



SERBIA
PROGRAM ON MODERNIZATION AND OPTIMIZATION OF
PUBLIC
ADMINISTRATION

Environmental and Social Systems Assessment
(ESSA)

FINAL REPORT

February 5, 2016

ABBREVIATIONS AND ACRONYMS

ALMP	Active Labor Market Program
ESSA	Environmental and Social Systems Assessment
ESMS	Environmental and Social Management System
GDP	Gross Domestic Product
HR	Human Resources
IT	Information Technology
ILO	International Labour Organization
IMF	International Monetary Fund
MoF	Ministry of Finance
MPALSG	Ministry of Public Administration and Local Self-Government
NES	National Employment Service
OSH	Occupational Safety and Health
PAR	Public Administration Reform
PforR	Program-for-Results
SMS	Social Management System

Table of Contents

EXECUTIVE SUMMARY	2
1. Introduction.....	10
1.1 Background and Context.....	10
2. Program Description	10
2.1 Program	10
2.2 Scope of the Program.....	11
2.3 Beneficiaries of the Program	11
2.4 Anticipated Environmental and Social Impacts of the Program.....	12
2.4.1 Main Social Risks of the Program	12
2.4.2 Main Environmental Risks of the Program.....	14
2.5 Previous Experiences from Institutions Involved in the Program	16
2.6 Overview of the Labor Market in Serbia and National Employment Strategies	16
3. Program Social Management System.....	19
3.1 Legal Framework	20
3.2 Institutional Arrangement.....	28
3.3 Environmental Legal Framework	30
3.4 Environmental Institutional Arrangement	32
4. Assessment of Institutional Capacity and Performance	32
4.1 Adequacy of Social Management Systems Associated with Retrenchment	32
4.2 Adequacy of Social Management Capacity	33
5. Environmental and Social Systems Assessment Action Plan.....	34
5.1 Social Systems Assessment Action Plan Related to Retrenchment.....	34
6. Assessment of Environmental and Social Risk Level.....	36
Annex 1: Report on Formal Consultations on the Draft ESSA	37

EXECUTIVE SUMMARY

Context and Objectives

1. **An Environmental and Social Systems Assessment (ESSA) has been prepared for the World Bank's Modernization and Optimization of Public Administration to be financed under a Program-for-Results operation (PforR) in the Republic of Serbia.** The Bank will support the implementation of the Public Administration Reform (PAR) Strategy of the Republic of Serbia through the PforR operation, which will support two out of the five areas of the Action Plan for the Implementation of the Public Administration Strategy, namely human resource management and public finances, by providing

- improved human resources management;
- improved procurement management; and
- improved financial management.

2. **The ESSA examines environmental and social management systems (ESMS) that are applicable to the program to assess their compliance with the [Bank Policy Program-for-Results Financing](#).** It aims to ensure that the program's environmental and social risks will be managed adequately and that it complies with the basic principles of sustainable development. Paragraph 8 of the [Bank Policy Program-for-Results Financing](#) describes the core principles of environmental and social management that must be met in the ESSA. These core principles are as follows:

Environmental Management Systems

- Promote environmental and social sustainability in the program design, avoid, minimize, or mitigate against adverse impacts, and promote informed decision making relating to a program's environmental and social effects.
- Avoid, minimize, or mitigate adverse impacts on natural habitats and physical and cultural resources resulting from the program.
- Protect public safety and the safety of workers against the potential risks associated with: (a) construction and/or operation of facilities or other business practices in the program; (b) exposure to toxic chemicals, hazardous wastes, and other dangerous goods under the program; (c) reconstruction or rehabilitation of infrastructure in areas prone to natural hazards.

Social Management Systems

- Manage land acquisition and loss of access to natural resources in a way that avoids or minimizes displacement, and assist the affected people in improving or at the minimum restoring their livelihoods and living standards.
- Give due consideration to the cultural appropriateness of, and equitable access to, program benefits, giving special attention to the rights and interests of the indigenous peoples and to the needs or concerns of vulnerable groups.

- Avoid exacerbating social conflict, especially in fragile states, post-conflict areas, or areas subject to territorial disputes.

3. **The ESSA evaluates the compatibility of the program's systems with the core principles on two basic levels:** (a) the systems as defined by laws, regulations, and procedures (the 'system as defined') and (b) the institutional capacity of implementation entities under the program to effectively implement the system (the 'system as it is applied in practice'). It identifies and analyzes the differences between the national systems and the core principles that apply to the program on the two levels indicated above.

ESSA Approach

4. **The preparation of the ESSA and the development of measures to strengthen the ESMS has benefited from various inputs, information and consultation process, including the following:**

- **Review.** The review focused on legislation and current labor regulations, relevant reports related to labor issues (for example, Employment and Social Reform Program; Statistical Office data), and on separate specific reports of other Bank projects related to employment issues.
- **Initial consultation meetings.** To develop a better understanding of procedures, standards, and approach for this project, meetings took place with the technical staff in the ministries and other government agencies, including the Ministry of Public Administration and Local Self-Government (MPALSG); the Ministry of Labor, Employment, Veterans, and Social Affairs; the National Employment Service (NES); the Socio-Economic Council; the Social Inclusion Unit; and so on.
- **Formal consultations.** Consultations with stakeholders on the draft ESSA were carried out in the form of series of targeted small meetings at the Bank office and ministries in Belgrade between November 5 and November 17, 2015. The meetings were structured as discussions on key issues identified in the ESSA. The conversation mainly focused on the proposed ESSA Action Plan related to retrenchment and suggestions by the stakeholders to improve operationalization of the proposed actions.
- The draft ESSA was disclosed in English and Serbian on October 24, 2015 on the Bank website¹ and on October 26, 2015 in Serbia.²

Institutions, Roles, Responsibilities, and Coordination

5. **To ensure proper implementation of the Program, an institutional arrangement will be established and will include the following structures:**

- MPALSG, as the implementation agency of the Program

¹ English: <http://documents.worldbank.org/curated/en/25196274>. Serbian: <http://documents.worldbank.org/curated/en/25196273>.

² English: <http://www.worldbank.org/en/country/serbia/brief/comments-essa-serbia-modernization-optimization-of-public-administration>. Serbian: <http://pubdocs.worldbank.org/pubdocs/publicdoc/2015/10/607461445882683607/serbia-pfr-essa-web-srb.pdf>.

- Ministry of Finance (MoF) as the reviewer in the process of establishing of the maximum number of employees in the public sector
- Ministry of Labor, Employment, Veterans, and Social Affairs and the NES, which will be responsible for delivering unemployment benefits and active employment measures to the retrenched workers

6. **The MPALSG will be the implementing agency of the Program.** Consistent with the Action Plan for Implementation of Public Administration Strategy, the MPALSG will also be responsible for coordinating the monitoring and reporting of the Program's result framework, including the disbursement linked indicators and the Program Action Plan. The MPALSG will be responsible for transfers of payments for severance payments to other ministries and public sector entities who identified need for targeted staff reductions in accordance with the Law on the Maximum Number of Employees. It will also be responsible for preparing the Program's financial reports and monitoring and evaluation drawing, if necessary, on financial reports from other ministries and agencies involved in the Program.

Program Environmental and Social Risks

Main Social Risks

7. **The Program will not involve any large civil works; therefore, land acquisition or resettlement are not expected to take place under the Program.** Serbia is not considered as a fragile state or a post-conflict zone. Therefore, this social issue is not applicable to the Program.

8. **The most significant social impacts that are likely to be observed in the context of improving the public administration efficiency are related to retrenchment of the public sector employees, associated with the Improvement of Human Resources Management Component of the Program.** Targeted workforce reductions, including retirement, voluntary termination of employment, and retrenchment of the public sector employees, must comply with the applicable Labor Law, Law on the Maximum Number of Employees in the Public Sector, Civil Servants Law, and applicable collective agreements for the respective sectors (for example, state bodies, health, education, and so on).

9. **The right to work is a fundamental right defined and guaranteed by the Constitution of the Republic of Serbia, Article 60:** *Right to work shall be guaranteed in accordance with the law. Everyone shall have the right to choose his occupation freely. All work places shall be available to everyone under equal conditions. Everyone shall have the right to respect of his person at work, safe and healthy working conditions, necessary protection at work, limited working hours, daily and weekly interval for rest, paid annual holiday, fair remuneration for work done, and legal protection in case of termination of working relations. No person may forgo these rights. Women, young and disabled persons shall be provided with special protection at work and special work conditions in accordance with the law.*

10. **Negative social impacts associated with potential retrenchment under the Program will be limited in time, from 2016 to 2018.** This is due to the effectiveness of the Law on the Maximum Number of Employees in the Public Sector (until the end of calendar year 2018) and the Stand-By Arrangement with the International Monetary Fund (IMF) in relation to the fiscal consolidation measures. It is likely that significant portion of the workforce reductions will be implemented through the natural attrition (retirement) and hiring freeze measures. In addition, the government will implement targeted separations.

11. **Relevant labor legal acts and collective agreements include provisions on redundancy due to technological, economic, or organizational changes and provide rights to workers on severance payment.** The legal framework provides special protections for pregnant women, women on maternity leave, mothers of children under two years of age, persons with disabilities, and persons on disability leave (temporary absence for illness). The redundant workers have a right to redundancy (severance) payment, unemployment benefits (in instances prescribed by the law), and access to health insurance. The labor legislation requires employer to prepare a retrenchment plan and consult with relevant unions in regard to the proposed retrenchment plan.

12. **While the nature of proposed activities of the Program does not suggest that specific vulnerable groups could be harmed under the Program, it should be noted that in many sectors of the public administration and public services women comprise the majority of the employees.** This is especially the case in the education and health sectors. Therefore, potential reductions of the workforce may affect women in a higher degree.

13. **Ethnic minorities and persons with disabilities are employees in the public sector.** The Law on the Maximum Number of Employees in the Public Sector gives consideration to persons with disabilities and persons with the knowledge of language of ethnic minorities.

Main Environmental Risks

14. **The Program is not expected to cause environmental impacts.** There is a small chance that the change in organizational and functional structure of the departments and potential modernization of the human resources (HR) information system might lead to minor maintenance works in the offices such as plastering of walls, relocation of the furniture, removal of partitions, provision of the basic information and technology (IT) equipment, and so on. Such operations are not expected to cause any notable or measurable negative impact from the environmental or health and safety standpoints. The Program does not require preparation of an extensive environmental systems assessment.

Social Systems Assessment

15. **Serbia has in place a relatively well-developed policy and legal framework on labor relations and retrenchment along with an institutional system which is generally adequate.** The national legal framework is generally in line with international standards. Serbia ratified the International Labour Organization (ILO) Termination of Employment Convention No. 158. In general, the legal framework is consistent with principles of the International Finance Corporation (IFC) Performance Standards 2 - Labor and Working Conditions, (paragraphs 18–19 on retrenchment). The identified gaps are related to the implementation of consultation with workers and to monitoring and evaluation of the retrenchment process.

