylaws, the reports of the Anticorruption Council, GRECO Reports for Serbia for the V round of evaluation, annual EU reports on Serbia, Rule of Law Reports on Serbia, and other documents. A full list of sources is provided at the end of the CRA report. The documents collected were triangulated mutually and with other data collection methods. The risk identification was also informed by the consultant's participation in the work of focus groups for developing the Action Plan for the Implementation of the National Anticorruption Strategy and fact-finding interviews.

The **planned structure of the CRA report**, as set out in the Methodology for the Corruption Risk Assessment Report in Privatization proposed by the consultant, was modified in the course of the CRA Report development with a view to preventing undue extensiveness of the report.

In the first section of the CRA Report, a list of the competencies that are particularly exposed to corruption risks in privatization is presented. The second section of the CRA report includes the competences of relevant national institutions that are particularly exposed to corruption risks in the privatization process, followed by a description and analysis of the corruption risks in privatization and the risk factors associated with specific sensitive competences. These are presented in tabular form, developed for each competence identified as particularly exposed to corruption, illustrating the interrelation between sensitive competences, corruption risks, and corresponding risk factors. This section encompasses measurement, evaluation, and ranking of the identified risks and two key components of the Guidelines for mitigating factors (recommended mitigating measures, and responsible entities for the implementation of mitigating measures). Even though the initially proposed structure envisaged for risk evaluation and Guidelines as separate sections of the CRA report, in view of the anticipated extensive scope of the report, the structure was modified as described. Therefore, both risk evaluation and guidelines for mitigating factors are integrated into the tables presenting risks, risk factors, and their descriptions, serving as supplementary elements.

Finally, the CRA concludes with the main findings and recommendations, followed by the list of sources.

[4] Corruption Risk Assessment and Management Approaches in the Public Sector, TI, 2015.

2. Competences of relevant national institutions that are particularly exposed to corruption risks in privatisation

Under the 2022 Methodology, the first step is to identify all the competencies of different national bodies and actors in the area of privatization. These competencies range from public policy and law-making competencies to implementation of public policies and law enforcement, and the provision of services to individuals and legal entities, as well as to exercising control and supervision over those bodies that implement public policies and regulations or provide services. The consultant identified all the competencies of the relevant national bodies. However, due to the expected extensive scope of the report, this section does not include them. Instead, it only identifies and lists the competencies that are particularly exposed to corruption risks in privatization. All the sensitive competencies in the field of privatization are, as a rule, characterized by strong external pressure from individuals and legal entities, wishing to effect their rights and interests when interacting with the state.[5]

The following relevant institutions and their competences were identified through an analysis of both primary and secondary sources:

Ministry of Economy/Government/commissions and working groups formed by the Ministry of Economy

- the Ministry of Economy, by way of initiative, institutes the privatization procedure of an entity subject to privatization with socially-owned capital. and submits to the entity subject to privatization the initiative within five days from the date of its adoption.
- the Ministry of Economy submits the initiative for instituting the privatization procedure of the entity subject to privatization with public capital to such entity within five days from the date on which the Government submits it to the Ministry of Economy.
- the Government, by way of initiative, institutes the privatization procedure of an entity subject to privatization operating with public capital and submits the initiative to the Ministry of Economy no later than five days from the date of its adoption.
- the Ministry of Economy requests the privatization entity to submit a new inventory and a valuation of the fair market value of its total assets, liabilities, and capital as of 31 December of the last business year, if more than 12 months have elapsed since the previous inventory and valuation.
- prior to the conclusion of the contract, the Ministry of Economy obtains from the competent authority for the prevention of money laundering an opinion confirming that there are no impediments on the part of the purchaser or the strategic investor to the conclusion of the contract.

[5] 2022 Methodology, p. 7.

- the Commission established by the Minister of Economy conducts the public call for bids with open bidding.
- the Ministry of Economy determines the criteria for participation in the public call for bids with open bidding, the conditions of sale, as well as the obligations of the purchaser.
- the Ministry of Economy concludes the contract on the sale of capital with the purchaser, which is then certified by the competent authority.
- the Ministry of Economy publishes reports of interim capital representatives on the official website of the Ministry of Economy.
- Minister of Economy prescribes the remuneration for work and the reimbursement of actual expenses in the privatisation process, which are borne by the entity being privatisated.
- the Ministry of Economy engages an advisor to perform tasks and provide assistance in organizing the procedure and selecting the most favorable bidder.
- the Ministry of Economy publishes a public call for the selection of a strategic investor in at least one widely circulated daily newspaper distributed throughout the territory of the Republic of Serbia, as well as on the official website of the Ministry of Economy.
- the Ministry of Economy publishes the strategic partnership agreement on the official website of the Ministry of Economy.
- the Government publishes the strategic partnership agreement on the official website of the Government.
- the Government adopts a decision on the model of strategic partnership and the manner of its implementation.
- the Ministry of Economy proposes to the Government the adoption of a decision on the model of strategic partnership, upon consideration of the documentation and other relevant information obtained from the competent authorities and organizations, the entity undergoing privatization, and the potential investor
- the Government decides at its discretion on the proposal of the Ministry of Economy concerning the model of strategic partnership.
- the Government declares the public call for bids unsuccessful on the basis of the commission's report establishing that none of the applications meet the prescribed requirements.
- the Government may, at its discretion, adopt a decision to initiate negotiations with the second-ranked participant if the selected bidder fails to conclude the strategic partnership agreement.
- the Government shall adopt a 'decision on further procedure' if the second-ranked participant likewise fails to conclude the strategic partnership agreement.
- the Commission for the Implementation of the Model of Strategic Partnership may, at its discretion, allow a participant an additional deadline to complete the documentation submitted in the envelope 'bidder's information.
- the Government publishes on its official website the decision establishing the ranking list and declaring the selected bidder, the decision to initiate

negotiations with a participant designated as the selected bidder, and the decision declaring the procedure of strategic partnership unsuccessful.

- the Government publishes the decisions on the conclusion of the strategic partnership agreement on the its official website.
- the Ministry of Economy prepares a report on monitoring the fulfilment of the strategic investor's contractual obligations as stipulated in the strategic partnership agreement
- the Ministry of Economy selects the appointed advisor for the purpose of performing certain tasks and providing assistance to the Ministry of Economy and other designated entities in the privatization process of a large privatization entity, in accordance with the concluded agreement
- at the request of interested parties submitted within 20 days from the date of publication of the public call, the Ministry of Economy shall provide the documentation for the first phase of the procedure
- the Ministry of Economy invites the selected bidders to take part in the second phase of the procedure, based on the list provided by the commission for the conduct of the procedure.
- on the basis of the decision of the commission for the conduct of the procedure, the Ministry of Economy shall invite a person meeting the requirements of the public call to participate in the second phase of the procedure, even if that person addressed the Ministry only after the expiry of the deadline for submitting non-binding bids.
- late offers shall not be opened or reviewed, but shall be returned by the Ministry of Economy, upon the proposal of the commission for the conduct of the procedure, to the submitter within seven days of their receipt.
- the Ministry of Economy, upon the proposal of the Commission for the Conduct of the Procedure extends the deadline for the submission of binding offers by no more than 60 days, and notifies all selected bidders thereof in writing
- the Commission for the Conduct of the Procedure opens the bids no later than one working day after the expiration of the deadline for submitting bids and determines their completeness and validity
- the Commission evaluates binding offers
- The Ministry of Economy determines the deadline for the submission of revised binding offers
- the Ministry of Economy shall notify in writing the bidder whose bid in the procedure of sale of capital of the large-scale privatization entity has been evaluated as the most favourable
- the Working Group, with the assistance of the selected advisors, conducts negotiations with the best bidder and submits to the commission, for approval, the final text of the contract on the sale of capital or shares.
- the Commission may render a decision extending the time limit for the completion of negotiations and the harmonization of the text of the contract on the sale of capital or shares for a period not exceeding ten days
- the Ministry of Economy shall make public the decision declaring the public call for bids unsuccessful

Anticorruption Council

- proposing measures to promote efficient fight against corruption in the sphere of privatization

Anticorruption Agency

- supervising the implementation of strategic documents, providing responsible entities with recommendations on how to eliminate shortcomings in the implementation of strategic documents.
- instituting and conducting proceedings to determine the existence of violations of the Law on Corruption Prevention and pronouncing measures in accordance therewith.
- deciding on the existence of conflict of interest.
- filing criminal charges, requests for initiating misdemeanour proceedings and initiatives for initiating disciplinary proceedings.
- maintaining and verifying data from records specified in the law on corruption prevention.
- providing opinions about the application of the Law on Corruption Prevention its own initiative or at the request of natural or legal persons, and taking positions of importance for the application of this law.
- initiating the adoption or amendment of regulations, providing opinions on the assessment of the risk of corruption in draft laws in the fields that are particularly susceptible to the risk of corruption.
- investigating the state of corruption, analysing risks of corruption, and preparing reports with recommendations to eliminate risk.

Business Register Agency

- registration of relevant information related to the operation of participants in the privatization procedure.

Ministry of Justice

- drafting regulations in the field of the fight against corruption.

Police

- criminal investigation of corruption in privatisation.

Public prosecution

- prosecution of a criminal offence related to corruption in privatisation.

Republic Public Property Directorate

- developing a methodology for appraising the value of immovable property in public ownership.

Managing companies in public ownership of the Republic of Serbia

- appointment of directors and representatives of the state capital in companies owned by the Republic of Serbia.
- disposing of property not exceeding 10% of the total value of the company.

State aid

- awarding state aid.

3. Description and analysis of corruption risks and risk factors in privatisation and ranking of risks

The consultant relied on the list of corruption risks in regulations, which are contained in Annex 1 of the 2022 methodology. The given list classifies the risks in the following five categories:

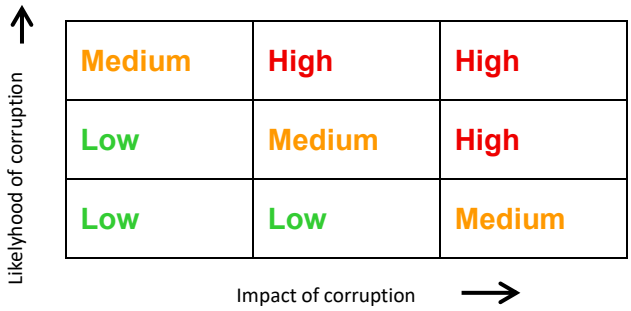
1. Inadequate Legal Wording and Incoherence
2. Lack of Transparency and Access to Information
3. Inadequately Defined Competences, Procedures, Rights, Obligations, and Interests
4. Inadequate Oversight Mechanisms
5. Inadequate System of Liability and Sanctions.

These five categories of corruption risks are further elaborated and systematized in subcategories in the 2022 Methodology, which will also be taken into account when assessing whether a specific competence is particularly exposed to corruption risks in privatization. Since the categories of risks covered by the 2022 Methodology are not specifically tailored to the conduct of a CRA of privatization laws and bylaws, the consultant has also selectively relied on certain sector-specific categories of risks contained in other developed methodological frameworks, such as the Arachne Risk Scoring Tool and one developed by the Regional Anti-Corruption Initiative (RAI). These frameworks address, *inter alia* the following risks: concentration risks; reputational and fraud risks; bribery risk; the risk of abuse of power or position for private interests; the risk of misuse of public resources for private interests; risks relating to possible pressures or demands on public officials to engage in illegal or unethical conduct, or to be subjected to psychological or physical coercion for that purpose (external and internal pressure or influence); and the risk of conflict of interest.

The risk identification within the CRA of privatization laws and bylaws was conducted through a combination of use of secondary sources (assessments that have already been conducted mainly by the Anticorruption Council (both annual and thematic reports), the Agency for Prevention of Corruption, civil society organizations, international organizations and bodies (European Union, GRECO, etc.)), public policy

documents, relevant laws, bylaws, internal rules and guidelines)[6] and primary sources (fact-finding interviews).

The corruption risks were measured, evaluated, and prioritized based on a combination of their potential impact and probability or likelihood of their occurrence. Please consult the methodology offered by the consultant in order to deeply comprehend and easily follow the foregoing risk evaluation.



The likelihood of a risk was established as almost certain, possible and seldom/rare, using the following matrix:

Likelihood level	Likelihood level description
Almost certain	The risk is expected to occur or will occur in the normal course of events
Possible	The risk might occur at some stage in the future
Seldom/rare	The risk might occur only in exceptional circumstances or in some unlikely ones

The impact of the corruption risk was similarly determined as minor, medium, or major, using the following matrix:

Impact level	Impact level description
Minor	The risk will have an insignificant effect on the reputation of the organisation or on its capacity to fulfil its objectives.
Medium	The risk, in case it is not stopped, might have a significant effect on the reputation of the organisation or on its capacity to fulfil its objectives.
Major	The risk, by its consequences, might threaten the stability of the organisation and the accomplishment of its objectives, causing significant financial damage, endangering the successful activity or the efficient functioning of the organisation.

[6] TI Methodology, p. 5.

As envisaged by the RAI Methodology, after the risks were measured and evaluated, they were prioritized as high, medium, or low risks[7], which also sets the priority of intervention. High risks require mitigation, medium risks either monitoring or mitigation, and minor risks require toleration.[8]

For easier tracking of the risk identification, assessment, and ranking, the consultant has developed tables in which risks, risk factors, and risk factor descriptions are presented, with each table also including risk assessment, evaluation, ranking, and the type of intervention, all consolidated in a single format.

[7] RAI Methodology, p. 47.
[8] RAI Methodology, p. 47.

MINISTRY OF ECONOMY/GOVERNMENT/COMMISSIONS AND WORKING GROUPS FORMED BY THE MINISTRY OF ECONOMY

SENSITIVE COMPETENCE THE MINISTRY OF ECONOMY, BY WAY OF INITIATIVE, INSTITUTES THE PRIVATIZATION PROCEDURE OF AN ENTITY SUBJECT TO PRIVATIZATION WITH SOCIALLY-OWNED CAPITAL. AND SUBMITS TO THE ENTITY SUBJECT TO PRIVATIZATION THE INITIATIVE WITHIN FIVE DAYS FROM THE DATE OF ITS ADOPTION. THE MINISTRY OF ECONOMY SUBMITS THE INITIATIVE FOR INSTITUTING THE PRIVATIZATION PROCEDURE OF THE ENTITY SUBJECT TO PRIVATIZATION WITH PUBLIC CAPITAL TO SUCH ENTITY WITHIN FIVE DAYS FROM THE DATE ON WHICH THE GOVERNMENT SUBMITS IT TO THE MINISTRY OF ECONOMY.				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1. Initiating the privatization procedure of the entity with socially-owned capital on the basis of an unreasoned initiative, without reference to any criteria, cannot be justified in terms of the public interest and opens the door to discretionary decision-making. (“imprecise, ambiguous, or discretionary ground for decision-making”, “legal lacunae”, and “promoting interests adverse to the public interest”, “powers established in such a way as to permit exceptions	1.1. Article 19, paragraph 1 of the Law on Privatization contains risks for the occurrence of the identified irregularities.	1.1. Article 19, paragraph 1 of the Law on Privatization stipulates that the Ministry of Economy shall, by way of initiative, institute the privatization procedure of a privatization entity with socially-owned capital. However, the provision fails to prescribe that the initiative must set out specific elements and be duly substantiated by providing the reasons why, in the particular case, the initiation of the privatization procedure is considered to be in the public interest.	Likelihood: Possible Impact: Medium MEDIUM RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

and lend themselves to abusive interpretation")				
2. The initiative for instituting the privatization procedure of an entity with socially-owned capital is submitted to that entity, yet it is not published on the official website of the Ministry of Economy, which adversely affects the transparency of the privatization process and creates the possibility of instituting privatization in cases contrary to the public interest. ("absence or insufficient level of transparency of public authorities", "legal lacunae").	2.1. Article 19, paragraph 4 of the Law on Privatization contains risks for the occurrence of the identified irregularities.	2.1.Article 19, paragraph 4 of the Law on Privatization provides that the initiative for instituting the privatization procedure shall be submitted to the entity subject to privatization with socially-owned capital within five days of its adoption. However, the provision fails to require that the broader public be duly and timely informed of such initiation through its publication on the official website of the Ministry of Economy. This legislative omission undermines transparency and public trust in the privatization process and creates the possibility of instituting privatization in cases contrary to the public interest.	Likelihood: Seldom/Rare Impact: Medium LOW RISK	Tolerate
3. The Government's initiative for instituting the privatization procedure of an entity with public capital is submitted to that entity by the Ministry of Economy, yet it is not published on the official website of the Ministry of Economy, which adversely affects the transparency of the privatization process and creates the possibility of instituting privatization in	3.1. Article 19, paragraph 4 of the Law on Privatization contains risks for the occurrence of the identified irregularities.	3.1. Article 19, paragraph 4 of the Law on Privatization provides that the Government's initiative for instituting the privatization procedure of an entity subject to privatization with public capital shall be submitted to that entity within five days of its submission to the Ministry of Economy. However, the provision fails to require that the broader public be duly and timely informed of such initiation through its publication on the official website of the Ministry of Economy. This legislative	Likelihood: Almost certain Impact: Medium HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

cases contrary to the public interest.		omission undermines transparency and public trust in the privatization process and creates the possibility of instituting privatization in cases contrary to the public interest.		