16. **The existing labor legislation provides adequate protection of workers in instances when due to technological, economic, or organizational changes, a particular job becomes redundant or volume of work would be reduced.** Labor legal acts provide for considering alternatives to termination of employment including hiring freeze, outsourcing of particular activities (for example, in health), internal transfers and redeployment, and reduction in salaries. Some of these measures such as natural attrition through retirement, hiring freeze, and reduction in salaries have already been implemented in the public sector in 2014 and 2015 as a part of the package of measures to reduce government spending and increase fiscal sustainability.

17. **The Labor Law requires that the employer prepare a retrenchment plan.** The respective union and NES are to provide their opinion on the proposed plan. Legal acts and specific collective agreements that apply to the employees in the public sector, stipulate for selection criteria and principles when termination of employment occurs as a consequence of changes in program, organization, or structure of work. The selection criteria are grounded on the nondiscrimination principles, which are in line with good international practice. These provisions specifically protect employees from being retrenched due to a membership in a union, pregnancy, maternity leave, disability leave, child care leave, personal disability, national and social origin, and other personal characteristics. The collective agreements provide protection for mothers of children less than 2 years of age and single-parent households with underage children.

18. **Laws and collective agreements have provisions for redundancy (severance) payments and formulas for its calculation.** The redundancy payment is calculated on the basis of 30 percent of average monthly salary before retrenchment for every year of service with the employer. The retrenched employees have a right to unemployment benefits, health care, and pension insurance. While these legal provisions are in accordance with good practice, the experience of large retrenchments in the past due to privatization of large state-owned enterprises indicates that there is a reason for caution. These benefits are provided for a limited period. In an environment with high unemployment rate and lack of job supply, it would be unrealistic to assume that majority of retrenched people would find new employment easily.

19. **The Labor Law and applicable collective agreements require consultations with unions related to the retrenchment program.** However, it seems that in practice there are cases when such consultations occur to a lesser degree, that is, consultations with workers are not systematically observed. The Law on the Maximum Number of Employees in the Public Sector, which serves as an instrument for rightsizing in the public sector, was adopted under an urgent parliamentary procedure and therefore, it was not a subject to public consultations. The unions and the Socio-Economic Council issued their public statements to express their dissatisfaction with the lack of consultation and their inputs.

20. **It should be noted that relevant laws do not include specific requirements for monitoring and evaluation of retrenchment programs and status of retrenched employees.** There are no requirements for the employers to follow the situation of the retrenched workers or outcomes of assistance provided. Once the labor relations are terminated, the NES tracks and follows the status of retrenched workers who choose to register with the NES.

21. **In general, the legal framework for the protection of the retrenched workers is broadly in place, but its consistent implementation across the country needs to be ensured,** notably in the areas of consultations with workers (unions), transparent retrenchment criteria, and follow-up monitoring and evaluation of the status of affected workers.

Environmental and Social Systems Assessment Action Plan

Social Systems Action Plan Related to Retrenchment

22. **Although the overall economic impacts of the Program are expected to be positive, there could also be some adverse social impacts associated with the retrenchment of workers in public entities, which represents a reputational and technical risk for the Program, the government, and the Bank.** The Program provides an opportunity to strengthen

the procedures to identify and mitigate any adverse effects associated to retrenchment in accordance with internationally recognized practices.

23. **On the technical side, to fill the gaps between the existing social management system (SMS) and international good practice³ identified through this social systems assessment, the Program will support specific measures to enhance performance of the SMS related to retrenchment.** These measures will be implemented on the basis of the following actions:

- (a) **Ensure that the MPALSG has staff assigned to coordinate, monitor, and report on the rightsizing process and its effects on the number of employees.** By the start of the Program, the MPALSG to assign two staff members with relevant competences and experience (knowledge of human resources and labor relations procedures) to coordinate the rightsizing process with other public sector entities and to provide regular periodic reports on the status of actions from this action plan, including the number of reduced staff across sectors.
- (b) **Improve communication and consultations with workers and unions.** Each employer in the public sector will document that the unions were consulted on retrenchment and the respective retrenchment plans. Each public entity submitting the request for redundancy payment to the MPALSG and the Ministry of Health to attach minutes from the consultations or written comments by the unions on the retrenchment plan. If requested, a sample of these reports will be submitted to the Bank for review.
- (c) **Selection criteria.** The criteria for selection of employees who will be made redundant will be based on principles of transparency and nondiscrimination, applied consistently and will contain an appeal procedure. By the start of the Program, the MPALSG will prepare guidelines about the need to include clear selection criteria in acts on the termination of employment and retrenchment plans. The criteria will be consistent with provisions from applicable national labor legislation and collective agreements, policies on social inclusion of Roma, and guidelines of other respective ministries. The criteria will reinforce protections of following categories of workers: pregnant women, women on maternity leave, single mothers, mothers of children under the age of two years, employees on disability leave, and persons with disabilities. Every employer who will reduce its workforce will make the criteria for retrenchment publically available. The retrenchment criteria and the rationale will be included in the retrenchment plans and acts on termination of employment.
- (d) **Retrenchment plans.** As required by the Labor Law, the employers in the public sector will prepare retrenchment plans to document that requirements from the Labor Law, Civil Servants Law, and applicable collective agreements were respected. The proposed draft retrenchment plan will be submitted to the relevant union and the NES for consultation. The period of advance notice and the length of

³ [ILO Termination of Employment Convention No. 158.](#)
[IFC Performance Standards 2 - Labor and Working Conditions.](#)
[IFC Good Practice Note Managing Retrenchment.](#)

consultation must follow the provisions from the Labor Law. The consultations will be documented in writing. The retrenchment plan will include the following:

- (i) Rationale for determining the redundancy of employees
 - (ii) Total number of employees with the respective employer
 - (iii) Number of redundant employees, their qualifications and job positions, age, and length of employment (years) covered by the employment insurance benefits; gender-segregated information (number of males and females), number of persons with disabilities
 - (iv) Selection criteria for determining redundant employees
 - (v) Measures for alternative employment such as: transfer to other jobs; transfer to other employer; training; part-time work, but not less than 50 percent of full time and other measures
 - (vi) Resources to address the socioeconomic status of the redundant employees
 - (vii) Employment termination deadline
- (e) **Provision of transition assistance to retrenched employees.** The Ministry of Labor, Employment, Veterans, and Social Affairs to include in the 2016, 2017, and 2018 performance agreement with the NES the following requirements:
- (i) An NES representative visits every entity that will retrench more than 10 workers and inform workers about available NES services, programs, and benefits, register them with the NES, and develop an individual action plan for each registered redundant worker. In instances when less than 10 workers will be retrenched, in collaboration with employers, the NES will inform affected workers about available assistance programs, based on the existing model for retrenchment.
 - (ii) The NES will contact at least 20 employers in the same and neighboring municipalities where the public entity resides to offer them NES services and inquire about job vacancies.
 - (iii) The NES will consult with the local employment council about support for redundant workers.
- (f) **Gender and social inclusion.** The MPALSG and the Ministry of Health (Statutory Health Insurance Fund) will request that the submitted retrenchment plans and requests for redundancy (severance) include disaggregated information according to gender (number of males/females), age (categories to be defined), education (categories to be defined), and persons with disabilities (number). The Ministry of Labor, Employment, Veterans, and Social Affairs in collaboration with the NES will prepare measures for active employment for retrenched women, especially women over the age of 50 years.
- (g) **Monitor severance payment disbursement and status of retrenched workers.** The MPALSG and the Ministry of Health (Statutory Health Insurance Fund) will monitor and report annually on the number of workers who received the severance (redundancy) payment, as prescribed in the Law on the Maximum Number of

Employees in the Public Sector. The Ministry of Labor, Employment, Veterans, and Social Affairs in collaboration with the NES will monitor and report annually on the status of retrenched workers with regard to (i) number of retrenched workers (number of male/female/persons with disability) who received active employment services from the NES and (ii) number of retrenched workers (number of male/female/persons with disability) who found new employment.

24. **The Program is not expected to cause environmental impacts.** The probability and severity of any harm from environmental or occupational health and safety standpoints are low. **No specific mitigation measures are required.**

1. Introduction

1.1 Background and Context

1. In recent years, Serbia has faced significant fiscal challenges. Since 2008, economic growth has stalled, reversing the progress made in earlier years. Average real growth dropped to zero between 2009 and 2014. Fiscal deficits have averaged 6 percent of gross domestic product (GDP) between 2009 and 2014. As a result, Serbia's public debt has more than doubled—from 34 percent of GDP in 2008 to 71 percent at end-2014. The unemployment rate grew from 14.4 percent in 2008 to 24.6 percent in 2012. By 2014, the employment showed signs of slight recovery and reached 19.7 percent. In addition to other structural issues such as subsidies and guarantees to public utilities and high levels of public employment, inefficient human resource management and weaknesses in financial management have also directly contributed to Serbia's fiscal challenges.

2. In an effort to deal with its fiscal challenges, in 2014, the Government of Serbia adopted an ambitious fiscal consolidation and structural reform program. The program is underpinned by a three-year precautionary Stand-By Arrangement with the IMF, approved by the IMF Board in February 2015. In the short term, the program focuses on the control of aggregate wage and pension expenditures, improvements in tax administration, and reductions in subsidies to state-owned enterprises. As part of the fiscal consolidation measures, salaries in the public sector and pensions were reduced by 10 percent in 2014. Hiring freeze in the public sector was enforced as well. The government has also begun to address longer-term structural problems in the administration of the public sector, focusing on functional reviews and organizational restructuring to create opportunities for efficiency gains. The fiscal consolidation and structural reform program aims to create an environment for sustainable growth and job creation in the medium term.

3. In the context of fiscal consolidation and reducing public debt, the government is undertaking a public administration reform. The PAR Strategy, adopted in 2014 is supported by the Action Plan for the Implementation of the Public Sector Reform Strategy 2015–2017. The PAR Strategy and Action Plan prioritize improvement of the organizational and functioning of the public administration systems; strengthening of human resource management; improvement of public finance and public procurement management, as well as enhancement of legal certainty and improvement of business environment and quality of public services; and increased transparency and enhancement of ethical standards and strengthening the government's supervision capacities.

2. Program Description

2.1 Program

4. The government of the Republic of Serbia and the Bank are currently engaged in the preparation and development of a new operation (hereinafter Program) with an aim to improve efficiency in public sector employment and finances.

5. The Program is focused on a subset of priorities in the government's PAR aimed at addressing key efficiency bottlenecks in the public sector employment and public finance. In particular, the Program proposes to support three main areas: (a) improving human resources management; (b) improving public procurement management; and (c) improving financial management.

6. This social systems assessment is concerned with the first area of Program support, namely the Program’s support to implementing government-led changes in human resources management.

2.2 Scope of the Program

7. The Program activities will cover the entire territory of the Republic of Serbia - 29 administrative districts. Public sector institutions, municipalities, public service delivery organizations, and other organizational entities in the system of the public sector (excluding public enterprises) across the country are the subject of the PAR. As of December 2014, the Serbian public sector (excluding public enterprises) employed 491,133 staff under permanent and fixed-term contracts. Table 1 offers an overview of employment numbers per sector.

Table 1. Sector Size Indicators - Expenditures, Wage Bill, and Number of Employees⁴

	Expenditures (% of GDP)	Wage Bill (% of GDP)	Wage Bill /Expenditures (%)	Number of Employees (Permanent and Fixed Contracts)	Number of Employees (% of Total Gen Gov Employment)
Total	48.2	12.6	26.1	491,133	100.0
Education	5.0	3.5	70.3	177,171	36.1
Health	6.7	3.2	48.5	128,429	26.1
Police services	1.8	1.5	84.6	47,538	9.7
General public services	6.4	1.5	23.0	41,928	8.5
Central administration	4.8	0.6	11.6	16,465	3.4
Local administration	1.6	0.9	56.4	25,463	5.2
Defense	1.5	0.9	61.1	33,076	6.7
Law courts	0.8	0.5	67.1	17,181	3.5
Economic affairs and housing	1.2	0.4	29.1	9,517	1.9
Recreation, culture, and religion	6.6	0.5	7.4	13,039	2.7
Social protection	17.6	0.3	1.7	17,754	3.6
Public order and safety*	0.4	0.2	67.5	4,865	1.0
Environmental protection	0.3	0.0	6.2	635	0.1
Republic administration	–	0.8	–	25,288	–

*without police and law courts

2.3 Beneficiaries of the Program

8. The end beneficiaries are the citizens of the Republic of Serbia - approximately 7 million citizens. The general objective of the public administration reform is to provide a high quality service to the citizens and business entities. In the long term, the objective is to create a public administration that will contribute to the economic stability and improvement of the living

⁴ Sources: Serbia (MoF, Financial Plans of Social Security Organizations, MPALSG staff estimates, and projections), other countries (Eurostat). 1 - In the education sector there are a large number of part-time employees. The number of FTE (full-time equivalent) employees in education is approximately 155,000.

standards of citizens, therefore contributing to long-term sustainability. The citizens will benefit from enhanced provision of public services, in a more efficient and more effective fashion. The more efficient public sector can create savings that can contribute to the improved business enabling environment and job creation.

2.4 Anticipated Environmental and Social Impacts of the Program

2.4.1 Main Social Risks of the Program

9. The overall objective of Program-financed activities is to improve efficiency in public sector human resources management and finances. The activities financed under the Program will not include any civil works, which would require acquisition of land or relocation of people. The major social risk identified is a risk of potential reduction of workforce in the public sector due to technological, economic, or organizational changes, which could be associated with the Improvement of Human Resources Management Component of the Program. Table 2 summarizes the risks related to social impacts of the Program according to the [Bank Policy Program-for-Results Financing](#). The assessment identified risk of retrenchment as the main social risk associated with the Program.

Table 2. Social Risks and Impacts

Impacts	Evaluation	Risk
Involuntary resettlement	The Program will not involve any civil works or private land acquisition; therefore, no involuntary resettlement will occur under the Program.	Null
Forced expropriation of land and private property	The Program will not involve any civil works or private land acquisition; therefore, no expropriation or forced acquisition of private property will occur under the Program.	Null
Restricted access to goods, services, natural resources and loss of income	The Program will not involve any civil works; therefore, no restricted access to goods, services, or natural resources will occur under the Program.	Null
Inadequate equitable access to Program benefits by vulnerable groups	Women constitute majority of employees in the public sector. Potential reductions of the workforce may predominantly affect women. Ethnic minorities are also employed in the public sector and may be affected by the workforce reductions in equal likelihood as any other employee. These risks are estimated to be medium because the Program is designed to avoid and mitigate them. These aspects will be taken into account in the design of mitigation measures.	Medium
Avoid exacerbating social conflicts, especially in fragile states, post-conflict areas, or areas subject to territorial disputes	Serbia is not considered as a fragile state or a post-conflict zone. Therefore, this social issue is not applicable to the Program.	Null
Loss of income as a consequence of workforce reduction due to technical, economic or organizational changes	There is a likelihood that the Program may involve workforce reduction as one of the measures to reduce the wage bill and increase the public sector efficiency. Due to its social impacts, the risk is estimated as substantial. The Program will include mitigation measures such as retirement, severance payment, unemployment benefits, and assistance in retraining and employment search to adequately address the social impact of retrenchment.	Substantial

10. As stated earlier, the improvement of the efficiency in human resources management is a part of the broader PAR agenda, underpinned by the fiscal consolidation efforts. To achieve fiscal sustainability, the government is looking to avoid pure linear 5 percent downsizing and to carry out broader reorganization of the public administration.⁵

11. There are two phases of the public sector reforms. The first phase of the rationalization (rightsizing) reform is under way. As part of its fiscal consolidation agenda for 2015–17, as supported by the IMF Stand-By Arrangement (SBA) program, the government has set out a series of fiscal structural reforms, including measures to address the public wage bill. Besides continuing to apply the 5:1 attrition rule (for every 5 employees who retire, hire 1 new employee), the government will implement targeted workforce reductions. All budget beneficiary entities were asked to draft a plan for reducing the number of employees. The Law on the Maximum Number of Employees in the Public Sector was adopted in July 2015. This law regulates procedures for targeted separations including voluntary termination of employment. As a result of the implementation of the newly adopted Law on the Maximum Number of Employees in the Public Sector, the first reductions of the workforce will happen by the end of 2015. However, these separations will be outside of the scope of Bank-financed Program. The Bank-supported Program’s impacts may occur between 2016 and 2018.

12. The rightsizing process that was carried out by August of 2015 can be summarized as follows. The public sector in Serbia employs approximately 490, 000 people, working in public administration, municipalities, public services (for example, health, education), and communal services (for example, waste management, water facilities, park maintenance, and so on). Therefore, the assessments for initial downsizing were carried out at the public entity level. In the period from late 2014 to August 2015, the MPALSG provided guidance on how to carry out initial assessments for the rightsizing. This activity was carried out in coordination with 17 other ministries and province administration bodies. At the level of each ministry, there was a 3–4 person team comprising a person with a strategic role (for example, State Secretary or Assistant Minister) and staff from human resources, legal, or finance department. Each ministry then worked with bodies and organizational entities in their respective sectors to prepare proposals for downsizing. For example, in the sector of education, the directors of schools worked with their teams to identify the redundant functions. The list of redundant functions at schools are publically available on the website of the Ministry of Education and on the websites of unions in the education sector. At the moment of preparation of this report, the government was still in the process of determining which jobs would become redundant in 2015. The government secured the budget for severance payments for the year 2015 in the amount of RSD 5.5 billion (approximately US\$50 million).

13. The second phase of the reforms will focus on restructuring and rightsizing the public sector. This will begin with a comprehensive functional review of the central administration and the MoF. There will also be functional reviews of specific ministries, such as education, health, social protection, and agriculture. Functional reviews have been used in many countries to identify savings in a more strategic and targeted manner than across-the-board cuts. They are intended to simplify administrative procedures, eliminate redundant tasks, and eliminate or

⁵ Position document: Modern State - Rational State
http://www.mduls.gov.rs/doc/Pozicioni%20dokument_Moderna%20i%20racionalna%20drzava.docx.

restructure departments with duplicate functions without compromising service delivery. They also include changing the organizational structure, job definitions, and staffing levels to ensure that the organizational and functional structure determines public staffing needs. The functional reviews will not necessarily be limited to staff but will also consider other expenditure items and how services are delivered. The other Bank-funded Technical Assistance project is assisting the MPALSG to carry out functional analysis of institutions in the systems of public administration.

14. According to the Bank's Serbia Public Finance Review (2015),⁶ the rightsizing reforms leading to layoffs are likely to have more direct impact on household incomes. Among the mitigation measures are severance payments, which will be determined based on current legislation. To the extent that attrition is used, public employees may transition to pension status, limiting the impact on their incomes from the separation. The ability of those who lose their jobs to find new employment will depend on their education levels, skills, and age, as well as geography. Although targeted workforce reductions may have immediate adverse impacts for the employment and living standards of those directly affected, government investment is expected to recover gradually and lead to job creation in the midterm.

15. The potential retrenchment of the public sector employees is a reputational and technical risk for the Program. During the preparation of this assessment, the Union of Health Care Workers submitted an appeal to the Constitutional Court on September 11, 2015, to review whether the Law on the Maximum Number of Employees in the Public Sector is constitutional. The Ombudsman and the Commissioner for Gender Equality submitted an appeal to the Constitutional Court in relation to Article 20 of the law. On October 9, 2015, the Constitutional Court issued a decision to suspend the application of Article 20, related to the enforcement of retirement age. According to the court, this provision of the law unevenly affects women and forces them to early retirement.

16. The government has communicated on multiple occasions in the media that cost cutting in the public sector is a necessary measure as a part of fiscal consolidation, which would eventually lead to creating of an enabling environment for investments and job creation.

17. This assessment will consider potential retrenchment from a technical point of view and assess the adequacy of SMSs to mitigate and manage this risk. At the time of the assessment, the potential number or location of affected people by workforce reduction were not known; therefore, the assessment focused on the systems in place associated with labor relations and retrenchment management. The retrenchment mitigation measures will also consider social inclusion aspects such as nondiscrimination of certain groups (women, people with disabilities, workers over the age of 50 years).

2.4.2 Main Environmental Risks of the Program

18. The Program is not expected to cause environmental impacts. There is a small chance that the change in organizational and functional structure of the departments and potential modernization of HR information system might lead to minor maintenance in the offices such as plastering of walls, relocation of the furniture, removal of partitions, provision of the basic IT equipment, and so on. Such operations are not expected to cause any notable or measurable

⁶ <http://pubdocs.worldbank.org/pubdocs/publicdoc/2015/11/776271446462342355/PFR-eng-web-final.pdf>.

negative impact from the environmental or health and safety standpoints. The Program does not require preparation of an extensive environmental systems assessment.

Table 3. Environmental Risks and Impacts

Impacts	Evaluation	Risk
Adverse impacts on natural habitats and physical cultural resources	None of the Program activities have potential to directly or indirectly affect natural habitats and physical cultural resources.	Null
Risks associated with construction and/or operations of facilities or other operational practices under the Program	Changes in the HR, procurement and financial management might require some changes in the layout inside administrative offices and provision of the basic IT equipment as a part of modernization of information systems	Low
Exposure to toxic chemicals, hazardous wastes, and other dangerous materials under the Program	The Program will not involve any activities related to the use of toxic chemicals or other dangerous materials. None of the Program activities will involve generation or disposal of hazardous	Null
Changes in land or resource use	None of the Program activities will involve land use or resource use issues.	Null

2.5 Previous Experiences from Institutions Involved in the Program

19. Institutions involved in the Program have a long history of collaboration with the Bank. The government and the Bank implemented several programs that involved the retrenchment workers in the state-owned enterprises. The MoF; Ministry of Labor, Employment, Veterans, and Social Affairs; and the NES have the experience in implementing large retrenchment programs, including social programs with severance payments and designing Active Labor Market Programs (ALMPs). The government has secured the resources for severance payment in the annual budget.