SENSITIVE COMPETENCE **THE GOVERNMENT, BY WAY OF INITIATIVE, INSTITUTES THE PRIVATIZATION PROCEDURE OF AN ENTITY SUBJECT TO PRIVATIZATION OPERATING WITH PUBLIC CAPITAL AND SUBMITS THE INITIATIVE TO THE MINISTRY OF ECONOMY NO LATER THAN FIVE DAYS FROM THE DATE OF ITS ADOPTION.**				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1. Initiating the privatization procedure of an entity subject to privatization operating with public capital on the basis of an unreasoned initiative, without reference to any criteria, cannot be justified in terms of the public interest and opens the door to discretionary decision-making. (“imprecise, ambiguous, or discretionary ground for decision-making”, “legal lacunae”, “promoting interests adverse to the public interest”, “powers established in such a	1.1. Article 19, paragraph 2 of the Law on Privatization contains risks for the occurrence of the identified irregularities.	1.1.Article 19, paragraph 2 of the Law on Privatization envisages that the Government shall, by way of initiative, institute the privatization procedure of an entity subject to privatization operating with public capital. However, the provision omits to prescribe that the initiative must include specific elements and be duly substantiated by indicating the reasons why, in the particular case, the initiation of the privatization procedure is deemed to be in the public interest. This opens the door to discretionary decision-	Likelihood: Almost certain Impact: Major HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

way as to permit exceptions and lend themselves to abusive interpretation", "bribery risk"; "the risk of abuse of power or position for private interests"; "the risk of misuse of public resources for private interests").		making, and misuse of public resources for private interests, and creates scope for bribery. Measures must be taken to prevent the identified practice of privatizing legal entities that have been operating successfully.		
2. The initiative for instituting the privatization procedure is submitted to the Ministry of Economy, whereas the broader public is not timely informed of its initiation. This adversely affects the transparency of the privatization process and creates the possibility of instituting privatization in cases where it runs contrary to the public interest. ("absence or insufficient level of transparency of public authorities**").**	2.1.Article 19, paragraphs 2 and 3 of the Law on Privatization, contain risks for the occurrence of the identified irregularities.	2.1.Article 19, paragraphs 2 and 3 of the Law on Privatization provide that the Government shall submit the initiative for instituting the privatization procedure to the Ministry of Economy within five days from the date of its adoption. However, these provisions fail to stipulate that the Government must publish the initiative on its official website on the date of adoption, thereby undermining the principles of transparency and public trust and facilitating the concealment of privatization procedures instituted in contravention of the public interest.	Likelihood: Almost certain Impact: Medium HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

SENSITIVE COMPETENCE THE MINISTRY OF ECONOMY REQUESTS THE PRIVATIZATION ENTITY TO SUBMIT A NEW INVENTORY AND A VALUATION OF THE FAIR MARKET VALUE OF ITS TOTAL ASSETS, LIABILITIES, AND CAPITAL AS OF 31 DECEMBER OF THE LAST BUSINESS YEAR, IF MORE THAN 12 MONTHS HAVE ELAPSED SINCE THE PREVIOUS INVENTORY AND VALUATION.				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1. Assessment of the privatization entity is considerably under market value. (“the risk of abuse of power or position for private interests” and “the risk of misuse of public resources for private interests”, “legal lacunae”)	1.1. Article 20 of the Law on Privatization contains risks for the occurrence of the identified irregularities.	1.1.Article 20, paragraph 1 of the Law on Privatization stipulates that the privatization entity is obliged to carry out an inventory and a valuation of the fair market value of its total assets, liabilities, and capital as at 31 December of the most recent financial year. It further contains a reference norm that hinders the potential determination of unlawfulness with respect to the valuation of assets, thereby leaving unclear what constitutes the total assets of the privatization entity for which there is an obligation to determine the fair or actual market value.	Likelihood: Almost certain Impact: Major HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

SENSITIVE COMPETENCE PRIOR TO THE CONCLUSION OF THE CONTRACT, THE MINISTRY OF ECONOMY OBTAINS FROM THE COMPETENT AUTHORITY FOR THE PREVENTION OF MONEY LAUNDERING AN OPINION CONFIRMING THAT THERE ARE NO IMPEDIMENTS ON THE PART OF THE PURCHASER OR THE STRATEGIC INVESTOR TO THE CONCLUSION OF THE CONTRACT.				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1.The existence of links/ collusion, or arrangements between potential purchasers, on the one hand, and civil servants and public officials, on the other, who conduct the privatization procedure. (“legal lacunae”, “bribery risk”, and “the risk of abuse of power or position for private interests”).	1.1 Article 12 of the Law on Privatization contains risks for the occurrence of the identified irregularities.	1.1. Article 12 of the Law on Privatization contains certain integrity-building provisions prescribing that specific categories may not become purchasers in the privatization process, such as the privatization entity itself or its subsidiary, as well as a family member of a participant who has lost the status of purchaser, or a legal entity founded by such person. However, these provisions fail to stipulate that the purchaser may not be an affiliated person of a public official or civil servant, nor a newly established legal entity. The requirement to exclude the possibility of a newly established legal entity acting as a	Likelihood: Possible Impact: Major HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

		purchaser derives from comparative practice, where the absence of such a prohibition has resulted in numerous high-risk privatizations, attributable inter alia to the difficulties in assessing the purchaser's creditworthiness and the true intentions underlying its establishment.		
2.The purchasing company is not precluded from participating in the privatisation process, although it failed to submit financial information to the Business Registers Agency and is sanctioned for a commercial transgression. **(legal lacuna)**	2.1. Article 5 of the Law on Accounting, read in conjunction with Article 12 of the Law on Privatization contains risks for the occurrence of the identified irregularities.	2.1. The Law on Accounting in its Article 57 envisages a comprehensive list of commercial transgressions, which, inter alia, relate to failures to register relevant information or failure to do so within the prescribed time limits. The failure to submit relevant financial documents stems from the provisions of the Law on Accounting. These failures are commercial transgressions and are sanctioned by a fine. The Law on Privatisation does not envisage in Article 12 that those who were found guilty of a commercial transgression of this type cannot be purchasers in the privatization process. The fact that a company has been	Likelihood: Possible Impact: Major HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

		fined for a commercial transgression is not one of the conditions precluding a business entity from participating in privatisation. However, failure on the part of the company to register its financial data and failure on the part of the Ministry of Economy to verify the solvency of the purchaser can be contrary to the public interest.		

SENSITIVE COMPETENCE THE COMMISSION ESTABLISHED BY THE MINISTER OF ECONOMY CONDUCTS THE PUBLIC CALL FOR BIDS WITH OPEN BIDDING.				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1.The Commission for conducting the public call for bids with open bidding is not independent in its work, which may lead to an adverse effect on the abuse of power or position for private interests. (“legal lacunae”, “bribery risk”, and “the risk of abuse of power or position for private interests”).	1.1. Article 28 of the Law on Privatization contains risks for the occurrence of the identified irregularities.	1.1. Article 28 of the Law on Privatization stipulates that out of three members, two are representatives of the Ministry of Economy, which means that its composition does not provide the necessary guarantees of the Commission’s independence. Furthermore, the one is obliged to declare that he/she is neither a shareholder nor a	Likelihood: Possible Impact: Major HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

		purchaser of the entity subject to privatization in order to qualify for a Commission member. However, this provision fails to address other instances of incompatibility of membership with respect to an affiliated person.		
2. The lack of explicit provisions on conflict of interest and recusal creates conditions conducive to the abuse of power or position for private gain and to fraud. ("risk of conflict of interest", "legal lacunae", "bribery risk", and "the risk of abuse of power or position for private interests").	Article 82a of the Law on Privatization contains risks for the occurrence of the identified irregularities.	Article 82a is the only provision of the Law on Privatization that addresses conflict of interest, but it does so inadequately, thereby creating a range of corruption risks. The Law on Privatization entirely omits provisions on recusal.	Likelihood: Almost certain Impact: Major HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

SENSITIVE COMPETENCE **THE MINISTRY OF ECONOMY DETERMINES THE CRITERIA FOR PARTICIPATION IN THE PUBLIC CALL FOR BIDS WITH OPEN BIDDING, THE CONDITIONS OF SALE, AS WELL AS THE OBLIGATIONS OF THE PURCHASER.**				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1.The Ministry of Economy has broad discretionary powers in determining the criteria for participation in the public call for bids with open	1.1.Article 25 read in conjunction with Article 7, paragraph 1, subparagraph 1 of the Law on Privatization contains risks for the	1.1. ~~Both Article 25 and Article 7, paragraph 1, subparagraph 1 of the Law on Privatization stipulate that the Ministry of~~	Likelihood: Possible Impact: Major HIGH RISK	Risk should be mitigated through legislative intervention

bidding, the conditions of sale, and the obligations of the purchaser (such as investment requirements, social programs, business continuity, etc.), thereby creating a risk that it may establish criteria which unjustifiably exclude certain bidders or favor particular bidders, contrary to the public interest. (“legal lacunae”, “imprecise, ambiguous or discretionary ground for decision-making”, “unclear administrative procedures, “bribery risk”, and “the risk of abuse of power or position for private interests”).	occurrence of the identified irregularities. 1.2. Article 4, paragraph 1, subparagraph 2, and Article 11 of the Regulation on the Conditions, Manner and Procedure for the Sale of Capital and Assets by Means of a Public Call for Bids with Open Bidding contains risks for the occurrence of the identified irregularities.	~~Economy determines the criteria for participation in the public call for~~ bids with open bidding, the conditions of sale, as well as the obligations of the purchaser (such as investment requirements, social programs, business continuity, etc.). However, these provisions fail to establish safeguards against arbitrary determinations by the Ministry of Economy that could unduly favour certain bidders**.** 1.2. Article 4, paragraph 1, subparagraph 3 of the Regulation on the Conditions, Manner and Procedure for the Sale of Capital and Assets by Means of a Public Call for Bids with Open Bidding provides that the instructions for bidders shall contain, inter alia, the criteria for ranking the bids. Article 11 further stipulates that the Ministry of Economy may additionally specify qualification requirements in the public call. Nevertheless, those provisions of the Regulation fail to establish safeguards against arbitrary	related to the identified risk factor.

		determinations by the Ministry regarding such criteria and conditions, which could unduly favor certain bidders and result in abuse of power or position for private interests. Likelihood: Possible Impact: Major HIGH RISK		

SENSITIVE COMPETENCE THE MINISTRY OF ECONOMY CONCLUDES THE CONTRACT ON THE SALE OF CAPITAL WITH THE PURCHASER, WHICH IS THEN CERTIFIED BY THE COMPETENT AUTHORITY.				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1.If a contract is concluded in violation of the rules on conflict of interest, such a contract nevertheless remains in force.	1.1.Article 40 of the Law on Privatization contains risks for the occurrence of the identified irregularities.	1.1.Article 40 of the Law on Privatization sets out the grounds for termination and nullity of the contract on the sale of capital. Nevertheless, it does not provide that a breach of the rules on conflict of interest constitutes one of such grounds.	Likelihood: Almost certain Impact: Major HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

SENSITIVE COMPETENCE THE MINISTRY OF ECONOMY PUBLISHES REPORTS OF INTERIM CAPITAL REPRESENTATIVES ON THE OFFICIAL WEBSITE OF THE MINISTRY OF ECONOMY.				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1. The delay in the publication of the report of the interim capital representative undermines the transparency of the work of the interim capital representative. **("the absence of specific time limits", "the absence of, or insufficient transparency of, public authorities", and "vague, inaccurate and ambiguous wording.")**	1.1. Article 43, paragraph 3 of the Law on Privatization contains risks for the occurrence of the identified irregularities. 1.2. Article 5 of the *Rulebook on the Content of the Report of the Interim Capital Representative* contains risks for the occurrence of the identified irregularities.	**1.1.** Article 43, paragraph 3 of the Law on Privatization fails to prescribe a time limit within which the Ministry is required to publish the reports of the interim capital representative. **1.2.** Article 5 of the Rulebook on the Content of the Report of the Interim Capital Representative fails to include a deadline for the publication of the report of the interim capital representatives. The identified irregularities undermine the transparency of the work of the interim capital representative and the Ministry of Economy, thereby creating the possibility of non-performance of the reporting obligation. These risks and risk factors were identified by the 2022 ASC analysis, p. 3.	Likelihood: Possible Impact: Medium MEDIUM RISK	The risk should be monitored.

SENSITIVE COMPETENCE

MINISTER OF ECONOMY PRESCRIBES THE REMUNERATION FOR WORK AND THE REIMBURSEMENT OF ACTUAL EXPENSES IN THE PRIVATISATION PROCESS, WHICH ARE BORNE BY THE ENTITY BEING PRIVATISATED.

RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1. Insufficient certainty and clarity regarding the costs of the interim capital representative. **(”vague, inaccurate and ambiguous wording,” “legal lacunae”, “use of undefined terms”, “misuse of public resources for private interests“).**	1.1. Article 44 of the Law on Privatization contains risks for the occurrence of the identified irregularities. 1.2. Article 4 of the Rulebook on the Level of Remuneration and Reimbursement of Actual Expenses of the Interim Capital Representative contains risks for the occurrence of the identified irregularities.	1.1. Article 44 of the Law on Privatization provides that the Capital Representative is entitled to remuneration for work performed and reimbursement of actual expenses. It also establishes the legal basis for regulating the matter through bylaws. Notwithstanding, the adopted accompanying rulebook has failed to sufficiently mitigate the identified risks, thereby creating the potential for irregularities. Article 44 of the Law on Privatization does not prescribe a definition of “actual expenses”, thereby leaving the term legally indeterminate. 1.2. Article 4 of the Rulebook on the Level of Remuneration and Reimbursement of Actual Expenses of the Interim Capital Representative also fails to define the notion of “actual expenses”. Furthermore, Article 4, paragraph 1, subparagraph 1 of this Rulebook omits to prescribe that, in cases where the interim capital	Likelihood: Possible Impact: Medium MEDIUM RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

		representative has a residence outside the registered seat of the privatization entity, the amount of remuneration shall be increased by the actual accommodation costs. Rather, it provides for reimbursement of accommodation expenses in general, thus enabling arbitrary determination of the amount of such expenses without ensuring their limitation to those incurred out of genuine necessity by the interim capital representative in relation to his/her duties within the privatization entity. These risks and risk factors were identified by the 2022 ASC analysis, p. 4.		

SENSITIVE COMPETENCE THE MINISTRY OF ECONOMY ENGAGES AN ADVISOR TO PERFORM TASKS AND PROVIDE ASSISTANCE IN ORGANIZING THE PROCEDURE AND SELECTING THE MOST FAVORABLE BIDDER.				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1. The Ministry of Economy is vested with wide discretionary authority in engaging advisors for the purpose of carrying out tasks and rendering assistance in the conduct of the procedure and in the	1.1. Article 5, paragraph 4 of the Regulation on Strategic Partnership contains risks for the occurrence of the identified irregularities.	1.1. Article 5, paragraph 4 of the Regulation on Strategic Partnership provides for the possibility of engaging a specific advisor, yet fails to establish the criteria on the basis of which the Ministry of Economy may decide on such engagement, as well as the criteria governing the selection of the advisor in question.	Likelihood: Almost certain Impact: Major HIGH RISK	The risk should be mitigated through legislative interventions related to the identified risk factor

selection of the most advantageous bidder. **(“imprecise, ambiguous or discretionary legal basis for decision-making”, “vague, inaccurate, and ambiguous wording“, “unclear administrative procedures, “the absence or insufficient level of transparency of public authorities,”, “reputational and fraud risks“, “bribery risk”; and “the risk of abuse of power or position for private interests”).**		At the same time, it is not clearly defined whether the advisor may be engaged exclusively as a natural person, or whether legal entities may also act in this capacity, and, if so, which entities are eligible. The absence of such standards creates legal uncertainty, undermines transparency, and opens the space for arbitrary decision-making. Further, this creates scope for exerting influence on the officials of the Ministry of Economy responsible for such decisions, with the potential effect that an advisor may be selected in accordance with the interests of the influencing parties or their affiliate, and may even result in criminal liability. These risks and risk factors were identified by the ASC analysis, p. 6.		

SENSITIVE COMPETENCE **THE MINISTRY OF ECONOMY PUBLISHES A PUBLIC CALL FOR THE SELECTION OF A STRATEGIC INVESTOR IN AT LEAST ONE WIDELY CIRCULATED DAILY NEWSPAPER DISTRIBUTED THROUGHOUT THE TERRITORY OF THE REPUBLIC OF SERBIA, AS WELL AS ON THE OFFICIAL WEBSITE OF THE MINISTRY OF ECONOMY.** **THE MINISTRY OF ECONOMY PUBLISHES THE STRATEGIC PARTNERSHIP AGREEMENT ON THE OFFICIAL WEBSITE OF THE MINISTRY OF ECONOMY.**				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE

1. The Ministry of Economy does not make public on its official website the Government's decision on the model of strategic partnership, which adversely affects transparency. **("absence or insufficient level of transparency of public authorities" and „legal lacunae")**	1.1. Article 2 of the Regulation on Strategic Partnership contains risks for the occurrence of the identified irregularities.	1.1. Article 2 of the Regulation on Strategic Partnership fails to establish an obligation to publish, on the official website of the Ministry, the Government's decision determining the model of strategic partnership. Such a regulatory solution, whereby the above decision is not published while the publication of both the public call for the selection of a strategic investor (Article 18(1) of the Law on Privatization) and the strategic partnership agreement (Article 68(2) of the Law on Privatization) is envisaged, appears unfounded and contrary to the principle of transparency of public authorities. These risks and risk factors were identified by the ASC analysis, pp .5-6.	Likelihood: Almost certain Impact: Medium HIGH RISK	The risk should be mitigated through legislative interventions related to the identified risk factor.

SENSITIVE COMPETENCE THE GOVERNMENT PUBLISHES THE STRATEGIC PARTNERSHIP AGREEMENT ON THE OFFICIAL WEBSITE OF THE GOVERNMENT. THE GOVERNMENT ADOPTS A DECISION ON THE MODEL OF STRATEGIC PARTNERSHIP AND THE MANNER OF ITS IMPLEMENTATION.				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1.The Government does not make public on its official website the Government's decision on	1.1. Article 21, paragraph 5 of the Law on Privatization contains risks for the	1.1. Article 21, paragraph 5 of the Law on Privatization stipulates that the Government adopts a decision on the model of	Likelihood: Almost certain Impact: Medium	The risk should be mitigated through legislative interventions related to

the model of strategic partnership, which adversely affects transparency. **(“absence or insufficient level of transparency of public authorities“ and „legal lacunae“)**	occurrence of the identified irregularities. 1.2. Article 2 of the Regulation on Strategic Partnership contains risks for the occurrence of the identified irregularities.	strategic partnership and the manner of its implementation. However, that provision omits to prescribe the obligation of publishing the said decision on the Government’s official website. 1.2. Article 2 of the Regulation on Strategic Partnership also fails to establish an obligation to publish, on the official website of the Government, the Government’s decision determining the model of strategic partnership. Such a regulatory solution, whereby the above decision is not published while the publication of the strategic partnership agreement (Article 68(2) of the Law on Privatization) is envisaged, appears unfounded and contrary to the principle of transparency of public authorities.	HIGH RISK	the identified risk factor.

SENSITIVE COMPETENCE THE MINISTRY PROPOSES TO THE GOVERNMENT THE ADOPTION OF A DECISION ON THE MODEL OF STRATEGIC PARTNERSHIP, UPON CONSIDERATION OF THE DOCUMENTATION AND OTHER RELEVANT INFORMATION OBTAINED FROM THE COMPETENT AUTHORITIES AND ORGANIZATIONS, THE ENTITY UNDERGOING PRIVATIZATION, AND THE POTENTIAL INVESTOR.				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1.Due to the absence of the requisite criteria, the Ministry of Economy decides at its discretion when proposing to the Government the decision on the model of strategic partnership. **(“imprecise, ambiguous, or discretionary ground for decision-making”, “legal lacunae”, and “the risk of abuse of power or position for private interests”)**	1.1. Article 2, paragraph 4 of the Regulation on Strategic Partnership contains risks for the occurrence of the described/identified irregularities. 1.2. Article 21, paragraph 1 of the Law on Privatization contains risks for the occurrence of the described/identified irregularities.	1.1. Article 2, paragraph 4 of the Regulation on Strategic Partnership prescribes that the Ministry of Economy is to propose to the Government a decision on the model of strategic partnership, relying on ‘documentation and other relevant data.’ However, such wording regulates the matter in a vague and indeterminate manner, omitting to lay down precise criteria to be observed by the Ministry of Economy when submitting its proposal on the model of strategic partnership. 1.2. Paragraph 1 of Article 21 of the Law on Privatization also fails to lay down precise criteria to be observed by the Ministry of Economy when submitting its proposal on the model of strategic partnership. Instead, it	Likelihood: Almost certain Impact: Major HIGH RISK	The risk should be mitigated through legislative interventions related to the identified risk factor.

specifies the criteria to be applied by the Ministry of Economy when deciding on other models of privatization (e.g. (1) the value of capital and assets; (2) the strategic importance of the entity undergoing privatization; (3) the number of employees; and (4) the extent of expressed interest).

The foregoing creates conditions conducive to exerting influence on the Ministry of Economy and the Government by potential strategic investors and other entities, with the aim of securing a favorable proposal or decision. In doing so, it facilitates the commission of the criminal offence of Abuse of Office.

These risks and risk factors were identified by the 2022 ASC analysis, pp.5-6.

SENSITIVE COMPETENCE THE GOVERNMENT DECIDES AT ITS DISCRETION ON THE PROPOSAL OF THE MINISTRY OF ECONOMY CONCERNING THE MODEL OF STRATEGIC PARTNERSHIP. THE GOVERNMENT DECLARES THE PUBLIC CALL FOR BIDS UNSUCCESSFUL ON THE BASIS OF THE COMMISSION'S REPORT ESTABLISHING THAT NONE OF THE APPLICATIONS MEET THE PRESCRIBED REQUIREMENTS. THE GOVERNMENT MAY, AT ITS DISCRETION, ADOPT A DECISION TO INITIATE NEGOTIATIONS WITH THE SECOND-RANKED PARTICIPANT IF THE SELECTED BIDDER FAILS TO CONCLUDE THE STRATEGIC PARTNERSHIP AGREEMENT. THE GOVERNMENT SHALL ADOPT A 'DECISION ON FURTHER PROCEDURE' IF THE SECOND-RANKED PARTICIPANT LIKEWISE FAILS TO CONCLUDE THE STRATEGIC PARTNERSHIP AGREEMENT.				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1.The Government's discretionary decision-making on the proposal of the Ministry of Economy regarding the model of strategic partnership creates conditions for undue influence, which is contrary to the public interest. **("imprecise, ambiguous, or discretionary ground for decision-making", "legal lacunae")**	1.1. Article 21, paragraph 5 of the Law on Privatization contains risks for the occurrence of the identified irregularities. 1.2. Paragraphs 2 to 4 of Article 2 of the Regulation on Strategic Partnership contain risks for the occurrence of the identified irregularities.	1.1. Article 21, paragraph 5 of the Law on Privatization stipulates that the Government shall adopt a decision on the model of strategic partnership and the manner of its implementation. However, the said provision completely omits to lay down the criteria for the Government's decision on the model of strategic partnership. 1.2. Paragraph 2 of Article 2 of the Regulation on Strategic Partnership provides that the Government shall adopt a decision on the model of strategic partnership and prescribe the mandatory elements to be included therein. Although paragraphs 2 and 3 of Article 2 set out the Government's procedure in greater	Likelihood: Almost certain Impact: Major HIGH RISK	The risk should be mitigated through legislative interventions related to the identified risk factor

		detail, they nonetheless fail to specify the criteria to be applied by the Government when adopting the decision. This legislative gap creates conditions for undue influence, which runs counter to the public interest. These risks and risk factors were identified by the ASC analysis, pp. 5-6.		
2.The lack of a prescribed deadline requiring the Government, after receiving the Commission's report, to declare the public call for bids unsuccessful results in unnecessary delays and raises concerns regarding the impartiality of the procedure. **("the absence of a specific deadline", "legal lacunae")**	2.1.Article 17, paragraphs 8 and 9 of the Regulation on Strategic Partnership contain risks for the occurrence of the identified irregularities.	2.1.Article 17(8) and (9) of the Regulation on Strategic Partnership stipulate that the Government is not bound by any deadline when declaring the public call for bids as unsuccessful. Such a decision is adopted on the basis of the Commission's report establishing that none of the applications meet the requirements prescribed by the public call, the above Regulation, and the bidders' instructions. The absence of a deadline for the Government, upon receipt of the Commission's report, to declare the public call for bids unsuccessful may lead to undue prolongation of the procedure and give rise to doubts as to its impartiality. These risks and risk factors were identified by the 2022 ASC analysis, p. 7.	Likelihood: Almost certain Impact: Medium HIGH RISK	The risk should be mitigated through legislative interventions related to the identified risk factor.
3.The Government does not inform the Ministry of	3.1.Article 17, paragraph 9 of the	3.1. Article 17, paragraph 9 of the Regulation on Strategic	Likelihood: Almost certain	Risk should be mitigated through legislative

Economy that it has declared the public call for bids unsuccessful, thereby adversely affecting the transparency and public trust in its work. **("The absence of, or insufficient transparency of public authorities", and "Powers established in a manner that allows for exceptions and abuse in interpretation").**	Regulation on Strategic Partnership contains risks for the occurrence of the identified irregularities.	Partnership does not require that the Government informs the Ministry of Economy that it has declared the procedure unsuccessful. By contrast, Article 22, paragraph 3 of the same Regulation contains a more adequate solution, as it stipulates that the Government's decision on the conclusion of a strategic partnership agreement shall be delivered to the Ministry of Economy. The absence of a provision requiring the Government to inform the Ministry of Economy of the declaration of the procedure as unsuccessful undermines the transparency of the Government's work as well as the public trust in its work and leaves room for abuse. These risks and risk factors were identified by the ASC analysis, p. 7.	Impact: Medium HIGH RISK	intervention related to the identified risk factor.
4. The absence of criteria to guide the Government in deciding whether to initiate negotiations with the second-ranked participant on the conclusion of the strategic partnership agreement renders its powers overly discretionary in this respect and undermines the transparency of the procedure.	4.1. Article 24, paragraph 2 of the Regulation on Strategic Partnership contains risks for the occurrence of the identified irregularities.	4.1. Article 24, paragraph 2 of the Regulation on Strategic Partnership prescribes that, if the selected bidder fails to conclude the strategic partnership agreement, the Government may adopt a decision to initiate negotiations with the second-ranked participant. By employing the term 'may,' this Regulation introduces uncertainty as to the criteria that will guide the Government in deciding whether or not to initiate such negotiations. In this way, the Government is vested	Likelihood: Almost certain Impact: Major HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

(“the absence of, or insufficient transparency of public authorities”, “imprecise, ambiguous, or discretionary ground for decision-making”, “conferring a right instead of imposing an obligation”, and “vague, inaccurate and ambiguous wording.”)		with excessively broad discretionary powers in adopting this decision, and this part of the procedure is regulated in a non-transparent manner. These risks and risk factors were identified by the ASC analysis, p. 8.		
5. Uncertainty arises as to the meaning of the ‘decision on further procedure’ adopted by the Government where the second-ranked participant fails to conclude the strategic partnership agreement. **(“conflicting provisions”, ”vague, inaccurate and ambiguous wording”)**	5.1. Article 24, paragraph 3 read in conjunction with Article 27, paragraph 1, subparagraph 4 of the Regulation on Strategic Partnership, contains risks for the occurrence of the identified irregularities.	5.1. Article 24, paragraph 3 of the Regulation on Strategic Partnership provides that the Government shall adopt a ‘decision on further procedure’ if the second-ranked participant likewise fails to conclude the strategic partnership agreement. However, since Article 27, paragraph 1, point 4 of the same Regulation stipulates that in such a case the Government shall declare the procedure unsuccessful (specifically, ‘if neither with the Strategic Investor nor with the second-ranked participant is the strategic partnership agreement concluded’), it remains unclear why Article 24, paragraph 3 of the same Regulation prescribes the adoption of a ‘decision on further procedure’ without reference to Article 27 concerning the declaration of the procedure as unsuccessful. In other words, it is left undetermined whether, in such a situation, the Government may adopt any	Likelihood: Almost certain Impact: Major HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

		decision other than declaring the procedure unsuccessful within the meaning of Article 27, paragraph 1, subparagraph 4 of the same Regulation. These risks and risk factors were identified by the ASC analysis, p. 8.		