20. The Bank is supporting the Job and Competiveness Project with the Ministry of Labor, Employment, Veterans, and Social Affairs. One of main components of the project is to enhance the capacities of the National Employment Service.

2.6 Overview of the Labor Market in Serbia and National Employment Strategies

21. According to government policy document ‘Program for reforms of employment and social policy in the process of EU accession’ (2015),⁷ general economic situation in recent years in Serbia is characterized by two trends. One is economic growth by 2008, and another slowdown in growth since 2008, when the Serbian economy in certain years also recorded a negative growth. Serbia ended 2014 with an estimated real economic decline of 1.8 percent.

22. With regard to performance of the labor market, Serbia is lagging behind the European Union because the previous decade was marked ‘growth without employment’ and has registered a dramatic worsening of all basic indicators of the labor market. Since the beginning of the global economic crisis, the employment rate of the working age population has decreased by 10 percentage points, from 54.0 percent in April 2008 to 44.2 percent in April 2012, reflecting the cumulative decline in employment for more than half a million employees. As indicated, women’s employment activity is slightly lower in general population. Tables 4 and 5 offer an overview of employment and unemployment trends with gender-segregated data.

⁷ <http://socijalnoukljucivanje.gov.rs/rs/javna-rasprava-o-finalnom-nacrtu-programa-reformi-politike-zaposljavanja-i-socijalne-politike-esrp/>, accessed September 3, 2015.

Table 4: Key Indicators of the Labor Market (Population Working Age 15–64 Years)

	2009		2010		2011		2012		2013		2014	
	Total	Women	Total	Women	Total	Women	Total	Women	Total	Women	Total	Women
Activity rate (%)	60.6	52.8	59.0	50.8	59.4	50.7	60.1	51.2	61.6	53.2	61.7	53.8
Employment rate (%)	50.4	43.0	47.2	40.1	45.4	38.3	45.3	38.1	47.5	40.1	49.6	42.8
Unemployment rate (%)	16.9	18.6	20.0	21.0	23.6	24.3	24.6	25.6	23.0	24.6	19.7	20.4

Source: Statistical Office of the Republic of Serbia.

23. When looking at the distributional impact of core near-term fiscal consolidation measures, it is important to consider the fact that public sector workers are on average paid more than private sector workers.⁸ As shown in able 5, public sector employment is more prevalent in the top income deciles.

Table 5. Labor Force Statistics by Income Group, Serbians Aged 18–65 Years (%)

	All	Bottom 40%	Top 60%	Poor (Below 60% of Median Income)	Non-Poor
Labor force participation	71.9	71.4	72.1	72.1	71.8
Unemployment rate	31.7	52.1	18.6	58.2	23.0
Employment rate	49.0	34.2	58.7	30.2	55.3
Self-employment (% of employed)	24.7	49.3	15.4	62.1	18.0
Public sector (% of employed)	32.8	14.6	39.7	9.6	37.0

Source: World Bank. 2015. Systematic Country Diagnostic.

24. Table 6 offers an overview of gender representation in the various sectors funded by the state budget. The data indicate that women represent the majority of employees in two largest sectors: health and education. Therefore, there is a risk that women may carry a heavier burden of the public administration reform.

Table 6. Gender Representation in the Public Sector

	Total	Male	Female
Public administration and defense; compulsory social security	14,0928	83,166	57,762
Education	15,6051	44,274	111,777
Human health and social work activities	142,010	33,363	108,647
Administrative and support service activities	50,364	31,861	18,504
Professional, scientific and technical activities	64,968	29,049	35,920

Source: Labor Force Survey in the Republic of Serbia, 2014, Statistical Office of the Republic of Serbia.

⁸ World Bank. 2015. “Serbia Public Finance Review.”

25. The National Employment Strategy 2011–2020 provides a long-term framework for employment policy development, which is operationalized by passing and implementing the National Employment Action Plan on an annual basis. In compliance with the Law on Employment and Unemployment Insurance and the National Employment Action Plans, municipal authorities adopt local employment action plans, setting the local employment policy priorities and objectives and defining and implementing local employment measures.

26. The National Employment Action Plan sets annual policy priorities and objectives and the implementation of active labor market measures. The active labor market measures are the key instrument for improving the functioning of the labor market with targeted support to unemployed persons. The active labor market measures stipulated in the Law on Employment and Unemployment Insurance include job-matching services, vocational guidance and career counselling, job creation and self-employment subsidies, additional education and training, incentives for unemployment benefit recipients, public works, and other employment promotion measures.

27. The 2015 National Employment Action Plan envisages the implementation of the following active employment policy measures: job-matching services for job seekers; vocational guidance and career counselling; subsidies for employment of unemployed persons from the category of disadvantaged persons (youth up to the age of 30 years, persons above 50 years of age, redundant workers, Roma, persons with disabilities); support to self-employment; additional education and training; incentives for hiring unemployment benefit recipients; public works; active labor market measures for persons with disabilities; co-financing of ALMPs or measures envisaged by local employment action plans with funds from the national budget (at the request of provincial or local governments); and integration of financial social assistance recipients in the labor market.

28. According to the NES data, active labor market measures implemented by the NES in 2013 covered 99,946 unemployed persons or 12.9 percent of the average number of unemployed persons registered by the NES.⁹ The funds earmarked for these measures in 2013 totaled RSD 1,180,000,000 or about 0.03 percent of the GDP. Employment contracts were signed by 21,932 beneficiaries of the measures, which accounted for 21.94 percent of the total number of persons covered by active labor market measures. Moreover, the number of hard-to-employ persons included in active labor market measures was 91,038 or 91.09 percent of the total number of persons included in active labor market measures (99,946 persons). In 2013, the measures and activities aimed at stimulating employment and vocational rehabilitation of persons with disabilities, undertaken by the NES, were financed from the Budget Fund for Vocational Rehabilitation and Promotion of Employment of Persons with Disabilities, in the total amount of RSD 405,289,255.25.

29. These funds were spent on three measures: vocational rehabilitation measures and activities - RSD 27,273,913.55 (6.7 percent); promotion of employment of persons with disabilities - RSD 360,664,226.31 (89.0 percent); and reimbursement of the costs of workplace adaptation for persons with disabilities employed under special conditions and reimbursement of the costs of professional support to persons with disabilities employed under special conditions -

⁹ Source: NES. The average number of unemployed persons registered at the NES in 2013 was 774,890 persons.

RSD 17,351,115.39 (4.3 percent).¹⁰ The funds earmarked for active labor market measures in the 2014 Budget Law of the Republic of Serbia were significantly lower than in the previous year and totaled RSD 600,000,000, with the additional RSD 519,000,000 earmarked for the Budget Fund for Vocational Rehabilitation and Promotion of Employment of Persons with Disabilities. However, the total coverage of persons by active labor market measures remained the same because the focus was on intensification of nonfinancial measures. The financial measures (vocational internship, trainings for labor market, trainings at employers' request, self-employment subsidies, functional primary adult education, subsidies to employers for new job creation, public works, subsidies to wages of persons with disabilities without work experience and support incentives for persons with disabilities) were very limited; 5,924 persons were included in these measures in 2014 as compared to 12,517 in 2013.

30. The results of active labor market measures evaluation studies conducted in the Republic of Serbia in recent years may be summarized as follows: the measures aimed at active job-seeking do not produce significant net effects, their intensity is modest, and they are cost-effective and more useful for persons with lower education levels. Training programs have long-term positive effects, while the largest net effects are delivered by training programs at an identified employer's request. The strongest direct impact is produced by programs providing direct employment subsidies, but they are generally expensive and the conclusion is that recruitment would have occurred even without the financial support. Nevertheless, these measures are significant, especially in the situations of suppressed labor demand. Self-employment programs are useful as a means of supporting and intensifying the recovery of the labor supply. The programs of public works render more significant effects when they are implemented as a means of labor and social activation than as a measure for promoting employability and employment with exceptionally strong psychological effect on the beneficiaries.

3. Program Social Management System

31. The Program will rely on the Social Management System (SMS) to ensure that any potential adverse social impacts are adequately identified, avoided, or mitigated. Generally, the SMS aims at preventing and mitigating potential negative impacts of the Program activities on the population, particularly with regard to

- potential retrenchment of public sector employees;
- potential unequitable gender distribution of retrenchment impacts; and
- grievance redress, through mechanisms for receiving, managing, and resolving disputes that may arise as a consequence of retrenchment.

32. The Environmental and Social Management System (ESMS) includes the following:

- Regulatory and legislative framework
- Institutional arrangements and institutional capacity to identify environmental and social risks and to implement, monitor, and follow up on the evaluation of mitigation measures

¹⁰ Report on Implementation of the National Action Plan/Employment for 2013.

- Grievance mechanisms including the procedures and tools for affected people to resolve disputes
- Monitoring and evaluation processes

33. It is the responsibility of the Borrower to implement the ESMS and ensure the compliance with proposed mitigation actions.

3.1 Legal Framework

34. The right to work is a fundamental right defined and guaranteed by the Constitution (*Official Gazette RS, No. 98/2006*), which in Article 60 states: *Right to work shall be guaranteed in accordance with the law. Everyone shall have the right to choose his occupation freely. All work places shall be available to everyone under equal conditions. Everyone shall have the right to respect of his person at work, safe and healthy working conditions, necessary protection at work, limited working hours, daily and weekly interval for rest, paid annual holiday, fair remuneration for work done and legal protection in case of termination of working relations. No person may forgo these rights. Women, young and disabled persons shall be provided with special protection at work and special work conditions in accordance with the law.*

35. In addition, the Constitution provides for prohibition of discrimination (Article 21), including discrimination on the grounds of race, gender, nationality, social origin, birth, religion, political orientation, social status, culture, language, age, and disability. Article 26 prohibits slavery and forced labor. Article 69 provides the right for social protection including unemployment benefits. Article 36 provides for the right for equal protection of rights including right to appeal.

36. The Republic of Serbia ratified a number of ILO conventions, including the fundamental conventions, Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87); Right to Organize and Collective Bargaining Convention, 1949 (No. 98); Forced Labor Convention, 1930 (No. 29); Abolition of Forced Labor Convention, 1957 (No. 105); Minimum Age Convention, 1973 (No. 138); Worst Forms of Child Labor Convention, 1999 (No. 182); Equal Remuneration Convention, 1951 (No. 100); Workers with Family Responsibilities Convention, 1981 (No. 156); Tripartite Consultation (International Labor Standards) Convention, 1976 (No. 144); and the Termination of Employment Convention (No. 158).