SENSITIVE COMPETENCE **THE COMMISSION FOR THE IMPLEMENTATION OF THE MODEL OF STRATEGIC PARTNERSHIP MAY, AT ITS DISCRETION, ALLOW A PARTICIPANT AN ADDITIONAL DEADLINE TO COMPLETE THE DOCUMENTATION SUBMITTED IN THE ENVELOPE 'BIDDER'S INFORMATION.**				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1. **Discretionary decision-making by the Commission for the Implementation of the Model of Strategic Partnership, when not guided by clear criteria in granting participants an additional period to supplement the documentation, gives rise to legal uncertainty and creates opportunities for arbitrary treatment and undue influence.** **("imprecise, ambiguous, or discretionary ground for**	1.1. Article 17, paragraph 5 of the Regulation on Strategic Partnership contains risks for the occurrence of the identified irregularities.	1.1 Article 17, paragraph 5 of the Regulation on Strategic Partnership envisages that the Commission may, at its discretion, allow a participant an additional deadline to complete the documentation submitted in the envelope 'Bidder's Information.' Since the granting of an additional period rests upon the Commission's discretion, this creates room for corrupt influence on its members, enabling them to grant one participant an additional period while rejecting the application of another in the same circumstances. These risks and	Likelihood: Almost certain Impact: Major HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

decision-making", "legal lacunae")		risk factors were identified by the 2022 ASC analysis, pp. 6-7.		
SENSITIVE COMPETENCE /GOVERNMENT **THE GOVERNMENT PUBLISHES ON ITS OFFICIAL WEBSITE THE DECISION ESTABLISHING THE RANKING LIST AND DECLARING THE SELECTED BIDDER, THE DECISION TO INITIATE NEGOTIATIONS WITH A PARTICIPANT DESIGNATED AS THE SELECTED BIDDER, AND THE DECISION DECLARING THE PROCEDURE OF STRATEGIC PARTNERSHIP UNSUCCESSFUL.** **THE GOVERNMENT PUBLISHES THE DECISIONS ON THE CONCLUSION OF THE STRATEGIC PARTNERSHIP AGREEMENT ON THE ITS OFFICIAL WEBSITE.**				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1. **The delayed publication of the following Government decisions at its official website:** **-the decisions establishing the ranking list and proclaiming the Selected Bidder,** **-the decisions to initiate negotiations with the participant designated as the Selected Bidder,** **- the decisions by which the Government declares the procedure unsuccessful constitute a violation of the principles of legal certainty and transparency.**	1.1. Article 21 paragraph 1 read in conjunction with Article 20 of the Regulation on Strategic Partnership contains risks for the occurrence of the identified irregularities. 1.2. Article 22, paragraph 3 of the Regulation on Strategic Partnership read in conjunction with Article 68, paragraph 2 of the Law on Privatization contains risks for the occurrence of the identified irregularities. 1.3. Article 21 read in conjunction with Article 27, paragraph 3 of the	1.1. Article 21, paragraph 1, read in conjunction with Article 20 of the Regulation on Strategic Partnership, provides that three Government decisions (the decision establishing the ranking list and proclaiming the Selected Bidder, the decision to initiate negotiations with the participant designated as the Selected Bidder, and the decision by which the Government declares the procedure unsuccessful) shall be published on the Government's website. However, Article 21, paragraph 1 fails to prescribe a time limit within which these decisions must be published, thereby creating the risk of delayed publication or even non-publication of the said decisions. This omission undermines the principles of legal	Likelihood: Almost certain Impact: Medium HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

-the decisions on the conclusion of the strategic partnership agreement. **(“vague, inaccurate and ambiguous wording”, “the absence of specific deadline”, “the absence of, or insufficient transparency of, public authorities”, and “conflicting provisions”).**	Regulation on Strategic Partnership.	certainty and transparency in the work of the Government. 1.2. Article 22, paragraph 3 of the Regulation on Strategic Partnership, read in conjunction with Article 68, paragraph 2 of the Law on Privatization constitute conflicting provisions, thereby undermining legal certainty. While Article 22, paragraph 3 of the Regulation on Strategic Partnership fails to specify a time limit within which the Government’s decision on the conclusion of the strategic partnership agreement shall be published on the Government’s website, Article 68, paragraph 2 of the Law on Privatization stipulates that such a decision shall be published on the Government’s website within three days from the date of its signing. These conflicting provisions undermine legal certainty and transparency in the work of the Government and increase the risk of delayed publication or even non-publication. 1.3. Article 21, paragraph 1, and Article 27, paragraph 3 of the Regulation on Strategic Partnership constitute conflicting provisions. These provisions create confusion, undermine legal certainty, and may result in delayed publication or even non-publication of the decision declaring the	

		procedure unsuccessful. While Article 21 does not specify a time limit within which such a decision shall be published on the Government's website, Article 27, paragraph 3 stipulates that it shall be published on the Government's website on the date of its adoption. These risks and risk factors were identified by the 2022 ASC analysis, p. 7.		

SENSITIVE COMPETENCE THE MINISTRY OF ECONOMY PREPARES A REPORT ON MONITORING THE FULFILLMENT OF THE STRATEGIC INVESTOR'S CONTRACTUAL OBLIGATIONS AS STIPULATED IN THE STRATEGIC PARTNERSHIP AGREEMENT.				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1.**The transparency of this privatization model (strategic partnership) is undermined by the Ministry of Economy's failure to publish on its website the report on the Strategic Investor's contractual obligations under the Strategic Partnership Agreement.** **("The absence of, or insufficient transparency**	1.1 Article 28, paragraph 3 of the Regulation on Strategic Partnership contains risks for the occurrence of the identified irregularities.	1.1. Article 28, paragraph 3 of the Regulation on Strategic Partnership stipulates that the Ministry of Economy shall prepare a report on the control of contractual obligations of the Strategic Investor, as provided under the Strategic Partnership Agreement, determine the fulfillment of such obligations, and propose appropriate measures to the Government. However, this provision fails to prescribe the obligation of the Ministry of	Likelihood: Almost certain Impact: Medium HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

of, public authorities", and "Conflicting provisions").		Economy to publish the report, which results in insufficient transparency of public authorities. These risks and risk factors were identified by the ASC analysis, pp. 8-9.		

SENSITIVE COMPETENCE **THE MINISTRY OF ECONOMY SELECTS THE APPOINTED ADVISOR FOR THE PURPOSE OF PERFORMING CERTAIN TASKS AND PROVIDING ASSISTANCE TO THE MINISTRY OF ECONOMY AND OTHER DESIGNATED ENTITIES IN THE PRIVATIZATION PROCESS OF A LARGE PRIVATIZATION ENTITY, IN ACCORDANCE WITH THE CONCLUDED AGREEMENT.**				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
The unregulated procedure for selecting the appointed advisor, as well as the criteria for selecting the specific individual to be appointed as advisor in the process of selling the capital of large privatization entities, give rise to legal uncertainty and discretionary decision-making. **("inadequate referral provisions", "unclear administrative procedures",_____and "discretionary ground for decision-making").**	1.1. Article 2, paragraph 1, subparagraph 2 of the Regulation on the Conditions, Manner and Procedure for the Sale of Capital of Large Privatization Entities by Means of a Public Call for Bids contains risks for the occurrence of the identified irregularities.	Article 2, paragraph 2, subparagraph 1 of the Regulation on the Conditions, Manner and Procedure for the Sale of Capital of Large Privatization Entities by Means of a Public Call for Bids stipulates that the appointed advisor shall be selected by the Ministry of Economy or by the Large Privatization Entity, in accordance with regulations, for the purpose of performing certain tasks and providing assistance to the Ministry and other designated entities in the privatization process of large privatization entities. However, the provision merely states that the advisor is to be selected 'in accordance with regulations', without specifying the relevant legal	Likelihood: Almost certain Impact: Medium HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

		act governing the selection procedure or the criteria for appointing the individual. This constitutes an inadequate referral provision, leaving scope for discretion and uncertainty in its application. It further opens the possibility of corrupt interpretation and undue influence, exercised to the benefit of specific entities. These risks and risk factors were identified in the 2022 ASC analysis, pp. 8–9.		
2.Vague formulations such as 'performing certain tasks' and 'providing assistance to the Ministry' grant the Ministry of Economy or the Large Privatization Entity wide discretion in defining the appointed advisor's powers and the type of assistance to be provided. **("vague, inaccurate and ambiguous wording," "discretionary ground for decision-making").**	2.1.Article 2, paragraph 1, subparagraph 2 of the Regulation on the Conditions, Manner and Procedure for the Sale of Capital of Large Privatization Entities by Means of a Public Call for Bids contains risks for the occurrence of the identified irregularities.	2.1.Article 2, paragraph 1, subparagraph 2 of the Regulation on the Conditions, Manner and Procedure for the Sale of Capital of Large Privatization Entities by Means of a Public Call for Bids contains two vague formulations regarding the scope of work of appointed advisors: 'for the purpose of performing certain tasks' and 'providing assistance to the Ministry.' In the absence of more detailed provisions defining the tasks to be carried out by the appointed advisor, these formulations confer excessively broad discretionary powers upon the Ministry of Economy or the Large Privatization Entity in determining the advisor's mandate. These risks and risk factors were identified by the ASC analysis, p.9.	Likelihood: Almost certain Impact: Medium HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

SENSITIVE COMPETENCE AT THE REQUEST OF INTERESTED PARTIES SUBMITTED WITHIN 20 DAYS FROM THE DATE OF PUBLICATION OF THE PUBLIC CALL, THE MINISTRY OF ECONOMY SHALL PROVIDE THE DOCUMENTATION FOR THE FIRST PHASE OF THE PROCEDURE.				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1.Some interested parties were disadvantaged by being given less time to prepare their non-binding bids after receiving the documentation. **("the absence of a specific deadline", "legal lacunae", imprecise, ambiguous, or discretionary ground for decision-making", "unjustified restriction of human rights", and "bribery risk").**	1.1.Article 9, paragraph 3 read in conjunction with Article 9 paragraph 1 and Article 11 of the *Regulation on the Conditions, Manner and Procedure for the Sale of Capital of Large Privatization Entities by Means of a Public Call for Bids* contains risks for the occurrence of the identified irregularities.	1.1.Article 9, paragraph 3 of the *Regulation on the Conditions, Manner and Procedure for the Sale of Capital of Large Privatization Entities by Means of a Public Call for Bids* fails to specify the time limit within which the Ministry of Economy is obliged to provide the documentation for the first phase of the procedure to all Interested Parties that meet the conditions for participation set out in the Public Call and who sign a confidentiality agreement with the Ministry of Economy and/or the Large Privatization Entity. Article 9, paragraph 1 and Article 11 of the Regulation indicate the need to set a time limit requiring the Ministry of Economy to deliver documentation promptly. Without such a limit, the Ministry retains wide discretion, and delays in delivery may put certain Interested Parties in an unequal position by leaving them insufficient time to review the documentation and to prepare and submit their non-binding bids within the prescribed time. Under Article 9, paragraph 1, Interested Parties must request the documentation	Likelihood: Almost certain Impact: Major HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

		within 20 days of the Public Call, while Article 11 of the Regulation requires them to submit non-binding bids within 30 days of that date. This means the minimum period between requesting the documentation and submitting a non-binding bid may be as short as 10 days, making it impossible for Interested Parties to exercise their right unless the Ministry delivers the documentation promptly. These risks and risk factors were identified by the ASC analysis, pp. 9-10.		

SENSITIVE COMPETENCE **THE MINISTRY OF ECONOMY INVITES THE SELECTED BIDDERS TO TAKE PART IN THE SECOND PHASE OF THE PROCEDURE, BASED ON THE LIST PROVIDED BY THE COMMISSION FOR THE CONDUCT OF THE PROCEDURE.** **ON THE BASIS OF THE DECISION OF THE COMMISSION FOR THE CONDUCT OF THE PROCEDURE, THE MINISTRY OF ECONOMY SHALL INVITE A PERSON MEETING THE REQUIREMENTS OF THE PUBLIC CALL TO PARTICIPATE IN THE SECOND PHASE OF THE PROCEDURE, EVEN IF THAT PERSON ADDRESSED THE MINISTRY ONLY AFTER THE EXPIRY OF THE DEADLINE FOR SUBMITTING NON-BINDING BIDS..**				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1.The Ministry of Economy does not invite all selected bidders simultaneously and in a transparent manner to participate in the second phase of the Procedure, thereby placing them in an unequal position and promoting	1.1.Article 13, paragraph 1 of the *Regulation on the Conditions, Manner and Procedure for the Sale of Capital of Large Privatization Entities by Means of a Public Call for Bids* contains risks	1.1.Article 13, paragraph 1 of the *Regulation on the Conditions, Manner and Procedure for the Sale of Capital of Large Privatization Entities by Means of a Public Call for Bids* does not stipulate that the Ministry of Economy should invite all Selected Bidders at the same	Likelihood: Possible Impact: Major HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

interests contrary to the public interest. **(“the insufficient transparency of public authorities”, “discriminatory provisions”, “advancing interests opposed to the public interest”, “legal lacunae”, and “bribery risk“; and “the risk of abuse of power or position for private interests“).** **)**	for the occurrence of the identified irregularities.	time to take part in the second phase of the procedure. By failing to extend the invitation simultaneously to the approved bidders, they are treated unequally, and an opportunity is created for Ministry staff to advance interests contrary to the public interest. Simultaneity may be achieved by publishing the said invitation on the Ministry’s website, which also contributes to the transparency of the Procedure. These risks and risk factor were identified by the ASC analysis, p. 10.		
2. Permitting applicants who meet the requirements of the Public Call to take part in the second phase of the procedure, even where they have unjustifiably exceeded the 30-day deadline for submitting non-binding bids from the Public Call’s publication. **(“discriminatory provisions”, “inappropriate extension of deadlines”, and “vague, inaccurate and ambiguous wording”, and “unjustified exceptions to the exercise of rights/powers”, “bribery**	2.1. Article 13, paragraph 2 read in conjunction with Article 11 of the *Regulation on the Conditions, Manner and Procedure for the Sale of Capital of Large Privatization Entities by Means of a Public Call for Bids* contains risks for the occurrence of the identified irregularities.	2.1.Article 11 of the *Regulation on the Conditions, Manner and Procedure for the Sale of Capital of Large Privatization Entities by Means of a Public Call for Bids* prescribes a 30-day deadline from the date of publication of the Public Call for the submission of non-binding bids. However, Article 13(2) introduces an exception to Article 11, permitting the deadline to be exceeded while still obtaining the status of Selected Bidder, without providing any explanation or justification for allowing the deadline to be exceeded, such as legitimate reasons for missing the prescribed deadline or similar grounds, nor establishing any specific additional time limit. In this way, not only is the deadline set out	Likelihood: Almost certain Impact: Major HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

risk", and „the risk of abuse of power or position for private interests").		in Article 11 rendered meaningless, but it is effectively extended indefinitely. Moreover, any justified exception should have referred to the subsequent 'submission of non-binding bids' rather than to the mere 'addressing' of the Ministry of Economy by a person meeting the requirements of the Public Call, since otherwise the submission of non-binding bids as a condition for obtaining the status of Selected Bidder is rendered meaningless. The concept of 'addressing' the Ministry of Economy by a person meeting the requirements of the Public Call is insufficiently defined. The assessment of whether such a person meets the requirements should be carried out by the Commission on the basis of the non-binding bid, not on the basis of 'addressing.' These risks and risk factors were identified by the ASC analysis, p. 10.		