37. The area of labor market and employment is regulated by a corpus of labor acts and bylaws which have been thoroughly reconstructed in the past ten years. The Labor Law (2005), with its latest changes in August 2014, is a basic law regulating rights and obligations of employees and employers, the working hours, health and safety, salaries, determining the redundancy of employees, termination of employment, severance payments, work outside of employment contract, organization of employees (unions) and employers, and collective bargaining.

38. The legal framework regulating the retrenchment due to technological, economic, or organizational changes, and related mitigation measures includes the following set of laws:

39. **Labor Law** (*Official Gazette RS, No. 24/05, 61/05, 54/09, 32/13 u 75/14*) is the overarching law applying to all employees in the territory of the Republic of Serbia, unless otherwise specified in certain provisions. Provisions of this law shall apply to employees of public bodies, territorial autonomy bodies, and local self-government and public services, unless

the law stipulates otherwise. The law provides for rights of employees and obligations of the employers in cases of employment termination and retrenchment (Articles 153–160). The law also provides for the dispute resolution mechanism which is based on the role of Arbiter (Articles 194–195). The law provides a right to the employee to initiate a dispute before the court.

40. The Labor Law covers occupational safety and health (OSH) issues. The employee is granted safety and protection of life and health at work; health protection; the protection of personal integrity; and other rights in case of illness, reduction, or loss of working capability (Articles 80–83). According to the law (Articles 84–88), persons under the age of 18 years are not allowed to perform the following duties: hard physical work; working underground, underwater or at considerable heights; exposure to harmful radiation or poisonous, carcinogen materials or those which cause genetic health conditions; health-related risk due to excessive warm or cold temperatures, noise, or vibrations; work longer than 35 hours a week, that is, 7 hours a day; and work at night.

41. Apart from the protection of persons younger than 18 years, the Labor Law provides that persons younger than 21 years may carry out especially hard physical activities, activities underground, underwater, or at considerable height only with special opinion of the competent health institution, which rules out the possibility that such activities are harmful for the health of persons younger than 21 years.

42. The Labor Law prescribes that a pregnant woman is not allowed to carry out activities harmful for her and her child's health, especially not at workplaces requiring lifting of heavy loads or workplaces where she is exposed to harmful radiation, extreme temperatures, and vibrations. The Labor Law also prescribes that overtime and work at night are prohibited for pregnant workers during the last 8 weeks of pregnancy. This law prohibits overtime and work at night during the first 32 weeks of pregnancy if such work would be harmful for a pregnant worker or a child. The law requires a written consent for overtime and work at night from parents having children up to 3 years of age.

43. **The Law on the Maximum Number of Employees in the Public Sector** (*Official Gazette RS, No. 68/2015*) was adopted in July 2015 and is one of the key pieces of legislation which will regulate the rightsizing of the public sector as a part of fiscal consolidation measures. The law will be in effect until December 31, 2018. The law applies to all employees in the public sector excluding public enterprises. This law defines the public sector as state bodies, public services, autonomous provinces, and local municipalities. It regulates procedures for targeted separations as a result of organizational changes including early retirement, voluntary termination of employment, and retrenchment. At the beginning of every calendar year (except for the year 2015) the government makes a decision about the maximum number of permanent employees in the public sector. The respective entities in the public sector are obliged to reduce the number of employees to reach the maximum number target by June 30 of every calendar year. According to the law, the information about the number of employees is public, and state organs will publish it on their respective web pages. In instances when the manager of an entity in the public sector hires more employees than prescribed by the decision on the maximum number of employees, the law provides monetary sanctions.

44. **The Civil Servants Law** (*Official Gazette RS, No. 99/2014*) regulates the rights and obligations of civil servants. According to the law, a civil servant is a person who performs tasks

from the scope of work of the state administration, courts, public prosecutors' offices, the Republic Public Attorney, services of the National Assembly, the President of the Republic and the government, Constitutional Court and services of the authority whose members are elected by the National Assembly, or in connection with those tasks general legal duties, IT, financial, accountancy, planning, and administrative tasks.

45. The following are not considered as civil servants: members of the parliament, the president of the Republic, judges of the Constitutional Court, members of the government, judges, public prosecutors, deputy public prosecutors and other persons elected to the position by the National Assembly or appointed by the government, and persons who according to special legislation have the status of an official. The law establishes the Human Resources Service (Article 158), which acts as internal job market, provides training services to the civil servants, and keeps the registry of civil servants, including the information about the unassigned civil servants.

46. Equal opportunity provision is included in the law (Article 9), stating that all job positions shall be accessible under equal conditions to candidates. A choice between candidates shall be made according to the professional qualifications of the candidate, knowledge, and skills. The national representation, gender representation, and number of persons with disabilities will be taken into consideration during the hiring process, to reflect the general population structure.

47. The provisions of the law regulate termination of employment as a result of major changes in the organization or in instances when an organization unit is merged or dissolved (Articles 133–137). The law regulates the rights of unassigned civil servants (Article 138–139). The law provides for the appeals mechanism using the administrative procedure (Articles 142–144).

48. **The Law on Employment and Unemployment Benefits** (*Official Gazette RS, No. 36/09 and 88/10*) provides the legal framework for planning and implementation of active employment policy providing better balance between active and passive employment policies. Among other issues, it prescribes the framework for planning of employment policies and its measures, mandatory employment plans for unemployed clients of the NES, and unemployment benefits. The law provides the rights and obligations of unemployed persons, which, among others, include the right to use the services of the NES free of charge; to develop and individual employment plans in collaboration with the NES; to participate in the programs of active employment; and to receive unemployment benefits during the unemployment. The law stipulated that unemployed persons who belong to the category of less employable are given priority in participating in the measures of active employment

49. **The Law on Professional Rehabilitation and Employment of Disabled Persons** (*Official Gazette RS, No 36/09*) regulates the area of employment and professional rehabilitation of disabled persons in accordance with international and national regulations and labor market trends. It prescribes the incentives, measures, and activities directed toward creating conditions for inclusion of disabled persons in the labor market under the principles of equality and competitiveness.

50. **The Health Insurance Law** (*Official Gazette RS, No. 107/2005, 109/2005 57/2011, 110/2012, 119/2012, 99/2014, 123/2014 and 126/2014*) provides that persons who receive

unemployment benefits from the NES and unemployed persons are insured by the mandatory health insurance (Articles 17 and 22).

51. **The Law on Pension and Disability Insurance** (*Official Gazette RS, No. 34/03, 64/04, 84/04, 85/05, 101/05, 63/06 - US, 5/0, 107/09, 101/10*) stipulates that persons whose employment was terminated due to redundancy have a right to pension benefits in the period when they receive unemployment benefits (Article 11).

52. **The Law on the Peaceful Settlement of Labor Disputes** (*Official Gazette RS, No. 125/2004 and 104/2009*) regulates procedure for peaceful settlement of collective and individual labor disputes; selection, rights and responsibilities of mediators and arbitrators; and other issues relevant to the peaceful settlement of labor disputes. Individual labor dispute is a dispute related to discrimination and harassment at work, termination of employment, and payment of the minimum wage. The law provides for establishment of the agency for peaceful resolution of labor disputes.

53. **The Law on the Protection of Whistleblowers** (*Official Gazette RS, No. 128/2014*) regulates the procedure of alert and regulates the rights and obligations of both whistleblowers (or a person who reports suspected corruption or other illegal business activities) and employers. The law provides protection not only to full-time employees but also to contract workers and volunteers, as well as persons who perform a specific function in the employing entity. Whistleblowing is the disclosure of violations of regulations, violation of human rights, the exercise of public authority contrary to the purpose for which it was entrusted, threat to life, public health, safety, the environment, and to prevent major damage.

54. The provisions of the law provide for obligations of the employer in connection with whistleblowing. The employer is required to inform in writing all workers of their rights and obligations in relation to this act, and to appoint a person authorized to receive the information and the conduct of proceedings in connection with whistleblowing.

55. If the employer has more than 10 employees, there is a requirement to establish an internal whistleblowing procedure by the general act (ordinance) and to announce the general whistleblowing act on its bulletin board. If the employer has a website and if there are technical conditions, the employer is obliged to publish the whistleblowing procedure on its website.

56. The corpus of collective agreements additionally regulate rights and obligations of employees and employers in different sectors including public services (education, health, social protection, and culture), state bodies, and police. These collective agreements provide rights at the minimum as the Labor Law and in some instances include provisions that are more beneficial for employees. Some of these collective agreements have provisions with respect to retrenchment, which will be referenced in further analysis.

57. The analysis in the matrix below indicates how these laws apply to specific areas and issues related to termination of labor relations as a consequence of major changes in program, organization, structure, or technology of an employer (retrenchment).

58. The legal framework related to retrenchment is, in principle, in line with international standards and ILO conventions.

Rationale and Scope for Retrenchment

The Labor Law (Article 153) provides for termination of an employment contract on the following grounds: “due to technological, economic or organizational changes a particular job becomes redundant or volume of work be reduced.”

The Labor Law requires that employer prepares a Retrenchment Program, when employees are made redundant over a period of 30 days in the following instances (definition of collective dismissal):

- (a) 10 employees out of a total of 20 to 99 staff employed for an indefinite term
- (b) 10 percent of employees, out of a total of 100 to 299 staff, employed for an indefinite term
- (c) 30 employees out of at least 300 staff employed for an indefinite term
- (d) 20 employees notwithstanding of the number of employees, over a period of 90 days

The law prescribes that the Retrenchment Program should include the following components:

- (a) Rationale for determining the redundancy of employees
- (b) Total number of employees with the respective employer
- (c) Number of redundant employees, their qualifications and job positions, age, and length of employment (years) covered by the employment insurance benefits
- (d) Selection criteria for determining redundant employees
- (e) Measures for alternative employment: transfer to other jobs; transfer to other employer; training; part-time work, but not less than 50 percent of full time and other measures
- (f) Resources to address the socioeconomic status of the redundant employees
- (g) Employment termination deadline

Civil Servants

The Law on Civil Servants and the Collective Agreement for Employees in State Administration will regulate the redundancy of the civil servants. Articles 133–137 of the law regulate termination of employment as a result of major changes in the organization or in instances when an organizational entity is merged or dissolved.

The Law on Civil Servants provides that in instances when certain job positions would be abolished, the redundant civil servants can be *reassigned* to other job positions. The civil servants with higher job evaluation in the past three years would be given the advantage in the reassignment process.

Articles 138–139 regulate the rights of unassigned civil servants. The unassigned civil servants are registered by the Human Resources Services and considered for the positions in the internal job market. During the period of being unassigned, the civil servant is entitled to receive a salary.

If within the two months period the unassigned civil servant is not assigned to another state

organ, the employment with the state administration will be terminated.