SENSITIVE COMPETENCE **LATE OFFERS SHALL NOT BE OPENED OR REVIEWED, BUT SHALL BE RETURNED BY THE MINISTRY OF ECONOMY, UPON THE PROPOSAL OF THE COMMISSION FOR THE CONDUCT OF THE PROCEDURE, TO THE SUBMITTER WITHIN SEVEN DAYS OF THEIR RECEIPT.**				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1.The absence of a clearly defined deadline for the submission of binding offers by the Selected Bidders gives	1.1.Article 15, paragraph 2, read in conjunction with Article 13,	1.1. The *Regulation on the Conditions, Manner and Procedure for the Sale of Capital of Large Privatization Entities by*	Likelihood: Almost certain Impact: Medium	Risk should be mitigated through legislative intervention related to the identified risk factor.

rise to legal uncertainty, thereby permitting the Ministry of Economy, through discretionary interpretation, to reject such offers as untimely. ("inadequate referral provisions", "unclear administrative procedures", "discretionary ground for decision-making", "absence of specific deadlines", "bribery risk" and "the risk of abuse of power or position for private interests".	paragraph 1, and Article 19, paragraphs 2 and 3 of the *Regulation on the Conditions, Manner and Procedure for the Sale of Capital of Large Privatization Entities by Means of a Public Call for Bids* contains risks for the occurrence of the identified irregularities.	*Means of a Public Call for Bids* leaves the duration of the deadline for submitting binding offers indeterminate, notwithstanding its formal prescription in Article 15, paragraph 2, of a range between 60 and 180 days from the delivery of the list of Selected Bidders. Article 15, paragraph 2, merely refers to another provision of the Regulation (Article 13, paragraph 1), which fails to resolve this issue. Moreover, Article 19, paragraph 3 stipulates that late offers shall be returned to the submitter. Taken together, these provisions give rise to legal uncertainty and enable the Ministry of Economy, through discretionary interpretation, to return offers as untimely. Such ambiguity creates scope for favoritism toward certain bidders, to the detriment of others whose offers may be arbitrarily rejected. The ASC analysis identified the above risk and risk factor, pp. 11-12.	HIGH RISK	

SENSITIVE COMPETENCE THE MINISTRY OF ECONOMY, UPON THE PROPOSAL OF THE COMMISSION FOR THE CONDUCT OF THE PROCEDURE EXTENDS THE DEADLINE FOR THE SUBMISSION OF BINDING OFFERS BY NO MORE THAN 60 DAYS, AND NOTIFIES ALL SELECTED BIDDERS THEREOF IN WRITING.				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1.**The Ministry of Economy arbitrarily extends the deadline for submitting a binding offer beyond the statutory maximum of 180 days from the date of delivery of the list of Selected Bidders, in the absence of any criteria, thereby creating scope for favoritism toward certain bidders.** **(“conflicting provisions”, “legal lacunae”, “absence of specific deadline”, “bribery risk“ and “the risk of abuse of power or position for private interests“).**	1.1. Article 18, paragraph 1, is apparently in conflict with Article 15, paragraph 2, of the *Regulation on the Conditions, Manner and Procedure for the Sale of Capital of Large Privatization Entities by Means of a Public Call for Bids.* These provisions read together also contain other risks for the occurrence of the identified irregularities.	1.1. Article 15, paragraph 2 of the *Regulation on the Conditions, Manner and Procedure for the Sale of Capital of Large Privatization Entities by Means of a Public Call for Bids* prescribes that the deadline for submitting binding offers may not exceed 180 days from the delivery of the list of Selected Bidders to the Ministry of Economy, whereas Article 18, paragraph 1 provides for the possibility of extending that deadline by up to 60 days. It remains unclear whether such an extension may be added to the maximum period of 180 days prescribed by Article 15, paragraph 2, or whether an extension is permissible only where the statutory maximum of 180 days has not initially been set. At the same time, it is necessary to establish clear criteria for the extension of the deadline for submitting binding offers. Otherwise, this uncertainty creates scope for favoritism toward certain bidders and for the	Likelihood: Almost certain Impact: Medium HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

		advancement of interests contrary to the public interest. The ASC analysis identified the above risk and risk factor, pp. 11-12.		
2.The Ministry of Economy's decision to extend the specific deadline was not published on its official website on the date of its adoption, thereby undermining the transparency in its work. **("insufficient transparency of public authorities")**	2.1.Article 18, paragraph 1 of the *Regulation on the Conditions, Manner and Procedure for the Sale of Capital of Large Privatization Entities by Means of a Public Call for Bids* contains a risk for the occurrence of the identified irregularity.	2.1.Article 18, paragraph 1 of the Regulation provides that the Ministry of Economy, upon the proposal of the Commission for the Conduct of the Procedure, may extend the deadline for submitting binding offers by up to 60 days and shall inform all selected bidders thereof in writing. However, this provision fails to prescribe that the Ministry of Economy's decision to extend the specific deadline must also be published on the Ministry's official website. In this way, the transparency of the Ministry of Economy's work is undermined.	Likelihood: Almost certain Impact: Minor MEDIUM RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

SENSITIVE COMPETENCE **COMMISSION FOR THE CONDUCT OF THE PROCEDURE OPENS THE BIDS NO LATER THAN ONE WORKING DAY AFTER THE EXPIRATION OF THE DEADLINE FOR SUBMITTING BIDS AND DETERMINES THEIR COMPLETENESS AND VALIDITY**				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1. The Commission for the Conduct of the Procedure enjoys broad discretion to determine whether, and under what	1.1.Article 19, paragraph 1 of the *Regulation on the Conditions, Manner and Procedure for the Sale of Capital of Large*	1.1.Article 19, paragraph 1 of the *Regulation on the Conditions, Manner and Procedure for the Sale of Capital of Large Privatization Entities by Means of a Public Call for Bids* stipulates that, after the	Likelihood: Almost certain Impact: Medium HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

circumstances, individual bidders may be permitted to correct technical errors in their bids, thereby creating scope for arbitrariness and favoritism toward certain bidders. **(“exercise of discretion in the decision-making process”, “unclear administrative procedures”, “legal lacunae”, “bribery risk“; and „the risk of abuse of power or position for private interests“).**	*Privatization Entities by Means of a Public Call for Bids* contains risks for the occurrence of the identified irregularity.	Commission for the Conduct of the Procedure opens the bids (no later than one working day after the deadline for submission), it shall determine their completeness and validity and may allow bidders to correct technical errors in their bids. However, this provision fails to specify the criteria on which such determinations are to be based, thereby creating legal uncertainty, granting the Commission broad discretion, and enabling favoritism toward certain bidders. The ASC analysis identified the above risk and risk factor, p. 12.		
2.The inconsistent use of terms such as ‘valid bids,’ coupled with imprecise formulations like ‘bids’ instead of ‘binding bids,’ undermines the clarity of administrative procedures, specifically the bid-opening procedure run by the Commission for the Conduct of the Procedure. **(“inconsistent use of terms”, “unclear and imprecise formulations”, and “unclear administrative procedures**”).	2.1.Article 19 of the *Regulation on the Conditions, Manner and Procedure for the Sale of Capital of Large Privatization Entities by Means of a Public Call for Bids* contains risks for the occurrence of the identified irregularities.	2.1.Article 19 of the *Regulation on the Conditions, Manner and Procedure for the Sale of Capital of Large Privatization Entities by Means of a Public Call for Bids* contains unclear and incomplete formulations, such as the use of the term ‘bids,’ and inconsistently employs terminology, for example, invalid/void bids (‘*nevažeća ponuda’*) versus valid bids (‘*valjana ponuda’*). In particular, Article 19 refers only to ‘bids’ without specifying ‘binding bids,’ thereby creating uncertainty as to whether the provision applies exclusively to binding bids, as is the case in certain other articles, or to both binding and non-binding bids. Furthermore, Article 19	Likelihood: Almost certain Impact: Medium HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

		differentiates between bids deemed incomplete or invalid and those submitted late, since it allows only incomplete or invalid bids to be corrected. These irregularities create scope for arbitrary interpretation and application, leading to favoritism toward certain bidders. The ASC analysis identified the above risk and risk factor, pp. 12-13.		

SENSITIVE COMPETENCE **COMMISSION EVALUATES BINDING OFFERS**				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1. **Since no deadline is prescribed for the Commission to inform the Ministry of Economy that the ranking list has not been determined, the Commission is enabled to deliberately delay the conduct of administrative proceedings.** **("defective referral provisions", "unclear administrative Procedures", and "the**	1.1. Article 20, paragraph 4, read in conjunction with Article 20, paragraph 1 of the *Regulation on the Conditions, Manner and Procedure for the Sale of Capital of Large Privatization Entities by Means of a Public Call for Bids,* contains risks for the occurrence of the identified irregularities.	1.1.Article 20, paragraph 4 of the Regulation stipulates that, where the Commission has not harmonized the ranking list of binding offers, it shall notify the Ministry of Economy and submit in writing its assessments and reasoning concerning the content of the binding offers, including a specific statement of the reasons for the lack of harmonization. When determining the deadline for informing the Ministry of Economy, Article 20, paragraph 4 erroneously refers to paragraph 1 of the same	Likelihood: Almost certain Impact: Minor MEDIUM RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

absence of specific deadline")		article instead of paragraph 2. Such a defective referral provision creates a corruption risk, as it enables the Commission to deliberately delay the conduct of administrative proceedings. The ASC analysis identified the above risks and risk factors, p. 14.		

SENSITIVE COMPETENCE **THE MINISTRY OF ECONOMY DETERMINES THE DEADLINE FOR THE SUBMISSION OF REVISED BINDING OFFERS.**				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1.**The discretion vested in the Ministry of Economy in determining the deadline for the submission of revised binding offers gives rise to legal uncertainty and arbitrariness, and may lead to favoritism towards certain bidders, to the detriment of the public interest.** **("Absence of the specific deadline"; "unclear administrative procedures" and "vague, inaccurate and ambiguous wording", "discretionary**	1.1.Article 20, paragraph 6 of the *Regulation on the Conditions, Manner and Procedure for the Sale of Capital of Large Privatization Entities by Means of a Public Call for Bids,* contains risks for the occurrence of the identified irregularities.	1.1. Article 20, paragraph 6 of the Regulation stipulates that the Ministry of Economy shall determine the deadline for the submission of revised binding offers, which may be 'up to seven days' from the date of notification. This wording gives rise to the need for interpretation as to whether the deadline may also be seven days, or whether the specific deadline must not exceed six days. Such imprecision in determining the deadline for the submission of revised binding offers results in legal uncertainty and arbitrariness, and may lead to favoritism towards certain bidders, to the detriment of the public interest.	Likelihood: Almost certain Impact: Minor MEDIUM RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

ground for decision-making", "bribery risk"; and "the risk of abuse of power or position for private interests").		The ASC analysis identified the above risks and risk factors, p. 14.		

SENSITIVE COMPETENCE **THE MINISTRY OF ECONOMY SHALL NOTIFY IN WRITING THE BIDDER WHOSE BID IN THE PROCEDURE OF SALE OF CAPITAL OF THE LARGE-SCALE PRIVATIZATION ENTITY HAS BEEN EVALUATED AS THE MOST FAVOURABLE.**				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1.The absence of public disclosure of the decision on the selection of the Best Bidder on the official website of the Ministry of Economy undermines the transparency of the Ministry's work. **("insufficient transparency of public authorities", and "legal lacunae")**	1.1.Article 21, paragraph 1 of the *Regulation on the Conditions, Manner and Procedure for the Sale of Capital of Large Privatization Entities by Means of a Public Call for Bids,* contains risks for the occurrence of the identified irregularities.	1.1. Article 21, paragraph 1 of the *Regulation on the Conditions, Manner and Procedure for the Sale of Capital of Large Privatization Entities by Means of a Public Call for Bids* stipulates that the Ministry shall notify in writing the bidder whose bid in the procedure of sale of capital of the Large-Scale Privatization Entity has been evaluated as the most favorable, informing it that it has been selected as the Best Bidder, and that it shall likewise notify in writing all other bidders of such selection. However, this provision fails to prescribe the public disclosure of the decision on the selection of the Best Bidder on the official website of the Ministry of Economy, thereby adversely affecting the transparency of its work.	Likelihood: Almost certain Impact: Medium HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

SENSITIVE COMPETENCE THE WORKING GROUP, WITH THE ASSISTANCE OF THE SELECTED ADVISORS, CONDUCTS NEGOTIATIONS WITH THE BEST BIDDER AND SUBMITS TO THE COMMISSION, FOR APPROVAL, THE FINAL TEXT OF THE CONTRACT ON THE SALE OF CAPITAL OR SHARES. THE COMMISSION MAY RENDER A DECISION EXTENDING THE TIME LIMIT FOR THE COMPLETION OF NEGOTIATIONS AND THE HARMONIZATION OF THE TEXT OF THE CONTRACT ON THE SALE OF CAPITAL OR SHARES FOR A PERIOD NOT EXCEEDING TEN DAYS. .				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1**. The omission to regulate the manner and criteria for the selection of selected advisors undermines legal certainty, gives rise to arbitrariness, and opens space for the advancement of interests adverse to the public interest.** **(“unclear administrative procedures”, “discretionary ground for decision-making” and “legal lacunae”, and “bribery risk”)**	1.1 Article 22, paragraph 1 of the *Regulation on the Conditions, Manner and Procedure for the Sale of Capital of Large Privatization Entities by Means of a Public Call for Bids,* contains risks for the occurrence of the identified irregularities.	1.1. Article 22, paragraph 1 of the Regulation provides that the Working Group, with the assistance of the selected advisors, shall conduct negotiations with the Best Bidder and submit to the Commission, for approval, the final text of the contract on the sale of capital or shares. However, this provision fails to regulate the manner and criteria for the selection of such advisors, which further adversely affects legal certainty and leaves room for discretionary decision-making and the promotion of interests contrary to the public interest.	Likelihood: Almost certain Impact: Medium HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.
2.The failure to prescribe reasons on the basis of which the Commission may extend the deadline for the completion of negotiations and the finalization of the contract renders the application of this provision arbitrary	2.1. Article 22, paragraph 2 of the *Regulation on the Conditions, Manner and Procedure for the Sale of Capital of Large Privatization Entities by Means of a Public Call for Bids,* contains risks	2.1.Article 22, paragraph 2 of the Regulation stipulates that the Commission may render a decision extending the time limit for the completion of negotiations and the harmonization of the text of the contract on the sale of capital or shares for a period not exceeding ten days. However, the reasons on	Likelihood: Almost certain Impact: Medium HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

and susceptible to corruption. **(“unclear administrative procedures”, “discretionary ground for decision-making” and “legal lacunae”)**	for the occurrence of the identified irregularities.	the basis of which the Commission may extend the deadline for the completion of negotiations and the finalization of the contract text are not prescribed, thereby giving rise to legal uncertainty and arbitrariness in the application of this provision.		

SENSITIVE COMPETENCE **THE MINISTRY OF ECONOMY SHALL MAKE PUBLIC THE DECISION DECLARING THE PUBLIC CALL FOR BIDS UNSUCCESSFUL**				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1.**The failure to publish the contract on the sale of capital or shares on the official website of the Ministry of Economy and the Government of the Republic of Serbia adversely affects the transparency of the work of public authorities.** **(“legal lacunae” and “insufficient transparency of public authorities”)**	1.1. Article 24, paragraph 1 of the *Regulation on the Conditions, Manner and Procedure for the Sale of Capital of Large Privatization Entities by Means of a Public Call for Bids,* contains risks for the occurrence of the identified irregularities.	1.1. Article 24, paragraph 1 of the *Regulation on the Conditions, Manner and Procedure for the Sale of Capital of Large Privatization Entities by Means of a Public Call for Bids* stipulates that, following the signing of the contract on the sale of capital or shares, the Best Bidder acquires ownership of the capital of the Large-Scale Privatization Entity in the manner, under the conditions, and within the time limits established by the contract on the sale of capital or shares and by applicable legislation. However, this provision does not require the publication of the concluded	Likelihood: Almost certain Impact: Medium HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

		contract on the sale of capital on the official websites of the Ministry of Economy and the Government. By contrast, the Regulation explicitly provides for the mandatory publication of the decision by which the Ministry declares the public call unsuccessful, leaving unclear why publication has not likewise been prescribed with respect to the concluded contract, particularly given the importance of enhancing transparency in the Ministry's work.		

The detailed analysis of risks and risk factors pertaining to the following bylaws is available in the ASC analysis:

-Regulation on the Conditions, Manner and Procedure for the Sale of Capital and Assets by Means of a Public Call for Bids with Open Bidding,

-Regulation on the Conduct of Persons Performing the Duties of Temporary Capital Representatives in Privatization Entities, and

-Regulation on the Procedure for Controlling the Performance of the Buyer's Contractual Obligations under the Contract on the Sale of Capital or Assets.