Consultations with Workers

Prior consultations with trade unions is required by the Labor Law. The employer is required to send the proposed retrenchment program to the respective union and the NES, within 8 days of the program preparation, to obtain their opinion (Articles 154 and 156).

Employer's Obligation to Consider Alternatives to Termination of Labor Relations

The Labor Law (Articles 155 and 156) provides for obligation to consider alternatives to termination of labor relations such as reassigned to a different position, retraining, transfer to other employer, training, and part-time work.

Selection Criteria for Retrenchment

Nondiscrimination and Protection of Certain Categories of Workers

The Labor Law (Article 157) provides that the criteria for determining redundancy shall not include absence during temporary disability leave, pregnancy, maternity leave, or childcare leave. In addition, the Labor Law Articles 18–20 prohibit any direct and indirect discrimination of people based on gender, language, race, color, age, pregnancy, temporary work injury or illness, disability, nationality, religion, marital status, family responsibilities, sexual orientation, political beliefs, social origin, financial status, performing military or civil service, membership in political organizations, trade unions, or any other personal characteristic. This provision also applies to termination of employment. Article 183 provides a list of prohibited grounds for dismissal.

Specific collective agreements for certain sectors prescribe additional criteria.

The following categories of workers enjoy special protection: workers' representatives (Article 188 - *no dismissal during the term of office*); pregnant women and/or women on maternity leave; workers with family responsibilities - *absence for childcare or special care of the child* (Article 187).

The Specific Collective Agreement for Employees of Primary and Secondary Schools (*Official Gazette RS, No. 21/2015*) includes provisions to consider the number of dependent children in a family, health status/disability, average family income, and education and performance record of the employee. The agreement specifically protects mothers of children who are less than two years of age, pregnant women, single parents, parents of children with disabilities, and one of the spouses in instances where both married partners work at the same organization.

The Collective Agreement for State Administration (*Official Gazette RS, No. 25/2015 and 50/2015*) Articles 49–52 provide the criteria for determining redundancy including length of service, performance record, number of employed dependents, and health status. The agreement specifically protects mothers of children less than the age of two years, whose total

monthly income per family member does not exceed the minimum wage.

The Law on the Maximum Number of Employees in the Public Sector¹¹ provides that a set of criteria for rightsizing be based on the following analysis: (a) legal and strategic framework of the respective state body/public service; (b) financial and personnel resources; (c) ensuring that the needs of the beneficiaries of public services are met. The criteria also includes consideration for mandatory employment of the persons with disabilities (Law On Professional Rehabilitation and Employment of Persons with Disabilities, 2009), and the knowledge of language of ethnic minorities.

Retrenchment Methods and Redundancy (Severance) Payment

The Law on the Maximum Number of Employees in the Public Sector provides for the following retrenchment methods (updated after the decision by the Constitutional Court to suspend the application of Article 20):

- (a) **Voluntary termination of labor relations with payout package.** Employees whose jobs are identified as redundant have the option to voluntarily terminate employment and receive a payout package. The law provides for three modalities for the amount of the payout package:
 - (i) The basis is 30 percent of the average salary of the employee (calculated over the last 3 months of employment) or 30 percent of the average salary in the Republic of Serbia, whichever is more beneficial to the affected employee. This basis is increased by 30 percent for every year of employment in the public sector. The total payment cannot exceed €8,000. This payout option is available to employees who need more than 2 years to meet the retirement requirements. This category of employees is not entitled to the unemployment benefits.
 - (ii) Six average salaries in the Republic of Serbia (average salary calculated for the month before the termination of employment) for employees who need 2 years to meet the retirement requirements. These employees are not entitled to the unemployment benefits.
 - (iii) Four average salaries in the Republic of Serbia (average salary calculated for the month before the termination of employment) for employees who meet the requirements for early retirement. These employees are not entitled to the retirement severance payment.
- (b) **Termination of employment with severance payment package.** For employees who do not voluntarily terminate employment, the organizational unit (employer) is obliged to prepare the retrenchment programs as prescribed by the Labor Law. The employee, who is determined as redundant, is entitled to the severance payment. The size of the payment is determined by the respective law or collective agreement and is calculated for the length (years) of service in the public sector. The employer shall pay the severance payment within 30 days of termination of employment. This category of

¹¹ Also known as the Law on the Ceilings on Number of Employees

affected employees is entitled to the unemployment benefits.

The Labor Law (Article 158) established a minimum statutory payment to be paid before terminating an employment contract on the following grounds: “due to technological, economic or organizational changes a particular job becomes redundant or volume of work be reduced.”

The amount of redundancy payment is to be set out in the contract but shall not be less than the sum of one-third of the monthly salary for each full year of service.

Collective Agreement for State Administration (Article 53) provides for the severance payment in the amount of 30 percent of salary for every year of service with the employer.

Payment of salary or wages in arrears. The Labor Law (Article 186) provides that upon termination of employment, the employer shall pay any salary or wages owed to the employees. The employer is obliged to deliver payment within 30 days of termination of employment.

Access to Pension and Health Insurance

The Health Insurance Law provides that persons who receive unemployment benefits from the NES and unemployed persons are insured by the mandatory health insurance (Articles 17 and 22).

The Law on Pension and Disability Insurance stipulates that persons whose employment was terminated due to redundancy have a right to pension benefits in the period when they receive unemployment benefits (Article 11).

Grievance Redress and Appeal Procedure against Dismissal

The Labor Law provides for the dispute resolution mechanism which is based on arbitration (Article 194). In case of amicable settlement through arbitration, the decision shall be passed within 10 days (Article 194).

In addition, the law also provides a right to the employee to initiate a dispute before the court (Article 195). The legal proceedings may be initiated 60 days after the decision has been served to the employee.

In such instances, the competent court is the ordinary court. The Law on Organization of Courts (2002), Article 21 provides that the municipal court has the jurisdiction to hear termination of employment disputes at first instance.

The Law on the Peaceful Settlement of Labor Disputes (Article 30) provides that employment termination disputes can be settled through arbitration.

The Civil Servants Law (Articles 142–144) provides for a two-degree appeals mechanism. The Appeals Commission (consisting of appointed civil servants) reviews and decides on appeals submitted by civil servants. The administrative procedure is applied in such instances.

The Appeals Commission shall decide about the appeal within 30 days of registering the appeal.

Civil servants can initiate an administrative dispute against the decision of the Appeals

Commission.
Compensation for Unfair Dismissal
<p>The Labor Law (Article 191) provides for compensation in instances when the court determined that an employee was dismissed against legal grounds. Damages in lieu of reinstatement are</p> <ul style="list-style-type: none"> • maximum 18 months' salary when the employee does not wish to be reinstated, or • maximum 36 months' salary upon request of the employer or when the existing circumstances suggest that the continuation of labor relations is not possible.

3.2 Institutional Arrangement

59. **The MPALSG** is the implementing agency of the Program. As such, it is responsible for ensuring adequate implementation of the SMS. The MPALSG coordinates the entire process of implementation of the PAR Strategy as well as the comprehensive process of public administration optimization and rightsizing. The MPALSG prepared the action plan and general guidance for other ministries for the rightsizing process. Once the updated and expanded registry of employees in the public sector is established, the MPALSG will be in charge of the registry.

60. According to the Law on the Maximum Number of Employees in the Public Sector, the MPALSG and the MoF have the responsibility over the budget for severance payments in the public sector. The exceptions are severance payment for employees in the health services. The Statutory Health Insurance Fund holds the budget for severance payments in the health sector. The Law on the Maximum Number of Employees gives the MPALSG and the MoF the authority to issue an opinion on the proposal for the maximum number of employees for every calendar year until 2018, submitted by other state entities.

61. To increase its capacities to manage the rightsizing, which will take place from 2015 to 2018, the MPALSG is in the process of establishing a change management team. This team will coordinate communication and policy briefings on the projects including the public sector reform and rightsizing. Additionally, the change management team will be expected to incrementally channel the findings of the functional review at every stage into actionable policy recommendations for senior management action. The team will be staffed by a mixture of existing civil servants and professional consultants with expertise in various disciplines. It will report to the State Secretary in the MPALSG.

62. To reach out to the diverse stakeholders, the ministry prepared the communication strategy and action plan related to the rightsizing and optimization of the public administration. The strategy was based on the public opinion surveys conducted in early 2015. The MPALSG communications team is working closely with the communications advisers of other ministries to inform citizens and employees of the public sector about the reform, rightsizing, its benefits, and risks.

63. **The MoF** has the responsibility for the state budget; determining of the consolidated balance of public revenue and public spending; system and policy of taxes, tariffs, and other

public revenue; public expenditure policy; management of available public funds of the Republic of Serbia; public debt and financial assets of the Republic of Serbia. According to the Law on the Maximum Number of Employees, the MoF issues their opinion on the proposal for the maximum number of employees for every calendar year until 2018, submitted by other state entities, and monitors the implementation of the law.

64. **The Ministry of Labor, Employment, Veterans, and Social Affairs** is in charge of creating the employment policy in Serbia. Within this ministry there is a sector for creation of employment dealing with employment affairs. The responsibilities of this sector include employment in the country and abroad; monitoring of the situation and trends in the labor market in the country and abroad; improvement and boosting of employment; strategy, program, and measures of active and passive employment policy; employment of disabled persons and other persons; exercising of the right to unemployment benefits; and preparation of the national standard of qualifications and proposal of measures for improvement of the system of adult education. The long-term framework for creation of employment policy is specified in the National Employment Strategy for 2011–2020 (*Official Gazette RS, No. 37/2011*), whereas national action plans for employment are adopted on an annual basis.

65. **The NES** is responsible for implementation of the employment policy and action plan. The NES performs a key function of the Serbian labor market by being the matchmaker between employers and job seekers. In addition, the NES has the additional responsibility of supporting those job seekers who face difficulties in the labor market by providing programs to enhance job seekers' prospects, like training; wage subsidy programs, especially for disabled or otherwise disadvantaged job seekers; start-up support for prospective self-employed; or public works for those who have not had work for a long time. In that sense, the NES is not only a matchmaker that ensures a well-functioning labor market but also a provider of social services for vulnerable groups. After the termination of employment, the retrenched workers register with the NES to access the unemployment benefits and participate in the program for active employment and trainings.

66. The National Action Plan for 2015 foresees the implementation of the following measures of active employment policy: employment mediation for persons seeking employment; professional guidance and counselling on career planning; incentives for employment of the low-employability group (younger than 30 years of age, older than 50 years, redundant workers, Roma people, disabled persons); support to self-employment; additional education and training; incentives for employment of the beneficiaries of the benefits; public works; active employment measures for disabled persons; and co-financing the program or measures of active employment policy envisaged in the local action plans from the budget funds of the local municipalities.