ANTICORRUPTION COUNCIL

SENSITIVE COMPETENCE PROPOSING MEASURES TO PROMOTE EFFICIENT FIGHT AGAINST CORRUPTION IN THE SPHERE OF PRIVATIZATION				
	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1. The Government fails to address the recommendations made	1.1. The Decision on the Establishment of the Anti-Corruption Council does not mandate the	1.1. The Law on the Government and the Government Rules of Procedure do not envisage the obligation of the Government to formally discuss, at	Likelihood: Almost certain Impact: Major	Risk should be mitigated through legislative intervention related to the identified risk factor.

by the Anti-Corruption Council ("legal lacuna")	Government to act on the Anti-Corruption Council recommendations.	its sessions, the reports of the Anticorruption Council or any other advisory body. Instead, the Government's follow-up is left to its discretion. In addition, since the Anticorruption Council is envisaged as an authoritative advisory body whose mandate goes beyond the scope of any individual government can result in the Anticorruption Council having a different view of what is the public interest as opposed to the view of the Government. In cases when the Government is not obliged to discuss or follow up on the opinions and recommendations of the Anticorruption Council, such differing positions remain unaddressed.	HIGH RISK	
2. Anticorruption Council reports indirectly point to the potential existence of conflict of interest in privatization that have not been identified as such by the Anticorruption Agency (overlap of competences)	1.1. The decision on the establishment of the Anticorruption Council and the Law on Prevention of Corruption do not envisage any methods of cooperation between the two bodies. 1.2. The Law on Corruption Prevention does not expressly envisage the reports of the Anticorruption Council as one of the sources for initiating ex officio proceedings.	1.1. While the Anticorruption Agency is the only body with the formal mandate to decide on the existence of a conflict of interest, the reports of the Anticorruption Council may indirectly point to the existence of a conflict of interest that has not otherwise been addressed by the Anticorruption Agency. However, the Anticorruption Council reports may pertain to situations dating back several years. 1.2. The Law on Corruption Prevention envisages in its Article 92 that the Anticorruption Agency initiates proceedings to investigate the existence of corruption in a public body when it has knowledge that give	Likelihood: Possible Impact: Major HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

		rise to suspicion that corruption exists. The reports of the Anticorruption Council, a body specifically charged with observing and analyzing corruption, are not expressly referred to as a potential source of information.		

ANTICORRUPTION AGENCY

SENSITIVE COMPETENCE SUPERVISING THE IMPLEMENTATION OF STRATEGIC DOCUMENTS, PROVIDING RESPONSIBLE ENTITIES WITH RECOMMENDATIONS ON HOW TO ELIMINATE SHORTCOMINGS IN THE IMPLEMENTATION OF STRATEGIC DOCUMENTS				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1. The strategic documents do not identify the Anticorruption Agency as a body charged with monitoring the implementation of that strategic document, even thought the document envisages measures and activities related to corruption in privatisation (unclear, imprecise or ambiguous formulation, unjustified exception from exercise of duty)	1.1. The Law on Corruption Prevention includes a very general mandate of the Anticorruption Agency to monitor the implementation of strategic documents. This obligation has to be operationalised in the strategic document itself.	1.1. The body charged with monitoring the implementation of strategic documents is set forth in the strategic document itself. Sometimes the strategies and action plans envisage dual monitoring bodies, as is the case with the current National Anticorruption Strategy, where both the Anticorruption Agency and a dedicated Government working body. In such cases, the Anticorruption Agency monitors the implementation of the entire strategy, including its part relating to privatisation. Conversely, the monitoring of implementation of the	Likelihood: Possible Impact: Major HIGH RISK	Risk should be mitigated through normative intervention related to the identified risk factor.

		Revised Action Plan for Chapter 23 is entrusted to the Coordination Body for implementation of the Action Plan for Chapter 23. Even though the Anticorruption Agency is a member of the Coordination body, the latter is charged with monitoring the implementation of all measures and activities set forth in the Revised Action Plan for Chapter 23, including the ones related to the fight against corruption, which, inter alia, include activities in the field of privatisation. The lack of clear competences can result in the Anticorruption Agency not addressing the problems in the implementation of strategic documents relating to corruption in privatisation and consequently, not providing the relevant state bodies with recommendations on how to improve the implementation.		
2. The Anticorruption Agency does not have the necessary human resources to adequately monitor the implementation of strategic documents that address corruption in privatisation (legal lacuna)	2.1. The Rulebook on Internal Organisation and Staffing of the Anticorruption Agency[9] envisages a total of three members of staff tasked with monitoring the implementation of national strategic documents. The educational requirement set out in	2.1. Within the Anticorruption uman resources whose job descriptions include the tasks of monitoring the implementation of national strategic documents is small, and amount to only three. The issue of privatisation is a complex one and requires specialised knowledge, particularly in the field of law and economy, which the persons tasked with monitoring strategic documents do not necessarily have. This may	Likehood: Almost certain Impact: Major HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

[9] /https://www.acas.rs/storage/page_files/Pravilnik%20o%20unutrašnjem%20uređenju%20i%20sistematizaciji%20radnih%20mesta%20u%20Službi%20ASK_2025.pdf

	the rulebook is a general one and relates to a degree in any social science or humanity.	present a corruption risk as those tasked with monitoring the implementation of strategic documents related to corruption in privatisation may not be able to do it adequately, thus rendering irregularities in the implementation of anti-corruption measures and activities in the field of privatisation as envisaged in strategic documents not detectable and not addressed.		
3. Anticorruption Agency does not take into account the information contained in the reports and recommendations of the Anticorruption Council when monitoring the implementation of strategic documents relating to corruption in privatisation and providing recommendations (legal lacuna)	3.1. The Law on Anticorruption (Article 38) and the strategic documents (e.g. the National Anticorruption Strategy) mandating the Anticorruption Agency with monitoring the implementation of strategic documents do not include the Anticorruption Council as one of the bodies that can provide information on the implementation of a strategic document	3.1. Since the Anticorruption Council is not a body that is obliged to provide information on the implementation of strategic documents, its reports demonstrating irregularities in implementation of the strategic documents relating to corruption in privatisation may not be taken into account or as a source of information when the Anticorruption Agency monitors the implementation of strategic documents, or when providing recommendations to state authorities on how to improve the implementation of strategic documents relating to corruption in privatization.	Likelihood: Almost certain Impact: Major HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

SENSITIVE COMPETENCE INSTITUTING AND CONDUCTING PROCEEDINGS TO DETERMINE THE EXISTENCE OF VIOLATIONS OF THIS LAW AND PRONOUNCING MEASURES IN ACCORDANCE THEREWITH				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1. It is unclear whether it is possible for the Anticorruption Agency to find a violation and pronounce measures to a public official in cases when a legal person in which a public official has a share fails to submit a notification on participating in a privatisation procedure (unclear, imprecise or ambiguous formulation)	1.1. Article 77 of the Law on Corruption Prevention expressly authorises the Anticorruption Agency to institute proceedings in cases of failure to notify. However, the obligation from Article 53 is imposed on the legal person, not the public official having a share in the legal person.	1.1. The ambiguous provision of Article 77 of the Law on Corruption Prevention can result in proceedings not being instituted against a public official or, conversely, being instituted even contrary to the intended objective of the legal norm.	Likelihood: Almost certain Impact: Major HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

SENSITIVE COMPETENCE DECIDING ON THE EXISTENCE OF CONFLICT OF INTEREST				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1. The Anticorruption Agency does not decide	2.1. The Law on Corruption Prevention	2.1. The discretionary right of the Anticorruption Agency can result in	Likelihood: Possible	Risk should be mitigated through legislative

on the conflict of interest ex officio in cases when a legal person in which a public official has a share fails to notify its participation in privatisation procedure (legal lacuna)	does not explicitly instruct the Anticorruption Agency to examine whether a conflict of interest existed in cases when a legal person in which a public official has a share fails to notify the Anticorruption Agency of its participation in a privatisation procedure.	it not deciding on the existence of a conflict of interest in these cases.	Impact: Major HIGH RISK	intervention related to the identified risk factor.

SENSITIVE COMPETENCE FILING CRIMINAL CHARGES, REQUESTS FOR INITIATING MISDEMEANOUR PROCEEDINGS AND INITIATIVES FOR INITIATING DISCIPLINARY PROCEEDINGS				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1. The Anticorruption Agency concludes an exceedingly favorable plea bargain with the legal person in which a public official has a share, which has failed to notify it of the participation in privatisation procedure (inadequate proportion between the violation and the sanction)	3.1. The Instruction on the Plea Agreement of the Anticorruption Agency sets the margins for the fines to be negotiated in the plea bargain within a range that can result in the fine being petty.	3.1. The Law on Corruption Prevention allows the Anticorruption Agency to conclude a plea bargain regarding the misdemeanours envisaged by that same law (Article 108). The Law on Misdemeanours stipulates in Article 234 that a plea bargain must be concluded within the statutory limits set forth in Article 39 of the same Law. The range the fines prescribed in this Article of the Law on Misdemenaours is wide and the lower end of the range is 20	Likelihood: Possible Impact: Major HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

	times lower than the lower end of the fine prescribed by the Law on Corruption Prevention for this misdemeanour. The Law on Corruption Prevention prescribes that the conditions for the plea agreement are set forth by the Agency Director (Article 108, paragraph 2). The Instruction on the Plea Agreement Procedure of the Anticorruption Agency[10] sets the margins for the fine to be negotiated, ranging from the general statutory minimum envisaged in the Law on Misdemeanours to the statutory minimum for the specific offence. In case of the misdemeanour of failing to notify under Article 53 of the Law on Corruption Prevention, the fine that can be included in the plea bargain ranges from 50000 dinars to 1000000 dinars for a legal person. The fines prescribed for the misdemeanour of failure to notify from Article 53 of the Law on Corruption Prevention are generally on the high end of the range of fines prescribed by the Law on Misdemeanours (a minimum of 1 million dinars, a maximum of 2 million dinars, which is the overall statutory maximum), which testifies to the seriousness of the misdemeanour. The Instruction further states that a fine in a plea bargain for a first-time offender can amount to the statutory minimum	

[10] ttps://www.acas.rs/storage/page_files/Uputstvo%20o%20postupku%20zaključenja%20sporazuma%20o%20priznanju%20prekršaja_1.pdf

		plus 20%. As result, a plea bargain may be concluded entailing a fine that is more than ten times lower than the lowest fine prescribed for the given misdemeanour in the Law on Corruption Prevention.		
SENSITIVE COMPETENCE **MAINTAINING AND VERIFYING DATA FROM RECORDS SPECIFIED IN THE LAW ON CORRUPTION PREVENTION**				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1. It is unclear how the Anticorruption Agency identifies cases in which the obligation to notify the Agency of participation in privatization procedure is not met (unclear, imprecise and ambiguous formulations, imprecise, ambiguous and discretionary grounds for decision making, unclear administrative procedures)	1.1. The Law on Corruption Prevention and the Rulebook governing the manner in which the notifications are filed do not envisage a proactive role of the Anticorruption Agency in ensuring that the notifications are submitted.	1.1. The Anticorruption Agency is not entrusted with monitoring public procurement or privatisation procedures to verify whether the notification from Article 53 of the Law on Corruption Prevention is met. It also does not formally envisage the cross-comparison of information from the reports on assets and income. Cooperation and working meetings are the principles on which the Anticorruption Agency works, according the provisions of the Rulebook on the Internal Organisation and Staffing of the Anticorruption Agency. However, the cross-comparison of information is not envisaged as mandatory. The same Rulebook does not mandate any of the Anticorruption Agency staff with monitoring other public records concerning privatisation. As a result, some cases in which a notification should have been filed,	Likelihood: Almost certain Impact: Major HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

		but was not, may remain undetected and unaddressed.		

SENSITIVE COMPETENCE PROVIDING OPINIONS ABOUT THE APPLICATION OF THIS LAW, ON ITS OWN INITIATIVE OR AT THE REQUEST OF NATURAL R LEGAL PERSONS, AND TAKING POSITIONS OF IMPORTANCE FOR THE APPLICATION OF THIS LAW;				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1. The Anticorruption Agency does not provide opinions about the application of the Law on Corruption Prevention in the field of privatisation or the positions of importance for the application of that law	1.1. The decision on when the opinion is to be developed is within the Agency's discretion.	1.1. The Anticorruption Agency is generally mandated with providing opinions about the application of the Law on Corruption Prevention but this is within the discretion of the Agency. This mandate is not futher elaborated either in the Law on Corruption Prevention nor in secondary acts.	Likelihood: Possible Impact. Medium MEDIUM RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.
1. The Anticorruption Agency does not deliver an opinion on the application of the Law on Corruption Prevention related to privatisation at the request of a natural or legal person is (legal lacuna)	The procedure in which the Anticorruption Agency provides an opinion on the application of the Law on Corruption Prevention at the request of a natural or legal person is not regulated.. The procedure on how the Agency deals with submissions of natural	1.1. The Law on Corruption Prevention does not further operationalize the competence of the Anticcorruption Agency envisaged in Artilce 6, paragraph 1, point 11) whereby the Agency is mandated with delivering opinions on the application of the Law on Corruption Prevention at the request of natural or legal person. This leaves relatively wide discretion to the Anticorruption Agency on how to handle these	Likelihood: Possible Impact: Medium MEDIUM RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

	and legal persons envisaged in Articles 87-91 do not apply to the requests for opinion on the application of the Law on Corruption Prevention	types of requests in terms of how they are handled, within which time limits, and whether such opinions, if adopted, are published..		

SENSITIVE COMPETENCE INITIATING ADOPTION OR AMENDMENT OF REGULATIONS, PROVIDING OPINIONS ON THE ASSESSMENT OF THE RISK OF CORRUPTION IN DRAFT LAWS IN THE FIELDS THAT ARE PARTICULARLY SUSCEPTIBLE TO THE RISK OF CORRUPTION				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1. The opinion of the Anticorruption Agency on the existence of corruption risks in draft laws related to privatization is delayed (legal lacuna, conflicting provisions)	1.1. Article 35 of the Law on Corruption Prevention does not envisage time limits within which the Anticorruption Agency should deliver its opinion.	1.1.While Article 35 of the Law on Corruption Prevention does not engvisage any time limits for the Agency to deliver an opinion, the Government Rules of Procedure envisage in Article 47 a timelimit of 10 days in which all public bodies whose opinion was requested on a draft law should deliver such opinions within 10 days, or 20 days, in case of systemic laws. If an opinion is not delivered on time, it is deemed that no objections exist. The lack of a clear timeline can result in pressures being put on the Anticorruption Agency to deliver an opinion. On the other hand if the opinion was requested as a part of	Likelihood: Seldom/rare Impact: Major MEDIUM RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

		the procedure governed by the Government Rules of Procedure, a belated opinion can be deemed as not to have been given at all, even though the norms of the Law on Corruption Prevention should prevail over the rules of a bylaw – the Government Rules of Procedurei		
2. The opinion of the Anticorruption Agency on the existence of corruption risks in draft laws related to privatization is not published. (legal lacuna, lack of transparency of public bodies)	1.2. Article35 of the Law contains the idenfied risk	Article 35 of the Law on Corruption Prevention does not mandate the publication of the Agency's opinions on the existence of corruption risks in draft laws. This creates a risk of lack of transparency of public bodies.	Likelihood: Possible Impact> Medium MEDIUM RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

SENSITIVE COMPETENCE **INVESTIGATING THE STATE OF CORRUPTION, ANALYSING RISKS OF CORRUPTION AND PREPARING REPORTS WITH RECOMMENDATIONS TO ELIMINATE RISK**				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1. The Anticorruption Agency does not investigate the state of corruption with regard to	1.1. The Law on Corruption Prevention states that the investigation of the state of corruption is within the purview of the	1.1. Due to the fact that the Law on Corruption Prevention does not operationalise how and when the Anticorruption Agency investigates the state of corruption and leaves such investigation to the Agency's	Likelihood: Possible Impact: Major HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

privatisation (use of undefined terms)	Anticorruption Agency, but fails to further operationalise this in general or with regard to fields of special corruption risks, such as privatisation. The same law stipulates in Article 39 that the Anticorruption Agency may, ex officio or at the request of the National Assembly, submit a report on the state of corruption to the National Assembly	discretion, the state of corruption in the field of privatisation can remain unaddressed.		
2. When investigating the state of corruption, the Anticorruption Agency does not take into account the reports of the Anticorruption Council (legal lacuna)	2.1. The Law on Corruption Prevention in Article 33 regulates in more detail the cooperation of the Agency with other state bodies, stating that such cooperation includes investigation of the state of corruption, without any further operationalisation.	2.1. Due to the fact that the Law on Corruption Prevention does not operationalise how the Anticorruption Agency cooperates with other state bodies when investigating the state of corruption, recommendations made by certain public bodies are taken into account at the discretion of the Anticorruption Agency	Likelihood: Almost certain Impact: Major HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.
3. The Anticorruption Agency does not develop or develops only partial analysis of corruption risks in the field of privatisation (legal lacuna)	3.1. The Law on Corruption Prevention does not further operationalise how the Anticorruption Agency exercises is mandate to develop an analysis of corruption risks in the field of privatization ,nor the time limits for doing	3.1. This lack of norms means that the Anticorruption Agency exercises this mandate at its own discretion, which means that certain corruption risks in privatization can remain unaddressed, and that recommendations for eliminating them are not formulated.	Likelihoood: Possible Impact: Major HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

	so (e.g. by referring to strategic documents).			