67. **The Law on Employment and Unemployment Benefits** prescribes the obligation to sign an annual agreement on performance between the competent ministry and the NES, with the objective of defining the performance goals for the NES and monitoring the efficiency of the implementation of the active employment policy measures. The NES is expected to achieve the results defined in the agreement by means of adapting the measures and activities to the specificities and conditions of the local labor markets. Moreover, expected results of the branch offices should be quantified and agreements on performance of the branch offices should be signed at the level of the entire NES.

68. In accordance with the Law on Employment and Unemployment Benefits, the NES is responsible for the following tasks related to employment: informing on the conditions and opportunities for employment; mediation of employment in the country and abroad; professional guidance and career planning counselling; conducting active employment policy measures; issuing working permit to a foreigner or person without a citizenship; unemployment insurance; exercise of rights deriving from the unemployment insurance in accordance with the law; keeping records in the area of employment as well as professional-organizational, administrative, economic-financial, and other common affairs in the area of employment and unemployment insurance.

69. The NES must provide the following services to the job seeker or employer: (a) information on laws, bylaws, collective agreements and other general documents, and rights and obligations of the employers and employees and of their associations, in relation to employment and unemployment insurance; (b) guidance on the manner and procedure of exercising the rights and obligations as well as assistance in completion of the forms and in submission of those forms and documents to the NES.

70. **The Government Human Resource Management Service** performs tasks related to HR management in ministries, special organizations of the government, services of the government, and support services of administrative districts. The service performs functions of an internal job market for the civil servants. The tasks of the service include advertising internal job vacancies, preparing a proposal of the HR plan for the government, and ensuring proper implementation of the adopted HR plan; providing an opinion on internal organization and staffing rulebooks in public administration bodies; assistance to public administration bodies on HR management and internal organization; administration of the central HR registry on civil servants and employees in public administration bodies; keeping records of the internal labor market in public administration bodies; helping civil servants with their transfer and reassignment; preparation and implementation of training programs for civil servants; and technical support for the High Civil Service Council and the Government Appeals Commission.

71. During the implementation of the Law on the Maximum Number of Employees in the Public Sector, the unassigned civil servants will be transferred to the internal job market, which is coordinated by the Human Resource Management Service (according to the Law on Civil Servants, Article 138 and 163).

3.3 Environmental Legal Framework

72. The environmental legal framework relevant for this Program includes laws related to occupational health and safety and waste management. Since the Program is not expected to cause environmental impacts, it does not require preparation of an extensive environmental systems assessment.

73. **The Occupational Safety and Health Law** (*The Official Gazette RS, No. 101/05*) regulates the OSH system in the Republic of Serbia. The OSH Law provides for legal protection to every person at any production or other working process. The essential objective of the regulatory approach in the OSH field is prevention of occupational accidents, occupational diseases, and work-related diseases. The law stipulates that preventive measures should be provided for by the implementation of up-to-date technical, ergonomic, health, educational, social and organizational, and other measures and means for elimination of risks causing accidents and health injuries to the workers and/or their minimization. The law prescribes

obligations of employers and employees in prevention of occupational accidents, occupational diseases, and work-related diseases. The employer is obliged to provide conditions for the employee to carry out his/her duties at the workplace where OSH measures have been applied.

74. According to the OSH Law, when providing preventive measures, employer should start with the following principles: (a) avoiding of risks; (b) assessment of risks that cannot be avoided at workplace; (c) risk elimination at its source; (d) adjustment of working activities and workplace to employees; (e) change of hazardous technological processes by safe or less hazardous ones; (f) giving priority to collective and not individual OSH measures; (g) appropriate training of employees for safe and healthy work; and (h) the provision of preventive measures must not incur financial obligations for employees and employees' representatives.

75. In addition, the employer is obliged to establish a risk assessment act; keep employees and their representatives informed about the introduction of new technologies as well as of the hazards that may endanger their safety and health in case of introduction of the same and issue appropriate instructions for safe work in such cases; train employees for safe work; provide personal protection equipment; provide maintenance of working devices and personal protection equipment to be kept in good order; engage occupational health service for preliminary and periodical medical examination of employees; engage with licensed service provider for carrying out testing of working environment conditions as well as preliminary and periodical inspection and testing of working equipment; provide first aid and training of employees for giving first aid; stop any kind of work, which presents immediate danger to life or health of employees.

76. Article 15 of the OSH Law states that "Employer shall be liable to appoint the person responsible for workplace safety and health by virtue of written act." Article 37 states that "the control over health and safety issues at the workplace may be provided by a person who has passed professional exam in accordance with this Law."

77. **The Health Protection Law** (*Official Gazette RS, No. 107/2005, 72/2009, 88/2010, 99/2010, 57/2011, 119/2012, 45/2013 and 93/2014*) provides that the employer is obliged to organize the following: medical examination for determining employee's capability for work; carrying out measures for prevention and early identification of occupational diseases, work-related diseases, and prevention of occupational accidents; preventive medical examination of employees (preliminary, periodical, control, and targeted surveillances); informing employees of health-related measures at the workplace; provision of adequate sanitary conditions; monitoring of working conditions and safety at the workplace, as well as occupational risk assessment for the improvement of working conditions and ergonomic measures; monitoring of health-related causalities; improving the health of employees exposed to health-related risks at work; provision of first aid in case of occupational accidents and availability of urgent medical interventions.

78. **The Law on Waste Management** (*Official Gazette RS, No. 36/09*) prescribes types of waste and its classification, waste management planning, stakeholders, obligations and liability with regard to waste management, special waste streams management, requirements and procedures for the issuance of permits, transboundary waste movement, reporting, waste management financing, supervision, and other relevant aspects of waste management. Waste management consists of a set of activities of joint interest which comprise implementation of prescribed action plans to be carried out within waste collection, transport, storing, treatment, and disposal, including supervision of the aforesaid activities and responsibility for waste management facilities upon discontinuation of their operations.

3.4 Environmental Institutional Arrangement

79. **The OSH Directorate** is under the Ministry of Labor, Employment, Veterans, and Social Affairs and, among other duties, is responsible for monitoring of the performance of people in charge of OSH issues in organizations. The OSH Directorate is in charge of issuing and revoking OSH licenses. Its task also includes organization of the license exams. The OSH Directorate also provides expert assistance to employees in the OSH field.

80. **Labor Inspection Service** within the Ministry of Labor, Employment, Veterans, and Social Affairs conducts supervision of employment relations and OSH. The OSH labor inspector supervises the implementation of the OSH Law, technical and other measures related to OSH, as well as the implementation of OSH measures prescribed by the employer's general act, collective agreement, or employment contract.

4. Assessment of Institutional Capacity and Performance

4.1 Adequacy of Social Management Systems Associated with Retrenchment

81. Serbia has in place a relatively well-developed policy and legal framework on labor relations and retrenchment along with an institutional system which is generally adequate. The national legal framework is generally in line with international standards. Serbia ratified the ILO Termination of Employment Convention No. 158. In general, the legal framework is consistent with principles of the IFC Performance Standards 2 - Labor and Working Conditions, (paragraphs 18–19 on retrenchment). The identified gaps are related to the implementation of consultation with workers and monitoring and evaluation of the retrenchment process. The existing labor legislation provides adequate protection of workers in instances when due to technological, economic, or organizational changes a particular job becomes redundant or the volume of work would be reduced.

82. Labor legal acts include provisions to consider alternatives to termination of employment including hiring freeze, outsourcing of particular activities (for example, in health), internal transfers and redeployment, and reduction in salaries. Some of these measures such as natural attrition through retirement, hiring freeze, and reduction in salaries have already been implemented in the public sector in 2014 and 2015 as a part of the package of measures to reduce government spending and increase fiscal sustainability.

83. The Labor Law requires that the employer prepare a retrenchment plan. The respective union and NES are to provide their opinion on the proposed plan. Legal acts and specific collective agreements that apply to employees in the public sector stipulate selection criteria and principles when termination of employment occurs as a consequence of changes in program, organization, or structure of work. The selection criteria are grounded on nondiscrimination principles, which are in line with good international practice. These provisions specifically protect employees from being retrenched due to a membership in a union, pregnancy, maternity leave, disability leave, childcare leave, personal disability, national and social origin, and other personal characteristics. The collective agreements provide protection for mothers of children less than 2 years of age and single-headed households with underage children.

84. Laws and collective agreements have provisions for redundancy payments and formulas for its calculation. The redundancy payment is calculated on the basis of 30 percent of average monthly salary before retrenchment for every year of service with the employer. Employees are also entitled to unemployment benefits, health care, and pension insurance. While these legal

provisions are in accordance with good practice, the experience of large retrenchments in the past due to privatization of large state-owned enterprises indicates that there is a reason for caution. These benefits are provided for a limited period. In an environment with high unemployment rate and lack of job supply, it would be unrealistic to assume that the majority of retrenched people would find new employment easily (World Bank, Poverty and Social Impact Assessment 2012).

85. The Labor Law and applicable collective agreements require consultations with unions related to the retrenchment program. However, it seems that in practice there are cases when such consultations occur to a lesser degree, that is, consultations with workers are not systematically observed. The Law on the Maximum Number of Employees, which serves as an instrument for rightsizing in the public sector, was adopted under an urgent parliamentary procedure and therefore, it was not a subject to public consultations. The unions and the Socio-Economic Council issued public statements to express their dissatisfaction with lack of consultation and their inputs.

86. It should be noted that relevant laws do not include specific requirements for monitoring and evaluation of retrenchment programs and status of retrenched employees. There are no requirements for the employers to follow the situation of the retrenched workers or outcomes of assistance provided. Once the labor relations are terminated, the NES tracks and follows the status of retrenched workers who choose to register with the NES.

87. In general, the legal framework for the protection of the retrenched workers is broadly in place, but its consistent implementation across the country needs to be ensured, notably in the areas of consultations with workers (unions), transparent retrenchment criteria and follow-up monitoring and evaluation of the status of affected workers.

4.2 Adequacy of Social Management Capacity

88. Several ministries and state agencies such as the MoF; Ministry of Labor, Employment, Veterans, and Social Affairs; and the NES have acquired solid experience and the skills needed to manage large retrenchment during the privatization of state-owned enterprises, which occurred in the past 15 years. The NES, as an implementer of the employment policy, has specific programs targeting retrenched workers, women, and vulnerable groups.

89. During consultations, representatives of the NES indicated that they are in the process of preparation for the Action Plan for 2016. This plan is supposed to include programs for retrenched public sector workers tailored to their specific profile: higher education level, age (there is high probability that a significant proportion will be over the age of 50 years), and gender (there is high probability that women will form a higher percentage of affected employees). Keeping in mind that a large proportion of this segment of the labor force spent most of their career working in the public sector, which provides higher job security compared to other sectors, it can be assumed that measures such as setting up small enterprises would be effective to a lesser degree. The employment assistance programs for this segment of the workforce are under development.