BUSINESS REGISTER AGENCY

SENSITIVE COMPETENCE REGISTRATION OF RELEVANT INFORMATION RELATED TO THE OPERATION OF PARTICIPANTS IN PRIVATIZATION PROCEDURE				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1. The information on the sale of property in terms of the Law on Privatisation, on which a pledge exists, is not registered (in the Register of Pledges on Movables while it is published on the wepage of the Ministry of Economy (overlap of competences)	2.1. The provisions of the Law on Privatisation fail to refer to Article 23 of the Law on Pledge on Movables and Registered rights, which mandates that, in case when an item subject to pledge is sold, the pledge needs to be registered against the new owner in the Register of Pledges on Movables	2.1. The Law on Privatisation states that the contract on sale of property is to be published on the webpage of the Ministry of Economy within three days from the date the contract is concluded (Article 52 of the Law on Privatisation). The Law on Privatisation further stipulates that a creditor whose claim is secured by a pledge on an object which has been sold has the right to satisfy the claim from the price obtained from the sale of property.	Likehood: Possible Impact: Medium MEDIUM RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

MINISTRY OF JUSTICE

SENSITIVE COMPETENCE DRAFTING REGULATIONS IN THE FIELD OF FIGHT AGAINST CORRUPTION				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1. When drafting amendments to existing regulations or drafting new regulations in the field of the fight against corruption in sensitive areas, including privatisation, the Ministry of Justice does not take into account the recommendations of the Anticorruption Council (legal lacuna)	1.1. Government Rules of Procedure and the Decision on the Establishment of the Anticorruption Council do not envisage that the Anticorruption Council recommendations need to be formally followed up. 1.2. The Decision on the establishment of the Anticorruption Council, the Law on the Government and the Government Rules of Procedure do not envisage the Anticorruption Council as a body that needs to be consulted in the process of drafting a law in terms of Article 39 of the Government Rules of Procedure	1.1. This legal lacuna means that the advisory opinions, recommendations or other information provided to the Government are not formally required to be integrated in the Government's policymaking processes. In formal terms, they do not need to be discussed at the Government's sessions nor addressed in the bills or draft public policy documents within the reasoning for passing the bill. 1.2. Since there is no formal obligation for the Government or its line ministries to consult the Anticorruption Council in the process of adopting a piece of legislation or a public policy document that is of relevance for the fight against corruption, the Anticorruption Council does not have the opportunity to be proactive and point to corruption risks in the draft legislation at the same time as the other government bodies, public prosecutors' offices and courts, which are regularly and routinely	Likelihood: Almost certain Impact: Major HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

		consulted in the process of drafting of public policy documents (strategies, action plans) and laws. This also means that certain corruption risks may go undetected.		

POLICE

SENSITIVE COMPETENCE CRIMINAL INVESTIGATION L CORRUPTION IN PRIVATISATION				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1. The police delays criminal investigation related to corruption in privatisation (unjustified exception from the exercise of obligation)	1.1. The Law on the Police and its related bylaws do not envisage any time limits for reporting to superiors on the progress of ongoing investigations.	1.1. Since there are no time limits for reporting on the progress of investigations or taking of actions in cases of lack of progress in the Law on the Police and in the related bylaws, investigations can be delayed for years with no progress being made due to lack of police activity. as the police or a specific police office can continuously fail to conduct the necessary criminal investigation without facing serious consequences. asnoted in the reports of the Anticorruption Council.	Likelihood: Possible Impact: Major HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.
2. The police fails to inform the public prosecutors' office of the progress of the	2.1. There is no formal obligation of the police to respond, within a certain time, to the request of the public prosecutor for updating the	2.1. The 2024 Anticorruption Council annual report also includes an overview of the status of criminal investigations of 24 controversial privatisation cases. In a considerable number of such cases, the	Likelihood: Possible Impact: Major	Risk should be mitigated through legislative

investigation (unjustified exception from exercise of obligation, legal lacuna)	public prosecutor on the status of criminal investigation	competent public prosecutors' office is waiting for requested information from the police. The lack of update on the part of the police on the status of criminal investigation, sometimes even after repeated question, and lack of cooperation between the two public bodies, is a corruption risk.	HIGH RISK	intervention related to the identified risk factor.
3. The investigation is carried out by the regular police departments without the knowledge of specialized police departments and the two criminal investigations run in parallel with no coordination (legal lacuna)	3.1. Due to the fact that different police units are competent for prosecuting different criminal offences related to corruption in privatization, as envisaged by the Law on the Police and the Law on Organisation and Competences of State Bodies in Combating Organised Crime, Terrorism and Corruption, and since there are no formal rules on cooperation and coordination, the investigation is carried out by regular police departments without informing the specialized police units, so that two criminal investigations are conducted in parallel without coordination..	3.1. The specialised police departments, tasked with criminal investigation of corruption offences, are not tasked with investigating the criminal offence prescribed in the Law on Privatisation. As a consequence, two criminal investigations can run in parallel without coordination and cooperation, which can constitute a corruption risk.	Likelihood: Possible Impact: Medium MEDIUM RISK	Risk should be monitored or mitigated

PUBLIC PROSECUTION

SENSITIVE COMPETENCE PROSECUTION OF CRIMINAL OFFENCE RELATED TO CORRUPTION IN PRIVATISATION				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE

1. Prosecution of criminal offences related to corruption in privatisation is unduly delayed.	1.1. The Law on Public Prosecution and the Rulebook on Administration in Public Prosecution Service do not envisage timelines for criminal prosecution. Further, the legal framework does not envisage a clear timeline for the police to provide information to the public prosecution service.	1.1. The lack of timelines is, on the one hand, understandable, as the investigation of corruption cases is complex and should be conducted thoroughly and systematically. On the other hand, this opens the possibility of the prosecution being unduly delayed due to the passivity of the prosecutor or the passivity of the police conducting actions at the prosecutor's request, which presents a corruption risk.	Likelihood: Possible Impact: Major HIGH RISK	Risk should be mitigated or monitored
2. Lack of cooperation and coordination between the basic public prosecutors' office and specialised departments in prosecuting corruption related to privatisation (legal lacuna)	2.1. Legal framework does not adequately address this issue	12.1. The competences for prosecuting the criminal offence related to corruption in privatisation and other corruption offences envisaged in the Law on Privatisation and other corruption-related offences are in the competences of basic public prosecution offices and specialized public prosecution departments and may run concurrently with regard to the same person without coordinationThe potential lack of coordination of the criminal prosecution relating to the same person or persons and the same events can run concurrently, but without cooperation and coordination, which can result in the prosecution being delayed. This constitutes a corruption risk.	Likelihood: Possible Impact: Medium MEDIUM RISK	Risk should be mitigated or monitored

MANAGING COMPANIES IN PUBLIC OWNERSHIP OF THE REPUBLIC OF SERBIA

SENSITIVE COMPETENCE APPOINTMENT OF DIRECTORS AND REPRESENTATIVES OF STATE CAPITAL IN COMPANIES OWNED BY THE REPUBLIC OF SERBIA				
RISK/IRREGULARITY	**RISK FACTOR**	**DESCRIPTION OF RISK FACTOR**	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1. Directors and representatives of the Republic of Serbia in the assembly of the company owned by the Republic of Serbia are not considered public officials (legal lacuna)	1.1. Pursuant to the authentic interpretation of the Law on Corruption Prevention (Authentic Interpretation of the provision of Article 2, paragraph 1, point 3) of the Law on Corruption Prevention, RS Official Gazette No. 35/19 and . 11/2021), Directors in companies, limited liability companies or joint stock companies in public ownership and the representative of the Republci of Serbia in the assembly of the company in public ownership. are not public officials. Consequently, the rules of that law do not apply to them, which can give rise to corruption risk in potential privatisation	1.1. Due to the fact that directors of companies in public ownership are not public officials, they are not subject to the rules of the Law on Corruption Prevention, and are thus more susceptible to prioritising private over public interest.	Likelihood: Almost certain Impact: Medumr HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

SENSITIVE COMPETENCE DISPOSING OF PROPERTY NOT EXCEEDING 10% OF THE TOTAL VALUE OF THE COMPANY				
RISK/IRREGULARITY	**RISK FACTOR**	**DESCRIPTION OF RISK FACTOR**	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1.The property company owned by the Republic of Serbia is sold to a private person of not exceeding 10% of the total value of the company contrary to public interest (promoting interests contrary to public interest)	1.1. The Law on Management of Companies in Public Ownership of the Republic of Serbia does not require the Government's consent for the sale of property under this value.	1.1. Maintaining public ownership over property the value of which is lower than the set threshold can still be in the public interest and its sale to a private person may give rise to corruption risks already identified in the context of privatization.re	Likelihood: Possible Impact: Major MEDIUM RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.
2. **Property or shares of a company owned by the Republic of Serbia are sold disregarding the provisions of the Law on Privatisation (overlap of competences, legal lacuna)**	2.1. The provisions of the Law on Management of Companies in Public Ownership of the Republic of Serbia do not make any reference to the Law on Privatisation, which is still the law governing the change of ownership over capital and property of legal persons operating with public capital.	2.1. The provisions of the Law on Privatisation should always apply to the sale of public capital and property.	Likelihood: Possible Impact: Major HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

STATE AID

SENSITIVE COMPETENCE AWARDING STATE AID				
RISK/IRREGULARITY	RISK FACTOR	DESCRIPTION OF RISK FACTOR	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1. State aid is awarded to the privatized company and is used to fulfil the obligations from the privatization contract (legal lacuna)	1.1. The regulatory framework governing state aid (Law on Control of State Aid and relevant bylaws such as the Ordinance of Conditions and Criteria for Compliance of Horizontal State Aid) does not prevent privatised companies and the purchasers of privatisation entities from applying for state aid.	1.1. If state aid is used to meet the contractual obligations from the privatisation contract, this is contrary to the public interest as it can annul the positive effects of privatisation on the budget while being beneficial to private interests.	Lilkelihood: Possible Impact: Major HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

REPUBLIC PUBLIC PROPERTY DIRECTORATE

SENSITIVE COMPETENCE **DEVELOPING A METHODOLOGY FOR APPRAISING THE VALUE OF IMMOVABLE PROPERTY IN PUBLIC OWNERSHIP**				
RISK/IRREGULARITY	**RISK FACTOR**	**DESCRIPTION OF RISK FACTOR**	MEASUREMENT, EVALUATION AND RANKING OF RISK	MITIGATING MEASURE
1. Construction land in public ownership is appraised by the Republic Public Property Directorate~~,~~ but this is not a part of the assessment of the value of the entity subject to privatization since the entity subject to privatization only has the right of use over the construction land(legal lacuna)	1.1. According to the provision of Article 20 of the Law on Privatisation in conjunction with the Provisions of the Law on Accounting, the assessment of the value of the entity subject to privatization is restricted to the property owned by the entity subject to privatization. At the same time, pursuant to Article 102 of the Law on Planning and Construction, the buyer of the	1.1. Due to the combined effect of the norms of the Law on Privatisation, the Law on Accounting and the Law on Planning and Construction, the value of the construction land in public ownership on which the entity subject to privatization has the right of use, although appraised by the Republic Public Property Directorate, is not a part of the assessment of the value of the entity being privatized. Following privatization, the buyer of the can demand conversion of the right to use of construction property to the right of ownership over such land, free of charge. This means that the buyer of the privatized entity can acquire ownership over construction land that was not initially included in the purchase price in the privatization	Likelihood: Possible Impact: Major HIGH RISK	Risk should be mitigated through legislative intervention related to the identified risk factor.

	privatised entity has the right to convert the right of use to right of ownership after privatization.	contract, and this is contrary to public interest.	

4. Findings and recommendations

As of 2015, the Ministry of Economy carries out and oversees all privatization procedures in the Republic of Serbia.

Following the structure of the Law on Privatization, its competences could, in principle, be grouped primarily into those relating to the conduct of privatization procedures, the supervision of the privatization process, the appointment of an interim capital representative, and the sale of public capital expressed in shares or equity interests.

In the present analysis of the competencies sensitive to corruption risks of the Ministry of Economy, the criterion applied was not whether such competencies concern, for instance, the conduct or the supervision of the privatization procedure, but rather whether they pertain to all models and methods of privatization or arise only in relation to certain models and methods. In addition to the risks attributable to the activities of the Ministry of Economy, the CRA report also sets out the risks arising from the work of the Government, as well as of commissions or working groups formed by the Ministry of Economy.

Although the competent authorities of local self-government units and of territorial autonomy likewise hold certain competences vis-à-vis privatization that correspond to those of the Government, in cases where the privatization entity operates with public capital owned not by the Republic of Serbia but by an autonomous province or a local self-government unit, their competences, particularly susceptible to corruption risks, have not been analyzed herein.

The analysis of the competences of the Ministry of Economy and the Government that are particularly exposed to corruption risks in the privatization process reveals that significant risks are identified already at the initial stage of initiating the privatization procedure of entities with socially-owned or public capital. Most of these risks are classified as high in relation to the initiation of privatization of entities with public capital, given the expected frequency and volume of such privatizations, and as medium in relation to privatizations of entities with socially-owned capital, due to the very limited number of such entities that have not yet been privatized.

In order to adequately address and mitigate the identified risks stemming from the broad discretionary powers and the insufficient transparency of the Ministry of Economy and the Government in initiating the privatization procedure, it is recommended to revise the Law on Privatization (Article 19, paragraphs 1–4) so as to prescribe that initiatives for instituting the privatization procedure must be published on the respective official websites and duly substantiated by setting out the reasons why, in each particular case, the initiation of the privatization procedure is deemed to be in the public interest.

Broad discretionary powers in decision-making, as a significant corruption risk that may unjustifiably exclude certain bidders or favor particular ones contrary to the public interest, are likewise evident in numerous competences of the Government, the Ministry of Economy, as well as the commissions and working groups

formed/established by the Ministry of Economy, as set out in the Law on Privatization and the accompanying bylaws, and they arise at various stages of the privatization procedures.

Firstly, the Ministry of Economy has, inter alia, the following broad discretionary powers:

- in determining the criteria for participation in the public call for bids with open bidding, the conditions of sale, and the obligations of the purchaser (including investment requirements, social programs, business continuity, etc.);[11]
- -in engaging advisors for the purpose of performing tasks and providing assistance in the conduct of the procedure and in selecting the most advantageous bidder;[12]
- in proposing to the Government the decision on the model of strategic partnership;[13]
- in selecting the appointed advisor, as well as in determining the criteria for selecting the specific individual to be appointed as advisor in the process of selling the capital of large privatization entities;[14]
- "in rejecting submitted binding offers by the Selected Bidders, as regulated by the *Regulation on the Conditions, Manner and Procedure for the Sale of Capital of Large Privatization Entities by Means of a Public Call for Bids;*[15]
- - in determining the deadline for the submission of revised binding offers;[16] and
- -in extending the deadline for submitting a binding offer beyond the statutory maximum of 180 days from the date of delivery of the list of Selected Bidders, in the absence of any criteria.[17]

It was emphasized during the focus group that, among the identified risks and competences, the discretionary competence of the Ministry of Economy to determine the criteria for participation in the public call for bids with open bidding, the conditions of sale, and the purchaser's obligations creates a particularly wide scope for favoritism toward certain bidders, to the detriment of others whose offers may be arbitrarily rejected, and therefore requires careful attention. Reportedly, in past privatizations in

[11] Article 25 read in conjunction with Article 7, paragraph 1, subparagraph 1 of the Law on Privatization and Article 4, paragraph 1, subparagraph 2, and Article 11 of the Regulation on the Conditions, Manner and Procedure for the Sale of Capital and Assets by Means of a Public Call for Bids with Open Bidding.