90. Other assessments indicated that there is a need to modernize the NES and bring it in line with European requirements, increasing its service orientation and its ability to provide services tailored to its client needs. This PforR operation will benefit from another Bank-funded project

‘Jobs and Competiveness’, which includes the labor component and will support modernization of the NES including following activities:

- (a) Enhancing the effectiveness of the NES labor intermediation services for employers and the unemployed
- (b) Improving the effectiveness of the ALMPs
- (c) Facilitating the transition of social assistance beneficiaries into formal jobs

91. At the core of the activities supported by this project is the improvement of the capacity and the services provided by the NES. It is expected that potentially retrenched workers from the public sector will benefit from enhanced services provided by the NES.

92. Ministries in charge of specific sectors such as health or education had periodic meetings with unions to inform them about the rightsizing process. This information is publically available on the websites of the ministries and unions.

93. The social management capacity is generally adequate. The identified areas for capacity enhancement will be addressed through the proposed action plan.

5. Environmental and Social Systems Assessment Action Plan

5.1 Social Systems Assessment Action Plan Related to Retrenchment

94. Although the overall positive economic impacts of the Program are expected to be positive, there could also be some adverse social impacts associated to retrenchment of workers in public entities, which represents a reputational and technical risk for the Program, the government, and the Bank. The Program provides an opportunity to strengthen the procedures to identify and mitigate any adverse effects associated to retrenchment in accordance with internationally recognized practices.

95. On the technical side, to fill the gaps between the existing SMS and international good practice identified through this social systems assessment, the Program will support specific measures to enhance the performance of the SMS related to retrenchment. These measures will be implemented on the basis of the following actions:

- (a) **Ensure that the MPALSG has staff assigned to coordinate, monitor, and report on the rightsizing process and its effects on the number of employees.** By the start of the Program, the MPALSG to assign two staff members with relevant competences and experience (knowledge of human resources and labor relations procedures) to coordinate the rightsizing process with other public sector entities, and to provide regular periodic reports on the status of actions from this action plan, including the number of reduced staff across sectors.
- (b) **Improve consultations with workers and unions.** Each employer in the public sector will document that the unions were consulted on retrenchment and the respective retrenchment plans. Each public entity submitting the request for redundancy payment to the MPALSG and the Ministry of Health to attach minutes from the consultations or written comments by the unions on the retrenchment plan. If requested, a sample of these reports will be submitted to the Bank for review.

- (c) **Selection criteria.** The criteria for selection of employees who will be made redundant will be based on principles of transparency and nondiscrimination, applied consistently and will contain an appeal procedure. By the start of the Program, the MPALSG will prepare guidelines about the need to include clear selection criteria in acts on the termination of employment and retrenchment plans. The criteria will be consistent with provisions from applicable national labor legislation and collective agreements, policies on social inclusion of Roma, and guidelines of other respective ministries. The criteria will reinforce protections of following categories of workers: pregnant women, women on maternity leave, single mothers, and mothers of children under the age of two years, employees on disability leave, and persons with disabilities. Every employer who will reduce its workforce will make the criteria for retrenchment publically available. The retrenchment criteria and the rationale will be included in the retrenchment plans and acts on termination of employment.
- (d) **Retrenchment plans.** As required by the Labor Law, the employers in the public sector will prepare retrenchment plans to document that requirements from the Labor Law, Civil Servants Law, and applicable collective agreements were respected. The proposed draft retrenchment plan will be submitted to the relevant union, and the NES for consultation. The period of advance notice and the length of consultation must follow the provisions from the Labor Law. The consultations will be documented in writing. The retrenchment plan will include the following:
- (i) Rationale for determining the redundancy of employees
 - (ii) Total number of employees with the respective employer
 - (iii) Number of redundant employees, their qualifications and job positions, age, and length of employment (years) covered by the employment insurance benefits; gender-segregated information (number of males and females), number of persons with disabilities
 - (iv) Selection criteria for determining redundant employees
 - (v) Measures for alternative employment such as transfer to other jobs; transfer to other employer; training; part-time work, but not less than 50 percent of full time and other measures;
 - (vi) Resources to address the socioeconomic status of the redundant employees
 - (vii) Employment termination deadline
- (e) **Provision of transition assistance to retrenched employees.** The Ministry of Labor, Employment, Veterans, and Social Affairs to include in the 2016, 2017 and 2018 performance agreement with the NES the following requirements:
- (i) A NES representative visits every entity that will retrench more than 10 workers and inform workers about available NES services, programs, and benefits, register them with the NES, and develop an individual action plan for each registered redundant worker. In instances when less than 10 workers will be retrenched, in collaboration with employers, the NES will inform affected workers about available assistance programs, based on the existing model for retrenchment.

- (ii) The NES will contact at least 20 employers in the same and neighboring municipalities where the public entity resides to offer them NES services and inquire about job vacancies.
- (iii) The NES will consult with the local employment council about support for redundant workers.
- (f) **Gender and social inclusion.** The MPALSG and the Ministry of Health (Statutory Health Insurance Fund) will request that the submitted retrenchment plans and requests for redundancy (severance) include disaggregated information according to gender (number of males/females), age (categories to be defined), education (categories to be defined), and persons with disabilities (number). The Ministry of Labor, Employment, Veterans, and Social Affairs in collaboration with the NES will prepare measures for active employment for retrenched women, especially women over the age of 50 years.
- (g) **Monitor severance payment disbursement and status of retrenched workers.** The MPALSG and the Ministry of Health (Statutory Health Insurance Fund) will monitor and report annually on the number of workers who received the severance (redundancy) payment, as prescribed in the Law on the Maximum Number of Employees in the Public Sector. The Ministry of Labor, Employment, Veterans, and Social Affairs in collaboration with the NES will monitor and report annually on the status of retrenched workers with regard to (i) number of retrenched workers (number of male/female/persons with disability) who received active employment services from NES and (ii) number of retrenched workers (number of male/female/persons with disability) who found new employment.

96. The Program is not expected to cause environmental impacts. The probability and severity of any harm from environmental or occupational health and safety standpoints are low. No specific mitigation measures are required.

6. Assessment of Environmental and Social Risk Level

97. The assessment of environmental and social risk level associated with the Program is considered substantial. The assessment is based on the identified social risk associated with the potential retrenchment of public sector employees. Proposed measures to mitigate social impacts of the Program and to improve ESMS, in compliance with the [Bank Policy Program-for-Results Financing](#), have been incorporated into the ESSA Action Plan.

Annex 1: Report on Formal Consultations on the Draft ESSA

Introduction

Consultations with stakeholders on the draft Environmental and Social Systems Assessment (ESSA) for the PforR Modernization and Optimization of Public Administration were carried out in the form of series of targeted meetings with key stakeholders at the Bank office and ministries in Belgrade between November 5 and November 17, 2015.

The draft ESSA was disclosed in English and Serbian on October 24, 2015 on the Bank website¹² and on October 26, 2015 in Serbia.¹³ Interested parties could send their comments until November 11, 2015.

The meetings with stakeholders were structured as a discussions on key issues in the draft ESSA. After a brief presentation of the PforR instrument, Program for Modernization and Optimization of the Public Administration, and the main findings of the draft ESSA, the conversation mainly focused on the proposed ESSA Action Plan related to retrenchment and suggestions by the stakeholders to improve operationalization of the proposed actions.

Main Findings

General feedback from the stakeholders was that the analysis of the legal framework related to labor relations was thorough and adequate. They agreed with main conclusions of the ESSA and areas which were identified as a priority to address the impacts of retrenchment, such as having clear selection criteria for retrenchment, providing transitional assistance to affected workers, and monitoring the status of affected workers after the retrenchment. Participants suggested amending the legal analysis to reflect the decision by the Constitutional Court to stop applying Article 20 of the Law on the Maximum Number of Employees in the Public Sector. This article relates to fulfilling the requirement for retirement age and it unevenly affects women. The court issued the decision on October 9, 2015.

The main questions raised during consultations were related to the implementation of the proposed ESSA Action Plan on retrenchment. The participants provided their suggestions to make the proposed actions more implementable in the given context. Suggestions included the following:

- Relying on provisions from applicable collective agreements for selection criteria to ensure transparency and fairness. The selection criteria in the collective agreements were negotiated between unions and the government.
- Ensuring that affected employees, whose employer is not obliged to prepare the retrenchment plan in instances when less than 10 employees is made redundant, are informed by the NES about their rights and services they can receive from the NES.

¹² English: <http://documents.worldbank.org/curated/en/25196274>.

Serbian: <http://documents.worldbank.org/curated/en/25196273>.

¹³ English: <http://www.worldbank.org/en/country/serbia/brief/comments-essa-serbia-modernization-optimization-of-public-administration>.

Serbian: <http://pubdocs.worldbank.org/pubdocs/publicdoc/2015/10/607461445882683607/serbia-pfr-essa-web-srb.pdf>.

- Including action to design specific assistance programs for retrenched women in the public sector, especially those of the age above 50 years.
- Including the age of retrenched workers in data to be monitored, with a rationale that the age can be the basis for vulnerability.
- Removing ethnic minority status of retrenched workers from data to be monitored, with a rationale that this is sensitive information and employees are not asked to report their ethnicity when they enter employment.

Overall, stakeholders agreed that the retrenchment of public sector employees represents significant social risk, which may have impacts on livelihoods of affected people. Over the next three years, Serbia will face increased number of retrenched people from state-owned enterprises and the public sector. This will create an additional pressure on the NES to provide assistance to the affected workers. It was emphasized that one of priorities of the government should be preparation of assistance or social protection programs for the retrenched public sector employees as a measure to mitigate social impacts of the reforms. The MPALSG, Ministry of Health and Ministry of Labor, Employment, Veterans, and Social Affairs agreed to report on the profile of the retrenched employees (gender, age, education, disability) and transitional assistance they received from NES. These data would help estimate the typical profile of the affected employee and would serve as a basis for designing adequate active employment and social protection programs.

The ESSA Action Plan was revised and updated based on suggestions received during consultations.

Table 7. List of Stakeholders Consulted

MPALSG	Ivana Savicevic, Assistant Minister Vidosava Džagić, Adviser Nina Zelić, Adviser
Ministry of Labor, Employment, Veterans, and Social Affairs	Ljiljana Džuver, Assistant Minister Zoran Lazic, Assistant Minister Milica Janackovic, Adviser Snezana Bogdanovic, Manager
Ministry of Health	Berislav Vekic, State Secretary Nikola Pandrc, Chief of Cabinet Nada Milić, Coordinator, Sector for Inspection
Statutory Health Insurance Fund	Verica Lazic, Director
Social Inclusion and Poverty Reduction Unit	Zarko Sunderic, Manager Ivan Sekulovic, Adviser
Social and Economic Council of the Republic of Serbia	Čedanka Andrić, Council Secretary
NES	Stojana Simović, Manager of the Center for Development of Services and Entrepreneurship, Sector for Employment Mediation and Career Planning Milan Djuretanovic, Director, Development and IT Sector