[12] Article 5, paragraph 4 of the Regulation on Strategic Partnership and Article 21, paragraph 1 of the Law on Privatization.

[13] Article 2, paragraph 4 of the Regulation on Strategic Partnership.

[14] Article 2, paragraph 1, subparagraph 2 of the Regulation on the Conditions, Manner and Procedure for the Sale of Capital of Large Privatization Entities by Means of a Public Call for Bids.

[15] Article 15, paragraph 2, read in conjunction with Article 13, paragraph 1, and Article 19, paragraphs 2 and 3 of the Regulation on the Conditions, Manner and Procedure for the Sale of Capital of Large Privatization Entities by Means of a Public Call for Bids.

[16] Article 20, paragraph 6 of the Regulation on the Conditions, Manner and Procedure for the Sale of Capital of Large Privatization Entities by Means of a Public Call for Bids.).

[17] Article 18, paragraph 1, is apparently in conflict with Article 15, paragraph 2, of the Regulation on the Conditions, Manner and Procedure for the Sale of Capital of Large Privatization Entities by Means of a Public Call for Bids.

Serbia, this broadly defined competence of the Ministry of Economy was misused by certain public officials, who, at their discretion, established specifically tailored criteria for participation in the public call for bids with open bidding in order to unjustifiably exclude certain bidders.

Arbitrary decision-making has likewise been evident in the exercise of the Government's competencies, particularly in its discretion to propose to the Ministry of Economy the model of strategic partnership in the absence of applicable criteria,[18] as well as in the lack of criteria guiding the Government's decision on whether to initiate negotiations with the second-ranked participant for the conclusion of the strategic partnership agreement.

Finally, the commissions and working groups established by the Ministry of Economy are likewise vested with wide discretionary authority in the exercise of their mandate. For instance, the Commission for the Implementation of the Model of Strategic Partnership decides at its discretion, as it is not guided by clear criteria in granting participants an additional period to supplement documentation.[19] Similarly, the Commission for the Conduct of the Procedure enjoys broad discretion in determining whether, and under what circumstances, individual bidders may be allowed to correct technical errors in their bids.[20] The conducted CRA demonstrates that discretionary grounds for decision-making, as a corruption risk, are regularly accompanied by the following risks:

-vague, inaccurate, and ambiguous wording

-unclear administrative procedures,

-absence of a specific deadline, and

-legal lacunae, and

-inadequate referral provisions.

Namely, wide discretion is often accompanied by inadequately formulated legal provisions, characterized by vague wording and legislative gaps, which may further manifest in the absence of specific deadlines and in the consequent lack of clarity of administrative procedure.

These combined risks have been identified in the CRA and **should be duly addressed and mitigated by means of amendments to the Law on Privatization and the accompanying bylaws in line with corruption risks identified in the developed tables.**

In addition, numerous risks were identified that relate to the lack of transparency of public authorities and the erosion of public trust. These include, *inter alia*, the absence

[18] Article 21, paragraph 5 of the Law on Privatization, . Paragraphs 2 to 4 of Article 2 of the Regulation on Strategic Partnership contain risks for the occurrence of the identified irregularities.

[19] Article 17, paragraph 5 of the Regulation on Strategic Partnership contains risks for the occurrence of the identified irregularities.

[20] Article 19, paragraph 1 of the Regulation on the Conditions, Manner and Procedure for the Sale of Capital or Large Privatization Entities by Means of a Public Call for Bids.

of an obligation for the Ministry of Economy and the Government to publish on their official websites the Government's decision on the model of strategic partnership and the contract for the sale of capital or shares, as well as the risk of delayed publication of four categories of Government decisions on its official website, as provided under the Regulation on Strategic Partnership (Articles 21–27) and the Law on Privatization (Article 68, paragraph 2).

Another key shortcoming of the Law on Privatization lies in its complete lack of explicit provisions on conflicts of interest and recusal,[21] as well as on rules stipulating that a breach of the conflict of interest regime constitutes a ground for termination of the contract for the sale of capital.[22]

Also relevant in this context is the absence of provisions ensuring safeguards against possible links, collusion, or arrangements between potential purchasers, on the one hand, and civil servants or public officials, on the other, who conduct the privatization procedure.[23] Accordingly, the incorporation of provisions stipulating that the purchaser shall neither be an affiliated person of a public official or civil servant nor a newly established legal entity would be of key importance in order to strengthen the preventive character of anti-corruption measures. The requirement to exclude the possibility of a newly established legal entity acting as a purchaser derives from comparative practice, where the absence of such a prohibition has resulted in numerous high-risk privatizations, attributable *inter alia* to the difficulties in assessing the purchaser's creditworthiness and the true intentions underlying its establishment. The CRA likewise demonstrated that there are no sufficient guarantees of the independence of the work of the Commission for conducting the public call for bids with open bidding, nor are other instances of incompatibility of membership in a Commission, with respect to affiliated persons, adequately addressed.[24]

Finally, the legislative interventions to the Law on Privatization and other legal acts, as mentioned earlier, should address one of the major identified risks, namely the extensive practice of considerably undervalued assessments. To that end, it is recommended, inter alia, to revise Article 20, paragraph 1 of the Law on Privatization in order to clarify what constitutes the total assets of the privatization entity that must be subject to a determination of fair or actual market value.

The high number of identified high risks arising from the competences of the Ministry of Economy, the Government, and the commissions formed by the Ministry of Economy underscores the need to mitigate such risks through legislative intervention addressing the identified risk factors, as specified in the developed tables and in the footnotes to the findings and recommendations sections. Although the recent amendments to the Law on Privatization require that the socially-owned capital in privatization entities with majority socially-owned capital be privatized no later than 31 December 2027, it is anticipated that public capital in privatization entities will continue to be subject to

[21] Article 82a of the Law on Privatization.
[22] Article 40 of the Law on Privatization.
[23] Article 12 of the Law on Privatization.
[24] Article 28 of the Law on Privatization.

privatization. The identified corruption risks in privatization should therefore be effectively addressed in the short run.

The Anticorruption Agency is a body vested with the most powers when it comes to corruption prevention. However, due to its very broad mandate and the sometimes underdeveloped norms or lack of norms that would mandate cross-comparison of various records and information, the Anticorruption Agency may find itself not addressing the issue of corruption in privatisation in a systemic manner. At the same time, the Anticorruption Council has dedicated considerable efforts towards investigating and analysing the phenomenon of corruption in privatisation. However, due to a lack of systemic norms governing the relationship, cooperation, and cross-referencing between the Anticorruption Agency and the Anticorruption Council, and a partial overlap of their mandates, this issue can be addressed through a combination of interventions.

The Law on Corruption Prevention should introduce a clear basis for the cooperation between the Anticorruption Agency and the Anticorruption Council. This should also include a clear reference to the reports of the Anticorruption Council as a relevant source of information that is regularly and systemically used by the Anticorruption Agency when investigating corruption.

Also, the Law on Corruption Prevention would benefit from a clearer formulation mandating cross-comparison of different registers and records kept by the Anticorruption Agency to be used in proceedings before the Anticorruption Agency and within its general mandate of investigating the state of corruption.

The plea bargaining policy of the Anticorruption Agency could be reexamined as it general leniency can constitute a corruption risk.

Also, some general risks have been identified that do not pertain to the issue of privatisation only, but rather to the overall mandate of the Anticorruption Agency. These concern the underregulation of important competences of the Anticorruption Agency, including the handling of requests from legal and natural persons made to the Anticorruption Agency on assessing the implementation of the Law on Corruption Prevention, lack of timelines in the Law on Corruption Prevention for the Anticorruption Agency to provide its opinions on draft laws and corruption risk assessment in draft laws and lack of norms mandating the Anticorruption Agency to publish its opionions, initiatives and risk assessments.

Finally, the Rulebook on Internal Organisation and Staffing of the Anticorruption Agency has a very general requirement of a degree in social sciences and humanities for important jobs within the Agency, which would optimally require a degree in economics or law, which are of particular importance for a number of fields particularly susceptible to corruption, such as privatisation and public procurement.

The Anticorruption Council has for the past twenty-four years built a reputation as an authoritative and uncompromising body, that systematically investigates various corruption phenomena and occurrences in Serbian society and proposes measures aimed at addressing them. Its advisory role has consistently undermined the

effectiveness of its recommendations across successive governments, with those in power in Serbia over the past five years being no exception. In its work, the Anticorruption Council faces obstacles at several junctures.

The first one is the collection of relevant data and information held by other public bodies. Namely, the information needed for the Anticorruption Council to conduct its analyses is frequently not delivered to it, or is delivered in incomplete form, or the delivery is significantly delayed. This, in turn, slows down or prevents the Anticorruption Council from completing its analysis and formulating recommendations regarding serious corruption phenomena.

One potential way of addressing this obstacle would be an instruction to government bodies whereby the requests for access to information put forward by the Anticorruption Council would, to the extent feasible, have priority.

The second juncture at which the Anticorruption Council faces obstacles is the fact that it is not regularly invited to participate in the development of public policy documents addressing corruption, and that it is not necessarily one of the public bodies that is included in the consultation on draft bills and public policy documents developed by the Government. This can prevent the Anticorruption Council from directly contributing to the development of anticorruption policies and measures and proposing direct actions and norms based on its previous findings and experience.

It is therefore recommended for the Anticorruption Council to be not only systemically included in the consultations, but also formally listed as a body included in the consultation process in the Government Rules of Procedure.

Thirdly, one of the key risks is for the Government to ignore the recommendations of the Anticorruption Council. Even though the Anticorruption Council is formally a Government advisory body, it *de facto* operates outside of the day-to-day operation of the Government and its annual agenda. Improved and structured communication between them could improve the Government's responsiveness to the recommendations put forward by the Anticorruption Council.

It is not only the Government that may remain unresponsive to the recommendations put forward by the Anticorruption Council. The same risks also exist *vis-a-vis* other public bodies.

It is therefore recommended that the relevant legislation mandate that the public administration bodies that receive recommendations from the Anticorruption Council report to it within a six-month period and inform it of the actions taken to address the given recommendations.

Finally, the 2024 Annual Report of the Anticorruption Council demonstrates that one of its pivotal reports, concerning 24 controversial privatisations, has had modest follow-up in terms of criminal prosecution. The Anticorruption Council reports are used by the public prosecutors just as any other sources of information.

It is therefore recommended that an instruction be issued to the police and the prosecution service to particularly take into account the reports of the

Anticorruption Council and to have regular meetings (at least twice a year) organised between the specialised police and public prosecution departments and the Anticorruption Council. This is because the Anticorruption Council is the body that has investigated the phenomenon of corruption in privatisation most thoroughly.

It is recommended that these risks be addressed through revision of the Rulebook on Internal Organisation and Staffing of the Anticorruption Agency.

The legal and institutional framework governing the investigation and prosecution of criminal offences related to privatisation envisages the competences of two different police departments and public prosecution office, depending on the criminal offence in question. In the latter case, one prosecution office is of a higher rank compared to the other. While the legal framework governing the work of the public prosecution allows for a devolution, the devolution can only take place if the higher public prosecutors' office has prior information of the actions taken by the lower public prosecutors' office. The rules governing the transference of investigation from a regular police unit to a specialised police department are not so straightforward. Consequently, in cases of lack of cooperation and coordination, investigations may run in parallel with the use of resources not being optimised.

A potential way to address that problem could be for a general mandatory instruction to be issued with regard to the investigation of criminal offences related to privatisation, which would detail the way in which actions are to be taken in these types of cases.

The lack of clear norms in the bylaws governing the regular reporting on the status of criminal investigations in privatisation cases, especially between the police and the prosecutor's office, needs to be addressed in a systemic manner and through normative interventions.

The issue of the conversion of the right to use over construction land to the right of ownership without compensation in cases of privatisation (Article 102 of the Law on Planning and Construction) has long been a contested one. It was a subject of a challenge before the Constitutional Court. The key controversial aspect of this legislative solution lies in the fact that, according to the provisions of the Law on Privatisation, the value of construction land used by the entity being privatised is not included in the assessment of its property. This means that the price paid in the privatisation process does not reflect the *de lege* conversion of the right of use into ownership, which follows after privatisation. The issue is additionally exacerbated by the possibility for intended use of agricultural land owned by the entity being privatised to be changed into construction land in the planning documents, and for this change to be carried out during or after the privatisation process, but before the privatised entity requests the conversion to be registered.

Save for legislative changes that would result in the provision of Article 102 of the Law on Planning and Construction being put out of force, and the detrimental effects to the public interest being reversed or mitigated, there are other interventions that can be

utilised to mitigate the risk of the conversion being manifestly against the public interest.

Firstly, the provisions of the Law on Privatisation could be amended so to state that the invetory must include all the land and other immovables on which the entity subject to privatisation has the right of use and that the value of such property, as appraised by the Republic Public Policy Directorate or a certifed appriser, must be factored in the assessment of the value of the entity being privatised. Secondly, it should be prescribed that, prior to the assessment, the certified appraiser must obtain information on whether a change in planning documents that would result in the use of agricultural land being changed to construction land is planned in the following two years, and if so, this change should also be factored in the assessment of the value of the entity being privatised. This would, to an extent, mitigate the potential negative effects and the corruption risks arising from the provision of Article 102 of the Law on Planning and Construction.

The Law on Managing Companies in Public Ownership of the Republic of Serbia mandates the transformation of public companies to limited liability companies or joint stock companies, which still remain in public ownership, while subject to corporate management rules.

This approach has been identified to create two potential risks.

The first one lies in the fact that the directors and representatives of the capital owned by the Republic of Serbia in the company assembly are not public officials. As such, they are not bound by the conflict of interest and other rules prescribed in the Law on Corruption Prevention, which creates an additional risk of a private interest prevailing over public interest. This is a particular challenge if a decision is subsequently made to privatise such a company.

This could be mitigated by an explicit provision in the Law on Privatisation in the Law on Managing Companies in Public Ownership of the Republic of Serbia that the directors and representatives of capital owned by the Republic of Serbia are subject to the same conflict of interest norms as public officials.

The second set of risks stems from the lack of reference to the Law on Privatisation in the Law on Managing Companies in Public Ownership of the Republic of Serbia. The norms of the latter law regulate the issues of the sale of capital and property owned by the companies in question, disregarding the norms of the Law on Privatisation, which is stated to explicitly apply to public capital and public property.

A clear reference and a clear relationship between the two laws need to be established.

The reports of the Anticorruption Council point to a problematic practice, identified in the process of the sale of spas, whereby the sale of a formerly publicly owned spa to a private buyer was followed by an award of state aid to the buyer; often, such state aid effectively covered the key investments to the now privately owned facility. This

phenomenon revealed the possibility of state aid being awarded to the buyer in the privatisation process and effectively being used to meet the investment obligation from the privatisation contract, which minimises the overall positive effects on the state budget.

It is recommended to introduce a norm whereby a buyer in the privatisation process can be awarded state aid that would be used towards meeting the contractual obligation from the privatisation contract.

The Law on Privatisation does not include a clear reference to the application of the Law on the Pledge of Movables when it comes to the sale of property, in the privatisation process, which undermines transparency and legal certainty.

It is recommended that the Law on Privatisation clearly reference, where applicable, the laws governing various types of registration before the Business Registers Agency.

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